



UNODC

United Nations Office on Drugs and Crime

Country Review Report of Mauritius

Review by *Mauritania* and *Panama*
of the implementation by *Mauritius* 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 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 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 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 Mauritius' implementation of the Convention is based on the completed response to the comprehensive self-assessment checklist received from Mauritius, 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 Mauritania, Panama and Mauritius, by means of telephone conferences and e-mail exchanges and involving, inter alia, the following experts:

Mauritius:

- Mr. Isswar Jheengut, Focal Point, Director, Corruption Prevention and Education Division, ICAC
- Ms. Suneechur-Nunkoo Nandita Devi, Assistant Director, Community Relations, Corruption Prevention and Education Division
- Mr. Kailass KOONJAL, Chief Corruption Prevention Officer
- Mr. Dawoodarry Titrudeo, Ag Director of Investigations, Corruption Investigation Division
- Mr. Aleear Paramhans, Acting Assistant Director of Investigations, Corruption Investigation Division
- Mr. Deepchand Vishal, Senior Investigator, Corruption Investigation Division
- Mr. Nastili Paramah Ananda Nalam, Chief Corruption Prevention Officer, Corruption Prevention and Education Division
- Ms. Jogarah-Seegolun Kavita, Chief Corruption Prevention Officer, Corruption Prevention and Education Division
- Mr. Roopchand Mitleshkumarsingh, Ag Chief Legal Adviser, Legal Division
- Mr. Ponen Homanaaden, Ag Principal Legal Adviser

Mauritania:

- Mr. Haimoud Ramdan, Professor Director of Research at the University of Nouakchott - Mauritania
- Mr. Sidi Mohamed Boïde, Deputy State Inspector General, Office of the Prime Minister

Panama:

- Mr. Antonio Lam, Head of International Technical Cooperation Office of the National Authority for Transparency and Access to Information (ANTAI) of Panama

Secretariat:

- Ms. Jennifer Sarvary-Bradford, Crime Prevention and Criminal Justice Officer, Corruption and Economic Crime Branch, Division for Treaty Affairs, UNODC
- Ms. Tatiana Balisova, Associate Crime Prevention and Criminal Justice Officer, Corruption and Economic Crime Branch, Division for Treaty Affairs, UNODC

6. A country visit, agreed to by Mauritius was conducted from 17 to 21 April 2017.

III. Executive summary

Introduction: overview of the legal and institutional framework of Mauritius in the context of implementation of the United Nations Convention against Corruption

Mauritius signed the United Nations Convention against Corruption on 9 December 2003, ratified it on 15 December 2004 and deposited its instrument of ratification with the Secretary-General on 14 November 2005.

A hybrid legal system has developed in Mauritius, characterized by common law and civil law concepts taken mainly from France and the United Kingdom of Great Britain and Northern Ireland. While Mauritius uses a Criminal Code and Civil Code derived from French law, it has also been strongly influenced by the United Kingdom with regard to law on evidence and administrative law.

The most important institutions in the fight against corruption and money-laundering are the Independent Commission against Corruption (ICAC) and the Financial Intelligence Unit (FIU). Mauritius has enacted numerous laws to prevent and fight corruption, including the Prevention of Corruption Act (POCA, 2002), the Financial Intelligence and Anti-Money Laundering Act (FIAMLA, 2002), the Asset Recovery Act (ARA) and the Good Governance and Integrity Reporting Act 2015. In addition, the Bank of Mauritius and the Financial Services Commission have regulatory and supervisory jurisdiction within the scope of anti-money-laundering (AML) and countering the financing of terrorism (CFT), in relation to banking and non-bank financial institution activities.

Mauritius was reviewed during the first cycle of the second year of the Implementation Review Mechanism ([CAC/COSP/IRG/I/2/1/Add.21](#)).

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)

Mauritius does not have an explicit national anti-corruption policy, but adopted the comprehensive POCA and other relevant laws. An implicit national policy was developed subsequent to the establishment of ICAC. The Public Sector Anti-Corruption Framework (PSACF) encourages the adoption of sectoral anti-corruption policies and strategies, corruption prevention plans and corruption risk management systems. To date, 55 public bodies have developed tailored anti-corruption policies and another 45 have embarked on corruption risk management exercises. Furthermore, 79 public bodies have established dedicated anti-corruption committees and have designated their integrity officers responsible for liaising with ICAC.

ICAC monitors the public bodies through regular corruption prevention reviews. Implementation of the review recommendations is also monitored by the anti-corruption committees on which ICAC officers act as ex officio members.

ICAC, the officially designated preventive body, implements its mandate through yearly action plans. It conducts a wide range of activities, including the above-mentioned corruption prevention reviews, development of manuals and tools, model policies and plans, events with the civil society, public and private sectors, organization of training sessions and awareness-raising and educational campaigns.

ICAC also plays a role in the evaluation of laws through the corruption prevention review recommendations, which have to date triggered numerous legislative reforms.

The independence of ICAC is established under POCA (s. 19–23) and is maintained through the allocation of sufficient material resources, selection of specialized staff and regular training programmes. POCA prescribes the appointment and termination procedure for the Director-General of ICAC (s. 19–21) and the rules for the appointment of ICAC officers (s. 24). ICAC is accountable to the National Assembly Parliamentary Committee, to which it submits its annual reports, including audited accounts (s. 36 and 59, POCA). In addition, the Parliamentary Committee monitors and reviews ICAC operations, except for investigations, and can enforce disciplinary actions in relation to the Director-General under prescribed circumstances (s. 61, POCA). The Committee also considers and approves the ICAC budget, which is then publicly available in the national budget. Detailed expenditure is found in publicly available annual reports.

Other bodies with mandates touching upon corruption and prevention include the FIU and the Mauritius Revenue Authority (MRA).

Mauritius actively participates in various anti-corruption initiatives and forums, including the Southern African Development Community (SADC) Anti-Corruption Committee, the International Association of Anti-Corruption Authorities and the Association of Anti-Corruption Agencies in Commonwealth Africa, and maintains bilateral partnerships with several foreign anti-corruption agencies. In addition, in 2015 and 2016, Mauritius hosted the global conference on anti-corruption reform in small island developing States.

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

The Public Service Commission (PSC) and the Disciplined Forces Service Commission (DFSC) are responsible for the recruitment, hiring, promotion and retirement of public officials, as governed by 1961 PSC and 1997 DFSC regulations. Other bodies with similar responsibilities include the Local Government Service

Commission (LGSC), which fulfils similar functions for local government officials; the Ministry of Civil Service and Administrative Reforms (MCSAR), which addresses conditions of service and staff relations; the Civil Service College, which provides training to public bodies; the Public Bodies Appeal Tribunal (PBAT), which hears appeals against decisions of the PSC, DFSC and LGSC; and the Employment Relations Tribunal, a quasi-judicial body dealing with labour disputes. Statutory and corporate bodies, State-owned institutions and public companies fall outside the purview of the PSC and DFSC, and regulate recruitment in their respective legislations. The Judicial and Legal Services Commission (JLSC) is responsible for the appointment and the disciplinary control of the legal officers of the Office of the Attorney General and of the Office of the Director of Public Prosecution (DPP), as well as of magistrates and judicial officers (Constitution, s. 86, and JSLC Regulations 1967). Appointment and removal procedures for judges of the Supreme Court and the DPP are provided for in the Constitution (s. 72, 77 and 78).

While vacancies for public service are advertised through the Internet and national newspapers, the commissions may also delegate recruitment of junior or lower general service positions to the respective responsible offices. The recruitment process involves screening of candidates, written examinations and interviews, with integrity testing increasingly part of the process. The PSC and the DFSC do not notify unsuccessful candidates individually, but issue press communiqués about specific posts having been filled. While public officials may only appeal recruitment decisions in the Public Bodies Appeal Tribunal and subsequently in the Supreme Court, unsuccessful candidates outside the public service may only appeal through the judicial review in the Supreme Court. Rotation systems are officially in place for certain positions in public service (e.g., police officers), and, while not explicitly regulated, there is an established practice of some rotation in national administration, including at the highest levels. Promotion of public officials is governed by PSC Regulations (Part III).

Mauritius has identified certain positions as particularly vulnerable to corruption (e.g., customs officers, procurement officers and officers involved in the allocation of licences and permits). These are subject to special training or tailored integrity management programmes organized by ICAC in collaboration with, among others, MRA, MCSAR and the Mauritius Police Force.

All public officials are bound by the general code of ethics for public officers, which covers conflicts of interest, gifts and outside employment, among other issues. While only of an aspirational nature, it complements the PSC Regulations, which introduce the disciplinary mechanism and sanctions (s. 30–46). Separate sectoral codes of conduct exist for procurement officers and law enforcement officers. The Code of Corporate Governance applies to all State-owned enterprises.

Non-disclosure of conflict of interest is a criminal offence under POCA (s. 13). The creation of conflict of interest management systems in public bodies is recommended by ICAC and has been implemented in many public bodies.

Mauritius has adopted a zero tolerance approach for gifts to public officials. The only permissible gifts are tokens. ICAC has developed guidelines on gifts, recommending all public bodies to establish a duty to report all tokens and to create gift registries. However, no binding legal provision exists and many public bodies have yet to implement this recommendation.

Secondary employment is permitted only in the areas where there is a scarcity of skills (s. 10, Code of Conduct) and then only with the prior approval of the head of the institution. No cooling-off period for public officials moving to the private sector is in place.

Public officials have a duty to report acts of corruption to ICAC (POCA, s. 44); however, there are no sanctions for non-reporting. ICAC has issued guidelines on this issue, which have been widely disseminated within public bodies.

Some public officials are subject to regular, confidential asset declarations, including staff of ICAC, MRA, the FIU and the Procurement Policy Office. All elected officials, including members of the National Assembly, the Rodrigues Regional Assembly and local authorities, are subject to mandatory asset declarations (s. 3, Declaration of Assets Act (DAA)). Non-submission of declarations is sanctioned (s. 6, DAA); however, no established verification and monitoring mechanism is in place. POCA section 84 on possession of unexplained wealth can be used in the course of an investigation.

Mauritius is currently in the process of drafting a new public service bill to address the existing gaps in the areas of disciplinary sanctions, asset declarations and gifts. The bill will be supplemented by a new comprehensive code of conduct for public officials, as well as codes for ministers and political advisors.

MCSAR relies on the recommendations of the national Pay Research Bureau for pay scales and salary revisions for public officials.

Criteria concerning candidature for and election to public office are set out in the Constitution (s. 33 and 34), the Representation of the People Act (RPA) (s. 69, 70 and 74), the Rodrigues Regional Assembly Act and the Local Government Act.

The legal and regulatory framework around the funding of candidatures for elected public office and political parties is limited and includes the following: Part IV of RPA (which calls for transparency in election expenses), the Code of Conduct for National Assembly Elections and the Code of Corporate Governance (which calls on private entities to provide political funding within law and in the interest of the company). All elections are supervised by the Electoral Supervisory Commission. Mauritius aims to adopt a comprehensive new law on funding of political parties, covering areas such as accounting obligations, public subsidies, private donations and expenditure limits. Guidelines for Judicial Conduct establish standards of ethical conduct for judges and magistrates and address, among others, the issues of conflict of interests and recusal. Prosecutors are guided by the Guidelines on Prosecution and the Code of Ethics for Barristers and Attorneys. The JLSC regulations set out the disciplinary mechanism (s. 14–21).

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

Public procurement is governed primarily by the 2006 Public Procurement Act (PPA). The institutional framework includes the Procurement Policy Office (PPO), the Central Procurement Board (CPB) and the Independent Review Panel (IRP).

Procurement is currently decentralized at the level of individual ministries and departments, while high-value procurement (above 100 million Mauritian rupees, depending on the category in which the public body is listed in the Schedule of the PPA) is carried out by the CPB.

E-procurement was introduced in Mauritius in 2015. In addition, an online procurement portal provides links and information pertaining to procurement, tenders and awards.

Unsuccessful bidders can challenge procurement decisions before the IRP. While the PPA prescribes that IRP recommendations are binding, no mechanism is in place to enforce IRP decisions in the case of non-compliance.

The procedures and competences for the elaboration and adoption of the national budget are set out in the Finance and Audit Act. The Ministry of Finance and Economic Development (MoFED) plays a key role in this regard, including through requesting and gathering budget proposals electronically from ministries and departments, conducting consultations and presenting the budget to the National Assembly for approval.

The legal framework around the accountability in the management of public finances includes the Finance and Audit Act, the Statutory Bodies Act, the Act for Special

Funds, the Local Government Act and the Financial Reporting Act. Institutions with relevant mandates include: MoFED, NAO, Accountant General, Director of Audit, Public Accounts Committee and Financial Reporting Council. No sanctions are in place for heads of ministries and departments for late submissions of their annual reports and financial statements. The Criminal Code includes several offences related to falsifying records and books (s. 106–112).

Under the National Archives Act, all public bodies are required to keep their records for seven years, and the National Archives serves as the repository of public records.

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

Mauritius plans to adopt a new Freedom of Information Act to fill the existing gaps with regard to access to information, such as lack of procedures for requesting information, no clear duty of public officials to disclose information and no sanctions for non-compliance.

Mauritius proactively shares information with the general public, including through publication of information on the Internet, several e-portals and e-government initiatives.

ICAC has developed partnership strategies with numerous civil society organizations towards better prevention of corruption, including through the following platforms: Trade Union Action against Corruption; Civil Society Network against Corruption; NGO Focal Group; Anti-Corruption Academic Forum and Youth Against Corruption.

ICAC has developed a range of public education programmes, including anti-corruption modules at all education levels and training activities for public and parastatal bodies.

Any person may report an act of corruption to ICAC (POCA, s. 43). ICAC has established several reporting channels, including through a hotline, letters, Internet, anonymously or in person.

Private sector (art. 12)

The relevant legal framework includes the Companies Act, FIAMLA, the Financial Reporting Act, the Financial Services Act, the Securities Act, the Bank of Mauritius (BOM) Act, the Banking Act and PPA.

The Financial Reporting Council (FRC) promotes high quality reporting by public interest entities and improves the quality of accounting and auditing services. The Mauritius Institute of Professional Accountants supervises and regulates the accountancy profession and has established a Code of Professional Conduct and Ethics for Accountants. The Mauritius Institute of Directors promotes corporate governance through training and development. The Financial Services Commission (FSC) regulates and monitors the non-bank financial services sector.

The Code of Corporate Governance comprises a set of principles and guidance aimed at improving the governance practices of organizations within Mauritius. It governs conduct of all public interest entities (as defined in the Financial Reporting Act), State-owned enterprises, statutory corporations and parastatal bodies, and has been revised in 2016 to better implement the existing international standards. Among others, the Code calls for the development of internal risk management systems. While no sanctions exist for non-compliance, the Financial Reporting Council may write to the board of a given entity to encourage them to comply. The Council reviews the annual reports of all public interest entities.

In 2013, the Public Private Platform against Corruption was set up to build synergies between the public and private sectors. The Private Sector Anti-Corruption Task Force was established in collaboration with the Mauritius Institute of Directors and

Business Mauritius, among others, as a voluntary private sector anti-corruption initiative.

Mauritius has amended the Business Facilitation Act to enhance transparency in obtaining registrations, licences and permits for various commercial activities at both State and local levels.

Tax deductibility of expenses that constitute bribes is not allowed (s. 26, Income Tax Law).

Measures to prevent money-laundering (art. 14)

Mauritius is a founding member of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG). Mauritius has undergone several assessments by the World Bank and the International Monetary Fund (Financial Sector Assessment Programme) and is presently carrying out its own risk assessments. These reviews and assessments have in the past all triggered subsequent amendments to the legislative and regulatory AML/CFT frameworks over the last decade.

Mauritius AML regulatory and supervisory regimes include FIAMLA, the Financial Services Act 2007, the Banking Act, the BOM Act and related regulations.

However, BOM and FSC, as regulators for the financial services sector, issue guidance notes on AML/CFT to their licensees. The FIU has, among others, issued guidelines on the filing of suspicious transaction reports. Mauritius National AML Committee (FIAMLA Section 19A) intends to draft a new AML/CFT national strategy and road map in the near future. Apart from the ultimate goal of realigning the AML/CFT framework to the 2012 recommendations of the Financial Action Task Force, the anticipated strategic process should also help strengthen and harmonize inter-institutional cooperation.

Mauritius applies a risk-based approach to Customer Due Diligence (BOM Guidance Notes on AML Section 2.05). The legally binding Guidance Notes on AML issued by BOM, as well as those issued by the FIU and the FSC, outline the details required to identify the originator (including name, address, ID number and account number). Such details should be submitted by the originating bank through any intermediary institution until the transfer reaches its final destination.

Mauritius moved from a disclosure to a declaration-based cross-border cash system in 2009, which covers all physical cross-border movements and all forms of cash and negotiable instruments (Customs Act, sect. 131A). The current limit is 500,000 Mauritian rupees (equivalent to \$14,500), which is the same as the permissible cash transaction limit in Mauritius (sect. 5, FIAMLA). Failure to comply with the cited provision is a criminal offence, which can be sanctioned with a fine of up to 2 million Mauritian rupees and to penal servitude for a term not exceeding 10 years.

Mauritius has signed a considerable number of memorandums of understanding with the international counterparts of the FIU and the FSC in order to combat money-laundering and counter the financing of terrorism through cooperation and information-exchange.

2.2. Successes and good practices

- The adoption of PSACF, calling on public bodies to develop and implement their own anti-corruption policies and corruption risk management systems (art. 5, para. 1)
- Wide multi-stakeholder engagement and regular consultations with civil society (art. 13)

2.3. Challenges in implementation

It is recommended that Mauritius:

- Enhance transparency in the funding of political parties, including through the adoption of a new law which would regulate issues such as accounting obligations, public subsidies, private donations, public disclosure and expenditure limits (art. 7, para. 3)
- Consider strengthening the asset declaration system for public officials, including through the adoption of the envisaged new law and introducing an effective verification system (art. 7, para. 4, and art. 8, para. 5)
- Amend its asset declaration system to also include information regarding foreign-based assets, signatures and other values (art. 8, para. 5, and art. 52, para. 6)
- Continue the efforts to encourage public officials to report acts of corruption (art. 8, para. 4)
- Consider strengthening the measures concerning gifts to public officials, in particular courtesy gifts of higher value (art. 8, para. 5)
- Take measures to strengthen the enforceability of the IRP recommendations on procurement (art. 9, para. 1)
- Enhance the efforts to promote accountability in the management of public finances, such as providing sanctions for late submissions of financial statements by ministries/departments (art. 9, para. 2)
- Continue the efforts of the Financial Reporting Council to monitor the compliance of the relevant entities with the Code of Corporate Governance (art. 12, paras. 1 and 2)
- Enhance transparency in procedures regarding licences and permits granted by public authorities, including through the amendments to the Business Facilitation Act (art. 12, paras. 1 and 2)
- Enhance access of general public to information, including through adopting a new law on the access to information that would fill the existing gaps, including grounds for refusal, time frames and an appeal mechanism. In addition, raise awareness among the general public regarding their right to request information (art. 10a, and art. 13, para. 1b)
- Continue the efforts to engage in consultations with civil society with regard to the development of new laws, such as the upcoming law on the access to information and the law on the funding of political parties (art. 13, para. 1a)
- Widen the non-financial businesses and professions scope of FIAMLA applicable to other sectors that are vulnerable to money-laundering that are not currently covered by existing AML legislation (art. 14, para. 1)
- Establish and ensure appropriate access to a bank account register with ultimate beneficial ownership information, which is at present under consideration, within one of the existing anti-money-laundering bodies (art. 14, art. 52, and art. 55, para. 8)
- Ensure the finalization and adoption of the AML/CFT national strategy and road map in order to establish a clear delineation of responsibilities among complementary competencies and avoid overlap and enhance inter-institutional cooperation (arts. 14 and 58)
- Continue the expansion of the software GoAML to further institutions in order to enhance inter-agency communication and coordination (art. 14)
- Introduce a reporting obligation for cash transactions above 500,000 Mauritian rupees (art. 14, para. 2)

- Clarify the scope of the provision relating to “payment” (sect. 2, FIAMLA) to mean the total amount paid and not the individual payments separately (art. 14, para. 2)

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

- Legislative assistance (arts. 9, 10 and 11)
- Institution-building (arts. 7, 8 and 9)
- Capacity-building (arts. 5, 6, 9, 11, 13 and 14)
- Research/data-gathering and analysis (art. 11)
- Facilitation of international cooperation with other countries (arts. 5 and 11)

3. Chapter V: asset recovery

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)

Several legislative provisions in Mauritius make express reference to the ability to cooperate in both a formal and informal capacity as well as share information nationally and internationally as deemed necessary to provide assistance (sect. 3, Mutual Assistance in Criminal and Related Matters (MACRM) Act; sect. 20 (3), FIAMLA; sect. 81 (5), POCA; and sects. 53–59, ARA).

The main piece of legislation with regard to asset recovery is the ARA, which provides for both conviction-based as well as non-conviction-based confiscation, including through the enforcement of a foreign court order. The FIU acts as the enforcement authority under the ARA Amendment of 2015 (sect. 4).

Mauritius communicates on a near daily basis with other States and shares information freely even in the absence of a treaty, including through the Egmont Group or the International Criminal Police Organization (INTERPOL).

Mauritius is still in the process of completing its first few asset recovery cases at the international level. Bank secrecy is not an obstacle to any asset recovery requests (ARA, sect. 57). However, it was noted that the courts were generally erring on the side of restraint when agreeing to access banking information, owing to human rights considerations. Therefore, a bank account register would ensure easier access to information for investigative agencies.

There is a plethora of new laws and the revision of others is under way. Mauritius was urged to ensure that this new body of legislation should be coordinated and consulted among the many national institutions and bodies that are concerned, including through the new anticipated AML/CFT national strategy and road map. It was also highlighted that the Asset Declaration Act, currently being drafted, would also help develop and implement a transparent and comprehensive policy for asset recovery.

Mauritius has concluded a relatively large number of bilateral and multilateral agreements/arrangements concluded on international cooperation in general, and also participates in the Asset Recovery Inter-agency Network for Southern Africa (ARINSA).

Prevention and detection of transfers of proceeds of crime; financial intelligence unit (arts. 52 and 58)

At present, while all banks and financial institutions are required to keep “know your customer” information, there is no centralized register or database. Section 17 of FIAMLA requires licensees to verify the true identity of all customers and other

persons with whom they conduct transactions and, in particular, verify the customer identification and identify the beneficial owners of funds deposited into high-value accounts. Mauritius also requires that financial institutions gather sufficient information in order to establish whether the customer is a politically exposed person and whether the beneficial owner could be a politically exposed person. The definition of a politically exposed person, who may be local or foreign, is outlined in the legally binding BOM guidance note on AML/CFT and the list of such persons should be reviewed at least yearly by senior management (sect. 6.100 et seq.).

As mentioned, Mauritius amends its legislation and regulations in order to align them with international standards. Mauritius requires that supranational standards be domesticated through a legislative process, which has not been done for the Convention to date.

Mauritian law sets a seven-year minimum threshold for the keeping of files and records. However, the law also allows such records to be kept longer; some institutions have therefore decided to preserve their records for a longer period of time. Records are not kept centrally, but within each institution.

The establishment of shell banks is prohibited and financial institutions are not allowed to enter into business relations with foreign institutions that accept the use of their accounts by such banks (sect. 5(1), BOM Act and sect. 6.92, BOM guidance note). The Central Bank (BOM) can communicate with other central banks and the FIU of Mauritius can communicate directly with foreign FIUs, which they do on a regular basis.

The Bank of Mauritius and the FSC require financial institutions to conduct AML/CFT risk assessments. Since August 2016, money-changers are required to report directly and in person to the Bank of Mauritius on all their transactions. Information on the sanctions or other restrictions applied after such due diligence can be found in the Banking Act (2004, sects. 11 et seq.).

Mauritius has a limited asset declaration system in place (see above under art. 8) which does not oblige officials concerned to disclose their “financial interests” outside of the country.

The Asset Recovery Investigation Division, which now falls under the aegis of the FIU, has both administrative and investigative powers. The FIU has the mandate to cooperate internationally for the purpose of asset recovery and regularly shares and seeks information for intelligence on an informal basis. Formal requests are sent through the Office of the Attorney General through a request for Mutual Legal Assistance.

It is anticipated that the new AML/CFT national strategy and road map will lay out the parameters for the complementary competencies in relation to the international aspect of cooperation in the area of asset recovery, AML and CFT.

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)

While there is nothing to prevent another State from initiating civil proceedings in Mauritius, this has never happened, and it was unclear how it would be handled by a court from a legal perspective. However, foreign States and parties have already exercised the right to recover damages in Mauritius. There is nothing in the legislation of Mauritius to prevent a foreign State or entity from making a claim as a legitimate owner of property during the confiscation process, since the definition is interpreted widely: “any person or individual shall apply to and include a group of persons, whether corporate or unincorporated” (Interpretation and General Clauses Act of 1974). Foreign States have recourse to assistance through a mutual legal assistance request under the MACRM Act.

Mauritius provides the possibility for both non-conviction-based and conviction-based confiscation, freezing and seizing of assets and accounts (Parts III and IV of ARA). Conviction-based recovery is in person and non-conviction based in rem. The law outlines the process of seeking direct application of foreign orders through the Supreme Court (MACRM Act, sect. 12). In practice, and with a view to speeding up the process, the authorities of Mauritius may initiate a domestic procedure instead and/or in parallel, using the incoming request as evidence and attaching it to an affidavit. Such a process can be carried out and assets confiscated, frozen or seized within 24 hours.

Return and disposal of assets (art. 57)

Pursuant to sections 19–21 of ARA, Mauritius sells all assets that are confiscated in order to retain the monetary value. Funds are deposited into a separate account until final adjudication. The FIU can also appoint a trustee to estimate the value of the benefit derived by the crime and confiscate, seize or freeze assets to an equivalent amount. This practice has never been challenged to date. Also, once the case is adjudicated, 80 per cent of the recovered assets fall to the State of Mauritius, to be deposited into a recovered assets fund for compensating victims after costs incurred have been deducted (ARA 58 (2) and sect. 6).

At the request of any foreign State for the enforcement of a foreign order received through a mutual legal assistance request, section 58 of ARA stipulates that the Attorney General shall transfer any ill-gotten assets, pending which, the confiscated property remains vested in the State of Mauritius (ARA, sect. 54). Mauritius also can proceed with non-conviction-based confiscation in the absence of a final judgment at the request of a foreign State.

Civil asset recovery is also possible in Mauritius as per section 54 of ARA, together with section 13 of the MACRM Act.

3.2. Successes and good practices

- Setting up direct live reporting of money-changers to address risks identified by the Bank of Mauritius risk assessment of the banking sector (art. 14, para. 1, and art. 52, para. 1)
- Mauritius allows non-conviction-based confiscation, including on the basis of foreign orders and requests (art. 54)

3.3. Challenges in implementation

It is recommended that Mauritius:

- Amend its asset declaration system to also include information regarding foreign-based assets, signatures and other values (art. 8, para. 5, and art. 52, para. 6)
- Clarify the current legal uncertainty regarding whether States are allowed to be a civil party to an asset recovery case and directly apply to the courts in Mauritius (art. 53)
- Monitor the application of the Recovered Assets Fund in order to ensure that States that are victims are duly compensated (arts. 53 (b) and 58)
- In view of being a dualist country, ensure that the Convention can be used as a legal basis in international cooperation in general and in asset recovery cases in particular (art. 55, para. 6)
- Ensure the finalization and adoption of the AML/CFT national strategy and road map in order to establish a clear delineation of responsibilities among complementary competencies and avoid overlap and enhance inter-institutional cooperation (arts. 14 and 58)

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

- Legislative assistance (art. 59)
- Institution-building (art. 59)
- Capacity-building (arts. 51, 53 and 54)
- Capacity-building for the Assets Recovery Investigation Division (art. 58):
 - Financial investigations
 - Asset recovery investigations
 - Organization and analysis of large data volumes through data mining
 - Money-laundering and confiscation relating to virtual currencies

IV. Implementation of the Convention

A. Ratification of the Convention

Mauritius signed the United Nations Convention against Corruption in Merida, Mexico on 9 December 2003, deposited its instrument of ratification with the Secretary-General of the United Nations on 14 November 2005 and ratified it on 15 December 2005.

B. Legal system of Mauritius

A hybrid legal system has developed in Mauritius characterized by common law and civil law concepts taken mainly from France and the United Kingdom of Great Britain and Northern Ireland. While Mauritius uses a Criminal Code, Civil Code derived from French law, it has also been strongly influenced by the United Kingdom with regard to law on evidence and administrative law. Mauritius has a written Constitution, which is the supreme law of the country.

The Supreme Court of Mauritius is the superior court of the island, having unlimited jurisdiction to hear and determine any civil or criminal proceedings under any law other than a disciplinary law and such jurisdiction and powers as may be conferred upon it by the Constitution or any other law. Mauritius has, after acceding to the status of republic, retained the right of appeal to the Judicial Committee of the Privy Council, which remains the highest appellate court of the country.

There has also been a sustained effort by the government to combat corruption and money laundering. Early efforts to combat corruption were spelt out in the Criminal Code which also contained provisions concerning bribery. Since then, Mauritius has established both regulatory (in the banking and non-banking financial sectors) and investigative institutions.

Since the year 2000, the Republic of Mauritius has adopted a more comprehensive and strategic approach in the fight against corruption and money laundering. New legislations have been introduced and harmonized to align the fight against corruption and money laundering to

international trends and to respond to obligations under the international instruments which the country has subscribed to. The Prevention of Corruption Act (PoCA 2002) as amended and the Financial Intelligence and Anti-Money laundering Act (FIAMLA 2002) as amended are the two main legislations in this respect. Both incorporate and give effect to the broad principles enunciated in international conventions regarding corruption and transnational crime. Accordingly, the Independent Commission Against Corruption (ICAC) and the Financial Intelligence Unit (FIU) were set up in 2002 to implement the various provisions of the Convention. Mauritius has also adopted a new public procurement framework.

The Asset Recovery Act (ARA) was passed by the National Assembly of Mauritius on 5th April 2011. The Act prescribes the procedure to enable the State to recover assets which are proceeds or instrumentalities of crime or terrorist property, where a person has been convicted of an offence or where there has been no prosecution, but it can be proven on a balance of probabilities that the property represents the proceeds or instrumentalities of an unlawful activity. The Mauritius asset recovery system is two-fold, a conviction-based system which is described under Part II of the ARA 2011 and a non-conviction-based system described under Part IV of the ARA 2011.

Following the enactment of the Asset Recovery Amendment Act of 2015, the Asset Recovery Investigation Division (ARID) has become the Enforcement Authority with respect to Asset Recovery and operates under the aegis of the Financial Intelligence Unit.

To bolster the fight against corruption, the Government Programme 2015-2019 entitled “Achieving Meaningful Change” presented by the Government on 27 January 2015 advocates ‘an in-depth reform of our public sector institutions to inject productivity, efficiency, integrity and quality service’. The government reiterated its commitment to:

- Eradicate fraud, corruption, malpractices and irregularities in all aspects of public life and restore its national values.
- Conducting business on the principles of discipline, transparency, accountability and exemplary governance.
- Clarify and secure the boundaries within the Executive, thus reinforcing transparency, accountability and integrity.

List of relevant legislations cited in the responses to the self-assessment checklist:

Prevention of Corruption Act 2002 as amended <https://www.icac.mu/the-prevention-of-corruption-act-2002/>

Financial Intelligence and Anti-Money Laundering Act 2002 as amended
<http://www.fscmauritius.org/media/120629/financial-intelligence-and-anti-money-laundering-act-2002.pdf>

Financial Intelligence and Anti-Money Laundering Regulations Act 2003
http://www.fiumauritius.org/English/AML%20CFT%20Framework/Documents/FIAML_Regulations_upd.pdf

Mutual Assistance in Criminal and Related Matters Act of 2003
<http://attorneygeneral.govmu.org/English/Documents/A->

[Z%20Acts/M/Page%201/MUTUAL%20ASSISTANCE%20IN%20CRIMINAL%20AND%20RELATED%20MATTERS%20ACT.pdf](#)

Prevention of Terrorism Act

<http://www.fscmauritius.org/media/37141/the%20prevention%20of%20terrorism%20act%202002.pdf>

Asset Recovery Act 2011 (as amended by the 2012 Amendment Act)

<http://attorneygeneral.govmu.org/English/Documents/A-Z%20Acts/A/Page%201/ASSET%20RECOVERY%20ACT.pdf>

Declaration of Assets Act 1991

<http://attorneygeneral.govmu.org/English/Documents/A-Z%20Acts/D/Page%201/DECLARATION%20OF%20ASSETS%20ACT.pdf>

Public Procurement Act 2006

<http://ppo.govmu.org/English/Documents/Public%20Procurement%20Act%202006-Amended%20as%20per%20Government%20Gazette%20No.%20100%20of%203%20November%202018.pdf>

Public Procurement Regulations Act 2008

[http://ppo.govmu.org/English/Documents/Public%20Procurement%20\(Regulations%202008\)-Final%2027%20Jan%202016.pdf](http://ppo.govmu.org/English/Documents/Public%20Procurement%20(Regulations%202008)-Final%2027%20Jan%202016.pdf)

Companies Act 2001

<http://companies.govmu.org/English/Legislation/Documents/2001/CompaniesAct070115.pdf>

Financial Reporting Act 2004

<http://www.fscmauritius.org/media/107756/financial-reporting-act-2004-13.01.14.pdf>

Equal Opportunity Act 2008

<http://eoc.govmu.org/English/Documents/equal%20opportunities%20act%202008.pdf>

Representation of People's Act 1958

<http://attorneygeneral.govmu.org/English/Documents/A-Z%20Acts/R/Page%201/REPRESENTATION%20OF%20THE%20PEOPLE%20ACT,%20NO%2014%20of%201958.pdf>

Financial Services Act 2007

http://www.fscmauritius.org/media/278631/financial-services-act-2007_updated.pdf

The Good Governance and Integrity Reporting Act 2015

<http://financialservices.govmu.org/English/Documents/Acts/Good%20Governance%20and%20Integrity%20Reporting%20Act.pdf>

Finance (Miscellaneous Provisions) Act 2015

<http://www.mra.mu/download/FinanceAct2015.pdf>

Mauritius Revenue Authority Act

<http://www.mra.mu/download/MRAAct140416.pdf>

The Convention for the Suppression of the Financing of Terrorism Act 2003

http://www.fiumauritius.org/English/AML%20CFT%20Framework/Documents/Convention_Suppression_Financing_Terrorism_Act_2003_upd.pdf

Bank of Mauritius Act 2004

https://www.bom.mu/sites/default/files/bank_of_mauritius_act.pdf

Banking Act 2004

https://www.bom.mu/sites/default/files/BankingAct2004_20150525.pdf

Criminal Procedure Act

<http://attorneygeneral.govmu.org/English/Documents/A-Z%20Acts/C/Page%203/CRIMINAL%20PROCEDURE%20ACT.pdf>

<http://attorneygeneral.govmu.org/English/Documents/A-Z%20Acts/C/Page%203/CRIMINAL%20PROCEDURE%20ACT.pdf>

List of assessments of measures to combat corruption and mechanism to review the implementation of such measures

Assessment Reports: National Survey on Corruption 2014

<https://www.icac.mu/national-survey-on-corruption/>

FSAP assessment in 2007 Financial Sector Assessment Programme (FSAP) 2003 World Bank/IMF Report 2008 2008 ESAAMLG Mutual Evaluation

http://www.esaamlg.org/userfiles/Mauritius_Detailed_Report.pdf

Review of FIU Guidance Notes

<http://www.fiumauritius.org/English/Guidelines/Pages/default.aspx>

Code of Conduct for the National Assembly Elections, 2014

[http://electoral.govmu.org/English/Documents/ESC%20-%20Code%20of%20Conduct%20\(Final\)%20NAE%202014.pdf](http://electoral.govmu.org/English/Documents/ESC%20-%20Code%20of%20Conduct%20(Final)%20NAE%202014.pdf)

<http://electoral.govmu.org/English/Documents/National%20Assembly%20Elections%20Regulations.pdf>

Equal Opportunities Commission - Guidelines for Employers

<http://eoc.govmu.org/English/Documents/employersguidelines.pdf>

Equal Opportunities Report 2014

<http://eoc.govmu.org/English//DOCUMENTS/EOC%20REPORT%202014.PDF>

Bank of Mauritius Guidelines

<https://www.bom.mu/financial-stability/supervision/guideline>

Financial Services Commission Guidelines

<http://www.fscmauritius.org/legal-framework/codes-and-guidelines.aspx>

Financial Services Commission - Rules and Regulations

<http://www.fscmauritius.org/legal-framework/rules-and-regulations.aspx>

Financial Services Commission - Statistical Report 2015

<http://www.fscmauritius.org/media/264665/fsc-statistical-report-2015-final-lr-.pdf>

Financial Intelligence Unit

<http://www.fiumauritius.org/English/Guidelines/Pages/default.aspx>

Relevant information regarding the preparation of Mauritius responses to the self-assessment checklist

The process used to compile the report was as follows:

- Desk Review
- Requests for information from relevant institutions
- Meetings with Heads of institutions
- Consultations and Group discussions
- Working sessions with the officers of the UNODC
- Conduct of a Stakeholder's Consultation Workshop for Chapters II and V facilitated by the UNODC
- Validation of Report by respective institutions and stakeholders

Stakeholders involved/consulted in the process

Consultations with stakeholders through the various established networks are an ongoing activity which has greatly facilitated the self-assessment process with respect to Chapter II. The ongoing relationship with stakeholders with respect to money laundering and asset recovery were again instrumental in the process and has greatly facilitated the preparation of the report. Stakeholders involved were as follows:

- a) Civil society through the Civil Society Network Against Corruption (CSNAC), the Mauritius Council of Social Services (MACOSS), the apex body for NGOs and Transparency Mauritius;
- b) The Public Private Platform Against Corruption (PPPAC) which ensures collective action from the public sector and the private sector;
- c) The Ministry of Finance and Economic Development, the Ministry of Financial Services, Good Governance and Institutional Reforms, relevant Ministries and public bodies;
- d) The Private Sector Anti-Corruption Task Force (PACT) which is a private sector led voluntary initiative which ensures collective actions against corruption in the private sector and the implementation of anti-corruption initiatives by businesses;
- e) The Independent Commission Against Corruption
- f) The Mauritius Police Force
- g) The Trade Union Action Against Corruption (TAC) comprising representatives from the main trade union federations in the country;
- h) The Youth Against Corruption (YAC), comprising of youth, university students, young professionals;
- i) The Construction Industry Anti-Corruption Committee comprising main stakeholders in the construction sector and some construction companies;
- j) The network of 109 Integrity Clubs in Secondary Schools and 5 Anti-Corruption Clubs in Tertiary Institutions;
- k) Interactions with professional associations; and
- l) The Financial Intelligence Unit, the Financial Services Commission, the Bank of Mauritius, the Mauritius Bankers Association, the former Asset Recovery Unit (Office of the DPP), the Asset Recovery Investigation Division (FIU), the Attorney General's Office.

Stakeholder's Consultation Workshop for Chapter V (2015) (UNODC Workshop on UNCAC Self-Assessment on Chapter V: Asset Recovery and Money Laundering)

Following a desk review to compile information for the Self-Assessment on Chapter V of the UNCAC, a two-day workshop was held on the 27th and 28th January 2015 in collaboration with the United Nations Office on Drugs and Crime (UNODC). Three experts were delegated from the UNODC to assist stakeholders in the preparation of this self-assessment exercise. Some 23 participants from the institutions listed below attended the workshop. The input from the workshop was incorporated in the draft report and updated in August 2016.

	INSTITUTION
1.	Independent Commission Against Corruption
2.	Office of the Director of Public Prosecution
3.	Attorney General's Office
4.	Ministry of Finance and Economic Development
5.	Financial Services Commission
6.	Financial Intelligence Unit
7.	Bank of Mauritius
8.	Judiciary

Stakeholder's Consultation Workshop for Chapter II (July 2016)

A Two-Day Stakeholder's Workshop facilitated by the UNODC was conducted on 27/28 July 2016. Prior to the workshop, a draft report was circulated for further input from stakeholders. Their input was incorporated into the second draft report and was subject to discussion at the workshop.

Following the stakeholder's consultation workshop, a third draft report was prepared and circulated to stakeholders for validation.

List of stakeholders

	INSTITUTION
1.	Independent Commission Against Corruption
2.	Attorney General's Office
3.	The Judiciary
4.	Financial Services Commission
5.	Financial Intelligence Unit
6.	Bank of Mauritius
7.	Office of the Director of Public Prosecution
8.	Prime Minister's Office
9.	Ministry of Finance and Economic Development
10.	Ministry of Financial Services, Good Governance and Institutional Reforms
11.	Ministry of Civil Service and Administrative Reforms
12.	Procurement Policy Office
13.	Independent Review Panel
14.	National Audit Office
15.	Mauritius Police Force
16.	Transparency Mauritius
17.	Business Mauritius
18.	Financial Reporting Council
19.	Mauritius Institute of Professional Accountants
20.	Mauritius Revenue Authority
21.	Public Bodies Appeal Tribunal
22.	Public Service Commission & Disciplined Forces Service Commission
23.	Mauritius Institute of Directors
24.	Office of the Electoral Supervisory Commission

25.	Local Government Service Commission
26.	Equal Opportunities Commission
27.	Mauritius Bankers Association
28.	Council of Registered Professional Engineers
29.	Youth Against Corruption
30.	NGO Trust Fund
31.	NGO Focal Group
32.	Civil Society Network Against Corruption
33.	Mauritius Council for Social Services
34.	Public Private Platform Against Corruption (PPPAC)
35.	Private Sector Anti-Corruption Task Force (PACT)
36.	Trade Union Action Against Corruption (TAC)
37.	Construction Sector Anti-Corruption Group

Mauritius listed the following three practices that it considers to be good practices in the implementation of the chapters of the Convention that are under review:

1) Public Private Partnership Against Corruption

The role of the private sector in the anti-corruption fight remains key in breeding a culture of business integrity. In view of having a private sector committed to preventing corruption, the ICAC initiated actions which resulted in the setting up of a Public Private Platform Against Corruption (PPPAC) and a private sector led voluntary initiative now termed as the Private Sector Anti-Corruption Task Force (PACT).

The ‘Public Private Platform Against Corruption’ (PPPAC) was set up in 2013 to ensure collective action against corruption by the two major stakeholders namely the public sector and the private sector. This platform enables various interest groups to work together to build a strong alliance against corruption.

The PPPAC is co-chaired by the Executive Director of Business Mauritius which is the apex body of the private sector and the Director of the Corruption Prevention and Education Division of the Independent Commission Against Corruption (ICAC).

Purpose and objectives of public private platform

The purpose of this platform is to provide for a consultative action forum against corruption while fostering interaction between the public and private sector for a corrupt-free Mauritius, in line with domestic and international legislations and conventions such as the Prevention of Corruption Act (PoCA 2002), the UK Bribery Act 2010, the United Nations Convention Against Corruption (UNCAC), and the Southern African Development Community Protocol Against Corruption.

The objectives of the PPPAC are to:

- (i) identify and prioritise corruption risk areas that require robust action from both sides and work towards the elimination of those inadequacies;
- (ii) share, synergize and sustain anti-corruption initiatives in both sectors;
- (iii) ensure collective anti-corruption initiatives from public bodies and private businesses and organisations;
- (iv) make recommendations to relevant parties for enhancing integrity;
- (v) discuss and make proposals for amendments to anti-corruption legislations; and (vi) give

recognition and visibility to anti-corruption initiatives.

The platform identified certain risk areas, but ‘procurement and contract management’ was considered a priority area for action. In this context, a sub-committee of the PPPAC was set up to identify the weaknesses in processes of procurement and contract management and make appropriate recommendations. The committee submitted its report and some of the recommendations pertaining to procurement were taken on board in the Finance (Miscellaneous Provisions) Act 2015.

Link: <http://www.mra.mu/download/FinanceAct2015.pdf>

These amendments (paragraph 43) provide amongst others, that every exempt organisation shall establish its own procurement rules in relation to such types of contracts as may be prescribed. “Exempt organisation” means a body which is, by regulations, excluded from the application of the Public Procurement Act. Subsequently, the Chief Executive of an exempt public organisation must certify that all procurement rules at the level of the Board have been complied with, to act in accordance with such directives as he/she may receive from the Board and to be accountable and answerable to the Board. Moreover, an amendment relates to procurement for consultancy services, whereby the process has been made more competitive, thus allowing more bidders to participate.

The PPPAC set up another sub-committee to examine the process of allocating building and land use licenses and permits in local authorities. The report was submitted to the Ministry of Local Government and to the local authorities for implementation. In the budget speech 2016/17, the following measures were mentioned in this respect:

“150. Our first measure therefore is to cut drastically the time it takes to deliver Building and Land Use Permits (BLPs) and clearances for all construction related projects. To this end,

- i. the requirement for approval by the Executive Committee of the Local Authority concerned when determining a BLP is being abolished;*
- ii. the Local Authority will have only 8 working days to seek any additional information from an applicant; and*
- iii. we are requiring that all applications for constructions with a floor area exceeding 150 square meters be made on-line.*

152. Third, we will take onerous paper work out of the system. An e-licensing platform will be set up to provide a single point of entry for applications for permits and licences. This will bring down submission of documents in some cases from around 48 copies to just one copy.

153. Fourth, the Investment Promotion Act will be amended to authorise the BOI to issue the necessary clearances and approvals for a business to start operation in cases where the statutory deadlines for processing applications have lapsed. This is in line with the Silent Agreement Principle. It should unlock a significant number of projects that are in the pipeline, accelerate job creation, turn around the declining trend in private investment, increase FDI and boost economic growth.”

In line with the preliminary recommendations made, the ICAC in collaboration with the Ministry of Local Government organised an empowerment workshop for 60 technical cadres of local authorities. The main objective of the workshop was to empower participants to identify possible risks and opportunities for corruption in the processing and allocation of permits and licenses in local authorities and discuss implementation of the recommendations.

The experience of the PPPAC was shared during the 2nd Global Conference on Anti-Corruption

Reforms in Small Island Developing States (SIDS) held in Mauritius from 2 to 4 August 2016 to discuss the topic of countering corruption in public procurement in Small Island Developing States. The discussions on the issue of public private partnerships resulted in the 2nd SIDS Conference Communique calling upon States parties to encourage the public sector and the private sector to work together to identify risks of corruption in the procurement process and to make recommendations to improve corruption resistance at national level.

2) The setting up of Anti-Corruption Platforms

The ICAC has since 2003 adopted an inclusive approach in the fight against corruption. The focus of the prevention strategy of the ICAC has been on building integrity in the nation. The objectives are to form a vigilant civil society, change the mindset of people and instil a culture of integrity.

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

- Stakeholders in the education sector;
- Trade Unionists;
- Civil Society, youth and students;
- Public officials and new recruits in the public sector;
- Professional bodies and associations; and
- The private sector.

All possible channels of communication were considered to raise awareness among the population. By using mass communications, the ICAC has been trying to create greater awareness on the dangers and impact of corruption.

Networking and the development of effective partnerships with key stakeholders in both the public and private sectors were encouraged to reinforce and sustain the fight against corruption. These networks have gradually moved towards the setting up of various anti-corruption platforms for enhanced collective actions.

These platforms are:

- (i) Public Private Platform Against Corruption (PPPAC) which groups private sector organisations, businesses and public sector institutions with the objectives of identifying corruption prone areas and propose remedies.
- (ii) Private Sector Anti-Corruption Task Force (PACT) which groups private sector organisations and businesses with the objective to encourage businesses to set up anti-corruption frameworks in their organisations.
- (iii) Civil Society Network Against Corruption which groups members of the civil society with the objective to deter the supply side of corruption.
- (iv) Trade Union Against Corruption which groups trade unionists to promote corruption-free work places.
- (v) NGO Focal Group which groups NGOs and promotes their engagement in the fight against corruption.
- (vi) Youth Against Corruption (YAC) platform which groups young individuals with the

objective of securing youth engagement and encourage ownership of the fight against corruption.

- (vii) Integrity Clubs in secondary schools and
- (viii) Anti-Corruption Clubs in tertiary institutions.
- (ix) Construction Industry Anti-Corruption Committee, comprising main stakeholders in the construction sector and some construction companies.

These platforms have allowed the ICAC to:

- i) establish strong collaborations with key stakeholders within civil society, the public sector and the private sector;
- ii) progress from raising public awareness about corruption to the conduct of corruption risks assessments and the establishment of structures in organisations to mitigate corruption risks; and
- iii) move gradually from Awareness to Empowerment, from Empowerment to Engagement and from Engagement to Ownership while sustaining anti-Corruption efforts.

These anti-corruption platforms have been instrumental in reaching the different segments of the population and sustaining anti-corruption efforts. The ongoing working relationship and consultations with stakeholders have greatly facilitated the development and implementation of anti-corruption strategies and initiatives.

3) Implementation of the Public Sector Anti-Corruption Framework in public bodies

The ICAC has developed the Public Sector Anti-Corruption Framework (PSACF) in 2009 to enable public bodies to establish the requisite capacity to prevent and combat corruption in their sphere of operation. The framework includes the setting up of an Anti-Corruption Committee (ACC), the adoption of an Anti-Corruption Policy, the conduct of Corruption Risk Assessments and the formulation of anti-corruption measures for proactively dealing with risks of corruption and malpractices.

The Public Sector Anti-Corruption Framework was awarded the United Nations Public Service Award in 2012, for the Africa Region, in the category “Preventing and Combating Corruption in the Public Service”

Link: <http://unpan1.un.org/intradoc/groups/public/documents/un-padm/unpan049524.pdf>

The framework provides a risk-based approach to preventing corruption and other malpractices in public bodies. It recognizes the importance of detecting, preventing and combating corruption and aims at strengthening institutional capabilities of public bodies through the establishment of appropriate mechanisms to control corruption. The objective of this initiative is to assist public bodies in the setting up of anti-corruption strategies, evaluating them independently and improving on existing measures. Corruption Risk Management is an essential part of the framework.

The aim of the framework is to enhance the corruption prevention capabilities of public bodies to control and prevent the risk of corrupt practices. It empowers public bodies to take ownership of corruption prevention in a proactive and structured manner.

The PSACF has been further consolidated by Integrity Officers, designated in public bodies and empowered to enhance organizational integrity. Integrity Officers have been bestowed with the task of leading the battle against impunity for breach of integrity and for restoring public trust and confidence in the public sector. They are called upon to mitigate potential risks in the systems, procedures and practices, manage them and apply tailored countermeasures for the benefit of all. To further assist Integrity Officers in fulfilling their duties, an Integrity Management Toolkit has been developed. The toolkit is the outcome of an empowerment workshop facilitated by the UNODC and vetted by a former Commissioner of ICAC Hong Kong.

Measures to be taken to ensure full compliance with the chapters of the Convention under review

Monitoring the implementation of post award of public contracts

The rationale behind the development and implementation of a prevention mechanism to better monitor the post award of public contracts is to be proactive and to prevent the occurrence of corruption in contract administration by enhancing supervision, oversight, insight, foresight and detection. Monitoring is a strong deterrent to corruption. It starts with the allocation of a contract and ends with the taking over and commissioning of the project.

Enhanced prevention of malpractices and corruption in the monitoring of the post award of public contracts are expected to ensure value for money and keep at bay corruption and malpractices that inflate costs, affect quality, cause disputes, cost and time overruns, deviations from contract conditions and even jeopardize the safety and health of the public.

In this regard technical assistance could be considered for the setting up of a specific unit at the level of the Independent Commission Against Corruption, to build capacity to monitor the post award of public contracts and the drafting of appropriate legal provisions.

C. Implementation of selected articles

II. Preventive measures

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

Anti-Corruption Policies

Since the ratification of the Convention in 2005, there has been a continuous consolidation of the policies, procedures and practices in the fight against corruption in Mauritius. The Prevention of Corruption Act 2002 (**PoCA 2002**), as amended, and the Financial Intelligence and Anti-Money Laundering Act 2002 (**FIAMLA 2002**), as amended, are the legislations that promote the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability. Accordingly, the Independent Commission against Corruption (**ICAC**) and the Financial Intelligence Unit (**FIU**) were set up in 2002.

Various amendments were brought to these laws and new laws have been enacted to reinforce the fight against corruption and money-laundering in the country, including the Mutual Assistance in Criminal and Related Matters Act of 2003, which provides a legal framework for both outgoing and incoming requests, the Asset Recovery Act 2011 (ARA), the Public Procurement Act 2006, the Public Procurement Regulations Act 2008, the Local Government Act 2011, and the Good Governance and the Integrity Reporting Act 2015.

The ICAC is the agency responsible for developing, implementing and maintaining effective and 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 in Mauritius. The ICAC has as core functions to lead, implement and administer the prevention, education and enforcement elements of the national strategy to fight corruption within the established parameters. The ICAC's mission, amongst others, is to make corruption socially and morally unacceptable through a culture of integrity, public intolerance against corruption, public confidence in the fight against corruption and effective law enforcement through a participatory approach with the community and stakeholders, including government and the press. Since the setting-up of the ICAC, a partnership approach has been adopted where strong collaborations have been established with key stakeholders including civil society and the private sector.

The PoCA 2002 provides for the establishment of a Corruption Prevention and Education Division

(CPED) of the ICAC with a clear mandate to educate the public against corruption and enlist and foster public support in combating corruption. The said division of the ICAC operates through two specialized Branches, the Community Relations Branch and the Systems Enhancement Branch.

Section 20 of the PoCA describes the functions of ICAC and Section 30 provides the mandate of the Corruption Prevention and Education Division.

Section 20

Functions of the Commission

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

- (a) educate the public against corruption;
- (b) enlist and foster public support in combating corruption;
- (c) receive and consider any allegation that a corruption offence has been committed;
- (d) detect or investigate any act of corruption;
- (e) investigate the conduct of any public official which, in its opinion, is connected with or conducive to, corruption;
- (f) monitor in such manner as it considers appropriate, the implementation of any contract awarded by a public body, with a view to ensuring that no irregularity or impropriety is involved therein;
- (g) examine the practices and procedures of any public body in order to facilitate the discovery of acts of corruption and to secure the revision of methods of work or procedures which, in its opinion, may be conducive to corruption;
- (h) advise and assist any public body on ways and means in which acts of corruption may be eliminated;
- (i) undertake and assist in research projects in order to identify the causes of corruption and its consequences on, inter alia, the social and economic structure of Mauritius;
- (j) cooperate with all other statutory corporations which have as object the betterment of the social and economic life of Mauritius;
- (k) draft model codes of conduct and advise public bodies as to the adoption of such code of conduct as may be suited to such bodies;
- (l) co-operate and collaborate with international institutions, agencies or organisations in the fight against money laundering and corruption;
- (m) monitor current legislative and administrative practices;
- (n) advise the Parliamentary Committee on such legislative reform as it considers necessary to foster the elimination of acts of corruption;
- (o) detect and investigate any matter that may involve the laundering of money or suspicious transaction that is referred to it by the FIU;
- (p) execute any request for assistance referred to it by the FIU;

- (q) take such measures as may be necessary to counteract money-laundering in consultation with the FIU;
 - (r) co-operate and collaborate with the FIU in fulfilling common objectives.
- (2) The Commission shall act independently, impartially, fairly and in the public interest.
 - (3) Subject to this Act, the Director-General shall not be under the control, direction of any other person or authority.
 - (4) The Prime Minister may appoint such committee as he may deem necessary for advising the Commission -
 - a) on any matter pertaining to the functions of the Commission;
 - b) on strategies to reduce corruption;
 - c) on educational programs to be implemented so as to involve the community in anti-corruption strategies;
 - d) on the staffing policies of the Commission;
 - e) on the annual estimates of the Commission; and
 - f) such other matters as he may deem fit.

Section 30 of the act provides the prevention and education mandate of the Commission as follows:

- a) conduct public campaigns to alert the public on dangers of corruption;
- b) enlist and foster public support in combating corruption;
- c) assist in enhancing the school curriculum so as to educate children on the dangers of corruption;
- d) inform the general public on the manner in which complaints of acts of corruption should be made;
- e) conduct campaigns to encourage the formation and strengthening of non-governmental organizations to fight corruption;
- f) liaise with private sector organizations and trade-unions for the setting up of anti-corruption practices;
- g) conduct workshops and other activities to promote campaigns for the prevention and elimination of corruption;
- h) undertake and assist in research projects in order to identify the causes of corruption and its consequences on, inter alia, the social and economic structure of Mauritius;
- i) co-operate with all other statutory corporation which have as object the betterment of the social and economic life of Mauritius;
- j) promote links between the Commission and international organizations so as to foster international co-operation in the fight against corruption;
- k) encourage links between the Commission and similar agencies in other countries; and

- l) enhance education on the dangers of corruption.
- m) monitor, in such manner as it considers appropriate, the implementation of any contract awarded by a public, with a view to ensuring that no irregularity or impropriety is involved therein;
- n) examine the practices and procedures of any public body in order to facilitate the discovery of acts of corruption and to secure the revision of methods of work or procedures which, in its opinion may be conducive to corruption
- o) advise and assist any public body on ways and means in which acts of corruption may be eliminated;
- p) draft model codes of conduct and advice public bodies on their adoption.

Please refer to: <https://www.icac.mu/the-prevention-of-corruption-act-2002/>

The national anti-corruption strategy is described within the PoCA 2002 as amended and operations are guided by yearly action plans.

Examples of Anti-Corruption Strategies of the institutions

In line with the provisions of the UNCAC, the ICAC is committed to sustain the public sector efforts and capacity to prevent and sanction corruption, encourage public sector integrity and foster accountability and transparency in government operations. Its anti-corruption efforts are spearheaded through a holistic and integrated approach where systems integrity and people integrity complement each other.

The aim is to reinforce the corruption resistance capacity of Public Sector Organisations with a view to promoting high standard of public service and value for money within a culture that is founded on integrity. This is being done through the following strategies:

- Ensuring a collective approach to corruption prevention.
- Reinforcing the anti-corruption and governance framework.
- Implementation of anti-corruption structures
- Ensuring probity of the procurement process.
- Strengthening the decision-making process.
- Reinforcing the ethics and integrity framework.

The initiatives and actions of the ICAC since 2003 have been geared towards instilling a zero-tolerance culture to corruption and were centred on:

- sustaining integrity in the public service;
- promoting ethical leadership in the public and private sectors;
- fostering a corrupt-free generation - engaging the youth in both the formal and informal sectors through the setting up of anti-corruption platforms;
- sustaining civil society support and engagement in the fight against corruption;
- consolidating public trust in reporting corruption; and
- addressing the supply side of corruption through public/private partnership.

With the close collaboration of stakeholders, the strategy of ICAC has moved from Awareness to Empowerment, from Empowerment to Engagement and from Engagement to Ownership while sustaining anti-Corruption efforts. This has paved the way for enhanced and more visible anti-

corruption compliance in all sectors so that corruption is resisted, rejected and systematically reported.

The ICAC has been guided by the articles of Chapter II of the UNCAC in the conduct of its prevention and education activities.

The past thirteen years (2003-2016) have been invested in sensitizing, educating and empowering the Mauritian population through direct interfacing, mass communication and other media outlets. At the same time, systems and procedures in public bodies in corruption-prone areas have continuously been upgraded to become corruption resistant.

Public Sector Anti-Corruption Framework (PSACF)

Mauritius encourages the adoption of anti-corruption policies at the level of individual public bodies through the Public Sector Anti-Corruption Framework (PSACF)¹. This reflects Mauritius' position that due to the changing nature and patterns of corruption, innovation in anti-corruption strategies is key and the strategies should be in line with the regional and international obligations of Mauritius in the fight against corruption.

The PSACF was developed in 2009 with a view to enabling public bodies to establish the requisite capacity to prevent and combat corruption in their sphere of operation. The Framework won the UN Public Service Award in 2012, ranking first in the Africa Region, in the category of "Preventing and Combating Corruption in the Public Service"

The PSACF aims at strengthening the existing framework and improving institutional capabilities within public bodies through administrative policies in the field of internal control, oversight mechanisms, transparency and accountability. It is thereby expected to strengthen the anti-corruption infrastructure of public bodies. The main focus has been to enlist the participation of more public bodies in the fight against corruption and ensure that a greater number of public bodies attain the corruption risk management phase. The aim of the framework is to enhance the corruption prevention capabilities of public bodies to control and prevent the risk of corrupt practices. It empowers public bodies to take ownership of corruption prevention in a proactive and structured manner.

In particular, the PSACF calls on all public bodies to develop and implement effective anti-corruption policies, corruption prevention plans, corruption risk management systems and corruption prevention strategies. The PSACF provides concrete guidance on the development of these policies and plans, including templates and model forms. It proposes a risk-based approach for the implementation of the mechanism. For that purpose, a Guide on Corruption Risk Management has been developed. The Integrity Management Toolkit on the other hand provides the tools for the implementation of anti-corruption measures.

In the implementation of the Public Sector Anti-Corruption Framework, public bodies are called upon to develop and disseminate a comprehensive policy on corruption prevention to clearly state their position for a zero-tolerance corruption culture. An anti-corruption policy sets the tone at the top on the full commitment for a culture of integrity. It sets the aims and objectives, draw together existing policies and procedures that relate to corruption prevention and outline where further work needs to be done to minimize corruption risks in their respective organisations.

Anti-Corruption Policies are communicated to stakeholders and available on the websites of public bodies. Please refer to the following websites for examples.

¹ <https://www.icac.mu/wp-content/uploads/2015/10/Public-Sector-Anti-Corruption-Framework.pdf>

Mauritius Prisons Service:

<http://prisons.govmu.org/English/Pages/default.aspx>

<http://prisons.govmu.org/English//DOCUMENTS/MPS%20ANTI-CORRUPTION%20POLICY.PDF>

Ministry of Civil Service and Administrative Resources:

<http://civilservice.govmu.org/English/Pages/default.aspx>

<http://civilservice.govmu.org/English/Documents/Home/AntiCorruptionPolicy-2013.pdf>

Ministry of Ocean Economy, Marine Resources, Fisheries and Shipping:

<http://fisheries.govmu.org/English/Pages/default.aspx>

<http://fisheries.govmu.org/English//DOCUMENTS/ANTI-CORRUPTION%20POLICY.PDF>

Civil Status Division:

<http://csd.pmo.govmu.org/English//DOCUMENTS/ANTICORRUPT-POLICY.PDF>

Ministry of Industry, Commerce and Consumer Protection (Industry Division):

<http://industry.govmu.org/English//DOCUMENTS/ANTI%20CORRUPTION%20POLICY%20.PDF>

Mauritius Qualifications Authority: <http://www.mqa.mu/English/Pages/MQA-Anti-Corruption-Policy.aspx>

The PSACF also calls for the establishment of Anti-Corruption Committees (ACC) at the level of each public body. In fact, the setting up of an ACC is the first requirement for the implementation of the PSACF. The ACC is comprised of dedicated officers to drive the project and should be chaired by a person at management level. These committees are responsible for developing and coordinating the implementation of anti-corruption initiatives and programmes and the Terms of Reference include the following activities:

- Formulation of an Anti-Corruption Policy
- Development of a Corruption Prevention Plan
- Development and implementation of an integrated Corruption Risk Management Plan
- Oversight and coordination of the implementation of corruption prevention strategies
- Implementation of recommendations proposed by the ICAC in Corruption Prevention Reviews
- Advice to management on corruption prevention issues with respect to new projects and policies on which the organisation is embarking.
- Building and sustenance of an ethical culture to promote integrity of staff within the organisation.

- Interaction with other Anti-Corruption Committees to share corruption prevention experiences.
- Report achievements through the Chief Executive of the Ministry/Department to the Director General of the ICAC twice yearly.

The ACC reports achievements through the Chief Executive of the Ministry/Department to the Director General of the ICAC twice yearly.

The ICAC acts as a facilitator in the implementation of the framework. In particular, the CPED exercises vigilance and superintendence over integrity systems and practices in public bodies with a view to eliminating opportunities for corruption and conducts workshops and other activities to promote campaigns for the prevention and elimination of corruption.

As of May 2017, the framework was being implemented in seventy-eight Ministries/Government Departments and parastatal bodies. 55 public bodies have developed their anti-corruption policies and 45 have embarked on the corruption risk management exercise. In addition, 79 public bodies have established dedicated ACCs. Appropriate anti-corruption measures are being implemented by public bodies to address the potential corruption risks identified during the corruption risk assessment exercises.

The Public Sector Anti-Corruption Framework has already established the required mechanism in public sector organisations for the implementation of ISO 37001 Anti-Bribery Management Systems being finalised by the International Organisation for Standardisation and applicable across all jurisdictions.

Integrity Officers

The PSACF has been reinforced with the designation of Integrity Officers. The Integrity Officer project is being implemented in collaboration with the Ministry of Civil Service and Administrative Resources and entails the designation and training of senior public officers to act as integrity officers. These are called upon to mitigate potential risks in the systems, procedures and practices, manage them and apply tailored countermeasures. The project is expected to contribute to the establishment of an enduring ethical culture, help prevent corruption and effectively address it, and provide a public demonstration of the organization's commitment to integrity.

As of June 2017, 128 Integrity Officers have been designated and empowered through a training programme conducted in two stages, an Initial Training and an Advance Training facilitated by resource persons from UNODC. Another batch of Integrity Officers designated recently by Parastatal Bodies will be provided shortly with the necessary training. Integrity Officers have been bestowed with the task of leading the battle against impunity for breach of integrity and for restoring public trust and confidence in the public sector. An Integrity Management Toolkit² has been developed to assist Integrity Officers in fulfilling their task. The toolkit is available also in a soft version with a set of anti-corruption tools developed by the ICAC.

Integrity officers are members of ACCs set up at the level of public bodies and are expected to play a critical role in reinforcing organizational integrity. They have been designated and empowered to drive anti-corruption initiatives and to enhance the effectiveness and sustainability of the anti-corruption frameworks in public bodies.

Role of Integrity Officers and their concrete tasks:

² <https://www.icac.mu/wp-content/uploads/2016/06/IMTOOLKIT.pdf>

Expectations	Measures
Secure and sustain public trust and confidence in public sector management	<p>The Anti-Corruption Committee (ACC) has to direct the change process. The Committee should comprise top management members. Their tasks would consist of:</p> <ul style="list-style-type: none"> • translating the strategic lines defined by top management into an integrated Integrity Management Plan; • having the plan endorsed by parent Ministry and/or other competent government authorities; • engaging staff in the implementation of the plan (ACC could be assisted in its task by one or more working groups and trade union representatives could be involved in the process); • expediting implementation of the Public Sector Anti-Corruption Framework (PSACF) in a sustained manner; • monitoring progress and reporting to top management and parent Ministry.
Assess the implementation deficit of integrity measures	<p>Minimise the risks of malpractices and corruption by:</p> <ul style="list-style-type: none"> • promptly identifying, assessing and mitigating integrity risks; • sharing experience with other Integrity Officers.
Reinforce both system's and people's integrity in public bodies	<ul style="list-style-type: none"> • develop and implement measures for the promotion of transparency, accountability and integrity in public sector organisations; • ensure compliance to the code of ethics/conduct and enhance ethical standards; • provide opinions and guidance on integrity risks and issues that may arise.
Pave the way for attaining public service excellence through an integrated, inclusive and holistic approach	<ul style="list-style-type: none"> • ensure that the processes are consistent with updated government regulations, policies, guidelines and best practices; • create a conducive environment where public officers would be able to carry out their duties as efficiently and effectively as possible, within available resources, for the benefit of all customers.

Please refer to the Integrity Management Toolkit for a better understanding of the role and responsibilities of Integrity Officers:

<https://www.icac.mu/launching-integrity-management-toolkit/>

Corruption Prevention Reviews

In line with Section 20(g) of the PoCA, the ICAC is mandated to exercise vigilance and superintendence over systems integrity of public bodies. In this view the ICAC conducts corruption

prevention reviews (CPRs) in public bodies to reinforce systems integrity. The CPRs involve the identification of corruption risk areas in organisational systems and procedures and appropriate recommendations to counter corruption opportunities through the promotion of accountability, transparency and fairness to render the systems and procedures corrupt-free. The objectives of the CPRs are to identify the systemic loopholes that lead to corruption risks and to develop appropriate anti-corruption measures to plug in the identified loopholes and corruption risks so that corruption does not undermine national development.

Sectors and institutions that are subject to more complaints and allegations of corruption and malpractices have been targeted for systems reviews. The recommendations, though not mandatory have triggered legislative reforms, resulting in simplified transparent systems and procedures for fairness in effective service delivery while reinforcing organisational integrity.

Following the release of the Corruption Prevention Reviews, follow-up exercises are conducted to ensure sustainability of our corruption prevention efforts. The objectives of the follow-up exercises are to:

- monitor the implementation of the recommendations;
- assess the level of implementation;
- identify constraints in the implementation process; and
- provide necessary support and advice for further implementation of recommendations.

As a matter of example, for the year 2015, 49 follow-up reports were conducted on CPRs issued to public bodies. The follow-up reports revealed that an average of 76% of the recommendations were implemented or were in the process of being implemented by public bodies.

The implementation of the recommendations contained in Corruption Prevention Reviews have brought the following benefits to public bodies:

- **Better understanding of corruption risks:** The CPRs have enabled public bodies to better understand the risks of corruption in their respective areas of activities and to implement anti-corruption measures to address the risks. Along with the other initiatives like the Public Sector Anti-Corruption Framework and the designation of Integrity Officers that are being spearheaded by the ICAC, public bodies are being encouraged and empowered to adopt a risk-based approach in the management of their respective institutions.
- **Administrative transparency, accountability and procedural simplicity:** Many public bodies have developed/improved policies and procedures in their respective areas of activities and implemented measures to reinforce their governance structure. Public bodies have been encouraged to use Best Practice Guides such as the one on Recruitment and Selection in parastatal bodies, Overtime Management and Inspection developed by ICAC to better structure the decision-making process and promote transparency and accountability in their systems and processes.
- **Increasing use of ICT in e-procurement, e-recruitment, e-licencing:** Public bodies are also making increasing use of technology for faster service delivery and to improve transparency of operations.
- **Review of legislations:** The CPRs have triggered revision of the legislation in many instances. For instance, the discretionary power of the Minister of Finance on exemption of duties for religious purpose was removed. A new legislative framework for the Mauritius Society for Animal Welfare was adopted.
- **Review of management structure:** In line with a more proactive approach to prevent corruption, public bodies are consolidating their management structures through the setting-up of key

departments like internal audit, human resources and procurement. These new functions now allow for further segregation of duties. Several requests have also been made by public bodies for the review of systems and procedures.

- Improved supervisory control, oversight and monitoring: Certain risk areas, like supervisory control and oversight have been improved considerably. The implementation of recommendations have reduced direct contact between public officers and the public. This has reduced the opportunities for corruption.
- Professionalization of operations and improved service delivery: The implementation of the CPR recommendations have created promptness in public service delivery and improved customer satisfaction. Most public bodies have developed their customer charters and are providing on-line services.
- Conduct of public officials: In order to enhance the ethics and integrity infrastructure, many public bodies have come up with specific Codes of Conduct/Ethics. Measures have been adopted to address conflict of interest situations and programmes to instil a culture of integrity in the organisation. Several guides have been developed to assist public bodies in enhancing their ethical infrastructure. All these measures are contributing to the improvement of ethical conduct in public bodies.

In 2015, 36 CPRs were conducted and some 522 recommendations provided to the management of public bodies for prompt implementation. Some main corruption-prone areas covered during the reviews include procurement of goods, allocation of contract, recruitment and selection and issue of licences among others.

Forty-nine follow-up reports were issued during the year. The initiatives taken by public bodies revealed that an average of 76% of the recommendations have been implemented or are in the process of being implemented.

Governance Indicators

The effectiveness of the measures taken by Mauritius is reflected in the various corruption and governance indicators.

Mauritius has been able to sustain its rankings over the years as per several governance indicators. The main ones are the *Mo Ibrahim Index*, the Corruption Perception Index of *Transparency Mauritius*, *Doing Business* and the *Worldwide Governance Indicators*.

The scores of the Corruption Perception Index (CPI) of Transparency International for the last five years are quite stable for Mauritius.

Year	No of Countries	Rank	Score
2012	176	43	57
2013	177	52	52
2014	175	47	54
2015	168	45	53
2016	176	50	54

Transparency International's CPI 2012-2016)

The Ibrahim Index of African Governance (IIAG) positions Mauritius as the best governed country in Africa and Mauritius has maintained its first position on the index since 2006. The IIAG has been

created in recognition of the need for a more comprehensive, objective and quantifiable method of measuring governance quality in Sub-Saharan Africa. It provides an annual assessment of the quality of governance in every African country. Presently, the IIAG consists of more than 90 indicators built up into 14 sub-categories, four categories and one overall measurement of governance performance. This represents the most comprehensive collection of data on African governance. The Index assesses the national progress of 54 countries in key areas.

In the Doing Business 2017 index, Mauritius once again ranks best in the region, with an overall Doing Business global ranking of 49.

Memoranda of Understanding

Memoranda of Understanding (MoUs) have been developed between the ICAC and the following institutions:

- i) Mauritius Research Council to collaborate in the conduct of research on corruption;
- ii) Competition Commission of Mauritius;
- iii) 10 main Trade Union Federations;
- iv) Washington and Lee University for the setting up of a Corruption Research Platform for Small Island Development States (SIDS);
- v) The African Development Bank (ADB);
- vi) The “Bureau Independent Anti-Corruption” BIANCO, the Anti-Corruption Agency in Madagascar.

Collaborations

Strong collaborations have been developed between the ICAC and the following institutions:

- Ministry of Civil Service and Administrative Reforms;
- Ministry of Education and Human Resources, Tertiary Education and Scientific Research;
- Mauritius Police Force;
- Attorney General’s Office;
- Office of the Director of Public Prosecutions;
- Mauritius Institute of Directors;
- Mauritius Institute of Education;
- Ministry of Youth and Sports;
- Ministry of Arts and Culture;
- Business Mauritius, which is the apex body of the private sector;
- Financial Intelligence Unit ;
- Transparency Mauritius ;
- Trade Union Federations;
- Mauritius Council of Social Services (MACOSS), the apex body of Civil Society Organisations;
- Other Ministries and Departments
- Mauritius Revenue Authority
- Civil Service College

Examples of such collaborations include:

a) Ministry of Civil Service and Administrative Reforms

Empowerment of new recruits in the civil service: Through this collaboration, all new recruits in the civil service are sensitised and empowered during their induction course on the issue of corruption and integrity. A module has been developed and is serviced by the officers of the ICAC. An interactive module has been developed by the ICAC for the Electronic Learning System of the Ministry of Civil Service and Administrative Reforms and is available on its website. 59 empowerment sessions reaching over 3110 public officials were held in 2015. The issues discussed during the empowerment sessions comprised the legal and ethical obligations of public officials as well as their roles and responsibilities in the fight against corruption and the need for promoting public sector integrity.

Integrity Officer Project: This project is being implemented in collaboration with the Ministry of Civil Service and Administrative Reforms. Integrity Officers have been designated by public bodies and have been empowered through an initial training and an advanced training conducted by the ICAC, the Ministry and Officers of the UNODC.

b) Mauritius Police Force (MPF)

Empowerment of all new recruits in the MPS. A module on Enhancing Integrity in the Police Force has been integrated into the training programme conducted by the Police Training School. Furthermore, focus sessions are conducted with all promotional grades. Refresher courses are also conducted by the Police Training School for the other grades. All these sessions are serviced by the officers of the ICAC.

c) School of Nursing

An Anti-Corruption Module has been developed for all trainees and serviced by ICAC officers. Through this collaboration all officers of the hospitals in Mauritius are being sensitised on the issue of corruption and integrity.

d) Mauritius Revenue Authority

The ICAC contributes to the implementation of the Integrity Management Programme and the conduct of empowerment sessions with the staff of the authority.

(b) Observations on the implementation of the article

Mauritius does not have an explicit national anti-corruption policy; however, it adopted the comprehensive 2002 PoCA and other relevant laws. An implicit national policy was developed subsequent to the establishment of the ICAC. In particular, the Public Sector Anti-Corruption Framework (PSACF) encourages the adoption of sectorial anti-corruption policies and strategies, corruption prevention plans and corruption risk management systems. To date, 55 public bodies have developed tailored anti-corruption policies and another 45 have embarked on corruption risk management exercises. Furthermore, 79 public bodies have established dedicated Anti-Corruption Committees (ACCs) and have designated their integrity officers responsible for integrity issues and liaising with the ICAC.

The ICAC monitors the public bodies through regular Corruption Prevention Reviews (CPRs). Implementation of the CPR recommendations is also monitored by the ACCs on which ICAC Officers act as Ex-Officio members.

Mauritius is deemed in compliance with the provision under review.

(c) Successes and good practices

The adoption of the PSCAF calling on public bodies to develop and implement their own anti-corruption policies and corruption risk management systems was considered a good practice.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

The ICAC has adopted a collaborative approach in the fight against corruption. With the close collaboration of stakeholders, the strategy of ICAC has since 2003 moved from Awareness to Empowerment, from Empowerment to Engagement and from Engagement to Ownership while sustaining anti-Corruption efforts.

Focus of the corruption and education actions has been towards citizens' and institutional engagement in the fight against corruption with an increasing number of public and private bodies taking ownership of corruption prevention initiatives.

The main corruption prevention and education actions over the last five years comprise:

- expediting and sustaining implementation of the Public Sector Anti-Corruption Framework (PSACF) in public bodies through a proactive approach;
- partnering with the private sector for the promotion of anti-corruption initiatives and development of anti-corruption mechanisms for private businesses through a public private sector platform;
- joining hands with professional bodies for anti-corruption initiatives;
- reinforcing integrity of public officials especially new recruits through interactive sessions;
- sustaining collective action in the fight against corruption and the promotion of integrity through partnership with civil society actors; and
- engagement of the youth through anti-corruption platforms.

Citizens are empowered through the following means:

- Focussed sessions on specified corruption areas/offences and related issues;
- Anti-corruption and integrity modules developed by the ICAC and which have been integrated in their respective training programmes;

- Symposiums, seminars, forums, etc;
- Various competitions organised by the ICAC;
- School campaigns targeting students;
- Activities conducted by anti-corruption platforms and networks; and
- Public campaigns – radio, television, newspapers, billboards, adverts on and inside public buses, posters, leaflets, video clips, etc.

The aim of the prevention strategy has been on reinforcing integrity at different levels in the nation. The objectives are to form a vigilant civil society, change the mindset of people and instil a culture of integrity in the nation.

A range of anti-corruption programmes have been developed by the ICAC to raise awareness as well as empower members of the civil society in the fight against corruption. These programmes have been implemented in collaboration with the main stakeholders and targeted the following:

- Stakeholders in the education sector;
- Trade Unionists;
- Civil Society, youth and students;
- Public officials and new recruits in the public sector;
- Professional bodies and associations; and
- The private sector.

Various channels of communication are considered to raise awareness among the population. By using mass communications and social media, the ICAC has been trying to create greater awareness on the dangers and impact of corruption.

a) Professional Associations

Strong links have been established with a number of professional associations such as the Association of Chartered and Certified Accountants (ACCA), Council of Professional Architects, Association of Engineers, Internal Auditors, Business Mauritius, Mauritius Chamber of Commerce and Industry, Association of Human Resource Professionals, Association Quantity Surveyors, etc. To reinforce corruption resistance amongst the professional associations, they are engaged in the fight against corruption through various platforms. Empowerment workshops and anti-corruption activities are regularly conducted with a view to:

- empower professionals to the corruption legal framework, the need for personal integrity and encourage them to uphold and safeguard integrity of the relevant professions; and
- enlist their support in reinforcing organisational integrity.

Professional bodies are also undertaking anti-corruption initiatives at the level of their workplaces. Recent examples include:

- The Mauritius Association of Quantity Surveyors organised an anti-corruption workshop for some 50 quantity surveyors in 2015.
- Two workshops on the theme '*Anti-Corruption Empowerment and Integrity Building*' were organised jointly by the ICAC and the Association of Certified Chartered Accountants (ACCA Mauritius) for accounting professionals. This provided some 160 members of the ACCA, from both the private and public sectors, with an opportunity to participate in the

workshops and provide their views on anti-corruption and ethical issues and suggesting ways and means to address same.

- A Construction Industry Anti-Corruption Committee has been set up under the aegis of the ICAC to work out strategies to eliminate corruption and perception of corruption in the sector. The Committee aims at the development of best practices and their implementation by respective professionals at their work places. Transparency Mauritius is a member of the committee and is providing support in the implementation of the project.

The Committee has proposed that anti-corruption elements such as issues of gifts, conflict of interests, secondary employment be included in Codes of Conduct of private sector organisations.

Another initiative taken by the Committee was to empower would-be-professionals from tertiary education institutions in the construction-related fields. The aim of this initiative is to create greater awareness on possible risks of corruption and how to counter these for a cleaner generation of construction professionals. Integrity and ethics programmes in the private sector are growing in importance. At the time of review, at least 20 private entities had an Ethics Officer who has been trained by the Mauritius Institute of Directors. Various initiatives are being taken by private companies to enhance both organizational and staff integrity.

b) Public/Private Platform Against Corruption

To give a boost to the engagement of private businesses and enlist the support of other companies, a public private forum now termed, Public Private Platform Against Corruption (PPPAC); and a private sector led voluntary initiative now termed, Private Sector Anti-Corruption Task Force (PACT) have been setup. Please refer to information provided under Article 12 for further information.

c) Youth Participation

In line with ICAC's mandate and Article 13, Section 1(c) of the Convention Against Corruption, ICAC's actions aim at strengthening trust and confidence among the youth in the fight against corruption. Over the last five years, ICAC's strategy has focused on:

- mobilizing youth efforts towards concrete actions through a 'Youth Networking Forum';
- the setting up of a youth platform to promote youth engagement;
- promoting an anti-corruption culture among the youth in the formal and informal sector;
- sustaining 'Integrity clubs' in secondary schools and 'Anti-Corruption Clubs' in tertiary education institutions;
- empowering youth on corruption and related issues through workshops and seminars;
- triggering research and reflection through anti-corruption competitions; and
- liaison with the Ministry of Education and Human Resources, Tertiary Education and Scientific Research for enhancing the school curriculum to include anti- corruption values.

In particular, the following anti-corruption activities have been organised:

(a) Primary Education Sector

Disseminating Inspirational Anti-Corruption Messages through Poems: Primary schools were provided with a set of inspirational anti-corruption poems to be used during national day celebrations and other events in schools.

Production of a value-based interactive CD-ROM: The edutainment approach, according to child psychologists, stimulates and instructs the moral imagination and hence creates attachment to goodness. In the same wavelength, a value-based interactive CD-ROM under the theme “*Be an anti-corruption star*” has been produced by the ICAC. The CD-ROM is meant to be used as a pedagogical tool for the transmission of anti-corruption messages to primary school children. The CD-ROM was officially launched in early 2016 and distributed for use by Standard V and VI pupils of the Republic of Mauritius.

(b) Secondary Education Sector

Empowerment of Lower VI Students on corruption related issues: Sustaining anti-corruption education and sensitising youngsters on the scourge of corruption and the need to develop intolerance towards it were the objectives for the anti-corruption campaign in schools in 2015. The campaign which reached some 10,000 secondary school students had as objectives to provide information on corruption and related issues, highlight the role and responsibilities of the youth and secure youth engagement in the fight against corruption.

Feedback gathered from rectors, educators and students indicated that the campaign was successful and should be maintained as an annual feature at secondary school level. Such campaigns no doubt help students to recognise, resist, reject corruption and develop intolerance towards corruption.

Setting up of new Integrity Clubs in secondary schools: Some 30 new Integrity Clubs have been set up. The main philosophy behind the integrity club project is to instil a culture of integrity and responsible citizenship amongst students. Members of Integrity Clubs are encouraged to initiate anti-corruption and integrity building activities. As at 26 May 2017, 113 Integrity Clubs have been set up in secondary schools.

Feedback collected revealed the following:

- i Students are more aware of what constitutes an act of corruption;
- ii There is increased youth involvement in anti-corruption activities;
- iii Integrity Clubs are taking novel anti-corruption initiatives and using Internet to give visibility to their actions;
- iv Engagement of students in the promotion of anti-corruption values is equally more visible; and
- v Other clubs are extending their actions outside school walls to reach other educational institutions and the community.

Empowerment of Integrity Club Members and School Facilitators: Three half-day empowerment workshops were organised for Integrity Club members and school facilitators on the theme “*Breaking the corruption chain*”. The objectives of the workshops were to:

- i. raise concern on the need for promoting an ethical culture at school level;
- ii. share, synergise and sustain anti-corruption initiatives in secondary schools; and
- iii. trigger a change in mindset towards right behaviour and good practices among the youth.

Video Clip on Integrity Clubs: A 6-minutes video clip on Integrity Clubs has been produced highlighting the benefits of Integrity Clubs and the potential impact of its activities. This video clip captures the feelings, emotions and most importantly, the commitment of Integrity Club members and facilitators in enhancing the school environment, staff and students’ attitudes towards a culture of integrity. The clip has been widely disseminated amongst the youth through

social media.

Integrity Club Award 2015/2016: To sustain Integrity Clubs and motivate members towards taking anti-corruption initiatives, the Integrity Club Award 2015/2016 was launched in 2015 and spanned over the period March 2015 to June 2016. 38 Integrity Clubs are participating in the competition which aimed at giving visibility to Integrity Clubs initiatives as well as demonstrate youth engagement and commitment to the fight against corruption.

Essay Writing Competition: Encouraging Research Work among Youth: An Anti-Corruption Essay Writing Competition was organised for Lower VI students to encourage research work, discussion and trigger reflection on corruption. The theme was: *“Anti-corruption education is a vital component of any anti-corruption strategy. Informed citizens are probably more effective in preventing corrupt and unethical behaviour of public servants than the most sophisticated codes of conduct, laws and regulations. How far do you agree?”* The competition triggered extensive research work on the part of participants. 193 students participated in the competition.

Anti-Corruption Sketch Competition- Enlisting Active Participation of Youth through an Artistic Approach: To further disseminate anti-corruption messages among the youth in schools, the script of a sketch based on the theme *‘Be the change you want to see in the world’* was provided to all secondary schools for staging by students during either national day celebrations or any other special occasions such as prize-giving day or morning assembly. The sketch which depicted necessary anti-corruption attitudes and patriotism was staged by a number of schools. Feedback received indicates that this novel means of transmitting anti-corruption messages was well received by both students and staff.

(c) Tertiary Education Sector

Anti-Corruption Public Speaking Competition: The final of the 3rd edition of the Anti-Corruption Public Speaking Competition 2014/15 targeting tertiary education students was held in February 2015. Moreover, the 4th edition was launched in August 2015. 109 students from 15 tertiary education institutions participated in the competition. It provided opportunities for participants to research, reflect, discuss and generate practical ideas and voice out their views and concerns about corruption.

Following an evaluation undertaken, the participants acknowledged a better understanding of corruption and possible youth anti-corruption measures. They also recognise that fighting corruption is a social responsibility of one and all.

Anti-Corruption Clubs in Tertiary Education Institutions: Anti-corruption clubs have been set up in five tertiary institutions to enable students to take ownership of anti-corruption initiatives within their respective institutions.

Prompting Research on Corruption: In order to trigger research and reflection on corruption in Mauritius, students of tertiary education institutions have been encouraged to choose corruption and related themes for their dissertations / theses.

The main objectives of the project were to:

- enhance reflection and research on corruption and related issues;
- create a pool of corruption busters among would-be professionals; and
- help to bridge the gap between academic studies and the world of work.

A list of proposed dissertation topics has been worked out and forwarded to tertiary education institutions. The ICAC is providing assistance and support to student undertaking research in the field whenever requested for.

Sensitisation of Students of the University of Mauritius: Following a request made by the Law Society of the UOM, a sensitisation session was organised for some 50 students. The presentation focused on the salient aspects of Prevention of Corruption Act 2002 and ethical obligations of the youth in the national fight against corruption.

d) Civil Society Participation

To strengthen participation of the civil society in the fight against corruption, the ICAC works in close collaboration with the following civil society networks:

- The Ministry of Education and Human Resources, Tertiary Education and Scientific Research, students, educators, Parent Teachers Associations and administrators of all primary and secondary schools. Anti-Corruption activities are an integral component of extra-curricular activities of secondary schools;
- The Mauritius Council for Social Services (MACOSS), the apex body for NGOs in Mauritius;
- The Sugar Industry Labour Welfare Fund, a community-based organization working with people at grassroots through 138 Community Centres around the country;
- The NGO Trust Fund which supports around 50 NGOs in the country;
- The Social Welfare Division of the Ministry of Social Security, National Solidarity and Reform Institutions which works through 57 Social Welfare Centers; and
- Trade Union Federations.

To further reinforce and engage the civil society in the fight against corruption, the following platforms have been constituted:

- Trade Union Action Against Corruption (TAC);
- Civil Society Network Against Corruption (CSNAC);
- NGO Focal Group; and
- Youth Against Corruption (YAC).

The following activities are also conducted:

- Non-Governmental Organizations (NGOs): ICAC has been working in close collaboration with the Mauritius Association of Social Council. The NGO Focal Group is a platform that regroups NGOs and CBOs in the country. It promotes the fight against corruption through various initiatives. The Community Integrity Award conducted in 2010 targeting community-based organizations and NGOs is one such initiative. The Award aimed at giving due recognition to NGOS/CBOS for having demonstrated their strong willingness to nurture a culture of integrity. 27 NGOs and CBOs submitted a total of 30 micro projects in 2010.
- Artists: The ICAC in collaboration with the Ministry of Arts & Culture has been promoting dramas and songs on anti-corruption themes since 2005. The success in the fight against corruption relies greatly on community participation and support. ICAC in collaboration with, the “Centre de Lecture Publique et Animation Culturelle” (CELPAC) which is a unit of the Ministry of Arts and Culture implemented successfully a project on strengthening community vigilance in the community using drama.

The strategy of ICAC during the recent years was geared towards driving civil society organisations to take ownership of anti-corruption initiatives and demonstrate their anti-corruption commitments through concrete actions. In this context, five Anti-Corruption Focal Groups were set up in 2015

on a regional basis. Each focal group comprises some 100 volunteers from those regions. The terms of reference of the group are to:

- develop and implement anti-corruption initiatives at the level of their respective communities;
- encourage networking and exchange of ideas among Non-Governmental Organisations/Community-Based Organisations (NGOs/CBOs); and
- empower social leaders to provide guidance to community members, and act as vigilance group against corruption.

Moreover, an empowerment workshop on the theme “NGO’s role in building a corrupt-free Mauritius” was organised in April 2015, in collaboration with the Common Training Strategy Committee of the Ministry of Social Security, National Solidarity and Reform Institutions, NGO Trust Fund and MACOSS. Participants were empowered on issues such as organisational values, financial management, procurement, asset management, fund raising and project management and monitoring and enforcing them in daily practices.

Anti-Corruption Trade Union Symposium: In line with Article 13 of the Convention and with a view to advocating for collective actions against corruption, a one-day Symposium targeting some 130 trade union members was organised in August 2015. The theme was *‘Promoting Trade Union Engagement in the Fight against Corruption’*. Following this anti-corruption initiative, a Trade Union Anti-Corruption Platform (TAC) has been set up. It has taken over the activities of the previous Trade Union platform with wider participation of trade unionists. It aims at increasing the impact of trade union collective anti-corruption actions. The symposium contributed in empowering trade union members to act as agents of change by supporting the national integrity strategy to combat corruption.

Collaboration with Local Authorities: Councils are increasingly called upon to be more quality conscious, transparent and accountable. To help councillors respond to the emerging challenges they may be confronted with, several measures have been taken at the level of Ethics Committees set up in the local councils. These measures include the posting of anti-corruption messages on electronic boards and organisations’ websites, display of posters in public areas as well as empowerment of local councillors. Moreover, the attention of Councillors has been drawn to the Code of Conduct developed by the ICAC in collaboration with the Ministry of Local Government. The Code is being reviewed and aims at sustaining and strengthening corruption resistance in local councils.

e) Mass Media Campaigns

All possible channels of communication are considered to raise awareness among the population. Mass communication campaigns are conducted once or twice a year for the general public using bill boards, posters and pull-outs in newspapers, radios, etc. Evaluation surveys are conducted to assess the impact and relevance of the campaigns.

A monitoring mechanism is in place to assess the impact of our anti-corruption education campaigns. The monitoring mechanism comprises surveys, ad-hoc checks and feedback from stakeholders. Both qualitative and quantitative data are collected with a view to assess the effectiveness of prevention and education activities since such data is useful to redefine our anti-corruption strategies and objectives. Various indicators are being used to gauge the impact of anti-corruption efforts.

Wide anti-corruption campaigns are conducted annually in all primary and secondary schools. ICAC officers address school children on corruption related issues. Anti-corruption materials

comprising posters, bookmarks, rulers, wall calendars, notebooks are distributed to schools and students. Such campaigns allow the ICAC to reach about 17,000 students annually.

The International Anti-Corruption Day is commemorated every year through a number of activities organized in collaboration with stakeholders. The activities are scheduled over a week.

f) Promoting Public Participation

To further promote the participation of the population in the fight against corruption, the following activities are held every year:

Exhibitions: Exhibitions/values weeks focusing on the dangers of corruption and the need for promoting integrity are organised throughout the island for school children and parents. 14 such exhibitions were held over the last two years.

Competitions: With a view to mobilize the community in the fight against corruption as well as to trigger reflection and research on corruption and related issues, various competitions are organized. These competitions have proved to be highly successful both in terms of participation and motivation. The main ones are:

- Inter-College Debate Competition for secondary students;
- Poster Competition for lower secondary students;
- Public Speaking Competition for Secondary and Vocational Students;
- Community Integrity Award CBOs/NGOs;
- Sketch Competition for Youth;
- Short Story Writing Competition for Upper Primary Pupils;
- Drawing Competition for Primary School Students;
- Creative Art Expression Competition for Secondary School Educators;
- On the Spot Painting Competition;
- Anti-Corruption Sign Pictorial Competition; and
- Short Film Competition.

Model States Parties Anti-Corruption Conference for Lower VI students: The ICAC in collaboration with UNODC organized in March 2016 a Model States Parties Anti-Corruption Conference for Lower VI students. The objectives of the Conference were to:

- encourage research work and enhance participants' knowledge and understanding of corruption and related issues;
- provide opportunities for youth to share views and concerns about the national and global anti-corruption strategies;
- provide supplementary information on corruption to HSC students with respect to the General Paper examination;
- sharpen youth communication and leadership skills; and
- add new momentum to the existing anti-corruption movement amongst the youth.

This event mobilized some 80 secondary schools and over 250 participants over three days. The main aim was to provide an opportunity for the youth to share their views, concerns and proposals regarding the national as well as anti-corruption strategies submitted. The outcome of the

conference has been compiled and distributed to all secondary schools in Mauritius and Rodrigues to encourage students to further understand the issue of corruption and how it is being fought all over the world.

The younger generation is one of the targets of the ICAC in the fight against corruption. Through value-based education, the ICAC hopes to foster a culture of integrity in schools, change the mindset and attitudes of the younger generations and empower them to be intolerant against corruption.

g) Development and servicing of tailor-made Modules

In line with its educational mandate, the Independent Commission Against Corruption has developed and implemented several tailor-made corruption-related modules with a view to enhance the anti-corruption momentum. Thus, the following modules have been developed namely:

- A module entitled “Moral Values and Good Governance” for students of the University of Mauritius;
- A “Corruption and Ethics” module for students of the Université des Mascareignes Mauritius;
- A corruption module for students of the University of Technology;
- A “Work Ethics” module for vocational students; and
- An Ethics module for youth.
- Anti-corruption module for Health Officials: An anti-corruption component has now become an integral part of the training programme for all health officials. In 2015 only, some 500 health officials (Ward Managers, Charge Nurses, Health Administrators) following courses at the Central School of Nursing and the Mauritius Institute of Health were empowered by the ICAC. The intervention of the ICAC aims at building corruption resistance and improving service delivery in the health sector.
- Training of Public Officers: An anti-corruption component has been integrated in the training programmes run by the Ministry of Civil Service and Administrative Reforms. All new recruits of the public service as well as all promotional grades in the public service have to undergo the compulsory training on corruption prevention run by the ICAC in collaboration with the Ministry of Civil Service and Administrative Reforms.
- Training Programme of the Mauritius Police Force: The Mauritius Police Force is one among the privileged partners of the ICAC in the fight against corruption. Through this collaboration, anti-corruption components have also been integrated in the training programmes of the Mauritius Police Force. All new recruits in the force and all promotional grades have to undergo training on corruption prevention. Refresher courses are also conducted with different grades of the police force.
- Mauritius Revenue Authority (MRA): Revenue collection is an important economic activity that require utmost vigilance and integrity. Accordingly, the ICAC collaborates with the MRA in its Integrity Management Programme through the servicing of its anti-corruption and prevention programme.
- Anti-Corruption and Integrity Module: A web based Anti-Corruption and Integrity Module in the form of an E-Learning System has been developed for public officers. It is meant to empower public officers to recognise, resist, reject and report corruption while reinforcing public sector integrity. The module has been uploaded on the website of the Ministry of Civil Service and Administrative Reforms.

For more information about the implementation of these measures, please refer to ICAC Annual

Reports

h) Activities by the Mauritius Revenue Authority

With regard to the Mauritius Revenue Authority (MRA), the main activities undertaken by the MRA with a view to reinforcing its anti-corruption policies and practices are:

- a) Internal Control Systems: The MRA constantly conducts system and transaction audits for providing assurance on the adequacy and effectiveness of controls. During audits, it is ensured that all internal control elements and governance principles like transparency, fairness, accountability etc...are inbuilt in MRA's systems. Through these audits, recommendations are provided for enhancement, and follow up exercises are carried to ensure implementation of these recommendations.
- b) ISO Certified: ISO 9001 is a standard that establishes the requirements for a Quality Management System (QMS). The implementation of MRA QMS is a strategic decision aligned to MRA's vision, mission and the taxpayer charter. The QMS enables MRA to continually improve its business processes and aim at service excellence.

As part of good corporate governance, the QMS ensures that the MRA has consistent, transparent and effective procedures with clearly defined responsibilities. This ensures that work is done in an efficient and consistent manner as processes are clearly defined and understood. Eventually resulting in a gain in productivity, better customer satisfaction, identification of internal controls and at the same time complying with legal and regulatory requirements.

- c) Enterprise Risk Management: With the assistance of the Commonwealth Secretariat, the MRA set up the Enterprise Risk Management concept across the organisation ranging from Board members, management to operational staff. Every MRA department has their Risk Register and Report which are regularly reviewed and updated by Departmental Risk Officers and Process Owners. Every six months the risk officers submit their risk report which is audited and submitted to the risk management committee.
- d) Corruption Risk Management: As part of its Enterprise Risk Management, the MRA has established the Corruption Risk Management function whereby corruption risks are identified by work area, process and activity. The risk is mapped and adequate safeguards are installed for the risk to be eliminated, mitigated or kept under control.
- e) Integrity Advisory Committee: Another main anti-corruption strategy initiated by the organisation is the inception of an Integrity Advisory Committee. The committee is a platform where representatives from the business and trade community and the public at large discuss freely and provide guidance on training, ethics and anti-corruption strategies among others. Members of the committee meet twice yearly. The committee is of an advisory nature and report to the MRA Board.
- f) Integrity Perception Surveys: The main purpose for conducting regular integrity perception surveys is to understand what constraints stakeholders and the general public at large face with regard to any illegal practice or corruption. These surveys help to identify preventive measures that must be taken to facilitate the prevention and identification of malpractices and corruption.

i) Activities by the Mauritius Police Force

With regard to the Mauritius Police Force, the main activities undertaken with a view to reinforcing its anti-corruption policies and practices are:

- E-Business Plan - The implementation of the E Business Plan for the Traffic Branch to manage

driving licence details with a view to enhance the level of service delivery at the Traffic Branch. Application for learner's licence online extended to goods vehicles, buses and lorries

- On-line application system - The on-line application system was initially introduced for application of Provisional Driving Licences for Motor Car, Motor Cycle and Auto Cycles.

It has eventually been extended for Goods Vehicles, Buses and Taxis (Public Service Vehicles) since February 2013. Such an initiative has reduced the processing time of these applications.

- A Crime Occurrence Tracking System (COTS) has been implemented in the Mauritius Police Force for better monitoring of cases reported to Police as from declaration stage to final disposal. The COTS is a computer system which is meant for recording and processing of offences including road traffic offences and case tracking at the Police Stations and other concerned units.
- Other computerized systems implemented in the Mauritius Police Force are E-Procurement, E-Registry, Store System and the Criminal Attribute Data Base. The potential of ICT facilities has been tapped by the MPF to enhance transparency and accountability as well as reduce human intervention at the Driving Licence Section of the Traffic Branch. The following measures in the area of ICT have helped to reduce opportunities for corruption in the licensing system:
- An Integrated Driving License Management System (IDLMS) has been implemented at the Driving Licence Section. The IDLMS forms part of the E-Business plan project of the MPF. The IDLMS provides for the generation of management reports for control and decision-making purposes.
- Computerised license record management system - The IDLMS provides for a computerised license record management system. Personnel at the Licensing Office have access to the system which is password protected. Any unauthorised amendment or modification to licence details of drivers can be traced by an audit trail module.
- Deployment of CCTV cameras - CCTV cameras have been installed in the examiner's office and the driving test area at the Traffic Branch for surveillance and as a deterrent.
- "Road Eye Project" - Cameras are installed in vehicles undergoing driving test since October 2014 to audio and video record practical driving tests with a view to ensure transparency and fairness and to reduce corruption risks.
- Computerised booking system - The date and time of the appointment is set according to a predetermined number of appointment slots for different categories of tests as generated by the computer system. There is an audit trail and all access to the system is password protected.
- Computerised audio-visual testing system - A fully computerised audio-visual testing system has been introduced for the testing of candidates on the theory test for motorcycle and motorcar driving licences. There is no possibility of human interference in the system.
- Electronic Ticketing System - An electronic ticketing system has been introduced at the Traffic Branch to improve customer service and to ensure first come first serve principle is adhered to.

(b) Observations on the implementation of the article

Mauritius has referred to a broad range of effective practices and measures taken with the aim to prevent corruption. ICAC conducts a wide range of activities, including the Corruption Prevention Reviews, the development of manuals and tools, model policies and plans, events with the civil society, public and private sectors, as well as the organization of training sessions and awareness-raising and educational campaigns.

It was concluded that Mauritius is in compliance with the provision under review.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

The Law Reform Commission

The Law Reform Commission of Mauritius is an independent statutory body set-up by parliament, under Act No. 26 of 2005, to review in a systematic way the law of Mauritius, to make proposals for its reform and development, and to ensure the law is understandable and accessible.

The mission of the Law Reform Commission is to -

- a) keep under review in a systematic way the law of Mauritius;
- b) make recommendations for the reform and development of the law of Mauritius;
- c) advise the Attorney General on ways in which the law of Mauritius can be made as understandable and accessible as is practicable.

When making its recommendations, the Commission attaches, where applicable and as far as practicable, a draft Bill to the recommendations.

The Commission prepares and submits to the Attorney General, at the beginning of each calendar year, a program for the review of specific aspects of the law of Mauritius with a view to their reform or development.

The Commission has the power to -

- (a) initiate proposals for the review, reform or development of any aspect of the law of Mauritius and to receive and consider any such proposal made or referred to it by the Attorney-General or any other person;
- (b) initiate, sponsor and carry out such studies and research as it thinks expedient for the proper discharge of its functions;
- (c) conduct public hearings, seek comments from the public on its proposals, and consult any person or class of persons;
- (d) request information from any Government department, any organization or person in relation to the review, reform or development of any aspect of the law of Mauritius;
- (e) publicise such parts of its work in such manner as it thinks expedient.

The Attorney General may, at any time, request the Commission to examine any aspect of the law of Mauritius, and the Commission shall review that aspect of the law accordingly and report to the Attorney General thereon with its recommendations.

Please refer to the website of the Law Reform Commission for further information.

Law Reform Commission: <http://lrc.govmu.org/English/Pages/default.aspx>

Law Reform Commission Act 2005:

[http://lrc.govmu.org/English/Documents/Useful%20Information/four%20Law%20Reform%20Commission%20Act%202005%20\[Updated\].pdf](http://lrc.govmu.org/English/Documents/Useful%20Information/four%20Law%20Reform%20Commission%20Act%202005%20[Updated].pdf)

Furthermore, regulatory bodies do recommend measures and amendments to their parent Ministries with a view to minimise weaknesses and emerging risks in legislations of concern to them. Laws are constantly being tested in court and as a result, consequential amendments are being brought and new legislations are being adopted.

Examples of recent work of the Law Reform Commission regarding anti-corruption related legislation include the following:

Discussion Paper about “Reform of Law on Embezzlement in the Criminal Code” - [March 2017]

· Review Paper Law on Fraud - [May 2016]

These can be accessed at:

<http://lrc.govmu.org/English/Reports/Pages/Reports-and-Papers.aspx>

Corruption Prevention Reviews - Changes in systems and review of legislations

As mentioned under article 5 paragraph 1, the ICAC conducts corruption prevention reviews in public bodies. The objectives of the CPRs are to identify the systemic loopholes which lead to corruption risks and to come up with appropriate anti-corruption measures to plug in the identified loopholes and corruption risks so that corruption does not undermine national development.

In May 2014, a first volume of the summary of CPRs on Inspections of Works in Public Bodies was published and is available on ICAC’s website <http://www.icac.mu>

As at 31 August 2016, 137 Corruption Prevention Reviews have been conducted containing some 2638 recommendations in corruption prone areas such as recruitment, procurement, law enforcement, contract management and licensing, among others. They also include changes in legislation, to ensure that corruption prevention safeguards are built in the systems as early as possible.

The recommendations of the ICAC, though not mandatory have triggered remedial actions to reduce corruption opportunities by reinforcing systems/processes while promoting ethical behaviour and administrative procedural simplicity. Public bodies have come up with legislative reforms in some cases to address risk areas identified. This is a promising step towards sustainable efforts in maintaining public sector integrity along with prompt service delivery, quality service and technology led services. The expected effect of these legal reforms is the creation of an efficient institutional system for corruption prevention and reduction of corruption risks in public institutions. In addition, the implementation of the recommendations contained in the CPRs is also monitored by the ACCs on which ICAC Officers are present as Ex-Officio members.

For example,

· The Minister of Finance had the discretionary power to exempt religious bodies, enterprises and individuals of custom duties on imported goods. Monitoring was not done after exemption has been granted to ensure that the exempted goods are being used or applied as per the stated objectives. The ICAC recommended that the Government reviews its policy on exemption. Subsequently, Section 4 of the Customs Tariff Act 1981 was repealed through the enactment of the Finance Act 2006. Hence, the Minister of Finance relinquished his discretion for exemption of custom duty on imported goods

for religious bodies, enterprises and individuals, allowing the Government to recoup a huge sum every year on excise duty forgone.

Another example concerns the Ministry of Housing and Lands. The Minister of Housing and Lands had overly discretionary power over grant and rental of lease (State Land and “Pas Géométriques”). The ICAC recommended that the Government considers amending the law to grant the day-to-day decision-making on land allocation to the Executive. Consequently, with the Finance (Miscellaneous Provisions) Act 2008, the Minister has to seek Cabinet approval prior to grant of State lands leases and review of rental for large investment projects. The Act provides for classification of “Campement” site and industrial leases into five zones with specific rates for annual rentals.

Key reforms in the public sector that can decrease the perception of corruption are linked to the enhancement of ethics, transparency and accountability framework, reduction of complexity of systems and compliance through best practices.

To ensure effective and prompt implementation of anti-corruption measures proposed by the ICAC, focus group discussions are conducted with management so as to facilitate implementation of recommendations. Follow up exercises are conducted 3-months following the issue of a report to assess and monitor implementation.

A summary of a number of Corruption Prevention Reviews on inspection of works in public bodies was released to the public in 2014.

a) Please refer to: <https://www.icac.mu/cpr-vol-1-inspection-of-works-in-public-bodies/>

b) Detailed list of Corruption Prevention Reviews conducted by the ICAC :

S.N	Organisation	Scope of Corruption Prevention Review (CPR)	Date of Issue	No. of Recommendations
1	National Transport Authority	Licensing, Registration, Vehicles Examination Enforcement, Cash collection and Computerisation, Licensing, Registration	Jul-04	58
2	Police Department	Application, testing and issue of driving licences and Driving Instructor's Licence	Aug-05	96
3	Ministry of Housing and Lands	Allocation of State Land	Mar-06	45
4	Ministry of Business, Enterprise, Commerce and Consumer Protection Unit - The Legal Metrology Services (LMS)	Corruption Prevention Review - Legal Metrology Services	Nov-06	51
5	Mauritius Duty Free Paradise	Warehouse Management	Jan-07	40
6	Ministry of Women Rights, Child Development, Family	Consumer Protection Unit	Apr-06	38

	Welfare and Consumer Protection			
7	Early Childhood Care and Education Authority	Recruitment of Staff	May-06	32
8	Customs Department	Exemption of Duties allowed under the Customs and Tariff Act	Jan-05	34
9	Ministry of Finance and Economic Empowerment	Clearing and Forwarding	Oct-05	16
10	Commission for Public Infrastructure and Others- Rodrigues Regional Assembly	In-House Labour Public Infrastructure Division (PID)	May-06	28
11	Ministry of Labour & Industrial Relations - Labour Inspectorate Division	Upholding integrity on inspection works	Sep-06	24
12	Prime Minister's Office - Civil Status Division (CSD)	Corruption Prevention Review - Civil Status Division	Feb-08	34
13	Local Authorities - Building and Land Use Permits	Corruption Prevention Review - Building and Land Use Permits	May-08	72
14	Central Administration - Rodrigues	Allocation of State Lands	Jun-08	28
15	Grand-Port /Savanne District Council	Public Health Inspectorate with respect of markets and fairs	Oct-08	23
16	Ministry of Environment and National Development Unit	National Development Unit (NDU) - Contract Management	Aug-08	40
17	Ministry of Environment and National Development Unit	Tendering Procedures for allocation of contracts	Oct-08	4
18	Ministry of Education and Human Resources	Procurement of tiles for primary schools in connection with 'Bridging the Gap' Project	0	9
19	Parent Teachers Association	Management of Parent Teachers Association	Mar-08	40

20	Ministry of Social Security, National Solidarity & Senior Citizens & Reforms Institutions	Information Systems Security	Nov-08	60
21	Sugar Planters Mechanical Pool Corporation	Hiring of Machinery	Dec-08	57
22	National Housing Development Company Ltd	Granting of casting of roof slabs	May-09	21
23	Commission for Agriculture - Rodrigues	Agricultural Incentive Scheme	Jun-09	20
24	Lois Lagesse Trust Fund	Review of the Procurement System	Nov-09	18
25	Mauritius Rights Management Society (ex MASA)	Management of Copyrights	Apr-10	41
26	Traffic Branch	Law enforcement mechanism in respect of road traffic offences	Apr-10	36
27	Ministry of Environment and National Development Unit	Environmental Impact Assessment	Jun-10	10
28	Registry of Associations	Review of the inspection process	Aug-10	24
29	National Transport Authority	Update Exercise	Aug-10	22
30	Ministry of Local Government & Outer Islands	Contract Management	Jul-11	15
31	Ministry of Social Security, National Solidarity, Senior Citizens & Reforms Institutions	Payment of non-contributory Basic Pension	Aug-11	30
32	Central Information Systems Division (CISD)	Nomination of staff for training & posting of staff	Oct-11	9
33	Ministry of Public Infrastructure	Systems and Procedures for preparation of certificate of payment for minor works	Oct-11	17
34	Air Mauritius Ltd	Recruitment and Selection of Flight Officers (Pilots)	Oct-12	10

35	Update at the Civil Status Division update	Civil Status Division	Feb-13	23
36	Development Bank of Mauritius	Registration of Solar water heater suppliers	Feb-13	6
37	University of Technology, Mauritius	Preparation and custody of examination papers prior to conduct of the examination	Mar-13	13
38	National Transport Authority	Allocation of reserved registration marks in the running series 1,786	Mar-13	6
39	Ministry of Agriculture	Overtime Management	Mar-13	16
40	Agricultural Marketing Board	Sale of onions	Apr-13	20
41	National Housing Development Company Ltd	Allocation of Housing Units	Apr-13	18
42	MSAW (ex-MSPCA)	Collaboration between MSPCA and FCC	Apr-13	10
43	Ministry of Public Infrastructure- Traffic Management and Road Safety Unit	Supply and installation of Signal Equipment	Apr-13	13
44	Human Resource Development Council	Procurement of goods and services	Jun-13	11
45	Cargo Handling Corporation Ltd	Recruitment and Selection Process	Jun-13	22
46	Ministry of Health and Quality of Life	Procurement of Chicken	Jun-13	15
47	Mauritius Institute of Education	Procurement Process	Jun-13	22
48	National Heritage Fund	Procurement Function	Jun-13	14
49	Ministry of Public Infrastructure	Direct Procurement	Jun-13	16
50	Mauritius Revenue Authority	Systems and procedures in relation to second hand imported motor vehicles in bonded warehouses/showrooms at the Customs Department	Aug-13	17
51	Airports of Mauritius Company Limited	Recruitment and Selection	Aug-13	16
52	Ministry of Education and Human Resources	Transfer of Primary School Teachers/Educators, Deputy	Aug-13	9

		Head Masters and Deputy Head Teacher		
53	Board of Investment	Managing Risks of Conflict of Interests	Aug-13	12
54	Mahatma Gandhi Institute	Direct Procurement	Aug-13	20
55	National Women Entrepreneur Council	Procurement of goods and services. Recruitment and selection of staff. The use of vehicles.	Aug-13	20
56	Commission for Health and Sports of Rodrigues	Procurement of milk / management of overtime allocated to ambulance drivers / quarantine clearance procedures at the marine port.	Sep-13	18
57	Ministry of Social Security, National Solidarity and reform Institutions	Payment of Lump Sum from the National Savings Fund at the Ministry of Social Security, National Solidarity and reform Institutions	Sep-13	12
58	Beach Authority	Recruitment and Selection of general workers	Sep-13	17
59	Mauritius Ports Authority	Recruitment and Selection	Sep-13	20
60	National Transport Authority	Systems and Procedures Involving Total Loss Vehicles by Auction	Sep-13	11
61	State Informatics Limited	Procurement of freight forwarding services for commercial resale	Oct-13	7
62	Sugar Industry Labour Welfare Fund	Recruitment and selection, transfer exercises at the Community Centre Level, allocation of overtime to drivers & procurement of low value items.	Oct-13	20
63	National Transport Authority	Allowances under the Free Travel Scheme	Oct-13	12
64	Ministry of Youth and Sports	Procurement of Professional Sports Bikes	Dec-13	11
65	Ministry of Health and Quality of Life-Food Import Unit	Inspection Duties	Feb-14	19
66	Central Water Authority	Recruitment and Selection	Feb-14	10

67	Sir Seewoosagur Ramgoolam Botanic Garden Trust	CPR at the Sir Seewoosagur Ramgoolam Botanic Garden Trust	Feb-14	22
68	Youth Empowerment Programme (YEP)	System and Procedures of YEP	Mar-14	19
69	SICMS - Management Services Company Ltd	Procurement, Recruitment and Promotion	Apr-14	10
70	Food and Agricultural Research Extension Institute (Ex-Agricultural Research and Extension Unit)	• The Distribution of Plants under the National Tree Planting Campaign • Leave without Pay • Double Payment • Use of Official Vehicles	Apr-14	12
71	Ministry of Labour, Industrial Relations and Employment and PMO	CPR - Allocation of work permit and issue of residence permit	Apr-14	23
72	Traffic Management and Road Safety Unit (TMRSU)	System and Procedures on Traffic Views/Clearance	Apr-14	18
73	Airports of Mauritius Limited	Recruitment of Trainees	Apr-14	13
74	Ministry of Industry, Commerce and Consumer Protection	Import of Salt	Apr-14	12
75	Small and Medium Enterprises Development Authority (SMEDA)	Recruitment and selection process, overtime management and management of assets & resources	May-14	28
76	Tourism Authority	Processing and issue of Pleasure Craft and Tourism Enterprise Licences	May-14	16
77	University of Mauritius	Recruitment and Selection	Jun-14	16
78	National Transport Authority	Allocation of Registration Marks	Jun-14	9
79	National Empowerment Foundation	Placement and Training of Non-Graduates	Jun-14	16
80	Mauritius Housing Company Ltd	Processing and Issue of Loan Under the Completion of Construction Loan Scheme	Jun-14	4
81	National Housing Development Company Ltd	Monitoring of attendance and management of leave files of staff	Jun-14	9

82	Tourism Authority	Recruitment and Selection at the Tourism Authority	Jul-14	15
83	Air Mauritius Ltd	Leave without pay and payment of pension	Jul-14	6
84	Ministry of Tourism	Managing Risk of Conflict of Interests	Jul-14	10
85	Ministry of Social Security, National Solidarity and Reform Institutions (MSS)	Payment of Social Aid	Sep-14	21
86	Central Electricity Board	Procurement of Goods and Services & Recruitment and Selection Process	Sep-14	27
87	Ministry of Industry, Commerce and Consumer Protection	Systems and Procedures for scrap metal licences and permits	Sep-14	17
88	Irrigation Authority	Allocation of State Land on Lease	Sep-14	12
89	Sir Seewoosagur Ramgoolam Botanic Garden Trust (SSRBGT)	Recruitment and Selection	Oct-14	12
90	Beach Authority/ District Council of Rivière du Rempart	Operation, Monitoring and Enforcement of Trade of Public Beaches and Coastal Areas	Jan-15	8
91	Mauritius Police Force	Overtime Management during the Implementation of the Human Resource Management Information System (HRMIS)	Feb-15	12
92	Mauritius Revenue Authority (MRA) - Customs Department	Systems and procedures regarding the clearance of imported sea cargoes	Feb-15	28
93	MauBank (Ex-Mauritius Post and Co-operative Bank Ltd)	Recruitment and Selection	Feb-15	17
94	Ministry of Social Integration and Economic Empowerment (MSIEE)- NEF	Allocation of Housing Units at the National Empowerment Foundation (NEF)	Feb-15	23
95	Private Secondary Schools Authority (PSSA)	Allocation of Grants to Private-Aided Schools	Feb-15	16

96	Information and Communication Technologies Authority (ICTA)	Recruitment and Selection	Feb-15	11
97	Enterprise Mauritius	Procurement	Feb-15	25
98	Tourism Employees Welfare Fund (TEWF)	Management of Loans	Feb-15	13
99	District Council of Flacq	Allocation of Stalls at the New Central Flacq Market Fair	Feb-15	6
100	District Council of Moka	Declaration of Road as Public Road	Feb-15	9
101	Tourism Authority	Processing and Issue of Skipper's Licence	Feb-15	13
102	Beach Authority	Processing and Issue of Beach Trader's Licence (BTL)	Feb-15	10
103	Ministry of Health and Quality of Life (MoHQL)	Procurement of Services and Spare parts for repairs and Maintenance at the Department of Operations Support Services (DOSS)	Mar-15	12
104	National Transport Corporation (NTC)	Procurement	Mar-15	19
105	Ministry of Public Infrastructure and Land Transport (MPI)	Procurement of Contracts and Allocation of Works to District Contractors for Maintenance, Repairs and Rehabilitation of Government Building	Mar-15	8
106	Ministry of Public Infrastructure and Land Transport (MPI)	Management of Overtime at the Mechanical Engineering Division (MED)	Mar-15	5
107	University of Technology, Mauritius	System and Procedures for Excess Teaching Hours to Academic Staff	Mar-15	16
108	Ministry of Social Security, National Solidarity and Reform Institutions	Payment of social aid to proxy	Mar-15	13
109	University of Mauritius - Faculty of Social studies & Humanities	Management of AERC Fund	Mar-15	4
110	National Transport Authority	Issue of Student Identity Cards	Apr-15	24

111	National Computer Board	Recruitment and selection	Apr-15	13
112	National Transport Authority	Systems & Procedures in relation to Class, Maximum Gross Weight, Tare and Load of Motor Vehicles	Jun-15	21
113	Municipal Council of Port Louis	Reallocation of Stalls following demise of stall occupiers	Jun-15	6
114	Mauritius Broadcasting Corporation	Recruitment and Selection	Jun-15	33
115	Airports of Mauritius Limited	Recruitment and Selection for Post of Technician (Electrical)	Jul-15	16
116	State Land Development Company Ltd	Use of company vehicles Monitoring of staff on site Allocation of overseas Missions	Jul-15	10
117	National Empowerment Foundation	Procurement of School materials for needy children	Aug-15	19
118	Ministry of Education and Human Resources, Tertiary Education And Scientific Research	Direct Procurement and Monitoring of Works Zone 2	Aug-15	8
119	National Housing Development Company	Procurement at the NHDC with specific focus on compliance to certain legal and bidding obligations for contract of works	Aug-15	9
120	Mauritius Tourism Promotion Authority	Recruitment and Selection	Sep-15	8
121	Ministry of Public Infrastructure and Land Transport	Design and implementation of building construction projects	Oct-15	28
122	Minister of Labour, Industrial Relations, Employment and Training	System & Procedures for Recruitment Licence	Oct-15	19
123	Supreme Court	Refund of Mileage Allowance to Court Ushers	Dec-15	8
124	State Informatics Limited	Disposal of Fixed Assets	Dec-15	15

125	District Council of Pamplémousses	Contract Management for the construction of drains and related works	Dec-15	16
126	Mauritius Institute of Development and Training	System and Procedures in relation to Sponsorship of MITD staff for courses	Jan-16	15
127	Commission for Health and Sports of Rodrigues	System and Procedures for Administration of Bank Nurse Scheme	Apr-16	8
128	Commission for Public Infrastructure, Housing, Transport and Water Resources	Allocation of Grant for Casting of Slab	Apr-16	13
129	Universite des Mascareignes	System and procedures in relation to recruitment and selection, acting appointment, overtime of non-academic staff and excess teaching hours of academic staff	Apr-16	19
130	University of Mauritius	Direct Procurement of Books	Apr-16	6
131	Commission of Public Infrastructure, Housing, Transport and Water resources of Rodrigues	Project Monitoring	Jun-16	19
132	Consumers Affairs Unit - Ministry of Industry, Commerce and Consumer Protection (MICCP)	Inspection function and the monitoring of standards of locally produced/imported steel bars and imported toys	Jun-16	26.00
133	Ministry of Public Infrastructure and Land Transport (MPI) / Materials Testing Laboratory (MTL)	Concrete Cube Testing	Jun-16	11.00
134	Universite des Mascareignes	Procurement Function at the Université des Mascareignes	Jun-16	13.00
135	Airmate Ltd	Recruitment and Selection	Jun-16	22.00
136	Mauritius Qualifications Authority	Approval of Courses and Accreditation of Programmes at the Mauritius Qualifications Authority	Jul-16	17.00
137	Ministry of Industry, Commerce & Consumer Protection	Enforcement in relation to assizing of instruments at the Legal Metrology Services	Aug-16	23.00
Total				2638

Development of Best Practices and Guidelines

Anti-corruption tools are a strong means of empowering employees and consolidating the fight against corruption. In this context, numerous anti-corruption tools have been developed to address and manage corruption risks proactively. The materials are mainly in the form of Best Practices and Guidelines and have been developed by the ICAC in collaboration with organisations concerned. These materials are intended to serve as self-assessment tools for the enhancement of systems and procedures in public bodies.

The main ones are:

Handbook on Managing Conflict of Interests: A handbook has been developed with the aim to help organisations create a culture that encourages and supports the identification, disclosure and management of conflict of interest situations.

Public Sector Anti-Corruption Framework Manual: It has been developed to assist public bodies to strengthen institutional capabilities through the establishment of appropriate mechanisms to control corruption.

Guide on Corruption Risk Management: It was developed to assist the Anti-Corruption Committee (ACC) of Public Bodies in conducting their corruption risk assessment in the context of the implementation of the Public Sector Anti-Corruption Framework. It provides templates for identifying and assessing corruption risks in the different processes of an organization.

Best Practice Guide - Inspection Works for Public Bodies: The guide on “Inspection works for Public Bodies” was developed with a view to promoting anti-corruption principles and encouraging public organisations to come up with mechanisms to address corruption opportunities in the inspection function.

Best Practice Guide - Recruitment and Selection in Parastatal Bodies: Parastatal bodies have their own recruitment process. In view of the corruption opportunities that exist in such a process, the ICAC has come up with a guideline on Recruitment and Selection in parastatal bodies. The guide not only addresses opportunities for malpractices but can also contribute to standardising the recruitment process within all parastatal bodies.

Model Internal Audit Charter: Internal Audit, being part of an organisation’s oversight mechanism, is the cornerstone to good governance. To address this target group, the ICAC has developed a Model Internal Audit Charter which sets the framework for an effective internal audit to operate. The purpose is not only to encourage development of this important tool in all organisations but also to allow management to discharge itself of its responsibilities to design, implement and monitor a sound system of internal control.

Procurement of Goods and Services -Best Practice Guide for Public Bodies: This document provides essential control procedures, which could be implemented in a purchasing and tendering system and covers areas, which are most prone to corruption. It also provide guidelines for self-assessment of systems in respect of procurement.

Contract Works - Best Practice Guide for Public Bodies: The objectives of this guide are to provide public bodies with a checklist to assess their own vulnerabilities to corruption risks in contract works.

Best Practice Guide on Overtime Management in Public Sector: The guide covers the strategic aspects of overtime management together with the necessary controls that will help corruption prevention across the different processes involved.

Integrity Management Toolkit: The toolkit focuses on public sector integrity and is meant to guide Integrity Officers in fostering a culture of integrity in their respective organisations. The main objective of this toolkit is to empower Integrity Officers in the establishment of a culture of integrity in their organization.

Best Practice Guide on Enhancing Integrity in the Administration of State Secondary Schools: Rectors of secondary schools are called upon to administer the school infrastructure whilst constantly making judicious use of physical resources, effective human resource management and efficient control mechanisms. In meeting these numerous challenges, Rectors are continuously faced with the problem of managing integrity. Managing with integrity is no longer a fad but a practice which is gaining prominence in almost all management spheres.

This guide, which is meant for Rectors of state secondary schools aims at assisting them in the enhancement of integrity in the administration of their schools. It provides a basis to enhance the integrity of operations and the integrity of staff, control mechanisms and ethical decision-making.

Total Integrity Management Handbook for Head Teachers: This handbook has been developed to help headmasters in ensuring total integrity management in schools. Anti-corruption values can be promoted among school children only if schools are managed with transparency and integrity and educators feel valued and motivated.

Charter for Vehicle Owners - National Transport Authority: A Charter for Vehicle Owners has been developed in collaboration with the National Transport Authority (NTA) to provide vehicle owners with a checklist on the required conditions of their vehicles in order to be fit on the road. The NTA has also arranged for wide dissemination of the charter through displaying it at its Vehicle Examination Centers, its main office and different public places.

Guide on Good Governance for the Co-operative Sector: With a view to further instil a culture of integrity and probity in the cooperative sector, the ICAC in collaboration with the Ministry of Business, Enterprises and Cooperatives has developed a guide on good governance for the cooperative sector.

Best Practice Guide on Building Integrity in NGOs: The ICAC in collaboration with the NGO Trust Fund and the MACOSS (the apex body for NGOs in Mauritius) develop the guide to enable NGOs to operate within an ethical framework.

Guide on Management of Funds by Parent Teachers Associations: This guide aims at assisting PTA's to better understand good governance and to develop appropriate policies and procedures that are imperative for fulfilling its mission and objectives in a transparent and accountable manner.

Review of Related Legislations

With the ratification of the United Nations Convention Against Corruption, the SADC Protocol and in light of the evolving environment/challenges, the Republic of Mauritius has reviewed a number of legislations like the Companies Act, the Banking Act, etc. New legislations like the Public Procurement Act 2006 have been enacted to enhance the fight against corruption and bring corruption under control in Mauritius. Laws are constantly being tested in court and as a result, consequential amendments are being brought and new legislations are being adopted.

The Mutual Assistance in Criminal and Related Matters Act 2003: The objects of the Act are to enable the widest possible measure of international cooperation to be given and received by the Republic of Mauritius promptly and to the fullest extent possible, in investigations, prosecutions or proceedings concerning serious offences and related civil matters and to make provision for mutual assistance between the Republic of Mauritius and a foreign State or an international criminal

tribunal in relation to serious offences and to provide for related matters.

The Public Procurement Act 2006: With a view to enhance public procurement systems and align the latter with international trends, the Public Procurement Act 2006 was enacted. It establishes modern principles and procedures for competitive bidding, transparency and accountability. It has created new bodies like the Procurement Policy Office, the Central Procurement Board and the Independent Review Panel within the public administration to ensure that the principles are properly applied and implemented.

The Banking Act 2004: The Banking Act 2004 now includes additional clauses for fighting corruption and money laundering.

Companies Act 2001: Furthermore, a new Companies Act is in force since 2001. One of the main features of the new Act is the mandatory use of International Accounting Standards for all big public companies and private companies.

Financial Reporting Act 2004: As regards institutional and regulatory framework for accounting and auditing practices, the "Financial Reporting Act" has been adopted. This was prepared with the assistance of the World Bank. The Financial Reporting Act has set the appropriate legislative framework and established the following bodies:

- The Financial Reporting Council (FRC) which is Mauritius' independent regulator responsible for broad oversight of the process for setting accounting, auditing and corporate governance standards and codes as well as monitoring and developing the quality and integrity of financial reporting and disclosure of public interest entities (PIEs), of corporate governance and audit in Mauritius.
- The Mauritius Institute of Professional Accountants (MIPA) which is responsible for regulating the accountancy profession in Mauritius;
- The National Committee on Corporate Governance of Mauritius (NCCG) which is the national coordinating body for all matters pertaining to corporate governance; and
- The Mauritius Institute of Directors (MIoD) which is the body responsible for promoting the highest standards of corporate governance, and of business and ethical conduct of directors.

The Asset Recovery Act 2011: The Asset Recovery Act was passed by the National Assembly on 5th April 2011. It prescribes the procedure to enable the State to recover assets which are proceeds or instrumentalities of crime or terrorist property, where a person has been convicted of an offence or where there has been no prosecution, but it can be proved on a balance of probabilities that property represents proceeds or instrumentalities of an unlawful activity.

The Act creates a comprehensive asset recovery framework which applies not only to drug offences but also to all offences against the laws of Mauritius which are punishable by a maximum term of imprisonment of not less than 12 months. It also applies to any offence committed in a foreign State which, if committed in Mauritius, would constitute an offence here. It applies to any offence committed, and any property obtained, after the commencement of the Act and does not therefore have any retrospective effect.

Ethics Committee in Local Authorities

Ethics Committees have been set up in all Municipal and District Councils in Mauritius to promote organizational integrity. It is a committee working under the leadership of a chairperson or mayor of the Municipal and District Councils and supported by a secretary and three other council members.

Among the initiatives of the Ethics Committees are the conduct of focus group discussions on the provisions of the Prevention of Corruption Act 2002 as amended, anti-corruption messages on their websites, emails and envelopes to sensitise also their stakeholders.

National Committee on Corporate Governance

The “National Committee on Corporate Governance” (NCCG) was established under Section 63 of the Financial Reporting Act 2004 as the national coordinating body responsible for all matters pertaining to corporate governance with the objectives to establish principles and practices of corporate governance, promote the highest standards of corporate governance, promote public awareness about corporate governance principles and practices and act as the national coordinating body responsible for all matters pertaining to corporate governance.

The functions of the NCCG, as set out in the Financial Reporting Act 2004, are as follows:

- assess the needs for corporate governance in the public and private sectors;
- organise and promote workshops, seminars and training in the field of corporate governance;
- issue the Code of Corporate Governance and guidelines;
- establish a mechanism for the periodic reassessment of the Code and guidelines;
- provide assistance and guidance in respect of the adoption of good corporate governance;
- establish links with regional and international institutions engaged in promoting corporate governance;
- cooperate with the Financial Reporting Council and with any other person or institution in order to fulfil its objectives;
- set up the Mauritius Institute of Directors; and
- advise the Minister on any matter pertaining to corporate governance.

The Code of Corporate Governance

The Code is highly regarded by international specialists in corporate governance, and Mauritius has consistently come out in first place in the Mo Ibrahim Index for Governance in Africa. Also, in 2010 the World Bank carried out a Report on the Observance of Standards and Codes (ROSC) on Corporate Governance in Mauritius. Mauritius scored very well in the ROSC and its corporate governance was judged to be at par with countries such as India, Malaysia and Thailand.

Mauritius wished to maintain its reputation as being a leader in the field of Corporate Governance and so the Ministry of Finance and Economic Development decided to revise the Code. The purpose of the survey was to consult with all key stakeholders in order to provide evidence of the sections in the Code that stakeholders believe may require updating, changing or deleting.

New Code of Corporate Governance

The 2014 survey conducted in the course of consultations for revisions to the Code revealed that all respondents had used the Code in their accounting and auditing activities and that four out of every five respondents found the Code to be clear and understandable.

However, the NCCG noted that there was a growing concern, from the majority of respondents of the NCCG Survey 2014, as to the relative applicability of the Code with the changes that occurred over time in relevant infrastructures. The survey prompted a review of the Code.

As a result of extensive consultation, the New Code avoids taking a mandatory or prescriptive approach to applying governance principles as far as possible. The New Code comprises eight principles forming the core of the Code and each principle are to be applied in the best ways that the Board of Directors may decide and explain in their company's annual report. The New Code is effective for the financial year ending 2017 and should therefore be implemented as from 2016. The new Code of Corporate Governance is available on the website of the National Committee on Corporate Governance:

http://www.nccg.mu/sites/default/files/files/the_code_of_corporate_governance_for_mauritius.pdf

Public Procurement Framework

In August 2010, Government set up a Review Committee to propose changes that need to be brought to our public procurement legislation in the light of the observations and recommendations of the World Bank, COMESA and UNCITRAL. In its deliberations, the Committee also took note of the weaknesses and shortcomings identified during the course of implementation of the Public Procurement Act 2008 and the feedback obtained from stakeholders on the public procurement system. The objective of the proposed reform in public procurement is to achieve stronger accountability, greater transparency and a higher pace of project execution whilst ensuring value for money.

The Public Procurement Regulations Act was amended in 2013, new regulations have been enacted. The Standard Bidding Documents are also being reviewed. Please refer to the website of the PPO: <http://ppogov.mu>

National Survey on the Perception of Corruption 2004

In 2004 the ICAC commissioned the first nationwide survey on corruption in the Republic of Mauritius with the objective of collecting reliable data to inform ICAC and facilitate its strategy against corruption. It was a survey of the perception of the Mauritian society about corruption.

The survey provided a diagnostic assessment that gave a baseline measurement on how bad the problem of corruption was perceived to be in 2004. The findings provided baseline data to the Independent Commission Against Corruption to review its strategies in the fight against corruption, reposition itself and assess progress.

The National Survey on the Perception of Corruption 2014

The second National Survey on the Perception of Corruption in Mauritius was commissioned in 2014 by the ICAC and conducted by an independent consultant through an open bidding process. The report was released in March 2015 and is based on the opinions and experiences of 2,100 citizens aged between 18 and 65 in the Republic of Mauritius.

The survey data reflect the opinions and real experiences of the people who interact with the state in many ways and through many interfaces. These opinions and experiences are essential for the development of a well-informed anti-corruption strategy. The results of the survey have allowed the ICAC to assess progress in the fight against corruption, understand the extent to which it has been successful in implementing its mandate, in adopting the best strategy for meaningful actions and identifying problems that it should prioritise for its short-term, medium-term and long-term strategies for enhanced collective actions.

The Report of the National Survey on Corruption in Mauritius 2014 <https://www.icac.mu/national-survey-on-corruption/>

Transparency Mauritius

Transparency Mauritius commissioned an attitude survey of the Mauritian population against corruption. The report of the survey is available on the link below: <https://www.transparencymauritius.org/our-projects/etude-sur-les-attitudes-a-legard-de-la-corruption/>

(b) Observations on the implementation of the article

The Law Reform Commission is the main body responsible for regular evaluation of legal instruments and for making proposals for legislative reforms. The ICAC also plays a role in the evaluation of anti-corruption laws through the CPR recommendations, which have to date triggered numerous legislative reforms.

Mauritius is deemed in compliance with the provision under review.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

The ICAC is fully involved in anti-corruption initiatives be it at regional and international levels. It is mandated to investigate into corruption and money laundering cases. The Act makes provision for the promotion of links between the Commission and international organisations so as to foster international cooperation in the fight against corruption. The Prevention of Corruption Act 2002 as amended also encourages links between the Commission and similar agencies in other countries.

The main involvements of Mauritius are as follows:

- Mauritius has subscribed to the following international Conventions and Protocols:
 - a) The United Nations Convention Against Corruption;
 - b) The United Nations Convention Against Transnational Organised Crime;
 - c) The SADC Protocol Against Corruption; and
 - d) The African Union Convention on Preventing and Combating Corruption
- Mauritius is an active member since 2004 of the Southern African Forum Against Corruption (SAFAC) which since 2015 is known as the SADC Anti-Corruption Committee. This is now a regional platform established under the aegis of the SADC for the purposes of mutual cooperation in combating corruption and provides a platform for anti-corruption agencies in the SADC region for anti-corruption activities, sharing of experiences and best practices in fighting

corruption.

- The ICAC is a member of the International Association of Anti-Corruption Authorities (IAACA) and regularly attends the Annual Conferences and General Assembly Meetings since it was set up in Beijing in October 2006.
- The ICAC is an active member of the Association of Anti-Corruption Agencies of Commonwealth Africa (AAACA). ICAC Mauritius hosted the 2013 AGM. As a member, the ICAC contributes financially to the AAACA. The Commonwealth Secretariat in association with the Independent Commission Against Corruption, the Office of the Director of Public Prosecution (ODPP) of Mauritius organised a three-day regional anti-corruption workshop in June 2010.
- Mauritius regularly attends the Annual Conference of States Parties of the UN Convention Against Corruption and actively participates in the working groups. The Republic of Mauritius also participated through the ICAC in the following events - the First Africa Forum on Fighting Corruption held in February 2007 in South Africa and the Fifth Global Forum on Fighting Corruption and Safeguarding Integrity in South Africa in April 2007.
- The Republic of Mauritius has also developed links with the following anti-corruption agencies: ICAC Hong Kong, ICAC NSW, CPIB Singapore, ACA Malaysia, BIANCO Madagascar, CBI and CVC India, Serious Fraud Office, UK, Federal Bureau of Investigation, USA, Financial Enforcement Office of Technical Assistance (OTA) of the US Department of Treasury, UNDP and UNODC.
- The relationship between BIANCO, the national anti-corruption agency in Madagascar and the ICAC was formalized through the signing of a Memorandum of Understanding and subsequent visits of officers since 2006.
- On a yearly basis, an average of five countries conduct study tours in Mauritius for sharing of information and capacity building purposes. Many countries have shown interest in learning from the Mauritian experience in the fight against corruption. These countries are mainly from SADC countries, Commonwealth Africa and French speaking countries in Africa.
- 1st Global Conference on Anti-Corruption Reforms in Small Island Developing States 2015

In August 2015, high-level anti-corruption officials from Small Island Development States (SIDS) met in Mauritius for the SIDS conference organized by the UNODC and the UNDP to discuss anti-corruption reforms in small island states. Throughout the conference, the participants actively discussed current challenges, policy options and priorities on anti-corruption reform. The "Mauritius Communique", recommended that the general concerns of SIDS be reflected in a formal resolution and presented at the Conference of State Parties in St Petersburg Russia.

The Resolution entitled "Strengthening the implementation of the United Nations Convention against Corruption in small islands states" in St Petersburg Russia stemmed from the outcome of the Global Conference on Anti-Corruption Reforms in Small Island Developing States. The Resolution presented was subject to a number of informal discussions, queries and challenges before being formally adopted at the Plenary Session. The resolution also recognizes that Mauritius would be leading in anti-corruption reforms, in as much as it spells out that henceforth Mauritius will host and maintain a platform for research and sharing of best practices specific to SIDS. Some SIDS have already expressed their interest to benefit from the platform to be hosted by Mauritius.

- 2nd Global Conference on Anti-Corruption Reforms in Small Island Developing States 2016

In August 2016, the UNODC in collaboration with the Independent Commission Against Corruption and the Ministry of Financial Services, Good Governance and Institutional Reforms organized the 2nd Global SIDS Conference in Mauritius. The theme of the Conference was “Preventing Corruption in the Public Procurement Process”. Procurement was one among the main concerns identified by Small Island States during the first Global SIDS Conference held in Mauritius in 2015.

- Following a request from the Directorate on Corruption and Economic Offences (DCEO) of Lesotho, two Officers of the ICAC were delegated to conduct a training workshop meant for staff of the DCEO and the education sector. The training workshop took place from 10 to 14 November 2014 in Lesotho. The main objectives of the training programme were to share experiences and best practices in the field of anti-corruption education in secondary schools and enable staff of the DCEO and other stakeholders from the education sector to develop and implement an effective anti-corruption programme for secondary schools in Lesotho.

The training workshop concluded with a tentative plan of action focusing on the short, medium and the long-term needs and actions to be implemented by the DCEO at secondary school level.

- Conference organized by the Embassy of the United States of America

The conference was hosted by Alexandra Wrage, President of TRACE International Inc. and dealt with the global cost of corruption to business, to communication and to development and democratization; top ten enforcement trends worldwide and demand side and supply side bribery.

- The setting up of an International Criminal Court through the enactment of the International Criminal Court Act of 2011 as per the Rome Statute also provides for the incorporation of substantive international criminal law, jurisdiction of national courts over ICC crimes, as well as for cooperation between the Court and Mauritius.
- With respect to the legal and procedural framework, the Mutual Assistance in Criminal and Related Matters Act 2003 makes provision for mutual assistance between the Republic of Mauritius and a foreign State or an international criminal tribunal in relation to serious offences and to provide for related matters. The central authority responsible for dealing with all incoming and outgoing requests for mutual legal assistance to and from foreign countries, in respect of serious crimes like fraud and money laundering is the Attorney General’s Office.

In absence of a treaty or convention for Mutual Legal Assistance and service of legal documents requests can be made on the basis of reciprocity. Requests are also made on the basis of Harare Scheme relating to Mutual Legal Assistance in Criminal Matters (amended as of 2005) within the Commonwealth.

Examples of Implementation:

- Following the Conference of States Parties to the UNCAC, an agreement was signed between the ICAC and the Washington and Lee University, USA. With the support of the UNODC, a doctoral student of the university was posted at ICAC to work on two papers with regards to SIDS - “Protection of reporting persons” and “Corruption in procurement”. One of the papers was presented by the student at the 2nd Global SIDS Conference.
- SADC Anti-Corruption Committee (Formally known as the Southern African Forum Against Corruption - SAFAC)

<http://www.sadc.int/news-events/news/sadc-anti-corruption-committee-sacc-meeting-2-3-july-2015/>

- Association of Anti-Corruption Agencies of Commonwealth Africa (AAACA) 2015. <http://www.thecaacc.org/heads-anti-corruption-agencies-commonwealth-africa-annual-meeting>
 - Memorandum of Understanding with BIANCO, the Anti-Corruption Agency of Madagascar.
 - Gabriel Kurtis paper: From a rocky start to regional leadership: Mauritius's anti-corruption agency, 2006 - 2012 is the title of the case study on the Independent Commission Against Corruption by Gabriel Kurtis, a researcher from Princeton University. https://successfulsocieties.princeton.edu/sites/successfulsocieties/files/Policy_Note_ID_229.pdf
 - ICAC Website: Research studies conducted on corruption and related issues by the ICAC. The reports have been posted on the website of the ICAC. Refer to ICAC website: <https://www.icac.mu>
 - ICAC Newsletter: The quarterly newsletter is a means for the various stakeholders, including university students, academia, youth leaders, etc. in the fight against corruption to share their reflections, experiences and initiatives.
- Refer to ICAC website: <https://www.icac.mu>

(b) Observations on the implementation of the article

Mauritius actively participates in various anti-corruption initiatives and fora, including the Southern African Development Community (SADC) Anti-Corruption Committee, the International Association of Anti-Corruption Authorities and the Association of Anti-Corruption Agencies of Commonwealth Africa.

Mauritius has developed and is developing bilateral partnerships with several foreign anti-corruption agencies. In addition, in 2015 and 2016, Mauritius hosted the Global Conferences on Anti-Corruption Reforms in Small Island Developing States.

Mauritius is deemed in compliance with the provision under review.

(c) Challenges, where applicable

The recommendations of the ICAC following the conduct of Corruption Prevention Reviews are not mandatory.

(d) Technical assistance needs

Capacity-building and Facilitation of international cooperation with other countries:

a) ICT as an effective tool to minimising corruption opportunities and enhancing organisational effectiveness

ICT is increasingly being integrated in the administration of public sector organisations. In Mauritius the legislative framework to support effective use of ICT is in place and the infrastructure to support its integration is increasing in terms of efficiency. Over the years, ICT related legislations have allowed public sector institutions to improve the delivery of public services in a cost-effective manner to the satisfaction of the public.

The ICAC has made several ICT-based recommendations through Corruption Prevention Reviews (CPR) to enhance the efficiency and transparency of public administration and improve

interactions. ICT has the potential to simplify the administrative process. These recommendations are proving their effectiveness. It can also simplify the fight against corruption, increasing civil society and citizen's engagement in the fight.

With a view to engaging citizens in the fight against corruption and impunity, increasing access to information, enhancing detection of corruption and speeding up corruption prevention through the integration of ICT, technical assistance is being sought as follows:

A. Technical assistance from the UNODC for the preparation of a blueprint on the measures to be integrated in the national comprehensive ICT reform strategy to:

- a) decrease corruption opportunities by increasing transparency, reducing systemic hurdles, eliminating administrative red-tapism;
- b) facilitate detection of malpractices, enhancing transparency and accountability; and
- c) ultimately improving service delivery by employing user-friendly administrative systems.

B. Holding of a national seminar facilitated by international experts to:

- a) bring relevant authorities, public bodies and officials to reflect on the effectiveness of ICT to enhance organisational integrity and public service delivery;
- b) discuss how new technologies can facilitate access to official information, enhance monitoring for efficiency and integrity of public services and make information more transparent;
- c) establish a broad consensus that ICT have the potential to make a significant contribution to the fight against corruption and be given the required consideration;
- d) facilitate the flow of information between public institutions, government and citizens, as well as among the private sector through new technologies as a means to promote transparency and accountability;
- e) reduce the asymmetries of information between public officials and citizens;
- f) finding means and ways to reduce face to face contact between officers and the public;
- g) limit the discretion of public officials through automatizing processes,
- h) reduce red-tapism: and
- i) draw upon international best practices on the use of ICT in the prevention of corruption.

b) Development of a Research platform for SIDS

The specificities of Small Island Developing States create a major challenge that require appropriate responses. It is also of common knowledge that most of the Small Islands Developing States have limited human and financial resources. It is thus crucial to make optimum use of these resources if we want to attain a reasonable level of economic development.

To build effective institutions and capacities, sharing knowledge and experiences is critical. Knowledge sharing is more effective when knowledge seekers have the tools to identify needs and help with adapting knowledge to their circumstances. Getting together, to learn and share best practices and measures can contribute to ensuring that we remain at the forefront of driving forward.

At the Conference of State Parties to the United Nations Convention against Corruption (UNCAC), held in St Petersburg, Russia in November 2015, one of the outcomes of the resolution 6/9 was that Mauritius would host an online research platform for SIDS. Following this resolution, the

Independent Commission Against Corruption (ICAC) Mauritius endorsed the responsibility of developing and sustaining this platform.

Implemented in 2017, the SIDS Anti-Corruption Research Platform (SACRP) is an online platform which aims at promoting research work and discussions on anti-corruption and anti-money laundering issues of particular relevance to the SIDS. It supports the generation and use of country-led research and data amongst the SIDS.

Basically, some core components of the e-platform include:

- publications where SIDS will find an array of anti-corruption related materials relevant to them including best practice guides; and
- forum where member countries may discuss on a number of topics with the ultimate aim of discussing research papers and publishing same on the website.

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 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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

1. Independent Commission against Corruption (ICAC)

The ICAC has as core functions to lead, implement and administer the prevention, education and enforcement elements of the national strategy to fight corruption within the established parameters.

The national anti-corruption strategy is described within the Prevention of Corruption Act 2002 as amended and operations guided by yearly action plans. The scope and mandate of the ICAC are spelt out in Section 20 of the Prevention of Corruption Act 2002. Refer to the ICAC's website: <https://www.icac.mu> for more information.

Section 20

- Functions of the Commission

- (1) The functions of the Commission shall be to -
- (a) educate the public against corruption;
 - (b) enlist and foster public support in combating corruption;
 - (c) receive and consider any allegation that a corruption offence has been committed;
 - (d) detect or investigate any act of corruption;
 - (e) investigate the conduct of any public official which, in its opinion, is connected with or conducive to, corruption;
 - (f) monitor, in such manner as it considers appropriate, the implementation of any contract awarded by a public body, with a view to ensuring that no irregularity or impropriety is involved therein;
 - (g) examine the practices and procedures of any public body in order to facilitate the discovery of acts of corruption and to secure the revision of methods of work or procedures which, in its opinion, may be conducive to corruption;
 - (h) advise and assist any public body on ways and means in which acts of corruption may be eliminated;
 - (i) undertake and assist in research projects in order to identify the causes of corruption and its consequences on, inter alia, the social and economic structure of Mauritius;
 - (j) cooperate with all other statutory corporations which have as object the betterment of the social and economic life of Mauritius;
 - (k) draft model codes of conduct and advise public bodies as to the adoption of such code of conduct as may be suited to such bodies; .
 - (l) co-operate and collaborate with international institutions, agencies or organisations in the fight against money laundering and corruption;
 - (m) monitor current legislative and administrative practices;
 - (n) advise the Parliamentary Committee on such legislative reform as it considers necessary to foster the elimination of acts of corruption;
 - (o) detect and investigate any matter that may involve the laundering of money or suspicious transaction that is referred to it by the FIU;
 - (p) execute any request for assistance referred to it by the FIU;
 - (q) take such measures as may be necessary to counteract money-laundering in consultation with the FIU;
 - (r) co-operate and collaborate with the FIU in fulfilling common objectives.
- (2) The Commission shall act independently, impartially, fairly and in the public interest.

Subject to this Act, the Director-General shall not be under the control, direction of any other person or authority.

- (4) The Prime Minister may appoint such committee as he may deem necessary for advising the Commission -

- (a) on any matter pertaining to the functions of the Commission;
- (b) on strategies to reduce corruption;
- (c) on educational programs to be implemented so as to involve the community in anti-corruption strategies;
- (d) on the staffing policies of the Commission;
- (e) on the annual estimates of the Commission; and
- (f) such other matters as he may deem fit.

Furthermore, as per Section 30 of the PoCA 2002 as amended, the ICAC is mandated to:

- a) conduct public campaigns to alert the public on dangers of corruption;
- b) enlist and foster public support in combating corruption;
- c) assist in enhancing the school curriculum so as to educate children on the dangers of corruption;
- d) inform the general public on the manner in which complaints of acts of corruption should be made;
- e) conduct campaigns to encourage the formation and strengthening of non-governmental organizations to fight corruption;
- f) liaise with private sector organizations and trade-unions for the setting up of anti-corruption practices;
- g) conduct workshops and other activities to promote campaigns for the prevention and elimination of corruption;
- h) undertake and assist in research projects in order to identify the causes of corruption and its consequences on, inter alia, the social and economic structure of Mauritius;
- i) co-operate with all other statutory corporation which have as object the betterment of the social and economic life of Mauritius;
- j) promote links between the Commission and international organizations so as to foster international co-operation in the fight against corruption;
- k) encourage links between the Commission and similar agencies in other countries; and
- l) enhance education on the dangers of corruption.
- m) monitor, in such manner as it considers appropriate, the implementation of any contract awarded by a public, with a view to ensuring that no irregularity or impropriety is involved therein;
- n) examine the practices and procedures of any public body in order to facilitate the discovery of acts of corruption and to secure the revision of methods of work or procedures which, in its opinion may be conducive to corruption
- o) advise and assist any public body on ways and means in which acts of

- corruption may be eliminated;
- p) draft model codes of conduct and advice public bodies on their adoption.

The Commission has been operating through the following divisions -

- Corruption Investigation Division (Corruption Investigation Branch and the Anti-Money Laundering Branch),
- Corruption Prevention and Education Division (System Enhancement Branch and the Community Relations Branch),
- Legal Division and
- Corporate Services Division.

The ICAC implements its strategies through yearly Actions Plans, its achievements and allocated budgets are found in the Annual Reports which are tabled as per the provisions of the law (PoCA) in the National Assembly every year.

Part VI Section 59-61 of the Prevention of Corruption Act 2002 as amended provides for a Parliamentary Committee consisting of 5 members from the government and 4 from the opposition to monitor and review the manner in which the Commission fulfils its functions under the Act; review the budgetary estimates of the Commission; issue such instructions as it considers appropriate with regard to the financial management of the Commission; the staffing requirements of the Commission; the allocation of resources to the various operations of the Commission; the manner in which the Commission performs its functions and exercise its powers; and report to the Assembly where the Committee considers that it is expedient that the attention of the Assembly be directed to:

- the manner in which the Commission is discharging its functions and exercising its powers;
- the financial situation of the Commission;
- the need for further legislative reforms; or any other matter relating to this Act;
- consider the annual report and other reports of the Commission and report to the Assembly on any matter appearing in or arising out of such report;

For more information about the ICAC Parliamentary Committee, please refer to: <http://attorneygeneral.govmu.org/English/Documents/A-Z%20Acts/P/Page%201/PREVENTION%20OF%20CORRUPTION%20ACT.pdf>

2. Anti-corruption Committees in public bodies

Anti-Corruption Committees (ACC) have been set up in 78 public bodies to drive implementation of the Public Sector Anti-Corruption Framework. The ACC is responsible for developing and coordinating the implementation of anti-corruption initiatives and programmes in their respective organizations. The framework has been further reinforced with the designation and training of 128 public officers to act as integrity officers. The role of the Integrity Officer is among others to coordinate integrity issues within the Ministry/organisation and be the desk officer for integrity-related matters at the level of the Ministry/organisation and liaison with ICAC for relevant support.

3. Financial Intelligence Unit (FIU)

The Financial Intelligence Unit (FIU) was set up in 2002 in accordance with the provisions of the Financial Intelligence and Anti-Money Laundering Act 2002, to fight money laundering by receiving, requesting, analyzing and disseminating to investigative and supervisory authorities'

financial information on suspected money laundering offences. Enforcement and Regulatory bodies with which the FIU disseminates analytical reports include the ICAC, the Bank of Mauritius, the Financial Services Commission and the Police among others.

4. The Procurement Policy Office

In 2006, the Public Procurement Act was enacted. It established modern principles and procedures for competitive bidding, transparency and accountability. It operates through the Procurement Policy Office, the Central Procurement Board and the Independent Review Panel within the public administration to ensure that the principles are properly applied and implemented.

The Procurement Policy Office provides the mechanism for conducting oversight and monitoring of the performance and progress of the procurement system in Mauritius, and to guide and promote its continuing development and improvement. The Central Procurement Board and the Independent Review Panel ensure that the principles are properly applied and implemented within the public administration.

Please refer also to information provided under Article 9 on public procurement and management of public finances.

5. Mauritius Revenue Authority

As per section 3 of the Mauritius Revenue Authority Act 2004, the MRA is a body corporate established for the purposes of:

- (a) assessment of liability to, collection of and the accountability for tax, and
- (b) management, operation and enforcement of the Revenue Laws.

The Internal Affairs and Internal Audit Divisions, set up under Section 3(4)(d) of the MRA Act constitute MRA's main tools for implementing its strategies relating to the fight against corruption, integrity and good governance. To ensure the independence of these two oversight Divisions, Section 12 of the Act provides that the Head of the Internal Affairs and Internal Audit Divisions shall report on and be directly accountable to the Board for the execution of the duties assigned to them.

(<http://www.mra.mu/download/MRAAct140416.pdf>)

While Internal Affairs is responsible for integrity management and is entrusted with improving staff integrity and public perception of the organisation's integrity, Internal Audit is responsible for providing the Board and Management with independent assurance on the organisation's systems of control, risk management and governance and recommend improvement and implementation of best practices.

The following structures are in place to deal effectively with grievances and complaints:

- a) ICAC: The ICAC has set up in accordance with the provisions of the PoCA 2002 as amended, a Complaints and Advice Processing Unit (CAPU) where acts of corruption are reported. Complaints can be in the form of letters, phone calls, fax, email or people coming in person. The complainant can also choose to remain anonymous. Communications equipment capable of receiving complaints by fax, e-mail, or toll-free hotline are also available on a 24-hour basis.

Section 45 of the Prevention of Corruption Act 2002 as amended refers to referrals as follows:

Section 45. Referrals to the Commission

- (1) Notwithstanding sections 43 and 44, where in the exercise of his functions-

- (a) a Judge or Magistrate;
- (b) the Ombudsman;
- (c) the Director of Public Prosecutions;
- (d) the Director of Audit; or
- (e) the chief executive of a public body, is of the opinion that an act of corruption may have occurred, he may refer the matter to the Commission for investigation.

(2) Where in the course of a Police enquiry -

- (a) it is suspected that an act of corruption or a money laundering offence has been committed; and
 - (b) the Commissioner of Police is of the opinion that the matter ought to be investigated by the Commission, the Commissioner of Police may, notwithstanding the Financial Intelligence and Anti Money Laundering Act 2002 and subject to subsection (3), refer the matter to the Commission for investigation.
- (3) The Commissioner of Police shall forthwith notify the FIU of the nature of the money laundering offence referred to in subsection (2) (a).

- b) Ombudsman Office: The role of the Ombudsman is to investigate into complaints against Government institutions and seek redress to injustice if any, sustained in consequence of any alleged maladministration that may have been committed by any public officer or authority in the exercise of administrative functions.
- c) Equal Opportunity Commission: The foremost duty of the Commission is to work towards the elimination of discrimination on the basis of integrity and the promotion of equality of opportunity and good relations between persons of different status.
- d) Independent Review Panel: An unsatisfied bidder can file an application in writing within the time specified in section 43(4) of the Public Procurement Act to the Review Panel to review the procurement proceedings if he is not satisfied with the decision.
- e) Employment Relations Tribunal (ERT): The ERT is a quasi-judicial body to which labour disputes are referred to, inquired into and awards made thereon. The ERT aims at settling labour disputes in the Civil Service, the Private Sector, Parastatal Bodies and the Local Government Services; hearing appeals from the decision of the Conciliation and Mediation Commission; and promoting harmonious employee relations.
- f) Public Bodies Appeal Tribunal: The Public Bodies Appeal Tribunal has been established under article 91A of the Constitution. As per the Public Bodies Appeal Tribunal Act, any public officer may, appeal against any decision of the Public Service Commission pertaining to an appointment exercise made within the service. Such appeal should be lodged with the tribunal within 21 days of the notification of that decision.

Examples of Implementation:

The ICAC has conducted numerous research studies in recent years in the area of prevention of

corruption and related issues:

- a) Study on Secondary Educational System in Promoting Knowledge and Awareness of Anti-corruption Values in Mauritius:

The ICAC commissioned the Mauritius Research Council (MRC) in 2009 to conduct a study on “The Secondary Educational System in Promoting Knowledge and Awareness of Anti-corruption Values in Mauritius”. The aim of the study was to assess the extent to which the current education system is promoting knowledge and awareness of anti-corruption values and to examine the current status of students’ knowledge and attitudes towards corruption.

The report was launched in May 2010 and was referred to the Ministry of Education and Human Resources, Tertiary Education and Scientific Research for appropriate actions to reinforce the curriculum in connection with value education.

- b) Research study on the abuses and malpractices pertaining to claims for mileage allowance and refund in the public sector

Mileage allowance is an area vulnerable to abuses/malpractices and corruption in the absence of adequate monitoring, control and supervision. Given the number of alleged cases of abuse, malpractices and shortcomings registered at the ICAC every year, claim for mileage allowance and its refund became a matter of concern. Consequently, a research study was conducted on the abuses and malpractices pertaining to claims for mileage allowance and refund in the public sector.

The report of the study was released in September 2013 and the attention of public bodies where mileage is claimed for field works were drawn on the shortcomings in the processing of claims. In September 2014 a follow-up exercise comprising site visits and working sessions with officers involved in the processing of claims was conducted to take stock of the initiatives taken to improve systems, processes and practices for a more effective use of mileage allowances.

- c) Research Study on Alleged Abuses and Malpractices Regarding Inspection in Markets and Fairs in Local Authorities

Inspection in markets and fairs is an area which is fertile for corruption, especially when Inspectors have considerable discretionary powers. It is, therefore, important that local councils be equipped with adequate fundamental controls and effective corruption prevention tools or mechanisms that would promote integrity at the staff level and also instil trust among the public at large. Poor controls or their absence may lead to corrupt practices that dishonest people may tend to exploit in return for a gratification.

The study provides a succinct analysis on alleged abuses/malpractices regarding inspection in markets and fairs in local authorities. It also recommends measures to secure the revision and revamping of methods of inspection work and procedures that may be conducive to malpractices.

- d) Study on “Managing Conflict of Interests: An Assessment in Public Sector Organisations”

Instilling proper mechanisms to deal with situations of conflict of interests is a must in public bodies in order to better regulate the duality of roles which public officials have to play in the execution of their duties. In this context, a research study was conducted to assess both the nature of complaints received at the ICAC pertaining to COI and the mechanisms which public bodies have instilled for managing situations of conflict of interests.

- e) Study on Recruitment and Selection in Parastatal Bodies

Numerous complaints were registered at the ICAC on alleged or suspected cases of corruption or malpractices in the recruitment process in parastatal bodies. This area is highly prone to a

perception of corruption. Such perception may adversely impact on the organisation's reputation resulting in loss of public trust. It is in this perspective that the ICAC conducted a research study on recruitment and selection practices in parastatal bodies. Parastatal bodies are established statutorily under the aegis of Ministries/Departments as executive arms of Government with specific goals and objectives. They are responsible for the recruitment and selection of employees for their respective bodies.

The recruitment and selection function is perceived as an area that is highly prone to corruption and malpractices. The principle of selection by merit, high standards of integrity and probity as well as increased transparency and accountability in recruitment systems, procedures and processes are crucial to safeguard the credibility of the organization.

The ICAC also commissioned several surveys on corruption:

a) National Survey on the Perception of Corruption 2004

The first national baseline survey on the perception of corruption in Mauritius was conducted in 2003 by an independent consultant. The main findings of the survey with respect to public perception regarding the effectiveness and performance of the anti-corruption agency and public knowledge about the prevention of corruption were as follows:

- It is comforting to note that 58.6% of Mauritians state they would report a case of corruption if they come to know about it. However, 61.5% of those having no formal education would desist from doing so. On a sectoral basis, it is noted that respondents in public service are divided about reporting or not reporting, while a high percentage (71.6%) of those working in parastatals indicated they would report. Across age groups, the youth (18 - 25) show the strongest (66.5%) willingness to report.
- It is good to note that 30.2% of respondents indicated they know the process to be followed to report a case of corruption, however much work remains to be done to ensure that the majority is similarly informed.
- Almost equal number of respondents indicated ICAC (34.4%) and police (33.6%) as their preferred contact to report a case of corruption. Private radio stations are the third preferred contact (16.1%) for so doing, although more so for urban respondents (Figure 16.2) than for rural. ICAC is the most preferred contact for urban respondents while rural ones show preference for police. Males indicated ICAC as preferred contact while females indicated the police. Those with lower level of education favour the police while those with higher level prefer ICAC.
- Little doubt is expressed about the commitment of ICAC to fight corruption. The institution gets 89.1% of respondents believing it is quite or highly committed. 83.6% of respondents also considered the institution as being quite if not highly efficient to do so.
- While only 11.4% of respondents perceive that ICAC has total independence, 22.4% consider the institution as benefiting of much independence and 34.6% of a fair amount of independence.
- Views are divided about the amount of powers that ICAC is endowed with. 51.8% consider ICAC does not have enough powers while 40.3% believe it holds enough. Men (58%) consider the institution does not have enough power while women have divided views with 45% believing it has enough and 45.6% that it does not have enough.

- In both Mauritius and Rodrigues, the protection of informers comes out clearly as being the most important required initiative that could help in the fight against corruption.

b) National Survey on the Perception of Corruption 2014

The second national survey on the perception of corruption in Mauritius was conducted in 2004 by an independent consultant. The main findings of the survey were as follows:

- This report is based on the opinions and experiences of 2,100 citizens aged between 18 and 65 in Mauritius and Rodrigues. The opinions and experiences of the sample of citizens do reflect those of the adult population of Mauritius.
- The survey revealed that the people of Mauritius do not consider corruption as the most important problem of Mauritius. It only ranks 4th in the list of their concerns. However, more than 60% are of the opinion that both high level and small-scale corruption have increased over the last three years. The survey concludes on the belief of 59% of respondents that corruption will continue to spread and 26.8% do not expect any change with respect to the present situation. 62.5% believe that ICAC can do better.
- This survey has revealed that the gap between personal experience of corruption and the perception of people has decreased. Indeed while 13% of respondents inform that they have personally been asked for a bribe and only 5.6% admit having given a bribe, the answer to the proxy questions reveals a shocking 37% of respondents knowing of someone having been asked for a bribe and 27.1% knowing of a third party who has paid a bribe. In fact, this figure has hardly been improved since 2004 when 31% reported they know someone who has been asked for a bribe.
- Besides personal experience, people derive their perception of the state corruption in the country, particularly high scale cases, from media reports and about 60% trust such media reports particularly the radios, and 62.5% of respondents consider that media's portrayal of ICAC is fair. Indeed, 63.1% get information about corruption predominantly from private (44.5%) or public media (18.6%). Word of mouth from friends and acquaintances accounts for 16.4%.
- In the public perception, those who top the chart are the same categories as in 2004. Again a majority of respondents (75%) consider that police officers are involved in corrupt practices. Other officers who are perceived as being corrupt are NTA Officers (67.5%), Ministers (64.9%), Customs Officers (63.1%), Municipal/District Councillors (60.7%), and members of the National Assembly (56.4%).
- In the 2004 report, 36.9% of respondents indicated that it is likely that magistrates and judges demand bribes for services. It is seriously worrying that in this 2014 survey, 42.9% of people perceive that the judiciary is quite or highly corrupt! Furthermore 37.3% are of the opinion that the judiciary is not committed to fighting corruption. The result of the 2004 survey shocked the head of the judiciary who claimed that people's perception was wrong. Once again, perception is more likely not a true reflection of reality, but the question to be asked is what is it that gives rise to such perception?
- While 66.8% of respondents said they perceive there is corruption in the private sector, real experience or knowledge of someone who has encountered such experience is quite low. However, some areas do see a red flag, namely: HR managers and bank officers responsible for loans.
- The survey brings out three salient reasons for the continued level of prevalence of corruption and the difficulty in fighting corruption.

- The first is related to personal motivation and structural inefficiency of service delivery by institutions. Desire for personal gain is considered by respondents as the most important cause of corruption. The second most important cause mentioned, namely that of “low salaries or alternate source of income” is to a large extent a correlate of the desire for personal gains.
- Furthermore respondents also pointed out to the “need to speed up the process and procedures” or “lack of patience to get things done through proper channel” as causes for corruption. Both point to the issues of poor level of service provision in many institutions which has not kept pace with the exigencies of society where people’s expectation for more speedy service is rising constantly.
- The second is the low commitment of various categories of stakeholders to truly engage in the fight against corruption. 51% of respondents do not consider the private sector as a stakeholder committed to fighting corruption. 58% of respondents do not believe that politicians in government and 62% similarly about the opposition are committed to fighting corruption.
- Journalists stand out being considered by 69% of respondents as the most committed and efficient in the fight against corruption. Surprisingly and sadly, the majority of people perceive the younger generation as not so committed or even not committed at all. Quite worrying for the future!
- The third is that 40% of people feel that although the law to combat corruption is adequate, it is not efficiently applied. Worse, the same proportion also considers that some people are above the law even if it is adequate. In short, they have little trust in the law enforcement institutions
- As a consequence, while most Mauritians feel concern about corruption, there is still some reluctance to report cases of corruption. It is noted that six out of ten respondents would report cases of corruption if they come to know about it. Yet, 41.6% of respondents say they would not report a case of corruption out of which 30% argue that those who report get more problems or they fear retaliation (21.3%). Avoiding court hassle is also indicated as an important reason. Long and delayed judicial processes seem to be a serious deterrent.
- The performance of ICAC as the main law enforcement institution is rated as good or very good by 36.8%. The perception of the performance of ICAC is a consequence of three factors: (a) its communication and (b) the regulatory constraints within which it operates versus the high expectation of the population and (c) a trust gap.
- According to the report, although the institution has improved its communication over the years, the message to the general public is still too formal and not cast from a public perception perspective. “It is not what you want people to know which is important, it is what people want to know!”. It is also mentioned in the report that the website of the organisation and its reports do carry a lot of information, however these are not visible in the media which carry reports on cases of corruption. There is no explanation as to why there are many cases that are reported but cannot be conclusively investigated.
- The trust gap is a major handicap for the institution. The perception that some people are above the law and that cases regarding high profile individuals are related to the political context as well as political campaigns against ICAC often for self-interest reasons have greatly undermined the trust of people in the institution.
- The report concludes with recommendations emanating from the findings of the survey. These recommendations focus inter alia on:
 - a) The need for political commitment from both government and the opposition to be seen

beyond the verbal, namely on the reduction of discretionary powers in the executive governance space and reform of the PoCA to ensure real independence of ICAC.

- b) The urgent need to revise the existing law so that the power of appointment and removal of office of the Director General and other Commissioners of ICAC be out of the hands of the Executive and placed under the responsibility of the Judicial and Legal Service Commission. The recommendations deal also with the question of security of tenure of office of the Director General and Board members.
- c) The need for enhancement of PoCA on certain aspects such as giving scope for inquiry on unexplained wealth.
- d) The need to have regular Regulatory Impact Assessment of the law to ensure that emerging issues are taken into consideration and weaknesses are remedied.

The results of the National Surveys on Corruption have provided baseline data to the ICAC to assess progress in the fight against corruption and to review its strategies to enhance effectiveness of its anti-corruption initiatives, actions and programmes.
<https://www.icac.mu/national-survey-on-corruption/>

Gabriel Kurtis of Princeton University: “From a rocky start to regional leadership: Mauritius’s anti-corruption agency, 2006 - 2012” is the title of the case study on the Independent Commission Against Corruption by Gabriel Kurtis, a researcher from Princeton University.

http://www.academia.edu/7023098/From_a_Rocky_Start_to_Regional_Leadership_Mauritiuss_Anti-Corruption_Agency_2006-2012

Several studies were also conducted/commissioned by Transparency Mauritius

- a) “Le regard des jeunes sur la politique et la corruption
<https://www.transparencymauritius.org/wp-content/uploads/2013/02/Le-regard-des-jeunes-sur-la-politique-et-la-corruption-Septembre-2013.pdf>
<https://www.transparencymauritius.org/our-projects/le-regard-des-jeunes-sur-la-politique-et-la-corruption/>
- b) “Étude sur les attitudes à l’égard de la corruption
<https://www.transparencymauritius.org/wp-content/uploads/2013/02/Etude-Moriscopie-sur-les-attitudes-a-legard-de-la-Corruption.pdf>
<https://www.transparencymauritius.org/our-projects/etude-sur-les-attitudes-a-legard-de-la-corruption/>

Please also refer to the responses under paragraphs 1 and 2 of article 5 of the Convention.

(b) Observations on the implementation of the article

The ICAC is the main preventive anti-corruption body in Mauritius. The preventive mandate of the ICAC is implemented through yearly Action Plans.

Other bodies with mandates touching upon corruption-prevention mandates include: the FIU, the Mauritius Revenue Authority, the National Audit Office and the Procurement Policy Office.

Mauritius is deemed in compliance with the provision under review.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

The Republic of Mauritius has built up a robust anti-corruption infrastructure comprising updated legislations and fully operational institutions.

The provisions of the PoCA 2002 as amended comply with international good practices like the Jakarta statement on principles for anti-corruption agencies, International Organisation of Supreme Audit Institutions (INTOSAI) standards. Section 20 of the PoCA 2002 provides a clear mandate to the ICAC to tackle corruption through prevention, education, investigation and prosecution.

The PoCA 2002 as amended complies with the Jakarta principles as follows:

- A clear mandate to tackle corruption through prevention, education and investigation (Section 20).
- Cooperation and collaboration (Section 20 and Section 30).
- Established the Independent Commission Against Corruption as the anti-corruption agency in the country.
- Sections 20-23 provide for the independence of the institution, appointment of the Director General, its removal procedures, neutrality, tenure, etc.
- A specific Code of Ethics with strict monitoring for compliance.
- Immunity to Board members and staff is provided under Sections 38 and 38A.
- ICAC has the power to recruit and dismiss their own staff according to internal clear and transparent procedures.
- ICAC is provided with sufficient financial resources through budgetary allocations for capacity development and improvement of operations and fulfilment of its mandate.
- The ICAC receives a budgetary allocation over which the agency has full management and control.
- Clear rules and standard operating procedures have been established by the ICAC, including monitoring and disciplinary mechanisms, to minimize any misconduct and abuse of power. It has an internal auditor.
- The accounts of the agency are audited by the National Audit Office. Sections 59 - 61 of the Prevention of Corruption Act 2002 as amended has also established a Parliamentary Committee to among others review the budgetary estimates of the Commission; issue such instructions as it considers appropriate with regard to the financial management of the Commission; the staffing requirements of the Commission; and the allocation of resources to the various operations of the Commission; the manner in which the Commission performs its functions and exercise its

powers; make a report to the Assembly where the Committee considers that it is expedient that the attention of the Assembly be directed to.

- As per Section 36 of the PoCA the Commission not later than 6 months after the close of every financial year, issue an annual report on the activities, and furnish audited accounts, of the Commission for the financial year to the Parliamentary Committee.
- The ICAC has as per Section 30 of the PoCA, a Corruption Prevention and Education Division headed by a Director and two Assistant Directors. It operates through two specific branches, the Community Relations Branch and the Systems Enhancement Branch. The ICAC has also established a Communication and Public Relations Unit to reinforce public communication and engagement and ensure public confidence in its independence, fairness and effectiveness.

Independence and Accountability Mechanism of the ICAC

The ICAC, although operating as an independent body, is also accountable, both administratively and judicially. There are basically two mechanisms put in place to ensure proper checks and balances in the functioning of the institution.

Administrative Accountability

The Parliamentary Committee is established by virtue of Part VI of the Prevention of Corruption Act 2002. Part VI covers issues such as the proceedings of the Parliamentary Committee as well as its functions and powers. The Parliamentary Committee ensures administrative accountability of the ICAC by monitoring and reviewing its activities in various matters.

The Parliamentary Committee is composed of 9 members of Parliament and meets at least once a month and on such other date as the Chairperson may determine.

The Parliamentary Committee monitors and reviews the manner in which the Commission fulfills its functions under the Act, reviews the budgetary estimates of the Commission, and issues such instructions as it considers appropriate with regard to the financial management, and the staffing requirements of the Commission, as well as the allocation of resources to the various operations of the Commission.

The Parliamentary Committee's role does not extend to monitoring a matter related to any investigation being carried out by ICAC or the findings of the Commission in relation to a particular investigation. The ICAC accounts for its investigative decisions through a separate mechanism, i.e. to the judiciary.

Judicial Accountability

In matters where the Commission is of the view that an investigation has disclosed prima facie evidence against a person and considers prosecution, the matter is referred to the Director of Public Prosecutions (DPP). No prosecution can be instituted by ICAC except with the consent of the DPP.

The DPP is an independent authority, established by virtue of Section 72 of the Constitution of Mauritius. Section 72 also provides for the role and powers of the DPP, who has the powers inter alia, in any case in which it considers it desirable to do so, to institute and undertake criminal proceedings before any court of law.

Moreover, those investigations carried out by the ICAC which are prosecuted before the courts

come naturally under judicial scrutiny and are therefore subject to the Court's judgments.

The role of the DPP and the ICAC are defined under Sections 81(5) and 82 of the PoCA as follows:

PoCA Section 81(5)

(5) For the purpose of an investigation in respect of an offence committed in Mauritius under this Act and the Financial Intelligence and Anti-Money Laundering Act, the Director-General may, with the express written concurrence of the Director of Public Prosecutions, impart to an agency in Mauritius or abroad, such information, other than the source of the information, as may appear to him to be necessary to assist an investigation into money laundering or any other offence.

PoCA Section 82. Prosecution, conviction and forfeiture

(1) Subject to subsection (2), no prosecution for an offence under this Act or Part II of the Financial Intelligence and Anti-Money Laundering Act shall be instituted except by, or with the consent of, the Director of Public Prosecutions.

(2) The Director-General, the Director of the Corruption Investigation Division, or any other officer designated by the Commission, may swear an information and conduct the prosecution in respect of any offence under this Act or Part II of the Financial Intelligence and Anti-Money Laundering Act.

(3) Subsection (2) shall be without prejudice to the Chief Legal Adviser, or any officer of the Legal Division designated by him, conducting any prosecution as specified in that subsection.

(4) Where a person is convicted of an offence under this Act or Part II of the Financial Intelligence and Anti-Money Laundering Act, the Court may, in addition to any penalty imposed, order the forfeiture of the property the subject matter of the offence.

Procedures for appointment of the Director General of the ICAC and the procedures for the recruitment and selection of specialized staff.

Section 19 of the PoCA 2002 as amended provides for the establishment of the Commission as follows:

(1) There is established for the purposes of this Act a Commission which shall be known as the Independent Commission Against Corruption.

(2) The Commission shall be a body corporate.

(3)

(a) The Commission shall be administered and managed by a Board which shall consist of a Chairperson and 2 other members.

(b) The Chairperson of the Board shall be the Director-General of the Commission

(4) The Director-General shall be appointed by the Prime Minister after consultation with the Leader of the Opposition and shall be a person who -

- (a) has served as a Judge of the Supreme Court;
- (b) has served as a Magistrate in Mauritius for not less than 10 years;
- (c) is, or has been, a practising barrister or law officer for not less than 10 years;
- (ca) for an aggregate period of not less than 10 years, has served as a Magistrate in Mauritius and been either a practising barrister or a law officer, or both a practising barrister and a law officer; or
- (d) has served in an anti-corruption agency in another country at an acceptable level of seniority.

(5) The members of the Board, other than the Director-General, shall be persons having sufficient knowledge and experience in the field of law, banking, accountancy, finance, financial services, economics or fraud detection to be appointed by the Prime Minister.

(6) The members of the Board, other than the Director-General, shall be paid such fees or allowances as the Prime Minister may determine.

The terms and conditions of appointment of Director-General are provided under Section 21 of the PoCA 2002 as follows:

- (1) Subject to this section, the Director-General shall hold office on such terms and conditions as may be determined by the Prime Minister.
- (2) The Director-General shall be appointed for a term of not less than 3 years and not more than 5 years and shall be eligible for re-appointment.
- (3) The Director-General shall occupy his office in a full time capacity and shall not engage in any other activity for which he is remunerated in whatever form.

Section 24 of the PoCA 2002 refers to Officers of the Commission as follows:

- (1) Subject to subsection (2), the Commission shall employ such officers it considers necessary to discharge its functions on such terms and conditions as it thinks fit.
- (2) The Commission shall not select a person for employment unless-
 - a) it has advertised its intention to do so in the Gazette and in at least 3 daily newspapers having a wide circulation in Mauritius;
 - b) it has considered all applications received;
 - c) it has interviewed the best qualified candidates; and
 - d) it is satisfied that, on the basis of qualifications, experience and merit, the candidate who has been selected is of a standard which qualifies him to be appointed as an officer in the grade for which he has been selected.
- (3) The Commission shall, with the approval of the Parliamentary

Committee, establish the salaries, wages, allowances and conditions of employment of officers.

(4) Employment by the Commission under subsection (1) shall not be deemed to be employment in a public office.

(5) Notwithstanding subsection (1), the Commission may-

a) with the approval of the relevant Service Commission, recruit a public officer or an officer of a local authority on contract; or

b) for the purpose of this Act, make use of the services of a police officer or other public officer designated for that purpose by the Commissioner of Police or the Head of the Civil Service, as the case may be.

(6) Where the Commission recruits an officer under subsection (5)(a), that officer shall be granted leave without pay from his service for the duration of his contract of employment with the Commission but shall not be granted any further leave, with or without pay, for the purposes of any extension or renewal of such contract of employment.

(7) Notwithstanding any condition contained in the contract of employment of an officer employed under subsections (1) and (5)(a), the Commission may, where it is satisfied that it is in the interests of the Commission to do so, but subject to subsection (8), terminate the employment of an officer.

(8) The Commission shall not terminate the employment of an officer unless -

a) it has provided the officer with a complete statement of the reasons why it is contemplated that his employment be terminated;

b) it has given the officer a full and fair opportunity to show cause why his employment should not be terminated.

(9) Where the Commission terminates the employment of an officer who was employed under subsection (5)(a)-

(a) that officer shall be reinstated to the office which he held immediately prior to his appointment as an officer;

(b) the Commission may, where the officer's employment was terminated on grounds of fraud, corruption or dishonesty, recommend to the relevant Service Commission that disciplinary proceedings be taken against that officer.

A code of conduct is in place setting out the principles ICAC Officers are expected to uphold and prescribing specific conduct in areas considered central to the exercise of the Commission's functions. It does not seek to restrict officers' discretion, rather it aims to define the parameters of conduct within which that discretion should be exercised. Any breach of the principles of the code may result in disciplinary action being taken by the Commission, which, in serious cases, may involve dismissal. The code explicitly states that if confronted with ethical dilemmas, ICAC officials should use the code to inform their response or, if the code does not provide sufficient guidance, seek advice from a senior colleague. This Code applies to every individual engaged as an officer of the Commission, whether by way of employment contract, term employment (appointment or secondment), temporary arrangement or on a fee for service basis. It applies to

the conduct of ICAC officers in all ranks whilst on duty, or whilst off duty if the conduct is serious enough to indicate that an officer is not fit to be an ICAC officer. In case of all officers, the ICAC is the disciplinary authority and the disciplinary proceedings apply to all officers.

Procedures for ensuring the allocation of necessary material resources of the ICAC including recent annual budgets and expenditures.

Section 35 of the PoCA 2002 makes provision for the allocation of funds to the Independent Commission Against Corruption as follows:

Estimates (Section 35 of PoCA 2002)

- (1) The Commission shall, not less than 3 months before the commencement of every financial year, submit for approval, to the Minister responsible for finance, an estimate of the income and expenditure of the Commission.
- (2) Notwithstanding any review of such estimates or any consideration given to them by the Parliamentary Committee prior to their submission to the Minister, the final decision shall rest with the Minister.
- (3) Subsection (1) shall not apply to the first financial year of the Commission.

Section 36 of the PoCA 2002 refers to audit and annual reports as follows:

- (1) The Commission shall, not later than 6 months after the close of every financial year, issue an annual report on the activities, and furnish audited accounts, of the Commission for that financial year, to the Parliamentary Committee.
- (2) The Chairperson of the Parliamentary Committee shall, at the earliest available opportunity, but not later than one month after receiving a report under subsection (1), lay a copy of the report and audited accounts of the Commission before the National Assembly.

Refer to Annual Reports for budgetary allocations and expenditures.

Training of Staff

The ICAC is composed of qualified multi-disciplinary staff from different backgrounds to promote synergy, efficiency and effectiveness. For this, the Commission opted for the recruitment of related skills and conducted in-house training with a view to upgrade the skill base of officers and empower them on investigative and preventive techniques. ICAC is a unique organisation requiring unique skills.

To maintain credibility and efficiency, the ICAC has laid strict requirements on the conduct and integrity of all staff in respect of attitude and standards of behaviour that they maintain during and after office hours. They have to sustain integrity and professionalism of a high order at all times and keep absolute confidentiality on the nature of their work. Thus, the ICAC reinforced staff integrity by conducting an ongoing integrity checking exercise on existing staff and new recruits. Compliance to the ICAC Code of Conduct forms part of the contract of employment. Emphasis is also laid on better time management for more efficiency and

productivity of both prevention and investigation staff.

Continuous development of staff remains one of the priorities of the Commission since capacity building has had a dynamic impact on ICAC investigations and prevention works. Notwithstanding the technological aspects of current day investigations, the dynamic development of human capital is vital in order to allow investigating officers to keep abreast with the ever-changing nature of corruption and money laundering offences. Capacity building is one of the areas where significant progress has been made. As such regular in-house capacity building sessions are organised on a regular basis while tapping on the competencies of both internal and external resource persons. For instance, ad hoc court-oriented trainings to address shortcomings in courtroom are regularly conducted. ICAC prosecutors use mock trials as a means to enable investigators to practice testifying in court. Officers at various levels have attended overseas hands-on training delivered by international institutions and stakeholders.

These training programmes have enhanced the operational, administrative, supervisory and leadership aspects of the ICAC. The support of the Commonwealth Secretariat, the European Union, the UNODC and UNDP have been instrumental in the capacity development of ICAC staff.

Commonwealth Secretariat Training Programme

A delegation from the Commonwealth Secretariat was in Mauritius to assist ICAC in an 8-day training session. The training sessions were held from 20 to 29 April 2015 and were attended by over 100 participants, mostly from ICAC, but also from sister agencies such as the Office of the Solicitor General, the Mauritius Revenue Authority, the Central Investigation Division of the Mauritius Police Force among others. The closing of the training sessions involved an interactive moot Court presentation which demonstrated the best practice approach to prosecuting money laundering cases. The lead facilitator for this exercise, Mr Andrew Mitchell QC, is a prominent barrister and consultant in the field of asset recovery, confiscation, restraint and receivership. Participants also heard from speakers including the Honourable Iqbal Maghooa, Puisne Judge, FIU Director Mr Guillaume Ollivry, Mr Shadrach Haruna, Criminal Justice Expert and Legal Adviser in the Rule of Law Division of the Commonwealth Secretariat, Mr Joseph Jagada, Law Enforcement and Legal Adviser to the ESAAMLG, Mr Anthony Noble, Specialist Investigator, Mr Phillip Armand Moustache, Compliance Director at the Central Bank of Seychelles and representatives of EGMONT Group among others.

Local Training attended by ICAC Staff in 2015

- 3 Senior Investigators and 2 Investigators attended the Awareness Raising: Money Laundering, Financial Investigation - Asset Recovery - organised by DPP on 23 & 30 January 2015.
- 1 Officer of the Corporate Services Division attended the Workshop on the Online services - Mauritius E-Registry Project (MeRP) - stage 2 - organised by Registrar General on 20 March 2015.
- Directors, Assistant Directors and Senior Officers attended the Enhancing Senior Management and Leadership Skills Course at Hilton Hotel from 20 to 24 April 2015 organised by the Commonwealth Secretariat in collaboration with ICAC.
- 1 Senior Officer, of the Corruption Prevention and Education Division attended the Ethics Officer Certification Programme from 20 to 24 April 2015.
- Investigators, Senior Investigators and Legal Advisers attended the Anti-Corruption and Money

Laundering Training Programme for Investigators and Prosecutors from 27 to 29 April 2015 organised by the Commonwealth Secretariat in collaboration with ICAC.

- The Communication & Public Relations Officer and 1 Investigator attended the Legal Insights - Social Media, Data Protection, Intellectual Property and Cybercrime on 21 May 2015.
- The Principal Legal Advisor, 1 Legal Adviser, 2 Investigators and 1 Senior Investigator attended Workshop on Financial Interviews: Practical Techniques on 25 June 2015.
- 2 Senior Investigators and 2 Investigators attended the Forensic Investigations - Planning Methodology and Conducting Investigations from 06 to 10 July 2015.
- 1 Officer of the Corporate Services Division and 2 Investigators attended the 'train the trainers' course on Standard Operating Procedures for law enforcement agencies from 17 to 21 August 2015.
- 1 Investigator attended the IEEE International Conference on Computing Communication and Security (IC3S-2015) - held at Le Meridien Hotel on 04 & 05 December 2015.
- A Consultancy Firm was hired in 2015 by the ICAC through an open bidding process to conduct training on customer service and effective communication techniques for the administrative staff and the officers of the Complaints and Advisory Unit.

Overseas Training in 2015

- 1 Assistant Director (Investigation Division) and 1 Legal Adviser attended the 2nd Phase of Heads of Investigations and Prosecutions Divisions Training Programme from 23 to 27 February 2015 in Botswana.
- The Director of Corruption Prevention and Education Division (DCPED) attended the workshop for Directors of Public/Community Education and Corruption Prevention Divisions from 23 to 27 March 2015 at CAACC in Botswana.
- 2 Senior Officers, CPED, attended the 1st Phase of Professional Ethics and Integrity Course from 10 to 14 August 2015 in Botswana.
- 1 Officer, Community Relations, attended the Executive Certificate Course for Strategic Management for Anti-Corruption Programme from 10 to 21 August 2015 in Malaysia.
- 1 Senior Officer, Systems Enhancement, attended the Senior Executive Certificate Course for Strategic Management of Anti-Corruption Programme from 19 to 23 October 2015 in Malaysia.
- Board Member and 1 Senior Investigator attended the Management and Leadership Programme (CAACC) from 2 to 6 November 2015 in Botswana.
- 2 Senior Officers, CPED, attended the 2nd Phase of Professional Ethics and Integrity Programme from 9 to 13 November 2015 in Botswana.
- With the collaboration of the US Embassy, 1 Chief Officer, CR, attended a Training Course on Legal Aspect of Combating Corruption (LCC) from 20 November to 10 December 2015 in Rhode Island.

Other Trainings

- With the support of the European Union, two former directors of the Corruption Prevention

Division of ICAC Hong Kong conducted a four-day training on prevention of corruption with staff of the ICAC in August 2015.

- Officers of the ICAC also benefitted from trainings conducted by officers from the Federal Bureau of Investigations (FBI), Central Bureau of Investigation (CBI, India), US Department of Treasury, ICAC Hong Kong.

Through the Commonwealth Secretariat, Officers of the ICAC participated in the Singapore Cooperation Programme.

(b) Observations on the implementation of the article

The ICAC's independence is established under the POCA (s. 19-23) and is maintained through the allocation of sufficient material resources, selection of specialized staff and regular training programmes.

The POCA prescribes the appointment and termination procedure for ICAC Director-General (s. 19-21) and the rules for the appointment of ICAC officers (s. 24).

The ICAC is accountable to the National Assembly through the Parliamentary Committee to which it submits its annual reports, including audited accounts (s.36, 59 POCA). In addition, the Parliamentary Committee monitors and reviews ICAC operations except for investigations and can enforce disciplinary actions in relation to the Director-General under prescribed circumstances (s. 61 POCA). The Committee also considers and approves the ICAC's budget, which is then publicly available in the national budget and detailed expenditure is found in the publicly available annual reports.

Mauritius is in compliance with the provision under review.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

Mauritius informed the Secretary-General about its designated preventive authority, namely the Independent Commission Against Corruption:

The Director General

Independent Commission Against Corruption (ICAC)

Reduit Triangle, Moka

Republic of Mauritius

Post Code: 80812

Tel: (230) 402 6600; Fax: (230) 402 6959; Email: icacoffice@intnet.mu

(b) Observations on the implementation of the article

The ICAC is the officially designated preventive body under article 6 paragraph 3 of the Convention. Mauritius is deemed in compliance with the provision under review.

(c) Challenges, where applicable

With the increasing complexities of corruption, training of officers on anti-corruption tools developed by the UNODC is crucial.

(d) Technical assistance needs

Capacity-building: Capacity Building of officers on anti-corruption tools developed by the UNODC.

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.

The UNODC and the Commonwealth Secretariat have responded positively to requests for training and support in terms of resource persons.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

Transparent & merit-based recruitment & promotion, training, remuneration

Recruitment, promotion and retirement of officers in the Public Service of Mauritius are made by the Public Service Commission (PSC) and the Disciplined Forces Service Commission (DFSC) which have been established under sections 88 and 90 of the Constitution, respectively. These two Commissions operate in total independence and particularly taking into account the manner and mode of appointment of the Chairperson, Commissioners and the impartiality of their operations.

Section 118 of the Constitution of Mauritius empowers the PSC to make its own rules to regulate and facilitate its performance and its functions. Moreover, the PSC is not subject to the direction or control of any other person or authority, except the Public Bodies Appeal Tribunal and the Supreme Court.

Any public officer aggrieved by the decision of the PSC may appeal against that decision to the Public Bodies Appeal Tribunal or to the Supreme Court.

The Public Service Commission is empowered by Regulation 13 of the PSC Regulations 1961 to exercise supervision over and approve-

- a) all schemes for admission to any public office by examination, whether specified or not in the relevant schemes of service, and all schemes for the award of scholarships for training for the public service; and
- b) all methods of recruitment, including the appointment and procedure of boards for the selection of candidates in the Public Sector.

Additionally, the PSC is empowered under Regulation 14 of the PSC Regulations 1961, in exercising its powers of appointment and promotion, including, promotion by selection to:

- a) have regard to the maintenance of the high standard of efficiency necessary in the Public Service;
- b) give due consideration to qualified officers serving the Public Service and to other Mauritian citizens provided they hold the required qualifications, and
- c) in the case of officers serving in the public service, take into account qualifications, experience, merit and suitability for the office in question before seniority.

There is an elaborate and established procedure for the prescription of schemes of service, for all posts in the Public Service, providing for consultation with Civil Service Union and staff Association to ensure transparency.

It must be pointed out that schemes of service prescribed for public office are subject to the agreement of the Commissions prior to their prescription by the Ministry of Civil Service and Administrative Reforms and such schemes of service shall be prescribed by the supervising officer of the ministry responsible for the civil service as stipulated under Regulation 15 (2) Regulations 1961.

The recruitment process usually comprises the following stages:

- Vacancies in the Public Service are filled at the request of Responsible Officers of Ministries/Departments
- Issue of advertisement and Press Communique. These vacancies are filled by:
 - (i) the appointment or promotion of serving officers; and

(ii) by inviting applications from the public by way of public advertisements or from serving officers by way of Circular Notes.

Advertisements together with the application form (PSC Form 7) are available on the website of the Public Service Commission at <http://psc.govmu.org>.

Application Forms can be collected from the Enquiry Counters of the Public Service Commission, the Ministry of Civil Service and Administrative Reforms, the Chief Commissioner's Office, Rodrigues and the Offices of the Mauritius High Commission/ Embassies overseas. Candidates are encouraged to submit on-line application through the government web portal at <http://www.govmu.org>

Candidates already in the service should submit their application in duplicate, the original to be sent directly to the Secretary, Public Service Commission and the duplicate through their respective Supervising/Responsible Officers.

Advertisement Status: <http://psc.govmu.org/English/Advertisement/Pages/Avdvertisement-Status.aspx>

- Receipt of applications and Acknowledgement: Acknowledgement of applications as far as possible is made by e-mail. Candidates are therefore advised to submit their e-mail address.
- Screening of applications.
- Shortlisting and convocation for interview.
- Assessment by Commission (may comprise written tests, physical measurement test, medical examination, physical aptitude Test.)
- Verification of Documents and Interview.

Certain public bodies do not fall under the purview of the Public Service Commission and the recruitment is handled as per the provisions in their respective legislations. These include: statutory bodies; corporate bodies; state owned institutions; and public companies.

Legal Framework for Civil Service Recruitment and Management

Recruitment in the Mauritian public service is well structured. The Public Service Commission established under the PSC Regulations 1961 and the Disciplined Forces Service Commission established under the DFSC Regulations 1997 regulates recruitment in the civil service in Mauritius. The Commissions are vested with executive powers under Section 89 and 91 of the Constitution of Mauritius for the appointment in the Public Service and to exercise disciplinary control over persons holding or acting in such offices and to remove such persons from office.

Please refer to the Constitution of Mauritius:

<http://mauritiusassembly.govmu.org/English/constitution/Pages/constitution2016.pdf>

Link to Regulations (PSC Regulations and Disciplined Forces Service Commission Regulations): <http://psc.govmu.org>

The Public Service Commission and Disciplined Forces Service Commission

The Public Service Commission and Disciplined Forces Service Commission ensure impartiality in recruitment and enlistment by safeguarding the principles that underlie the professionalism and integrity of the Mauritian Public Service. The Commissions are not to be viewed as mere recruiting agencies. They are independent institutions which play a vital role in ensuring that meritocracy is upheld, and the country is endowed with a qualified and talented Public Service. They have the mission to ensure that the Republic of Mauritius has a professional and efficient Civil Service geared towards excellence. In so doing, the PSC & DFSC envision to be the benchmark for integrity, equity and efficiency in a dynamic public service.

The objectives of the PSC & DFSC are to:

- identify and appoint qualified persons with the drive, skills and aptitude for efficient performance; and
- safeguard the impartiality and integrity of appointments and promotions in the Civil Service and to ensure that these are based on merit; and take disciplinary action with a view to maintaining ethical standards and safeguarding public confidence in the public service.

Section 118(4) of the Constitution provides that the Commissions shall not be subject to the direction or control of any person or authority in the exercise of their function notwithstanding any appeals from the Public Bodies Appeal Tribunal mandated under Section 91A of the Constitution to hear and determine appeals made by public officers against the final decisions of the Commissions.

In addition to appealing to the Public Bodies Appeal Tribunal, any public officer feeling aggrieved by the decision of the Commissions may further seek redress by applying for a Judicial Review to the Supreme Court.

Judicial and Legal Service Commission

The Judicial and Legal Service Commission (JLSC) was established by virtue of Article 85 of the Constitution. It consists of the Chief Justice (Chairperson) who is assisted by the Senior Puisne Judge; the Chairman of the Public Service Commission and one other member appointed by the President, acting in accordance with the advice of the Chief Justice. The Judicial and legal Service Commission is empowered to effect recruitment and promotion of personnel of the judiciary.

The link is: <http://supremecourt.govmu.org/scourt>

Local Government Service Commission

The Local Government Service Commission is established under the Local Government Service Commission Act of 1975, which came into force on 18 August 1983. It is an independent Commission vested with the exclusive right of appointment, promotion, disciplinary control, removal from office and approval of retirement in respect of all Local Government Officers.

Please refer to website of the LGSC: <http://lgsc.govmu.org/English>

It is worth pointing out that, for the sake of fairness, transparency and equal opportunity, PSC and the DFSC have recourse to examinations for assessment of candidates to be selected for the filling of vacancies.

The Ministry of Civil Service and Administrative Reforms (MCSAR) has the responsibility for the conduct of business of government including the administration of all departments in respect of

subjects which relate to the size of establishments, salaries and wages, conditions of service and staff relations. It is also responsible for Training, Administrative Reforms and Welfare of public officers; and for the appointment, training and posting of officers of the Human Resource Management, General Services, Safety and Health and the Office Care Attendant cadres. The objectives of the MCSAR are to deliver on its mandate, modernise the public service; make optimum use of the human resources; dispense training to public officers to upgrade their skills and knowledge; and promote ethics and core values in the public sector. The mission of the Ministry is to instil a culture of excellence by being a driver and facilitator of change and innovation for the Civil Service; spearheading administrative reforms to enable the delivery of timely and quality services to the public; and facilitating the continuous professional development and growth of human resources in the Civil Service. The overall vision of the MCSAR is to have a professional public service committed to excellence. The Ministry of Civil Service and Administrative Reforms is also responsible for the implementation of the recommendations contained in the reports of the Pay Research Bureau commonly known as the PRB Report published at interval of 3/5 years. Link: <http://civilservice.govmu.org/English/Documents/CCharter2008.pdf>

a) The Administrative Reform Division

The Ministry of Civil Service and Administrative Reform through its Administrative Reforms Division has as an overarching objective to develop a performance-oriented and customer-centric culture in the public service based on innovation and improved methods to deliver quality public service. The objectives of this division are as follows:

- Plan & design new administrative reform initiatives for the public service;
- Develop implementation strategies for administrative reforms;
- Establish links with Ministries/Departments so as to facilitate administrative reforms;
- Assist in identifying training needs and capacity building programmes for the implementation of reforms;
- Conduct seminars & workshops on administrative reforms;
- Monitor administrative reform initiatives undertaken by Ministries/Departments;
- Evaluate impact of reforms initiatives, assess feedback and improve upon administrative reforms processes;
- Promote research & development geared towards improving efficiency of the public sector; and
- Benchmark on administrative reforms initiatives at national and international levels to keep track of, adopt & promote best practices.

The Administrative Reforms Division endeavours to encourage Ministries/ Departments to upgrade their Counter and Customer Services through the adoption of an integrated approach in respect of measures to be taken in front, at and behind counters. The Administrative Reforms Division undertakes to assess requests made under this scheme, effect site visits and make an appropriate reply to applicants within 1 month of requests being submitted.

Guidelines on "Providing Quality Counter/Customer Services" have been newly published. This user-friendly publication list down simple measures to be taken to ensure the delivery of quality public services

b) Civil Service Reforms Strategy

In line with the Government's vision to bring about meaningful change and transformation in

the Civil Service, the Ministry of Civil Service and Administrative Reforms is in the process of formulating a Civil Service Reforms Strategy, incorporating a Human Resource and Capacity Building strategy crafted on three main pillars namely, people, process and technology.

In this context, the Public Sector Business Transformation Strategy has been prepared with the technical assistance of the Commonwealth Secretariat. The Strategy purports at setting out the vision of Government for the transformation of the Public Sector while emphasizing a collective response to the business of Government, as well as themes of national importance, and creating a joint ownership model for implementation, action and results.

This project started out with the mandate to help create a civil service reforms strategy and implementation plan for the government of Mauritius. To ensure that the strategy is fit-for-purpose for the country, wide and far ranging workshops and consultations were conducted with as many staff, stakeholders and other groups as possible.

This project is a shift from the concept of civil service reforms and re-engineering, which is predominantly administrative and process-based, to a vision of whole-of-government public sector business transformation. It places emphasis on a collective response to the business of government as well as themes of national importance, creating a joint ownership model for implementation, action and results.

It also is about moving to customer-centric service delivery where government services and actions wrap around the client, citizen and employee. It is a modern, adaptive, responsive public service that shifts from performing activities to providing a service that keeps pace with the way society is changing.

In the Public Sector Business Transformation Strategy, it is proposed to put in place appropriate institutional arrangements to support the transformation plan, involving the creation of a Public Sector Business Transformation Bureau and other related government structures to ensure effectiveness and success of the plan.

A Ministerial Committee has been set up to examine the proposals contained therein and make recommendations. The timeframe for implementation of the strategy is April 2018.

c) The Civil Service College

The Civil Service College, Mauritius has been set up in 2012 as a private company with the Government as the sole shareholder to cater for the specific training needs of employees of all public bodies including parastatal organisations, thus ensuring training of a critical mass of around 80,000 public officers in all grades in the medium and long term. The college is expected to reinforce capacity building in the Public Sector focusing on critical topic such as Change Management, Ethics and Good Governance amongst others.

Link: <http://www.cscm.mu/>

d) Human Resource Management Information System (HRMIS)

The Human Resource Management Information System (HRMIS) is one of the most important administrative reforms being undertaken to modernise the Civil Service. With its comprehensive array of features, the HRMIS will positively impact on human resource management and greatly contribute in achieving overall improved efficiency and effectiveness in the public service. Information about the HRMIS such as the HRMIS newsletter is also accessible on the HRMIS corner through the link below:

Link: <http://civilservice.govmu.org/English/Pages/hrmis.aspx>

e) Procedures for the human resource management for public officers and other non-elected public

officials (recruitment, hiring, retention, promotion and retirement).

Please refer to the information provided on the Ministry of Civil Service and Administrative Reforms above.

- f) Methods used to ensure that principles of efficiency, transparency and objectivity of criteria for human resource management are applied.

The Ministry of Civil Service and Administrative Reforms (MCSAR) controls the Mauritian civil service and endeavour to establish accountability, efficiency and effectiveness of public officers and civil servants. It has about 50,000 employees. The larger public service - which includes the civil service, local governments and parastatals - has about 80,000 employees at various grades. The service has been true to its vision of “creating a modern and efficient public service to ensure good governance and achieve excellence in the delivery of public services”. It remains politically neutral. It has faithfully served nine governments.

The civil service has introduced a number of measures to improve public services. They include: introducing quality management and customer care, setting standards for service delivery, securing International Organization for Standardization (ISO) certification, developing a citizens’ charter and a code of ethics, introducing the annual Public Service Excellence Award, and popularizing e-government.

E-Government: With a view to reduce human interaction, minimise opportunities for corruption and malpractices and increase accessibility to public services, the government has formulated appropriate policies to provide the necessary legal framework for the development of ICT and its optimal use across all sectors. The government has also facilitated through the implementation of an E-Government programme, the provision of government services electronically anytime anywhere for the greater convenience of the public and the promotion of the development of ICT enabled services including e-business.

Link to the Code of Ethics for Public Officials:

<http://ethicscorner.govmu.org/English/documents/ethics2010.pdf>

- g) Performance Management System

The Government introduced the Performance Management System (PMS) across the civil service in 2008. The MCSAR has been instrumental in steering the Performance Management System, so far, in the public service. It provides appropriate guidance and assistance to implement, run and maintain the system.

The PMS is being implemented gradually, developing into a strategic Human Resource Management tool to ensure optimum utilization of human resources across the service. As part of Government’s plan to modernize the public sector and improve the delivery of quality services, the continuous monitoring and evaluation of performance of officers at all levels is therefore ensured through the PMS. It therefore remains a key instrument to support other reforms initiatives which will bring about much needed transformational change in the public service.

Appeal Systems in Mauritius

- a) Public Bodies Appeal Tribunal

Any decision relating to the recruitment, hiring, retention, promotion and retirement of public officers may be appealed against as mentioned above before the Public Bodies Appeal Tribunal.

The Public Bodies Appeal Tribunal has been established under article 91A of the Constitution. Following the coming into operation of the Public Bodies Appeal Tribunal Act as from June

2009, any public officer may, appeal against any decision of the Public Service Commission pertaining to an appointment exercise made within the service. Such appeal should be lodged with the tribunal within 21 days of the notification of that decision.

For rulings and Determination, please refer to:

<http://pbat.govmu.org/English/Pages/default.aspx>

The Public Bodies Appeal Tribunal Act 2008:

<http://pbat.govmu.org/English/Documents/pbatact.pdf>

Another alternative available to public officers is the recourse to redress through judicial review application of the decision of the public body before the Supreme Court of Mauritius. The application will essentially seek the review or quashing of a decision taken.

b) The Court of Appeal

The Court of Civil Appeal and the Court of Criminal Appeal, each a division of the Supreme Court of Mauritius shall have such jurisdiction and powers to hear and determine appeals in civil and criminal matters respectively.

c) Judicial Committee of the Privy Council

Provided that no such appeal shall lie from decisions of the Supreme Court in any case in which an appeal lies as of right from the Supreme Court to the Court of Appeal, appeals may be made to the Judicial Committee of the Privy Council against decisions of the Court of Appeal or the Supreme Court of Mauritius as prescribed under section 81 of the Constitution of Mauritius in cases:

- Of final decisions, in any civil or criminal proceedings, on questions as to the interpretation of this Constitution;
- where the matter in dispute on the appeal to the Judicial Committee is of the value of 10,000 rupees or upwards or where the appeal involves, directly or indirectly, a claim to or a question;
- respecting property or a right of the value of 10,000 rupees or upwards, final decisions in any civil proceedings;
- final decisions in proceedings under section 17; and
- in such other cases as may be prescribed by Parliament.

Prior to appealing to the decision of the Court of Appeal or of the Supreme Court to the Judicial Committee, the leave of the Supreme Court must be sought where in the opinion of the Court, the question involved in the appeal is one that, by reason of its great general or public importance or otherwise, ought to be submitted to the Judicial Committee, final decisions in any civil proceedings and in such other cases as may be prescribed by Parliament.

d) Ombudsman Office

Set up under the Ombudsman Act of 1969, the role of the Ombudsman's Office is to investigate into complaints against Government Institutions and seek redress to injustice, if any, sustained in consequence of any alleged maladministration that may have been committed by any public officer or authority in the exercise of administrative functions.

The Ombudsman proceeds by way of independent and impartial investigations initiated upon receipt of a written complaint or acting on its own initiative. The Ombudsman has therefore, as objective to develop a public service culture characterized by fairness, dedication, commitment, openness and accountability.

e) The Equal Opportunities Commission

The Equal Opportunities Commission, which came into operation in April 2012 is an independent statutory body set up under the Equal Opportunities Act 2008. The Commission comprises a Chairperson and three other members, nominated by the President of the Republic. It is geared towards promoting an inclusive society by bringing forward the richness of our diversity, which makes us so unique as a nation.

The Equal Opportunities Commission's mission is to:

- (i) prohibit discrimination on the ground of status and by victimization;
- (ii) promote good relations between persons of different status;
- (iii) reach out to people at different levels through our sensitization campaigns with a view to fostering equal opportunities values;
- (iv) enable the emergence of a society where there is no fear of discrimination and where the equal opportunities culture is well-ingrained in each citizen's life;
- (v) provide victims of discrimination with an effective remedy; and
- (vi) assist and encourage persons who are discriminated against and those who discriminate to resolve their dispute by conciliation.

The Commission is mandated under the Act to:

- (i) work towards the elimination of discrimination, and the promotion of equality of opportunity and good relations between persons of different status;
- (ii) keep under review the working of the Act and any relevant law and submit to the Attorney-General proposals for amending them, if required;
- (iii) of its own motion or following a complaint, carry out an investigation;
- (iv) attempt to reconcile the parties by whom and against whom a complaint is made;
- (v) conduct and foster research and education and other programmes for the purpose of eliminating discrimination and promoting equality of opportunity and good relations between persons of different status;
- (vi) prepare appropriate guidelines and codes for the avoidance of discrimination and take all necessary measures to ensure that the guidelines and codes are brought to the attention of employers and the public at large;
- (vii) refer the matter to the Director of Public Prosecutions if on completion of an investigation, it is revealed that an offence has been committed;
- (viii) refer any matter to the Equal Opportunities Tribunal for non-compliance with the Act; and
- (ix) apply for interim orders to the Tribunal as a matter of urgency.

The Commission's mandate is a very specific one. Cases of discrimination fall within the purview of the Commission, only if the less favourable treatment is based on the "status" of the person. "Status" refers to the 12 protected grounds of discrimination under the law, namely, age, caste, creed, colour, ethnic origin, impairment, marital status, place of origin, political opinion, race, sex and sexual orientation.

The Commission is committed to discharge its statutory duties in an impartial, fair, just, transparent objective manner. Conciliation between the parties is facilitated through the balancing of power disparity, exploring practical solutions with the parties and assisting the

parties to make informed decisions.

With a view to being transparent at all stages, from investigation to conciliation, the Commission always informs the parties about the reasons behind any recommendation. Also, valuing transparency as a key characteristic of good corporate governance, the EOC privileges communication to the public and provides timely information through its website as well as through regular radio interventions and press briefings.

With the aim of fulfilling its mandate in the most efficient manner, the Commission always endeavours to:

- provide a friendly and accessible enquiry service;
- handle complaints with utmost confidentiality and diligence;
- conduct investigations in a fair and timely manner; and
- educate employers, employees and the public in general about this new law through its mass sensitization campaigns across the country.

Please refer to the website of the Equal Opportunities Commission for further information:

<http://eoc.govmu.org/English/Pages/default.aspx>

In April 2013, the Commission issued Guidelines for Employers under section 27(3)(f) of the Act. The Guidelines came into effect as from 15 April 2013.

As per section 9 of the Act, every employer employing more than 10 employees on a full-time basis is required to draw up and apply an equal opportunity policy in line with the guidelines and codes issued by the Commission. The Guidelines aim at helping employers to:

- (i) understand and comply with their obligations under the Act, particularly on how to prevent discrimination at work and promote equality of opportunities in the field of employment;
- (ii) draft and adopt an Equal Opportunity Policy at their place of work;
- (iii) be merit-oriented in their approach, and adopt good employment practice, especially with respect to training, selection, promotion and recruitment;
- (iv) reduce the risks of legal liability, costly and time-consuming grievances and damage to productivity, staff morale and the organisation's reputation;
- (v) foster good relations in the workplace; and
- (vi) create a working environment where people feel they are respected and valued.

The Guidelines do not impose any legal obligation, nor are they an authoritative source of the law. However, they may be used in evidence in legal proceedings brought under the Act.

During the past year, the Commission has ensured that the Guidelines are brought to the attention of all employers, be it the private or the public sector, and the public at large, through the numerous sensitization campaigns carried out at the place of work, through workshops specifically designed for human resource cadres and also through the media.

An update of statistics reveals the status of discrimination & investigation process and sensitization, programmes held (please refer to the website of the EOC).

Equal Opportunities Commission: <http://eoc.govmu.org/English/Pages/default.aspx>

Statistics on complaints received at the EOC (April 2012 to 15 June 2016)

Complaints Received	Complaints Received	
	Complaints received from Mauritius	1578
	Complaints received from Rodrigues	68
	Total Complaints received	1646
Status of Complaint	Status of Complaints	
	Examined	1488
	Withdrawn	95
	Pending examination by Commission	63
	TOTAL	1646
Details of complaints examined	Status	Number of cases
	Conciliated/settled	110
	Referred to Equal Opportunities Tribunal	29
	Referred to DPP	1
	Time Barred	87
	Not Under Purview	314
	No evidence of discrimination	392
	Under Investigation	173
	Additional information being sought from complainants/ alleged discriminators	367
	Referred to other instances (NHR, ICAC, Ministry of social security.....)	15
	TOTAL	1488
Sensitisation campaigns	Awareness Sessions held	137

f) Equal Opportunities Tribunal

The Equal Opportunities Tribunal (EOT) has been set up as an independent body by Act No. 42 of the Equal Opportunities Act 2008 to hear and determine complaints referred to it by the Equal Opportunities Commission.

Its main objectives are, inter alia, to issue an interim order as a matter of urgency for the purpose of preventing serious and irreparable damage to a person or category of persons, protecting the public interest, or preventing a person from taking any step that would hinder or impede a hearing before the EOT.

The EOT also has jurisdiction, among others, to make an order declaring the rights of the complainant and the respondent in relation to the Act to which the complaint relates; and a

recommendation that the respondent takes, within a specified period, action appearing to the EOT to be practicable for the purpose of obviating or reducing the adverse effect on the complainant of any act of discrimination to which the complainant relates.

Link:

<http://eoc.govmu.org/English/Your%20Complaints/Pages/Equal-Opportunities-Tribunal.aspx>

g) The Employment Relations Tribunal

The Employment Relations Tribunal is a quasi-judicial body to which industrial disputes are referred, inquired into and awards made thereon. The tribunal aims at the settlement of industrial disputes in the Civil service, the Private Sector and Para-statal bodies and local government services.

It also hears appeals from the decision of the Conciliation and Mediation Commission.

Link: <http://ert.govmu.org/English/Pages/default.aspx>

h) Commission for Conciliation and Mediation

The Commission for Conciliation and Mediation has been established under Section 87 of the Employment Relations Act 2008 (Act No. 32 of 2008) thereby replacing the Industrial Relations Commission (IRC) which was established under Section 41 of the repealed Industrial Relations Act 1973.

The main function of the Commission for Conciliation and Mediation is to provide conciliation, mediation and advisory services for promoting the improvement of industrial relations in the workplace.

Link to Website:

<http://labour.govmu.org/English/Department%20and%20Service/Pages/Commission-for-conciliation-and-Mediation.aspx>

Integrity Testing

Certain public bodies have introduced integrity testing during the recruitment or promotion process. For example the ICAC has recourse to integrity testing for all employees prior to recruitment. In addition, other institutions include integrity testing in their recruitment process, including Mauritius Revenue Authority; Financial Intelligence Unit; Financial Services Commission; Mauritius Police Force; Bank of Mauritius; Judiciary; Office of the Director of Public Prosecutions, Procurement Policy Office, Central Procurement Board; and Public Service Commission.

Various ways ranging from certificate of morality, reference from previous employers, probation, etc. are considered in the human resource management process. Integrity Testing is conducted by the authorities responsible for recruitment in the public sector (Public Service Commission, Discipline Forces Commission, Legal and Judicial Service Commission) and other institutions like the ICAC and the Mauritius Revenue Authority.

Procedures for the selection and training of individuals for public positions considered especially vulnerable to corruption

The following positions in the public service may be considered as highly vulnerable to corruption:

- Customs Officers;
- Civil Status officers;
- Officers involved in the allocation of permits and licenses;
- Procurement Officers; and
- Officers with discretionary powers.

Please refer to National Surveys on Corruption 2014: <http://icac.mu>

The Mauritius Revenue Authority (MRA)

At the MRA, the recruitment process is carried out in accordance with the Human Resources Management (HRM) Manual. For greater transparency, a Standard Operating Procedure (SOP) has been developed to chart out the different steps in the recruitment process. The recruitment strategy of the MRA is to attract a broad spectrum of candidates for employment so as to maximise its ability to recruit and retain personnel who are likely to maintain high standards of integrity. Application for vacant post at the MRA is done solely on-line. To minimize human intervention, the IT system does the first screening exercise after being fed by the appropriate parameters for selection.

At the MRA, there are ongoing trainings on Integrity, Ethics and corruption. The Integrity programme is also serviced by resource persons from the Independent Commission against Corruption (ICAC). Issues of integrity and the lack of it leading to offences of corruption are handled and discussed. An induction course for new recruits forms part of the integrity training programme.

A yearly workshop is also organised for main stakeholders to sensitise them on the importance MRA attaches to integrity. There are also regular sessions with associations of economic operators to inform them about the laws, regulations, procedures and administrative guidelines prevailing at the MRA.

Specific recruitment requirements and procedures for certain categories of civil servants considered especially vulnerable to corruption, including possible early identification of potential conflicts of interest.

The following measures are adopted for certain categories of civil servants considered especially vulnerable to corruption:

- Integrity checking;
- Adherence to a strict code of conduct;
- Monitoring of staff policy; and
- Compliance to an anti-corruption policy.

Once an employee is recruited, a systematic Integrity Check is carried out. The process is a thorough integrity screening of these employees and it includes, inter alia, background checks from different Governmental Organisations, processing of their Declaration of Assets, counter verification of their character from previous employers and referees. A report is prepared with the recommendations of the Internal Affairs Division. In case of a negative integrity report, the Human Resource Training Department (HRTD) may, upon approval of the Director-General, end the job contract.

At the MRA there is a policy of rotating staff across departments and units. Such job rotation exercise is done every 3 years with the aim to develop the skills and competencies of staff while at the same time helping to combatting fraud and corruption. The rotation and relocation of staff take

account of the need to reduce opportunities for personnel to hold vulnerable positions for long periods of time.

Certain public bodies have also introduced integrity testing and Declaration of Assets for certain categories of public officers working in high corruptions-prone areas. As per the provisions of the Code of Ethics for Public Officers and the Prevention of Corruption Act 2002 as amended, public officers have a duty to disclose any actual or potential conflict of interests.

Training of Public Officers

a) The Ministry of Civil Service and Administrative Reform

An anti-corruption component has been integrated in the training programmes run by the Ministry of Civil Service and Administrative Reforms. All new recruits of the public service as well as all promotional grades in the public service have to undergo the compulsory training on corruption prevention run by the ICAC in collaboration with the Ministry of Civil Service and Administrative Reforms. An anti-corruption module in the form of an on-line E-Learning System (ELS) has been developed by the ICAC for the Ministry of Civil Service and Administrative Reforms.

The training report for period Jan - June 2016 of the Ministry of Civil Service and Administrative Reforms is accessible on the following link:

<http://civilservice.govmu.org/English/Documents/Training%20Reports/Training%20Report%202016.06.pdf>

b) The Civil Service College

The Civil Service College, Mauritius aims to meet the demand for training for employees of public sector organizations, including implementation of high-level management development programmes, it also organises seminars and workshops at both local and regional level, in partnership with regional and international institutions.

The medium to long term expectation for the college is to develop into a regional centre of excellence in public sector management and governance. The CSCM may eventually be a key player in the region. The Commonwealth Secretariat, the Commonwealth Association for Public Administration and Management (CAPAM) and the Regional Organisations may make use of the Institution as a platform to organise cross functional activities and help in the sharing of best practices and the enhancement of the human capital in the public services.

<http://www.cscm.mu/>

c) Integrity Programme of the Mauritius Revenue Authority (MRA)

To effectively fulfil its mission in upholding the highest standards of integrity and honesty so as to gain the respect and confidence of taxpayers, stakeholders and the public at large, the MRA has developed an integrity programme for its officers. MRA efforts are geared towards the development of the Authority in a manner, which promotes a transparent and accountable administration. In addition to the above the MRA and its Board are responsible among others for:

- Promoting confidence and ensuring integrity management so as to obtain the trust of all stakeholders and the public;
- Combating corruption and other fraudulent activities such as tax evasion, smuggling and

- drugs trafficking;
- Protecting and facilitating legitimate trade and industrial development and upholding the country's trading integrity;
- Promoting the use of advanced technologies to enhance transparency and expediency in tax services;
- Promoting human resource development, capacity building and training for a competent, ethical and highly motivated staff;
- Ensuring that tax and fiscal policies are evolved in line with best practices and procedures; and
- Fulfilling international obligations.

Link: <http://www.mra.gov.mu>

d) Mauritius Police Force

The Mauritius Police Force has adopted an Integrity Building Programme. The programme is led by the Anti-Corruption Committee comprising high level Police Officers and chaired by a Deputy Commissioner of Police.

Awareness/sensitization sessions for Police Officers of all ranks are regularly held. Anti-Corruption is now part of the Police Training School curriculum for recruits. All promotional grades of the Mauritius Police Force have to undergo the compulsory training on corruption prevention run by the ICAC in collaboration with the Police Training School.

The ICAC in collaboration with the Mauritius Police Force also conducts regularly focus sessions and empowerment workshops with Police Officers of specific grades - Station Managers and Station Commanders, Police Sergeants, Police Officers of the Traffic Branch, etc.

Promotion of adequate remuneration and equitable pay scales

In Mauritius salary revisions and pay scales are under the responsibility of the Pay Research Bureau (PRB). The PRB was set up in 1977 as a permanent and independent institution to keep under continuous review the pay and grading structures and conditions of service in the public sector. The Pay Research Bureau (PRB) has as its main objective to keep under continuous review the pay and grading structures and conditions of service in the Public Sector comprising the Civil Service, Parastatal and other Statutory Bodies, Local Authorities, Rodrigues Regional Assembly and the Private Secondary Schools. It has been undertaking such review exercises in the Public Sector every five years since 1982 when the first PRB Report was published.

The role of the PRB is to make recommendations to the Government on the remuneration package (Pay, Conditions of Service and Benefits) of employees in the Public Sector. The aim of the Review is to evolve a pay package for the employees in the Public Sector that comprises guaranteed remuneration (financial and non-financial reward), conditions of service and benefits and such incentive schemes (Performance Related Incentive) which would enable the Public Sector to attract, recruit, motivate and retain people of desired competence, experience, qualification, skills and personal attributes to efficiently achieve the Government's set strategic objectives.

Please refer to the website: <http://prb.pmo.govmu.org/English/Pages/default.aspx>

Promotion of Education and training programmes

Education and training programmes have been promoted to enable public officers 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.

Public officials have been the main target group of the ICAC with respect to corruption prevention and education. Since 2003 numerous sensitisation and empowerment sessions/workshops have been conducted with public officials. The Corruption Prevention and Education Division of the ICAC is mandated under section 20 and 30 of the PoCA 2002 as amended to educate the population on the dangers of corruption. Since 2003, sectors perceived to be more prone to corruption and malpractices were considered in the first instance. The main anti-corruption programmes are as follows:

An anti-corruption component has now become an integral part of the training programmes which are conducted throughout the year in different sectors, mainly,

- Police Training School
- Central School of Nursing
- Training Department of the Ministry of Civil Service and Administrative Reforms
- Mauritius Revenue Authority
- Mauritius Institute of Education (Teacher training)

During the year 2013 only, some 500 health officials (Ward Managers, Charge Nurses, Health Administrators) following courses at the Central School of Nursing and the Mauritius Institute of Health have been empowered by the ICAC. The intervention of the ICAC aims at building corruption resistance and improving service delivery in the health sector.

The ICAC works in close collaboration with the Public Procurement Office to enhance the integrity of officers involved in procurement. In 2009, a Code of Conduct for Officials Involved in Procurement was developed by the ICAC in collaboration with the Public Procurement Office. The Code was reviewed in 2015 and is available on the website of the ICAC. In 2010 empowerment workshops were conducted with procurement officers of all public bodies. In 2013, three additional empowerment workshops were conducted for public officials involved in procurement, at the request of the Ministry of Finance and Economic Development. The aim of the workshops was to empower procurement officials on ways and means of mitigating corruption risks as public procurement is a high-risk area. The sessions targeted around 70 procurement officials from all ministries and government departments.

Rules on promotion of public officials

Part III of the Public Service Commission Regulations deals with appointments, promotions, confirmation of appointments, and termination of appointments.

Where an appointment has been made by promotion to a post, a Circular Note “Notification of Appointment by Promotion” is issued by the Ministry of Civil Service and Administrative Reforms.

Mention is also made in the Circular Note of the following:

a) Section 3 of the Public Bodies Appeal Tribunal Act provides that any public officer aggrieved by the decision may appeal to the Public Bodies Appeal Tribunal (PBAT) within 21 days of the notification of appointment. The appeal should be made on the prescribed form to the Secretary, PBAT.

b) Supervising officers are requested to bring the contents of the Circular Note immediately to the attention of all officers concerned, including those who are on leave locally or abroad.

Please refer to the link below:

<http://www.ggsu.net/Resources/HRE%202014/Public%20Service%20Commission%20GN%20117%20of%2097.pdf>

Circulars:

<http://civilservice.govmu.org/English/Circulars/Pages/Circulars-2017.aspx>

Rotation in the public sector

Rotation as far as possible and practicable is conducted in the public service with respect to certain cadres like the administrative cadre, finance cadre, etc. For technical officers, it is quite difficult to rotate, but as far as possible this is conducted where there are more than one office.

In certain sectors and Departments like the local authorities, education sector, Police Department, Fire Services, etc., on rotation and transfers are common practices.

Code of Conduct for Officials Involved in Procurement:

[https://www.icac.mu/publications/#iLightbox\[gallery\]/3](https://www.icac.mu/publications/#iLightbox[gallery]/3)

<https://www.icac.mu/publications/>

(b) Observations on the implementation of the article

The Public Service Commission (PSC) and the Disciplined Forces Service Commission (DFSC) have been established by the Constitution to take responsibilities with regard to recruitment, hiring, promotion and retirement of public officials, and are governed by 1961 PSC and 1997 DFSC Regulations.

The Constitution further created the Public Bodies Appeal Tribunal to hear appeals against the PSC's and DFSC's decisions. Statutory and corporate bodies, state owned institutions and public companies do not fall under the purview of the PSC and DFSC and regulate recruitment in their respective legislations.

Other bodies with responsibilities regarding the performance and functions of public officers include:

- Local Government Service Commission (LGSC, fulfilling similar functions for local government officials);
- Ministry of Civil Service and Administrative Reforms (MCSAR, with responsibilities in the areas of conditions of service and staff relations);
- Civil Service College (caters for the specific training needs of employees of all public bodies, including parastatal organizations);
- Equal Opportunities Commission (for the elimination of discrimination on the basis of integrity and the promotion of equality of opportunity);
- Public Bodies Appeal Tribunal (hearing appeals against decisions of the PSC, DFSC and LGSC pertaining to an appointment exercise made within the service); and
- Employment Relations Tribunal (a quasi-judicial body to which labour disputes are referred to, inquired into and awards made thereon).

While vacancies for public service are advertised through the internet and national newspapers, the

Commissions may also delegate recruitment of junior or lower general service positions to the respective responsible offices. The recruitment process involves screening of candidates, written examinations and interviews, with integrity testing increasingly part of the process.

The PSC or the DFSC do not notify unsuccessful candidates individually, but issue press communiques about specific posts having been filled. While public officials may only appeal recruitment decisions in the Public Bodies Appeal Tribunal and subsequently in the Supreme Court, unsuccessful candidates outside the public service may only appeal through the judicial review in the Supreme Court.

Rotation systems are officially in place for certain positions in public service (e.g. police officers), and, while not explicitly regulated, there is an established practice of some rotation in national administration, including at the highest levels. Promotion of public officials is governed by PSC Regulations (Part III).

Salary revisions and pay scales for public officials are under the responsibility of the Pay Research Bureau (PRB) which is a permanent and independent institution to keep under continuous review the pay and grading structures and conditions of service in the public sector. The MCSAR implements the recommendations of the PRB.

Mauritius has identified certain positions as particularly vulnerable to corruption (i.e. customs officers, procurement officers, officers involved in the allocation of licences and permits). These are subject to special training or tailored integrity management programmes organized by ICAC in collaboration, among others, with the MRA, MCSAR and Mauritius Police Force.

Mauritius is deemed in compliance with the provision under review

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

Qualifications for membership to the General assembly

The Constitution of Mauritius sets out the management structure for the organisation and conduct of elections. The Representation of the People Act, the Rodrigues Regional Assembly Act, the Local Government Act and Regulations governing the National Assembly, Rodrigues Regional Assembly, Local Government Council Elections are, inter alia, the principal instruments governing the organisation and conduct of elections.

The Constitution of Mauritius and Representations of the People's Act 1958 provides the legal framework for the holding of elections. Section 33 of the Constitution of Mauritius establishes the qualifications for membership to the Assembly as follows:

33 Qualifications for membership

Subject to section 34, a person shall be qualified to be elected as a member of the Assembly if, and shall not be so qualified unless, he –

- (a) is a Commonwealth citizen of not less than the age of 18 years;
- (b) has resided in Mauritius for a period of, or periods amounting in the aggregate to, not less than 2 years before the date of his nomination for election;
- (c) has resided in Mauritius for a period of not less than 6 months immediately before that date; and
- (d) is able to speak and, unless incapacitated by blindness or other physical cause, to read the English language with a degree of proficiency sufficient to enable him to take an active part in the proceedings of the Assembly.

Furthermore, by virtue of Section 34(1) of the Constitution, a person shall be qualified to be elected as member of the Assembly if that person,

- (a) is, by virtue of his own act, under any acknowledgement of allegiance, obedience or adherence to a power or state outside the Commonwealth;
- (b) is a public officer or a local government officer;
- (c) is a party to, or a partner in a firm or a director or manager of a company which is a party to, any contract with the Government for or on account of the public service, and has not, within 14 days after his nomination as a candidate for election, published in the English Language in the Gazette and in a newspaper circulating in the constituency for which he is a candidate, a notice setting out the nature of such contract and his interest, or the interest of any such firm or company, therein;
- (d) has been adjudged or otherwise declared bankrupt under any law in force in any part of the Commonwealth and has not been discharged or has obtained the benefit of a *cessio bonorum* in Mauritius;
- (e) is a person adjudged to be of unsound mind or detained as a criminal lunatic under any law in force in Mauritius;
- (f) is under sentence of death imposed on him by a court in any part of the Commonwealth, or is serving a sentence of imprisonment (by whatever name called) exceeding 12 months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court, or is under such a sentence of imprisonment the execution of which has been suspended;
- (g) is disqualified for election by any law in force in Mauritius by reason of his holding, or acting in, an office the functions of which involve
- (i) any responsibility for, or, in connection with, the conduct of any election;

or

- (ii) any responsibility for the compilation or revision of any electoral register; or
- (h) is disqualified for membership of the Assembly by any law in force in Mauritius relating to offences connected with elections.

Section 69 of the Representations of the People's Act 1958 makes provision for the disqualification of a candidate for election to hold office as follows:

- Every person who is convicted of bribery, treating, undue influence or personation, shall, without prejudice to any other punishment, be incapable during a period of 7 years from the date of his conviction-
 - (a) of being registered as an elector, or of voting at any election;
 - (b) of being a candidate at an election or, if elected before his conviction, of retaining his seat.

Representation of the People Act

Section 70 - Illegal Practice

A person who -

- (a) votes, or induces or procures any person to vote, at any election, knowing that he or such other person is prohibited by this Act or by any other enactment, from voting at such election; or
- (b) before or during an election knowingly publishes a false statement of the withdrawal of a candidate at such election for the purpose of promoting or procuring the election of another candidate, shall be guilty of an illegal practice.

Section 74 - Consequences of illegal Practice

- (1) A person who is guilty of an illegal practice shall, on conviction, be liable to a fine not exceeding 1,000 rupees, and, subject to subsection (2), shall in addition, be incapable during a period of 5 years from the date of his conviction of being registered as an elector or of voting at any election or of being a candidate at an election, or, if elected before his conviction, of retaining his seat.
- (2) The incapacity under subsection (1) shall not take effect until -
 - (a) the expiry of a period 30 days after the conviction; or
 - (b) the determination by the Supreme Court of any application for relief under section 74B

Declaration of Assets and Liabilities

As per section 3 of the Declarations of Assets Act, assets and liabilities shall be declared as follows:

- (1) Every Member of the National Assembly or the Rodrigues Regional Assembly shall, not later than 30 days-
 - a) after the first sitting of the National Assembly or the Rodrigues Regional Assembly following a dissolution of Parliament or the Rodrigues Regional Assembly or after being elected to the Assembly or the Rodrigues Regional Assembly following a by-election, as the case may be;
 - b) after the seat becomes vacant in accordance with section 35 of the Constitution or section 19 of the Rodrigues Regional Assembly Act, deposit with the Commission a declaration of assets and liabilities in relation to himself, his spouse and minor children and grandchildren and, subject to subsection 3, children of age.
- (2) Where a person is appointed a Minister or a Commissioner he shall not later than 15 days after-
 - (a) being appointed a Minister or a Commissioner;
 - (b) his office becomes vacant in accordance with section 60 of the Constitution or section 37 of the Rodrigues Regional Assembly Act 2001, deposit with the Commission a declaration of assets and liabilities in relation to himself, his spouse and minor children and grandchildren and, subject to subsection 3, children of age.
- (3) The declaration shall, in relation to children of age, specify any property sold, transferred or donated to each one of them in any form or manner whatsoever including income or benefits from any account, partnership or trust.
- (4) Every person who makes a declaration of his assets and liabilities shall specify the nature of his interests in the assets including any joint ownership, and the nature of his liabilities regarding those assets, including any joint liability.
- (5) Where the assets declared are in relation to shares or any interest in a partnership, société or company, the person who makes the declaration shall also declare the assets and liabilities of the partnership, société or company or, where this is impracticable, the market value of his shares or interest.
- (6) A declaration under this section shall be made by way of an affidavit, in the form specified in the Schedule, sworn before the Supreme Court or in the case of a Commissioner, before the Magistrate of Rodrigues.
- (7) The Commission of the Rodrigues Regional assembly shall transmit to the Clerk of the National assembly any declaration made by a Commissioner.

The Declaration of Assets Act 1991 as amended establishes the presenting of false or incomplete information in any required disclosure as an offence under Section 6 of the Act as follows:

- (1) Every person who -
 - (a) fails to comply with, or makes a false declaration under section 3 or 4;
 - (b) contravenes any regulations made under this Act, shall commit an

offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a period not exceeding 2 years.

(2) No prosecution for an offence under this Act shall be commenced except with the express consent of the Director of Public Prosecutions.

(3) Notwithstanding -

(a) section 114 of the Courts Act; and

(b) section 72 of the District and Intermediate Courts (Criminal Jurisdiction) Act, a Magistrate shall have jurisdiction to try any offence under this Act and may impose any penalty provided by this Act.

Please refer to the website of the Electoral Commissioner's Office for further information:

<http://electoral.govmu.org/English/Pages/default.aspx>

Examples of Implementation

Jugnauth v. Ringadoo (Mauritius) [2008] UKPC 50 (5 November 2008)
<http://www.saflii.org/mu/cases/UKPC/2008/50.html>

The appellant was the Member of Parliament for constituency no 8 and Minister of Health and Quality of Life in the government. On 24 April 2005 the National Assembly was dissolved and the date for the election (3 July 2005) was announced.

At the election, the government was defeated, and a new government was formed. The appellant was, however, elected as the first of three members for the no 8 constituency. The other two elected were from the elected party. The respondent was a candidate in the same constituency from the elected party but ranked fifth in the poll and so was not elected.

The complaint raised four matters. They concerned exercises carried out by the Ministry of Health – of which the appellant was the Minister – to recruit three groups of staff in the period before the general election in July 2005. The three groups were General Workers, Hospital Servants and Health Care Assistants. The first arose out of what the appellant was alleged to have said, at a public meeting in constituency no 8, about the availability of government money for the acquisition of land to provide additional space for the Muslim section of the local cemetery. The other three matters were broadly similar to one another and were treated together by the Supreme Court.

After various procedural steps, the petition was heard by two judges of the Supreme Court. In addition to documentary evidence, witnesses were examined and cross-examined. On 30 March 2007 the court found in favour of the petitioner on all four matters. The court accordingly found that the election of the elected candidate be declared null and void for having been obtained in breach of sections 45(1)(a)(ii) and 64(1) of the Representation of the People Act.

(b) Observations on the implementation of the article

Criteria concerning candidature for and election to public office are set out in the Constitution (s. 33 and 34), the Representation of the People Act (RPA) (s. 69, 70 and 74), the Rodrigues Regional Assembly Act and the Local Government Act. All elected officials are subject to mandatory asset declarations.

Mauritius is deemed in compliance with the provision under review.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

The Government Programme 2015-2019 provides, inter-alia, that the Government will eradicate fraud, corruption, malpractices and irregularities in all aspects of public life and restore our national values. To this end, a Financing of Political Parties Act will be enacted. The Government Programme further provides that the Electoral Supervisory Commission will be given wider powers to control and sanction fraud, corruption and conflict of interests during election time and also to monitor political funding and abuse of position or power.

In this context, the Government has set up a Ministerial Committee to make recommendations on electoral reforms. The Ministerial Committee has already submitted its recommendations on the financing of political parties. These recommendations pertain to:

- Accountability and transparency, which should be the underlying principle with regard to funding of political parties;
- Sources of funding; and
- Expenditure limits.

Following the recommendations of the Ministerial Committee, a Bill is currently being prepared on financing of political parties.

The Representation of the People Act (1968, 49-57) regulates the election expenditures of individual candidates. It provides for the appointment and revocation of agents and sub-agents and their powers and responsibilities, limits on candidate spending, for a return to the returning officer detailing expenditures made and lays down procedures for late claims. These provisions are as follows:

- S49. Election agents and sub-agents
- S50. Contracts and payment of expenses
- S51. Authorised amount of election expenditure
- S52. Who may incur election expenditure
- S53. Expenditure incurred by candidate
- S54. Expenditure by authorised person
- S55. Consequences of unauthorised expenditure
- S56. Return by election agent
- S57. Claim and payment for election expenses

Please refer to Part IV (Sections 51 -57 on election expenses) of the Representation of Peoples Act.

<http://attorneygeneral.govmu.org/English/Documents/A-Z%20Acts/R/Page%201/REPRESENTATION%20OF%20THE%20PEOPLE%20ACT,%20NO%2014%20of%201958.pdf>

As per the current Representation of the People Act, a party is not permitted to spend more than MUR 150,000 on each candidate, while independents are permitted to spend up to MUR 250,000. These limits are based on outdated valuations and in practice would translate into limits four times their nominal value. A Ministerial Committee is working on the proposed provisions for a new legislation on the funding of political parties. The forthcoming legislation is expected to deal with such issues.

Code of Conduct for National Assembly Elections 2014

Article 4 of the Code of Conduct for National Assembly Elections 2014 issued by the Electoral Supervisory Commission refers to campaign and election expenses as follows:

- a) All candidates undertake to keep their election finances and expenses transparent and within the limits provided for by law.
- b) They shall at all times bear in mind the consequences of not observing the provisions governing the authorised amount of election expenditure, and in particular the criminal sanctions for non-compliance.
- c) They renounce any resort to underhand means to disguise such expenses or to use illegitimate means to obviate or circumvent the relevant provisions of the law.

The Code of Corporate Governance for Mauritius refers to political contributions of private companies as follows:

It is the responsibility of the Board to decide whether the company should make donations to political parties or causes. It goes without saying that any political funding should be within the law and in the interests of the company. In the event that the directors decide that it is appropriate to provide funds for political parties or causes, then the aggregate sum contributed to political parties/causes should be declared in the annual report.

All listed companies on the Stock Exchange of Mauritius have to comply with the Code of Corporate Governance. Compliance with the provisions of the Code is reflected in the Annual Reports of these companies where political donations are disclosed in the Annual Reports. Please refer to website of the Stock Exchange of Mauritius:

<http://www.stockexchangeofmauritius.com/officialmarket-listedcompanies>

The Office of the Electoral Commissioner is mandated to prepare registers of electors annually and to conduct National Assembly and Local Government Elections.

With regard to returns related to election expenses, it is mandatory for candidates and election agents to submit return of such expenses. In that respect on nomination day, all candidates are given a letter concerning the election return whereby their attention is drawn to the provisions of section 51 (1) b (i), 53, 56 of the Representation of the People Act. A blank election return form is also submitted. Election returns are submitted with receipts attached for expenses as detailed in the RPA.

The names of the candidates who have duly submitted the election returns are published in a daily newspaper and the attention of the public is drawn to the fact that such documents are available for public inspection. For the last municipal elections, the returns submitted were posted on the website of the Commission (<http://electoral.govmu.org>) to promote more transparency. Non submission of election return is referred to the Commissioner of Police for enquiry purpose.

(b) Observations on the implementation of the article

The legal and regulatory framework around the funding of candidatures for elected public office and political parties is limited and includes Part IV of the Representation of the People Act (which calls for transparency in election expenses), the Code of Conduct for National Assembly Elections and the Code of Corporate Governance (which calls on private entities to provide political funding within law and in the interest of the company). All elections are supervised by the Electoral Supervisory Commission.

Mauritius aims to adopt a comprehensive new law on funding of political parties, covering areas such as accounting obligations, public subsidies, private donations and expenditure limits.

Mauritius is deemed in partial compliance with the provision under review. In view of further enhancing the implementation of the Convention, it is recommended that Mauritius enhance transparency in the funding of political parties, including through the adoption of a new law which would regulate issues such as accounting obligations, public subsidies, private donations, public disclosure and expenditure limits.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

Transparency measures in Mauritius

- The framework for public finance is defined in the Constitution - in fact a whole chapter in the Constitution is devoted to public finance - this chapter lays down the basic rules governing management of public funds.
- There is a strong Parliamentary oversight on the Executive. Ministers are accountable to the National Assembly Parliament.
- The accounts of all Ministries and Government departments are audited by the Director of Audit, which is a constitutional post enjoying total independence and security of tenure. The Director of Audit is also empowered to undertake management audit.
- All Accounting Officers are personally answerable to the Public Accounts Committee. There is also a close and effective monitoring of public expenditure by the Ministry of Finance through the budgeting process.

- A new Ministry has been created, namely the Ministry of Financial Services, Good Governance and Institutional Reform, in order to enhance the overall governance framework. An Office of Public Sector Governance, which operates under the aegis of the newly crafted Ministry, provides services on public sector reform and Corporate Governance to Public Sector organisations.
- In order to further promote transparency and accountability in the public sector, the powers of the Ombudsman have been extended to cover the Local Authorities as well as the Rodrigues Regional Assembly.
- We have also enacted a new Public Procurement Act, which has established a strong, reliable and transparent procurement system based on the principle of free and fair competition. The Central Procurement Board is the national body responsible for procurement of goods and services - it is an autonomous and independent body.
- The Public Procurement Act also provides for an appeal mechanism, the Independent Review Panel, to hear appeals from unsuccessful bidders.
- There is also an Internal Audit Cadre whose main role is to maintain the integrity of our internal audit system.
- The Code of Corporate Governance is also applicable to all State Owned Enterprises.
- Moreover, the Ministry of Civil Service and Administrative Reforms has elaborated and updated a Code of Ethics for public officers to provide them with guidance on ethical behaviour.

Rulings and determination of the Public Bodies Appeal Tribunal up to 2014 can be found on <http://pbat.govmu.org/English/Rulings%20and%20Determinations/Pages/default.aspx>

Conflict of Interest

The Prevention of Corruption Act 2002 as amended defines and criminalises the offence of conflict of interests. The Code of Conduct for Public Officials urges public officers to declare in writing any conflict of interests. Most of the Corruption Prevention Reports of the ICAC recommend the setting up of a mechanism along with a declaration form to disclose any conflict of interests.

Conflict of interests is a criminal offence in Mauritius punishable under Section 13 of the Prevention of Corruption Act 2002 to penal servitude not exceeding 10 years. The offence is defined under the PoCA as follows:

(1) Where-

- (a) a public body in which a public official is a member, director or employee proposes to deal with a company, partnership or other undertaking in which that public official or a relative or associate of him has a direct or indirect interest; and
- (b) that public official and/or his relative or associate of him hold more than 10 per cent of the total issued share capital or of the total equity participation in such company, partnership or other undertaking, that public official shall forthwith disclose, in writing, to that public body the nature of such interest.

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

(3) Any public official who contravenes subsection (1) or (2) shall commit an offence and shall, on conviction, be liable to penal servitude for a term not exceeding 10 years.

The Code of Ethics for public officers which sets out the standards of correct conduct expected of Public Officers deal with the issue of conflict of interests as follows:

Public Officers shall avoid situations in which their private interests conflict, or might reasonably be perceived to conflict, with the impartial fulfilment of their official duties and the public interest. Thus, they shall avoid having any financial or other interests or embark on any undertaking that could directly or indirectly compromise the performance of their duties.

In many circumstances, the conflict, or potential conflict, is known only to the Public Officer. Therefore, in case a conflict of interest arises, the onus is on the Public Officer to disclose promptly, fully and appropriately any actual or potential conflict of interest, he may have in a matter that is the subject of a consideration.

Any Public Officer who fails to disclose his direct or indirect interest in a company, partnership or other undertaking with which the public body (which employs the Public Officer) proposes to deal, shall commit an offence under the Prevention of Corruption Act 2002.

The Code of Ethics complements existing legislations and rules and its guiding principles are designed to maintain and enhance values that inspire trust and confidence in the integrity of Public Officers. It applies to all Public Officers - permanent, part-time, casual, temporary and contractual employees of the Civil Service, the Local Government Service and the Rodrigues Regional Assembly - irrespective of gender, grade and rank.

The Ministry of Civil Service and Administrative Reforms is in the process of updating the current code of Ethics. Following the proclamation of the “Good Governance and Integrity Act, this Ministry would be including a new item on “Good Governance & Integrity reporting” in the Code of Ethics.

The Ministry of Civil Service and Administrative Reforms has also included on its online platform a course entitled “Code of Ethics for Public Officers” which sets out the standards of correct conduct expected of Public Officers.

In addition an Ethics corner website devised in collaboration with ICAC to promote ethical culture in the Public Service is online since 15 February 2008.

<http://ethicscorner.govmu.org/English/documents/ethics2010.pdf>

<http://ethicscorner.govmu.org/English//DOCUMENTS/ETHICS2010.PDF>

Following the publication of the handbook “Managing Conflict of Interests” developed by the ICAC in 2010 and disseminated to all public bodies, an assessment was conducted in 151 public bodies on managing conflict of interests. As per the assessment report, 44.1 % of the institutions had a conflict of interest mechanism in place.

Conflict of interests (COI) can be one of the preconditions for biased or corrupt behaviour. Therefore, public sector organisations have the prime responsibility for creating an environment that supports the effective identification, disclosure and management of conflict of interests. An assessment survey was conducted in December 2013 in the public sector to gauge the prevalence

and pertinence of COI mechanisms in 151 public sector organisations. This survey was conducted to assess the existence and effectiveness of COI mechanisms in public sector organisations.

It revealed that almost 50% of public sector organisations have an established mechanism for managing COI. Based on a few follow-up reports conducted following the recommendations made by the ICAC, these institutions have put in place a Conflict of Interests mechanism:

- Mauritius Revenue Authority
- National Transport Authority
- Airports of Mauritius Ltd
- Beach Authority
- Ministry of Social Security, National Solidarity and Reform Institutions
- National Empowerment Foundation
- National Heritage Fund

The Conflict of Interests mechanism in these organisations are as per the Prevention of Corruption Act 2002 and comprises of the following:

- Adoption of a policy on conflict of interests (usually it forms part of the Anti-Corruption Policy);
- Communication of the COI mechanism to all employees and stakeholders;
- Use of COI declaration form to be submitted to the Head of the Organisation for necessary actions; and
- An Interest Register

The ICAC is encouraging and recommending in its Corruption Prevention Reviews the development, implementation and review of Codes of conduct among public bodies. Accordingly, a Model Code of Conduct has been developed by the ICAC for public bodies.

Best Practice Guide on Managing COI: [https://www.icac.mu/publications/#iLightbox\[gallery\]/9https://www.icac.mu/publications/](https://www.icac.mu/publications/#iLightbox[gallery]/9https://www.icac.mu/publications/)

Model Code of Conduct for Employees of Parastatal Bodies: [https://www.icac.mu/publications/#iLightbox\[gallery\]/18https://www.icac.mu/publications/](https://www.icac.mu/publications/#iLightbox[gallery]/18https://www.icac.mu/publications/)

Specialized laws or rules regulating the activities of public officials in high risk areas of public administration, such as public procurement.

A new procurement framework was set up in Mauritius in 2006. The Public Procurement Act 2006 and the Public procurement Regulations Act 2008 were adopted to regulate public procurement in high risk areas of public administration.

The new legislation which has established the Procurement Policy Office, the Central Procurement Board and the Independent Review Panel is further strengthening the procurement framework with circulars. Conflict of interests is one of the areas.

The code of conduct for procurement for public officials, developed by the ICAC in collaboration with the Public Procurement Office refers to conflict of interests as follows:

Avoid and prevent situations that could give rise to a conflict of interests or the appearance of a conflict of interest and declare any perceived interest that might affect, or seen by officers to affect impartially in decision making.

The code aims at strengthening the procurement infrastructure by offering concerned officials a handy tool that can help guide ethical behaviour at work. It sets the minimum standard of behaviour which public officers involved in procurement activities are expected to uphold.

Link:

[https://www.icac.mu/publications/#iLightbox\[gallery\]/3](https://www.icac.mu/publications/#iLightbox[gallery]/3)

<https://www.icac.mu/publications/>

The issue of conflict of interests is taken up in all awareness/empowerment sessions and Integrity Programmes. It is also a component of all anti-corruption and integrity programmes. The ICAC has also developed a Handbook on Managing Conflict of Interests with the aim to help organisations create a culture that encourages and supports the identification, disclosure and management of conflict of interest situations.

Transparency Mauritius

Transparency Mauritius conducted a mini survey entitled “Le regard des jeunes sur la politique et la corruption <https://www.transparencymauritius.org/wp-content/uploads/2013/02/Le-regard-des-jeunes-sur-la-politique-et-la-corruption-Septembre-2013.pdf>”. The report of the survey is available on the link below:

<https://www.transparencymauritius.org/our-projects/le-regard-des-jeunes-sur-la-politique-et-la-corruption/>

The survey led to the development of a pledge to engage both the public and the private sector to adhere to basic principles of transparency and ensure greater accountability and integrity in terms of the financing of political parties and electoral campaigns. The pledge applies to individuals and companies both in the public and private sectors who intend to contribute towards the finances of any political party or the funding of an electoral campaign.

<https://www.transparencymauritius.org/our-projects/pledge-towards-transparent-and-accountable-political-financing/>

Government Programme 2015-2019

In the government programme 2015-2019, the government has taken the commitment to give the Electoral Supervisory Commission wider powers to control and sanction fraud, corruption and conflict of interests during election time, and also to monitor political funding and abuse of position or power.

(b) Observations on the implementation of the article

Non-disclosure of conflict of interest is a criminal offence under POCA (s. 13).

The creation of conflict of interest management systems in public bodies is recommended by ICAC and has been implemented in many public bodies.

All public officials are bound by the general Code of Ethics for public officials, which covers conflicts of interest, gifts, outside employment etc. While only of aspirational nature, it complements the PSC Regulations which introduce the disciplinary mechanism and sanctions (s.

30-46).

Mauritius is largely compliant with the provision under review.

However, while more information can be found under article 8 paragraph 5, it could also be mentioned here that it is recommended that Mauritius consider strengthening the asset declaration system for public officials, including through the adoption of the envisaged new law and introducing an effective verification system.

(d) Challenges, where applicable

Development and implementation of a modern and effective mechanism to manage asset disclosures and conflict of interest declarations.

(e) Technical assistance needs

Institution-building for the Declaration of Interests

There is growing demand and support for public officials to declare their income and assets. This can prevent corruption and conflicts of interests. Moreover, it can assist in the detection, investigation and prosecution of public officials who may abuse the public trust. Conflict of interests on the other hand, if left undiscovered and unchecked may jeopardize public sector integrity.

Disclosure of interests is indeed vital to digging into conflict of interests and the illegal accumulation of wealth by those in public office. A well-designed and well-managed asset disclosure regime and a systematic conflict of interest system can significantly increase public accountability and contribute to the identification and monitoring of politically exposed persons, and to national and international financial investigations and prosecutions. Disclosure systems thus have the potential to contribute to broader anti-corruption efforts.

Accordingly, technical assistance is being sought:

- a) for an assessment of the present asset disclosure system;
- b) to recommend measures towards a comprehensive, well-managed and effective asset disclosure regime;
- c) for setting up of a conflict of interest declaration and management system; and
- d) required appropriate legislative amendment proposals.

The systems may comprise electronic disclosure along with a modern monitoring and management systems that can bring Members of the National Assembly, high public officials, Board Members and Management of Statutory Bodies and State Owned-Institutions under scrutiny.

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.

No such assistance is being provided.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

The PoCA 2002 as amended is a legislation which promotes a culture of integrity in the country, more so in the public sector. On the other hand, procedures and guidelines are laid down in the Human Resource Management Manual and the Financial Management Manual issued by the Ministry of Civil Service & Administrative Reforms. Moreover, the Code of Ethics for Public Officials aim at defining clearly the duties and responsibilities of public officials in Mauritius.

All the actions and activities of the ICAC, in particular, the Corruption Prevention and Education Division of the Independent Commission Against Corruption are geared towards promoting integrity, honesty and responsibility among its public officials.

Please refer to information provided under Article 5-8 above.

The Administrative Reforms Division of the Ministry of Civil Service and Administrative Reforms undertakes to promote and instil ethical conduct among public officers through sensitisation on the Code of Ethics for Public Officers to ensure greater accountability and transparency. The Code of Ethics for Public Officers emphasises the importance of a responsible, responsive and caring public service and is intended to promote effective administration and responsible behaviour. The code provides guidance for appropriate behaviour in a variety of circumstances. It lays down a set of principles and guidelines which aim at promoting a high standard of conduct and behaviour in the public service. The Code applies to all officers irrespective of grade or rank and complements existing rules and regulations. The code was last revised in 2010.

Public officials are regularly sensitized on standards of conduct expected in the public service both by the Ministry of Civil Service & Administrative Reforms and the ICAC.

Furthermore, various professional associations have developed their own codes of conduct. These codes are usually reviewed on a regular basis.

The Government is committed to introduce a Public Service Bill which will, inter-alia:

- protect, promote and uphold the fundamental values and principles (honesty, integrity, objectivity and impartiality) of the Public Service;
- define the boundaries between office holders within the Executive, namely Minister, Public Officers and Advisers;
- define the role of the Public Service, the fundamental values and principles of the Public Service and obligation of Public Officers.

The proposed Public Service Bill will also provide for:

- (a) a Code of Conduct for public officers;

- (b) a Code of Conduct for Ministers (which is being reviewed with the proposed Code of Conduct for Members of the National Assembly prepared by the ICAC);
- (c) a Code of Conduct for Political Advisers.

The Government is also committed (government programme 2015-2019) to introduce a Code of Conduct for Members of the National Assembly.

Apart from the Code of Ethics for Public Officers, the following codes of conduct are in place:

- Code of Conduct for Officials Involved in Procurement;
- Code of Ethics – Independent Broadcasting Authority
- Specific Codes of Conduct for Professional Associations like the Council of Engineers, Association of Professional Architects, Association of Quantity Surveyors, Law Society of Mauritius, Medical Council, Bar Council, etc
- Specific Codes of Public Bodies like the Mauritius Prisons Service, Central Electricity Board, Central Water Authority, Mauritius Rights Management Association, Mauritius Sports Council, Mauritius Qualifications Authority, Consumer protection Unit, etc.

Public officials are legally bound by an oath of secrecy as laid down in relevant legislations and the Official Secrets Act. This obligation is transmitted to public officials during induction and training programmes.

The Ministry of Civil Service & Administrative Reforms runs an annual Public Service Excellence Award, where among others the integrity of people and systems are taken into account.

A number of initiatives have been taken at the level of the Independent Commission Against Corruption to promote integrity and enhance the capacity of public bodies to be more proactive in bringing corruption and other malpractices under control. These measures are as follows:

- o Designation of senior public officials in public bodies to act as Integrity Officer;
- o Setting up of Anti-Corruption Committees in all public bodies;
- o Setting up Ethics Committees at the level of local authorities; and
- o Development of codes of conduct.

The responsibility for empowering public officials on integrity, honesty and responsibility rests with top management of all public bodies. The Ministry of Civil Service & Administrative Reforms, the Mauritius Institute of Directors and the Independent Commission Against Corruption are playing a leading role in this direction.

Since 2003 the following anti-corruption programmes and activities with respect to the above have been conducted by the ICAC:

- o Various sensitization and empowerment sessions have been conducted with public bodies on the importance of integrity, ethics and codes of conduct/ethics.
- o Public bodies are being encouraged and assisted to develop and implement specific codes of conduct for their employees.
- o A Model Code of Conduct for Employees of Parastatal Bodies and a Code of Conduct on Procurement for public officers have been developed by the ICAC.
- o Various training workshops have been held with officials involved in procurement.

(b) Observations on the implementation of the article

All public officials are bound by the general Code of Ethics for public officials, which covers conflicts of interest, gifts, outside employment etc. While only of aspirational nature, it complements the PSC Regulations which introduce the disciplinary mechanism and sanctions (s. 30-46). Separate sectoral codes of conduct exist for, e.g. procurement officers and law enforcement officers. The Code of Corporate Governance applies to all state-owned enterprises.

Mauritius is deemed in compliance with the provision under review.

Paragraph 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

a) Code of Ethics for Public Officers

The standards of correct conduct expected of public officers are dealt with in the Code of Ethics for Public Officers developed by the Ministry of Civil Service Affairs and Administrative Reforms. The code was reviewed in 2009 and the ICAC assisted in the review and development of additional provisions of the Code. Provisions dealing with the conduct of public officers during electoral campaign were added.

The Code emphasizes the importance of a responsible, responsive and caring Civil Service and is intended to promote effective administration and responsible behaviour. The Code of Ethics complements existing legislations and rules and its guiding principles are designed to maintain and enhance values that inspire trust and confidence in the integrity of Public Officers.

The Code provides the direction - a self-imposed vigilance is required to achieve the highest standards of ethical conduct. It applies to all Public Officers - permanent, part-time, casual, temporary and contractual employees of the Civil Service, the local Government Service and the Rodrigues Regional Assembly - irrespective of gender, grade and rank. In this view, Public Officers are also required to comply with the relevant legislations and procedures in force in the Service.

Link: <http://ethicscorner.govmu.org/English//DOCUMENTS/ETHICS2010.PDF>

b) Mauritius Police Force

The Mauritius Police Force has already developed both a code of ethics and a code of conduct for law enforcement officers, which have been disseminated in the organization, in the Police Instructions Manual, a copy of which has been issued to each and every Police Officer.

c) Code of Conduct for Law Enforcement Officials and Principle of Police Ethics

Code of Conduct for Law Enforcement Officials

Every member of the Force shall:-

- (i) at all times, fulfil the duty imposed upon them by law, by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession;
- (ii) in the performance of their duty, respect and protect human dignity and maintain and uphold the human rights of all persons;
- (iii) use force only when strictly necessary and to the extent required for the performance of their duty;
- (iv) keep matters of confidential nature in their possession confidential, unless the performance of the duty or the needs of justice required otherwise;
- (v) not inflict, instigate or tolerate any act of torture or other cruel, inhumane or degrading treatment or punishment, nor invoke superior orders or exceptional circumstances such as state of war or threat of war, a threat to internal security, internal political instability and any other public emergency as a justification of torture or other cruel, inhumane or degrading treatment or punishment;
- (vi) ensure full protection of the health of persons in their custody and in particular, shall take immediate action to secure medical attention whenever required;
- (vii) not commit any act of corruption and rigorously oppose and combat all such acts;
- (viii) respect the law and the present code and also, to the best of their capability prevent and rigorously oppose any violation of them;
- (ix) behave in a trustworthy manner and avoid any conduct that might compromise integrity and thus undercut the public confidence in a Police Force/Service;
- (x) ensure that they treat all persons in a courteous manner and that their conduct is exemplary and consistent with the demands of the profession and the community they serve; and
- (xi) respect and protect all property rights, this include the economical use of public resources.

Principles of Police Ethics

Every member of the Police Force will:-

- (i) act with fairness, carrying out his responsibilities with integrity and impartiality;
- (ii) perform his duties with diligence and a proper use of discretion
- (iii) display self-control, tolerance, understanding, and courtesy appropriate to the circumstances in his dealings with all individuals, both outside and inside the Police Force;
- (iv) uphold fundamental human rights, treating every person as an individual and display respect and compassion towards him;
- (v) support all his colleagues in the performance of their lawful duties and, in doing so, actively oppose and draw attention to any malpractice by any person;
- (vi) respect the fact that much of the information received is confidential and may only be divulged when his duty requires him to do so;
- (vii) exercise force only when justified and then only use the minimum amount of force

- necessary to effect his lawful purpose and restore the peace;
- (viii) act only within the law, in the understanding that he has no authority to depart from due legal process and that no one may place a requirement on him to do so;
- (ix) use resources entrusted to him to the maximum benefit of the public;
- (x) accept responsibility for his oneself development, continually seeking to improve the way in which he serves the community; and
- (xi) accept personal accountability for his own acts and omissions.

d) Mauritius Revenue Authority - Code of Conduct and Ethics & Disciplinary Code

A key element of MRA anti-corruption policy is the development, issue and acceptance of comprehensive (a) code of conduct and ethics and (b) disciplinary code, which sets out in very practical and unambiguous terms the behaviour expected from all personnel. Penalties for non-compliance are articulated in the code, calibrated to correspond to the seriousness of the violation and supported by appropriate administrative and legislative provisions.

However, having Codes are not enough; they must be implemented, enforced and regularly reviewed to ensure relevance and effectiveness. The MRA has reviewed the codes to include guidelines on the acceptance of Gifts and other benefits, declaration of conflict of interest form for the disclosure of situation of conflict of interest, internal reporting and whistle blower protection for those in good faith to report any breach of the Code.

Personnel, stakeholders and the general public are encouraged to report corrupt, unethical or illegal activity and, when such information is provided, it is investigated in a prompt and thorough manner and the sources of information are protected. The organisation referred cases of corruption to ICAC and integrity violation of criminal nature to Police.

(<http://www.mra.mu/download/CodeOfEthics161214.pdf>)

MRA Online Complaint Management System

An online complaint management system is also available to the general public to facilitate complainants to file complaints. The process is clear and straightforward for stakeholders to report any malpractice and act of corruption.

(<https://eservices3.mra.mu/complaintcap/complaint.jsp>)

e) The Public Service Commission and the Disciplined Forces Service Commission

All public officers are expected to display a high level of good conduct and behaviour. The Public Service Commission and the Disciplined Forces Service Commission have constitutional powers to exercise disciplinary control over all public officers. The Commissions exercise such power in all fairness over each accused officer within the parameters laid down in the Public Service Commission Regulations and the Disciplined Forces Service Commission Regulations, as appropriate.

In 2015, the Public Service Commission and the Disciplined Forces Service Commission considered 225 disciplinary cases referred to them by the Responsible Officers and decided to inflict punishments upon 103 and 73 officers.

Link: <http://psc.govmu.org/English//DOCUMENTS/ANNUAL%20REPORT.PDF>

f) Codes of Conduct developed by the ICAC

The Code of Conduct on Procurement for Public Officials: While laws and regulations will

partially address the risk of malpractices in public procurement, the primary emphasis of this Code of Conduct is on the trust in public officials as custodians of public funds. Guided by this requirement, the ICAC, in collaboration with the Procurement Policy Office, has revised the former “Code of Conduct for Public Officials Involved in Procurement” that was issued in 2009.

This revised Code of Conduct which emphasises ethical issues complements the provisions of the law and urges public officials to comply with the Code to uphold the standards of integrity in public procurement practices.

[https://www.icac.mu/publications/#iLightbox\[gallery\]/3](https://www.icac.mu/publications/#iLightbox[gallery]/3)

<https://www.icac.mu/publications/>

Model Code of Conduct for Employees of Parastatal Bodies: The model code has been developed to provide Parastatal Bodies with the basic principles that need to be observed in the development of their own code of conduct. **Code of Conduct for Councilors:** The ICAC in collaboration with the Ministry of Local Government developed a code of conduct for councilors to promote high standards in public life. The Code sets the standards of behaviour that councilors are committed to uphold in the discharge of their functions. Ethics Committees are being set up in local authorities to monitor implementation of the code of conduct. The Code is being revised.

Code of Ethics for all stakeholders of the Sports Community, and an Ethical Guideline for Office Bearers of National Sports Federations: With a view to promote integrity in sports and to uphold the spirit of sportsmanship, the Ministry of Youth and Sports through the Mauritius Sports Council in collaboration with the Independent Commission Against Corruption came up in 2010 with the above-mentioned Code and Guideline.

The Code of Ethics provides a sound ethical framework to reinforce integrity and combat unwanted pressures within the sporting community which appear to be undermining the very traditional foundations of sports foundations built on sportsmanship and on the voluntary movement; the primary concerns and focuses of which are based on fair play, good governance, transparency, accountability, and integrity. The elaboration of a code was more than essential and vital to assert that ethical consideration be an integral and not optional element, of all sports activity, sports policy and management, and be applied to all levels of ability and commitment, including recreational as well as competitive sports.

The Ethical Guideline on the other hand complements the existing guidelines of the Ministry and aims to ensure that the objectives of the code are met in a fair, ethical and accountable manner. It provides sports federations with acceptable parameters and framework where they can evolve for the interests, promotion and advancement of the sports discipline hence avoiding unwanted conflicts.

Others: The ICAC has assisted several public bodies in developing specific codes of ethics/conduct - The Mauritius Prison Service, The Mauritius Rights Society, Consumer Protection Unit, Central Electricity Board, etc.

The Ministry of Civil Service and Administrative Reforms in collaboration with the Independent Commission Against Corruption conducts empowerment sessions with all new recruits and officers of the different cadres in the public sector.

Training report for period Jan - June 2016 of the Ministry of Civil Service and Administrative Reforms is accessible on the following link:

<http://civilservice.govmu.org/English/Documents/Training%20Reports/Training%20Report%202016.06.pdf>

(b) Observations on the implementation of the article

All public officials are bound by the general Code of Ethics for public officials, which covers conflicts of interest, gifts, outside employment etc. While only of aspirational nature, it complements the PSC Regulations which introduce the disciplinary mechanism and sanctions (s. 30-46). Separate sectoral codes of conduct exist for, e.g. procurement officers and law enforcement officers. The Code of Corporate Governance applies to all state-owned enterprises.

Mauritius is deemed in compliance with the provision under review.

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

The Prevention of Corruption Act 2002 as amended promotes the reporting of acts of corruption by public officials. Section 43 provides for anonymous complaints. Sections 44 and 45 of the Act makes public officials duty-bound to report acts of corruption as follows:

Notification of corruption offence (Section 43)

- (1) Any person may-
 - (a) without disclosing his identity; and
 - (b) orally or in writing, notify the Commission or an officer of the existence or possible existence of a corruption offence.
- (2) The Commission shall take all steps that may be necessary to facilitate the notification to the Commission of the possible existence of an act of corruption.

Duty to Report Corruption Offences (Section 44)

- (1) Where an officer of a public body suspects that an act of corruption has been committed within or in relation to that public body, he shall forthwith make a written report to the Commission.
- (2) The Commission shall issue such guidelines as it considers appropriate to ensure compliance with subsection (1).

The law does not make provision for any sanction with respect to non-compliance to Section 44 of the Prevention of Corruption Act 2002.

Referrals to the Commission (Section 45)

(1) Notwithstanding sections 43 and 44, where in the exercise of his functions-

- (a) a Judge or Magistrate;
- (b) the Ombudsman;
- (c) the Director of Public Prosecutions;
- (d) the Director of Audit; or
- (e) the chief executive of a public body, is of the opinion that an act of corruption may have occurred, he may refer the matter to the Commission for investigation.

(2) Where in the course of a Police enquiry -

- (a) it is suspected that an act of corruption has been committed; and
- (b) the Commissioner of Police is of the opinion that the matter ought to be investigated by the Commission, the Commissioner of Police may refer the matter to the Commission for investigation.

The ICAC has jurisdictions to investigate into corruption and money laundering offences under the Prevention of Corruption Act 2002 and the Financial Intelligence and Anti-Money Laundering Act 2002.

All cases of swindling and embezzlement received at the ICAC are referred to the Commissioner of Police.

Concerning misconduct, the matter is referred to the relevant Ministries and the Local Government Service Commission for necessary actions.

The DPP, under section 3 of the Criminal Procedure Act, can recommend disciplinary actions in the form of 'warnings in lieu of prosecution'.

Corruption Advisory and Processing Unit (CAPU) at the ICAC

The Independent Commission Against Corruption has set up since 2002, a Corruption Advisory and Processing Unit (CAPU) at the ICAC Headquarters to facilitate reporting of acts of corruption by the public. The Report Centre is situated on the ground floor of the ICAC's Headquarters and is open during office hours (0800 to 1900). Communications equipment capable of receiving complaints by fax, e-mail, or toll-free hotline are available on a 24-hour basis (24/7). Complaints can also be made on the website of the ICAC.

All complaints received by the Report Centre (CAPU) are recorded and processed for submission to the Board of the ICAC.

Furthermore, the public is informed of the different modes of reporting through public campaigns, posters, leaflets, publications, talks, TV spots and radio programmes.

The PoCA 2002 as amended provides for protection against victimization and for those who, in good faith, report cases of corruption. It also compels ICAC officers to treat as confidential the identity and information given by the informer. The legal provisions for the protection of informers

and witnesses are as follows:

Protection of Informers (Section 48 of PoCA 2002)

- (1) Where the Commission receives information in confidence to the effect that an act of corruption has occurred, that information and the identity of the informer shall be secret between the Commission and the informer, and all matters relating to such information shall be privileged and shall not be disclosed in any proceedings before any court, tribunal or other authority.
- (2) Where any record, which is given in evidence or liable to inspection in any civil, criminal or other proceedings, contains an entry relating to the informer or the information given by the informer, the Director-General shall cause all parts relating to the informer or the information given to be concealed from view so as to protect the identity of the informer.

Protection of Witnesses (Section 49 of PoCA 2002)

- (1) Subject to subsection (6), where a person-
 - (a) discloses to a member of the Board or an officer that a person, public official, body corporate or public body is or has been involved in an act of corruption; and
 - (b) at the time he makes the disclosure, believes on reasonable grounds that the information he discloses may be true and is of such a nature as to warrant an investigation under this Act, he shall incur no civil or criminal liability as a result of such disclosure.
- (2) Subject to subsection (6), where a public official-
 - (a) discloses to his responsible officer or to the Director-General that an act of corruption may have occurred within the public body in which he is employed; and
 - (b) believes on reasonable grounds that the information is true, he shall incur no civil or criminal liability as a result of such disclosure and no disciplinary action shall be started against him by reason only of such disclosure.
- (3) A person who makes a disclosure under subsection (1) or (2) shall assist the Commission in any investigation which the Commission may make in relation to the matters disclosed by him.
- (4) A person to whom a disclosure is made under subsection (1) or (2) shall not, without the consent of the person making the disclosure, divulge the identity of that person except where it is necessary to ensure that the matters to which the information relates are properly investigated.
- (5) A person who commits an act of victimisation against a person who has made a disclosure under subsection (1) or (2) shall be guilty of an offence and shall, on conviction, be liable to pay a fine not exceeding 50,000 rupees and to imprisonment not exceeding one year.

(6) A person who makes a false disclosure under subsection (1) or (2) knowing it to be false shall be guilty of an offence and shall, on conviction, be liable to pay a fine not exceeding 50,000 rupees and to imprisonment not exceeding one year.

(7) In this section, "victimisation" means an act -

- (a) which causes injury, damage or loss;
- (b) of intimidation or harassment;
- (c) of discrimination, disadvantage or adverse treatment in relation to a person's employment; or
- (d) amounting to threats of reprisals.

As for statistics on the complaints received, following the intensive campaigns during the initial years of operation and regular anti-corruption/ mass media campaigns, the number of complaints registered at the ICAC have kept on increasing as follows:

Year	Complaints Registered at ICAC
2003-2006	Average 650
2007	1057
2008	1153
2009	1269
2010	1350
2011	1725
2012	1743
2013	1613
2014	1534
2015	1588
2016	1638

Please refer to Annual Reports of the ICAC for further details.

(b) Observations on the implementation of the article

Public officials have a duty to report acts of corruption to ICAC (POCA s. 44); however, there are no sanctions for non-reporting. The ICAC has issued Guidelines on this issue which have been widely disseminated within public bodies.

While Mauritius is deemed largely compliant with the provision under review, it is recommended that Mauritius continue its efforts to encourage public officials to report acts of corruption.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

Conflict of interest

It is desirable to have public officials who are completely independent of the decisions they are called upon to make. Having a personal interest that conflicts with the public interest is not corruption per se but the impropriety lies in having a conflict of interest that is not disclosed. Mauritius has appropriate legislations in place to deal with conflict of interests.

Section 13 of the PoCA 2002 as amended defines and criminalises the offence of conflict of interests. Most of the Corruption Prevention Reports of the ICAC recommend the setting up of mechanism along with a declaration form to disclose any conflict of interests.

Conflict of interests is a criminal offence in Mauritius punishable under Section 13 of the Prevention of Corruption Act 2002 to penal servitude not exceeding 10 years. The offence defined under the PoCA as follows:

- (1) Where-
 - (a) a public body in which a public official is a member, director or employee proposes to deal with a company, partnership or other undertaking in which that public official or a relative or associate of him has a direct or indirect interest; and
 - (b) that public official and/or his relative or associate of him hold more than 10 per cent of the total issued share capital or of the total equity participation in such company, partnership or other undertaking, that public official shall forthwith disclose, in writing, to that public body the nature of such interest.
- (2) Where a public official or a relation or associate of his has a personal interest in a decision which a public body is to take, that public official shall not vote or take part in any proceedings of that public body relating to such decision.
- (3) Any public official who contravenes subsection (1) or (2) shall commit an offence and shall, on conviction, be liable to penal servitude for a term not exceeding 10 years.

Declaration of Assets

In Mauritius, every member of the public service is not subject to disclosure obligation. Such disclosure requirement applies to Members of the National Assembly and officers in specific organizations or institutions. The obligation to disclose assets and interests is established by legislative means. Section 3 of the Declaration of Assets Act 1991 as amended provides for the declaration of assets and liabilities as follows:

Section 3 - Declaration of Assets and Liabilities

- (1) Every Member of the National Assembly or the Rodrigues Regional Assembly shall, not later than 30 days-

(a) after the first sitting of the National Assembly or the Rodrigues Regional Assembly following a dissolution of Parliament or the Rodrigues Regional Assembly or after being elected to the Assembly or the Rodrigues Regional Assembly following a by-election, as the case may be;

(b) after the seat becomes vacant in accordance with section 35 of the Constitution or section 19 of the Rodrigues Regional Assembly Act, deposit with the Commission a declaration of assets and liabilities in relation to himself, his spouse and minor children and grandchildren and, subject to subsection 3, children of age.

(2) Where a person is appointed a Minister or a Commissioner he shall not later than 15 days after-

(a) being appointed a Minister or a Commissioner;

(b) his office becomes vacant in accordance with section 60 of the Constitution or section 37 of the Rodrigues Regional Assembly Act 2001, deposit with the Commission (ICAC) declaration of assets and liabilities in relation to himself, his spouse and minor children and grandchildren and, subject to subsection 3, children of age.

(3) The declaration shall, in relation to children of age, specify any property sold, transferred or donated to each one of them in any form or manner whatsoever including income or benefits from any account, partnership or trust.

(4) Every person who makes a declaration of his assets and liabilities shall specify the nature of his interests in the assets including any joint ownership, and the nature of his liabilities regarding those assets, including any joint liability.

(5) Where the assets declared are in relation to shares or any interest in a partnership, société or company, the person who makes the declaration shall also declare the assets and liabilities of the partnership, société or company or, where this is impracticable, the market value of his shares or interest.

(6) A declaration under this section shall be made by way of an affidavit, in the form specified in the Schedule, sworn before the Supreme Court or in the case of a Commissioner, before the Magistrate of Rodrigues.

(7) The Commission of the Rodrigues Regional assembly shall transmit to the Clerk of the National assembly any declaration made by a Commissioner.

Section 4 - Amendment of Declaration

Where, subsequent to a declaration made under section 3, the state of the assets and liabilities so altered as to be reduced or increased in value by a minimum of 100,000 rupees, the declarant shall make a fresh declaration.

Section 5 - Publication of Declaration

On receipt of a declaration under section 3 or 4, the Commission (ICAC) shall, in accordance with such directions as the Speaker may give, cause such declaration to be laid before the Assembly.

Members of the National Assembly: The Declaration of Assets Act 1991 as amended provides for the declaration of assets by members of the National Assembly and other officers as designated by the Prime Minister.

- Officers designated by the Prime Minister: The Prime Minister is empowered to extend by regulation and with such modifications as he thinks necessary, the application of the Declaration of Assets Act 1991 to such categories of public officers and officers in designated statutory bodies.
- Members and Staff of ICAC: the PoCA requires the members of the Board as well as the staff to submit their declaration of assets.
- Public Official or person suspected of having committed a corruption offence.

Section 6. Offences

(1) Every person who—

- (a) fails to comply with, or makes a false declaration under, section 3 or 4;
- (b) contravenes any regulations made under this Act, shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 2 years. (2) No prosecution for an offence under this Act shall be commenced except with the express consent of the Director of Public Prosecutions.

(3) Notwithstanding—

- (a) section 114 of the Courts Act; and
- (b) section 72 of the District and Intermediate Courts (Criminal Jurisdiction) Act, a Magistrate shall have jurisdiction to try any offence under this Act and may impose any penalty provided by this Act.

Section 56

(1) Subject to subsection (2), every member and officer shall file with the Secretary to the Cabinet a declaration of his assets and liabilities in such form and manner as may be prescribed -

- (a) within 30 days of his appointment and
- (b) on the termination of his appointment.

(2) Where, subsequent to a declaration made under subsection (1), the state his assets or liabilities is so altered as to be reduced or increased in value by not less than 500,000 rupees, the member or officer shall make a fresh declaration.

(3) No declaration of assets filed under this section shall be disclosed to any person except with the express consent of the member or officer concerned or by order of a Judge on reasonable cause shown.

Section 84 of the PoCA 2002 - Possession of Unexplained Wealth

Section 84 of the Prevention of Corruption Act 2002 as amended:

- (1) The Commission may -
 - (a) order any public official or any person suspected of having committed a corruption offence to make a statement under oath of all his assets and liabilities and of those of his relatives and associates;
- (2) Where, in proceedings for an offence under this Act, it is established that the accused -
 - (a) was maintaining a standard of living which was not commensurate with his emoluments or other income;
 - (b) was in control of property to an extent which is disproportionate to his emoluments or other income;
 - (c) held property for which he, his relative or associate, is unable to give a satisfactory account as to how he came into its ownership, possession, custody or control, that evidence shall be admissible to corroborate other evidence relating to the commission of the offence.

The present legislation does not provide for monitoring and verification of assets. However, it is expected that the new legislation being looked into by a Ministerial Committee will cater for verification and monitoring of assets declaration.

All public officials who are mandated under their respective legislations to file their declaration of assets and liabilities have done so up to now.

The Government Programme 2015-2019 provides that the Government will introduce a new Declaration of Assets Act for Members of the National Assembly and high-ranking public officers. A Ministerial Committee has been set up to look into the modalities of the new Act.

Please also refer to information previously provided in relation to Art. 7 para. 4.

ORGANISATION	FREQUENCY	SUBMISSION	VERIFICATION
Independent Commission Against Corruption	<p>(a) not later than 30 days after the date of his appointment;</p> <p>(b) not later than 30 June in every year until he ceases to be a member of the Board; and</p> <p>(c) upon the termination of his appointment.</p>	A Member of the Board or an officer shall – deposit with the Parliamentary Committee a declaration of his assets and liabilities in relation to himself, his spouse, children and grand children in the form specified in the First Schedule.	
Financial Intelligence Unit	<p>Not later than 30 days after his appointment; and on the termination of his appointment.</p> <p>(2) Where, subsequent to a declaration made under subsection (1), the state of assets and liabilities is so altered as to be reduced or increased in value by a minimum of 200,000 rupees, the Director or officer shall make a fresh declaration.</p>	(1) Subject to subsection (2), the Director, every officer of the FIU, and the Chairperson and members of the Board shall file with the Commission a declaration of his assets and liabilities in the form specified in the Third Schedule	Subject to subsection (2), the Director, every officer of the FIU, and the Chairperson and members of the Board shall file with the Commission a declaration of his assets and liabilities in the form specified in the Third Schedule -
Mauritius Revenue Authority	On appointment and every 3 years and on the expiry or termination of employment	<p>Director-General submits a declaration of assets to the Chairperson;</p> <p>Employees submit a declaration of assets to the Director-General.</p>	<p>Notwithstanding subsection (3), the Director-General may , where he has reason to believe that an officer has made a false declaration, or has concealed the existence of an asset which he has to declare, or has otherwise omitted to make such a declaration, require an officer to make a declaration of assets at any time.</p> <p>(5) The Head of the Internal Affairs Division, or any officer deputed by him, may, for the</p>

			<p>purposes of verifying any declaration of assets lodged under this section, require from the person making the declaration for any document or for any oral or written information .</p> <p>(6) The powers exercisable by the Head of the Internal Affairs Division shall, in relation to a requirement under subsection (5) in respect of himself , be exercised by the Director - General .</p>
Competition Commission of Mauritius	<p>On appointment and every year as per the Competition Act 2007</p> <p>The Executive Director shall—</p> <p>(a) not later than 30 days after the date of his appointment;</p> <p>(b) not later than 30 June in every year while he is in office; and</p> <p>(c) not later than 30 days after his leaving, or removal from, office,</p>	<p>Deposit with the Independent Commission Against Corruption a declaration of his assets and liabilities in relation to himself, his spouse and children</p>	
Information and Communication Technologies Authority	<p>Every member, the Executive Director, and such other employees as the Board may decide, shall not later than 30 days after their appointment or after their vacation of office deposit with the Authority a declaration of assets and liabilities in relation to himself, his spouse and children.</p>	<p>A declaration under this section shall be made by way of an affidavit, sworn before the Supreme Court in the form specified in the Second Schedule.</p>	
Procurement Policy Office	<p>Within 30 days of his appointment and</p>	<p>Every member and officer shall file with the Secretary to the</p>	<p>Subject to subsection (2), every member and officer shall file with the Secretary to the</p>

	<p>on the termination of his appointment.</p> <p>Where, subsequent to a declaration made under subsection (1), the state his assets or liabilities is so altered as to be reduced or increased in value by not less than 500,000 rupees, the member or officer shall make a fresh declaration.</p>	<p>Cabinet a declaration of his assets and liabilities.</p>	<p>Cabinet a declaration of his assets and liabilities in such form and manner as may be prescribed –</p> <p>(a) within 30 days of his appointment and</p> <p>(b) on the termination of his appointment.</p> <p>(2) Where, subsequent to a declaration made under subsection (1), the state his assets or liabilities is so altered as to be reduced or increased in value by not less than 500,000 rupees, the member or officer shall make a fresh declaration.</p> <p>(3) No declaration of assets filed under this section shall be disclosed to any person except with the express consent of the member or officer concerned or by order of a Judge on reasonable cause shown.</p>
Central Procurement Board	<p>Every member and officer shall file with the Secretary to the Cabinet a declaration of his assets and liabilities.</p>	<ul style="list-style-type: none"> • Within 30 days of his appointment and on the termination of his appointment. • Where, subsequent to a declaration made under subsection (1), the state his assets or liabilities is so altered as to be reduced or increased in value by not less than 500,000 rupees, the member or officer shall make a fresh declaration. 	
Independent Review Panel	<p>Every member and officer shall file with the Secretary to the Cabinet a declaration of his assets and liabilities.</p>	<p>Within 30 days of his appointment and on the termination of his appointment.</p> <p>Where, subsequent to a declaration made under subsection (1), the state his assets or liabilities is so altered as to be reduced or increased in value by not less than 500,000 rupees, the member or officer shall make a fresh declaration.</p>	

Gifts

Receiving gift for a corrupt purpose – Section 15 of the Prevention of Corruption Act 2002

Any public official who solicits, accepts or obtains a gratification for himself or for any other person

- (a) from a person, whom he knows to have been, to be, or to be likely to be, concerned in any proceeding or business transacted or about to be transacted by him, or having any connection with his functions or those of any public official to whom he is subordinate or of whom he is the superior; or
- (b) from a person whom he knows to be interested in or related to the person so concerned,

shall commit an offence and shall, on conviction, be liable to penal servitude for a term not exceeding 10 years.

Section 15 of the PoCA makes it an offence for any public official to solicit, accept or obtain gift for a corrupt purpose. Every public official falls under the ambit of this Act. On the other hand, in the interpretation of the law, the word gratification includes a gift. In fact, the definition of “gratification” is so wide that anything other than “lawful remuneration” is subject to prohibition.

A close scrutiny of the spirit as well as the letter of the law reveals that genuine tokens may be permissible. However, one essential condition must be strictly observed, namely the tokens given and the circumstances in which it is offered must be such as to make it absolutely clear that the public official cannot thereby be influenced in any way whatsoever. This may be termed the “Zero Influence Test”.

The law does not make provision for a minimum threshold value with respect to gift.

The ICAC has issued Guidelines on Gifts and Gratifications for Public Officials in December 2016. The guidelines provide guidance to public officials regarding gifts and hospitality and highlight their obligations in situations where they are offered such gift or hospitality. The key principle is that there is a general prohibition on the acceptance or offer of gifts and hospitality by public officials. The acceptance of a gift, benefit or hospitality can create a sense of obligation that may compromise impartial and honest decision making, and may be perceived as a gratification to further personal or business interests. Public Officials must a priori refuse any gift or benefit that can be construed as a gratification.

A public official shall not accept a gift of any value if it constitutes a conflict with the proper discharge of his/her duties, or creates the appearance of conflict. Thus, on account of his/her public function or in relation to the past, present or future performance of his/her public duties, a public official cannot accept (for himself or for anyone else) any gratification at all, of whatever nature, in whatever form and by whatever name it is called.

Similarly, a public official shall not give, or solicit a contribution for, a gift to his/her superior or subordinate if this is likely to have an influence on any of the official duties of the employee.

The acceptance of gifts of money or gift vouchers is strictly prohibited. Likewise, any gifts and benefits (including token value) associated with procurement is strictly prohibited. This also includes lunch offered by a contractor to public officials involved in monitoring of contracts and

dinners to “seal the deal” or the signing of a contract.

Token gifts such as pens, stationery and among others which have logos and other branding must also be avoided as this may be seen to be endorsing or promoting the donor’s product. One should exercise caution particularly if the donor is regulated by or has official dealings with the government.

Hotel accommodation/air tickets/tours offered by a private company making its publicity or promotion campaign of a product where the public body is invited to be represented by its official/s must not be accepted.

Outside activities of public officials

Public officers should not be involved in any private work either for remuneration or otherwise unless prior approval has been obtained from their employer. They should not accept employment or engage in activities which may conflict or interfere with the performance of their official duties.

In areas where there is scarcity of professional skills, public officers may be permitted to exercise outside the service under certain conditions.

Article 10 of the Code of Ethics for Public Officers refers to outside employment as follows:

Public Officers shall not engage in any outside employment, for remuneration or otherwise, unless prior approval has been obtained from the Responsible Officer. Public Officers shall not accept employment or engage in activities which may conflict or interfere with the performance of their official duties as this may cast doubt on their own integrity and may adversely affect the image of the primary organisation for which they work and that of the Civil Service.

There is no cooling off period in place for public officials to be employed in the private sector.

Members of the Board and Staff of the Financial Intelligence Unit

The Financial Intelligence and Anti-Money Laundering Act (FIAMLA) 2002 requires the Director, every officer of the FIU as well as the Chairperson and members of the Board to submit their declaration of assets.

Officers working at the Mauritius Revenue Authority

The Mauritius Revenue Authority Act 2004 requires that every officer shall, at the time of making an application to be recruited by the Authority, or within one month preceding his transfer to the Authority, as the case may be, lodge a declaration of assets by way of an affidavit.

At the MRA, ‘Lifestyle’ audit is carried out on MRA’s employees through the verification of their Declarations of Assets (DOAs). Every three years, all employees are requested by law to disclose in a prescribed format their assets and liabilities; (the prescribed form is a schedule of Sec 14 of the MRA Act). The disclosure must include the assets and liabilities of the employee’s spouse and minor children.

The information provided help the organisation to compile a comprehensive financial profile of MRA officers, with a view to detecting illicit enrichment and hidden assets. Whenever there is breach of the MRA Act, necessary action may be taken internally or if need be, referred to the police

for appropriate action at their end.

(<http://www.mra.mu/download/MRAAct140416.pdf>)

Officers of the Procurement Policy Office, the Board or the Review Panel set up under the Public Procurement Act 2006:

A member or officer having any direct or indirect interest in any matter brought before the Policy Office, the Board or the Review Panel -

- (a) shall immediately inform the Director or the Chairperson, as the case may be; and
- (b) shall not participate in the deliberations or any part of the decision-making process in relation to that matter.

The Good Governance and Integrity Reporting Act 2015

The Good Governance and Integrity Reporting Act was enacted in December 2015 by the National Assembly to promote a culture of good governance and integrity reporting, and for related matters. The Act has established an independent and impartial Integrity Reporting Board to enforce the legislation.

Section 9. Duty to report unexplained wealth

(1) Notwithstanding any other enactment, where, in the exercise of his functions –

- (a) a judicial officer;
 - (b) the Ombudsman;
 - (c) the Director of Audit;
 - (d) the Director of the Financial Intelligence Unit;
 - (e) the Director-General of the Independent Commission Against Corruption;
 - (f) the Director-General of the Mauritius Revenue Authority;
 - (g) the Governor of the Bank of Mauritius;
 - (h) an integrity reporting officer nominated by a public interest entity;
- or
- (i) an officer of a statutory corporation, or body corporate, has reasonable ground to suspect that a person has acquired unexplained wealth, he shall make a written report of the matter to the Agency.

(2) Where any other person has reasonable ground to suspect that a person has acquired unexplained wealth, he may make a written report of the matter to the Agency.

(3) Any person who makes a report under subsection (1) or (2) shall, as far as is reasonably possible, assist the Director in any enquiry which he may conduct in relation to the matter disclosed.

Section 10. Promoting integrity and reward system

Where the Agency is of the opinion that a public body, body corporate or any other person has

- (a) encouraged a culture of good governance and integrity reporting in Mauritius;
- (b) stimulated integrity reporting in the public and private sectors;
- (c) made positive reports of acts of good governance and integrity; or
- (d) disclosed malpractices which have led to the confiscation of unexplained wealth, it shall make a report to the Board and recommend a reward.

Link:

<http://financialservices.govmu.org/English/Documents/Acts/Good%20Governance%20and%20Integrity%20Reporting%20Act.pdf>

(b) Observations on the implementation of the article

All public officials are bound by the general Code of Ethics for public officials, which covers conflicts of interest, gifts, outside employment etc. While only of aspirational nature, it complements the PSC Regulations which introduce the disciplinary mechanism and sanctions (s. 30-46). Separate sectoral codes of conduct exist for, e.g. procurement officers and law enforcement officers. The Code of Corporate Governance applies to all state-owned enterprises.

Non-disclosure of conflict of interest is a criminal offence under POCA (s. 13). The creation of conflict of interest management systems in public bodies is recommended by ICAC and has been implemented in many public bodies.

Mauritius has adopted a zero tolerance for gifts to public officials. The only permissible gifts are tokens. ICAC has developed Guidelines on gifts, recommending all public bodies to establish a duty to report all tokens and create gift registries. However, no binding legal provision exists and many public bodies have yet to implement this recommendation.

Secondary employment is permitted only in the areas where there is a scarcity of skills (s. 10 Code of Conduct) and then only with the prior approval of the head of the institution. No cooling-off period for public officials moving to the private sector is in place.

Some public officials are subject to regular, confidential asset declarations, including staff of ICAC, MRA, FIU and the Procurement Policy Office. All elected officials, including members of the National and Rodrigues Regional Assemblies and of local authorities, are subject to mandatory asset declarations (s. 3 Declaration of Assets Act, DAA). Non-submission of declarations is sanctioned (s. 6 DAA); however, no established verification and monitoring mechanism is in place. POCA section 84 on possession of unexplained wealth can be used in the course of an investigation.

Mauritius is currently in the process of drafting a new Public Service Bill to address the existing gaps in the areas of disciplinary sanctions, asset declarations and gifts. The Bill will be supplemented by a new comprehensive Code of Conduct for Public Officials, as well as Codes for Ministers and Political Advisors.

Mauritius is therefore deemed partially compliant with the provision under review. In view of

further enhancing the implementation of the Convention, it is recommended that Mauritius:

- consider strengthening the asset declaration system for public officials, including through the adoption of the envisaged new law and introducing an effective verification system (reference to paragraph 4 of Article 7);
- amend its asset declaration system to also include information regarding foreign based assets, signatures and other values; and
- consider strengthening the measures concerning gifts to public officials, in particular courtesy gifts of higher value.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

Corruption offences under the Prevention of Corruption Act are sanctioned by penal servitude. A public officer who commits a breach of the Code of Conduct for Public Officers renders himself liable to disciplinary proceedings.

Moreover, the proposed Public Service Bill provides for sanctions in case of contravention of the Act, including the Codes embodied in the Act.

No case of non-disclosure with regard to declaration of assets and liabilities is known. If required under the law, the requirement has to be complied with fully when the officer is joining the institution and leaving the institution or at the required intervals as required under the law.

With regard to gifts, it is an offence under Section 15 of the Prevention of Corruption Act 2002, if it is given or received with a corrupt purpose.

Public bodies may refer any case of non-compliance with respect to outside activities to the Public Service Commission for disciplinary measures.

Please, refer the Annual Reports on the website of the Public Service and Disciplined Forces Service Commission for statistics. For the years 2012 and 2013, the Public Service Commission and the Disciplined Forces Service Commission dealt with 599 disciplinary cases and decided on the punishment to be inflicted in each case.

Link: <http://psc.govmu.org/English/Documents/reports/PSC%20DFSC%20web.pdf>

(b) Observations on the implementation of the article

All public officials are bound by the general Code of Ethics for public officials, which covers conflicts of interest, gifts, outside employment etc. While only of aspirational nature, it complements the PSC Regulations which introduce the disciplinary mechanism and sanctions (s. 30-46).

Mauritius is currently in the process of drafting a new Public Service Bill to address the existing gaps in the areas of disciplinary sanctions, asset declarations and gifts. The Bill will be supplemented by a new comprehensive Code of Conduct for Public Officials, as well as Codes for Ministers and Political Advisors.

Mauritius is deemed in compliance with the provision under review.

(c) Challenges, where applicable

There is a need to develop a monitoring and implementation mechanism to make the Code of conduct for public officials more effective.

(d) Technical assistance needs

Institution-building for the Code of Conduct for Members of the National Assembly

Public accountability and political credibility of Members of the National Assembly are cornerstone principles to secure public trust in the efficacy, transparency and equity of the democratic system as well as to foster a culture of public service that favours public interest over private gains. In this regard a draft Code of Conduct for Members of the National Assembly has been developed. It takes into account the growing public expectations in terms of conduct and behaviour and the need for increased guidance and advice for ethical decision-making.

The Code sets out the standards of behaviour expected from Members of the National Assembly in the discharge of responsibilities entrusted to them. It is expected to trigger and sustain behaviours driven by integrity which is a virtue deeply rooted in core values like honesty, responsibility, respect, self-discipline, selflessness, transparency and accountability.

The objectives of the Code are to:

- set out the guidelines on expected behaviour and ethical standards;
- establish a common understanding of the level of integrity expected;
- contribute towards securing public trust in the effectiveness, transparency and equity of our democratic system;
- foster a culture of public service that favours public interest over private gains; and
- increase accountability through a statement of professional conduct, prompt disclosure of conflict of interests and declaration of financial interests, assets and liabilities.

Technical assistance is therefore being sought for the finalisation and implementation of the Code. It may comprise:

- a) the holding of a working session with appropriate stakeholders to finalise the Code; and
- b) proposal for the setting-up of a proper mechanism for implementation and monitoring of the Code.

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.

No such technical assistance is being provided.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

Public Procurement Framework

In December 2006, the National Assembly of Mauritius adopted the Public Procurement Bill which was proclaimed and made effective in January 2008. The Public Procurement Act (Act) 2006, which is based on the UNCITRAL Model Law on Public Procurement Act, applies to any procurement of goods, works and services undertaken by a public body. The Act is supplemented by Regulations issued by the Minister, and directives, instructions, standard bidding documents (for mandatory use) and guidelines issued by the Procurement Policy Office (Policy Office).

There are 6 sets of regulations:

1. Public Procurement Regulations 2008
2. Public Procurement (Suspension and Debarment) Regulations 2008
3. Public Procurement (Disqualifications Regulations) 2009

4. Public Procurement (Electronic Bidding) Regulations 2015
5. Public Procurement (Framework Agreement) Regulations 2013
6. Public Procurement (Diplomatic Missions of Mauritius) Regulations 2014

Please refer to website of the Procurement Policy Office for these regulations: <http://ppo.govmu.org>

There are 204 Public Bodies comprising Ministries, Departments, Parastatals, and Local Authorities which fall under the Act.

Institutional Setup

- Parts II and III of the Act define the institutional framework to manage the procurement system. Thus, it establishes the Procurement Policy Office (PPO) as the independent procurement policy making and monitoring body and the Central Procurement Board (CPB) as a body corporate responsible for the vetting of bidding documents and conduct of the bidding process of all contracts exceeding the amount prescribed in the schedule.
- Additionally, Part VI establishes another independent institution, the Independent Review Panel, to review applications from unsatisfied bidders, which according to the provisions at Part VI of the Act, supplemented by the Public Procurement Regulations, have to first challenge the procurement proceedings in the concerned public body. The regulations provide for the format of the challenge and application, the deadlines for submission as well as those for responding to the applicants. Moreover, with a view to discourage frivolous applications applicants to the IRP have to submit a deposit along with their application, amount which is forfeited if it is determined that the application was on frivolous ground.
- The above referred provisions establish the institutional framework of public procurement with clear functions and accountability as well as the mechanism for dealing with grievances on the part of unsatisfied bidders. Moreover, with a view to guarantee the independence of the above institutions, appointment of the chairpersons and members are made by the President of the Republic on the advice of the Prime Minister tendered after having consulted the Leader of the Opposition.

Public Distribution of Information

Conditions for participation, including selection and award criteria and tendering rules, and their publication

The Act and Regulations provide sufficient provisions to ensure fair and transparent diffusion of information relating to conditions for participation, including selection and award criteria, tendering rules and their application. The following sections of the Act and articles in the regulations refer:

Section 11(2)

Section 24(5)

Section 28(2)(6)

Section 37

Regulation 20

Other measures to enhance integrity of the procurement process

a) Public Procurement Portal

This is dedicated website for public procurement in Mauritius on which all public bodies post information such as invitation for bids, Annual Procurement Plan, Summary of Bid Evaluation Report and Notice of Procurement Awards. Thus, suppliers, contractors and consultants are able to view on the procurement portal features such as current and future bidding opportunities and even download bidding documents where permitted, and also view evaluation reports and awards made in the recent days.

<http://publicprocurement.govmu.org/Pages/default.aspx>

b) E-Procurement

In line with article 9 of the UNCAC, E-procurement using integrated security features is being implemented to establish more transparency, competition and objective decision-making.

The Public Procurement (Electronic Bidding) Regulations are applicable for E-Procurement. The E-Procurement system is being commissioned in public bodies by the Policy Office.

As a corruption prevention measure E-procurement is being emphasised to reduce direct contact between public official and potential suppliers, interactions being one of the main sources of corruption behaviour in public procurement. It includes the electronic publication of tender opportunities, online availability of bidding documents and the electronic submission of bids. It also allows for easy data generation and data management in order the detect overpricing or bid rigging.

c) Threshold value that must be reached for the procurement system to apply

The Act applies to procurements of any value. Efficiency thresholds are prescribed by regulations for different procurement methods and specific procedures to be followed.

d) Ensuring information relating to procurement procedures and contracts are publicly distributed and available

All documents relating to procurement procedures, which include the Public Procurement Act 2006, the Public Procurement Regulations 2008, Directives, Instructions, Guidelines, Standard Bidding Documents, Circulars, Templates, Decisions of the Independent Review Panel etc., are available to the public through the website of the Policy Office.

e) Procedures and content required regarding the public distribution of invitations to tender

The Public Procurement Act 2006 (PPA 2006) and the Regulations 2008 (PPR 2008) provide for the basic principles and procedures to be applied in, and regulate, the public procurement of goods, public works, consultant services, and other services and for the institutions responsible for those matters. They deal in detail with the means by which invitations are published, all relevant and pertinent information on the award of contracts, manner of application (including the use of electronic procurement platforms), criteria to be used for selection and award and the procedures, rules and regulations for review of the procurement process, including the system of appeal and any available legal recourse or remedies.

Section 16 (1) of the PPA 2006 provides for the publication of the invitation of bids in a national newspaper of wide circulation. Additionally, the Policy Office hosts a public procurement portal where public bodies have the obligation to publish all procurement notices, including annual procurement plans, invitation to bid, award of contract and executive summary of bid evaluation report.

Section 32 of the PPA 2006 provides for the minimum time to be prescribed as deadline for submission of bids for open advertised bidding.

Please refer to website below for Guidelines on the conduct of tender procedures

Website: <http://ppo.govmu.org>

- f) Selection of personnel responsible for procurement, including declarations of interest and potential conflicts in particular cases (manner and required disclosures), screening procedures and training requirements (at induction and ongoing) and curricula.

The Ministry of Finance and Economic Development has a Directorate of Procurement and Supply Cadre which identifies human resource requirements of Ministries and Departments for the performance of procurement and supply functions, provides staff required and monitors their performance. Recruitment is done by the Public Service Commission. Local authorities recruit their staff through the Local Government Service Commission and parastatal bodies do so through their own administration.

The Policy Office develops and implements capacity building strategies.

In complementing section 51 of the PPA 2006 relating to the conduct of public officials involved in planning and public procurement proceedings or contract administration, Regulation 72 of the PPR 2008 sets out the different procurement actions that are subject to conflict of interest restrictions. The different procurement actions would include procurement planning (preparation, review or approval of specifications), assessment of requirements to be fulfilled by a procurement action, preparation of procurement documents, evaluation and comparison of bids, conduct of technical discussions, selection or approval of selection of bidder and administration of the procurement contract, including payments and settlement or claims and disputes.

Furthermore, Section 55 of the PPA 2006 provides for the disclosure of interest and prohibition to participate in the decision-making process.

Though, section 56 of the PPA 2006 also provides for the declaration of assets by members and officers of the Policy Office, the Central Procurement Board and the Review Panel, the relevant regulations have not yet been prescribed.

Statistics regarding the number of public procurement processes conducted, the subject matter of the procurement processes, the number and diversity of tenders and the resulting outcomes and award decisions

Please refer to the Annual reports of the Central Procurement Board and the Procurement Policy Office available on their respective websites for detailed information.

<http://ppo.govmu.org>

Standard bidding documents used to submit a tender

Please refer to the Procurement Portal of Mauritius for all standard bidding documents.

<http://ppo.govmu.org>

Cases involving a successful appeal or challenge to a procurement process

Please refer to the Annual Reports of the IRP on its website for all cases of appeal.

<http://ppo.govmu.org>

Copy of all decisions issued by the IRP is available from the website of the Policy Office
<http://ppo.govmu.org>

IRP Decisions 2016

17/16 http://ppo.govmu.org/English/IndependentReviewPanel/Documents/IRP17-16.pdf Mechanization Co. Ltd	Mauritius Cane Industry Authority	
16/16 http://ppo.govmu.org/English/IndependentReviewPanel/Documents/IRP16-16.pdf Defence Hitech Security Services Ltd	Ministry of Ocean Economy, Marine Resources, Fisheries, Shipping & Outer Islands	
15/16 http://ppo.govmu.org/English/IndependentReviewPanel/Documents/IRP15-16.pdf Central Business Equipment Ltd	Ministry of Education and Human Resources, Tertiary Education and Scientific Research	
14/16 http://ppo.govmu.org/English/IndependentReviewPanel/Documents/IRP14-16.pdf ATICS LTD	Ministry of Environment, Sustainable Development, and Disaster and Beach Management (Solid Waste Management Division)	
13/16 http://ppo.govmu.org/English/IndependentReviewPanel/Documents/IRP13-16.pdf Aerowatt Mauritius Ltd	Central Electricity Board	
12/16 http://ppo.govmu.org/English/IndependentReviewPanel/Documents/IRP12-16.pdf AVIC-INTL/CCCE/ETERN Consortium	Central Electricity Board	
11/16 http://ppo.govmu.org/English/IndependentReviewPanel/Documents/IRP11-16.pdf TSK Electronica y Electricidad S.A	Central Electricity Board	
10/16 http://ppo.govmu.org/English/IndependentReviewPanel/Documents/IRP10-16.pdf	Police Department	

http://ppo.govmu.org/English/IndependentReviewPanel/Documents/irp10-16.pdf Fairy Textiles Ltd		
09/16* Ruling	Schneider Electric France	Central Electricity Board
08/16* Ruling	AVIC-INTL/CCCE/ETERN Consortium	Central Electricity Board
07/16 http://ppo.govmu.org/English/IndependentReviewPanel/Documents/irp07-16.pdf Medical Gases JV (Gaz Carbonique Ltee & Les Gaz Industriels Ltd)	Ministry of Health & Quality of Life	
?06/16 http://ppo.govmu.org/English/IndependentReviewPanel/Documents/irp06-16.pdf Schneider Electric France	Central Electricity Board	
05/16 http://ppo.govmu.org/English/IndependentReviewPanel/Documents/irp05-16.pdf Fresh Noor Vegetables Limited	Mauritius Prisons Service	
?04/16 http://ppo.govmu.org/English/IndependentReviewPanel/Documents/irp04-16.pdf Super Builders Company Limited	National Development Unit (Prime Minister's Office)	
03/16 http://ppo.govmu.org/English/IndependentReviewPanel/Documents/irp03-16.pdf Keep Clean Ltd	Ministry of Education & Human Resources, Tertiary Education & Scientific Research	
02/16 http://ppo.govmu.org/English/IndependentReviewPanel/Documents/irp02-16.pdf Canakiah Associates Co. Ltd	Ministry of Education & Human Resources, Tertiary Education & Scientific Research	
01/16 *(Ruling)	Schneider Electric France	Central Electricity Board

Measures to enhance public procurement

1. A central database could be maintained and made accessible to public bodies to enable informed decisions. The database can contain a list of poor performing suppliers/contractors that are at times awarded contracts, as public bodies are not fully aware about their past performances.

Performance of Contractors/Suppliers can be rated at the end of the implementation of Contract and a list placed on the database.

2. Preference Clause could be improved and properly regulated to avoid abuse or ineffectiveness.
3. Public bodies often repeat the same mistakes. Procurement plans should have an owner and at the end of the cycle. Performance of both the implementation team and the contractors should be evaluated and lessons drawn properly recorded to ensure continuous improvements.

(b) Observations on the implementation of the article

Public procurement is governed primarily by the 2006 Public Procurement Act (PPA). The institutional framework includes the Procurement Policy Office (PPO), the Central Procurement Board (CPB) and the Independent Review Panel (IRP).

Procurement is currently decentralised at the level of individual ministries/departments, while higher-value procurement (above MUR 15-100 million, depending on the category in which the public body is listed in the Schedule of the PPA) is carried out by the CPB.

E-Procurement was introduced in Mauritius in 2017. In addition, an online procurement portal provides links and information pertaining to procurement, tenders and awards.

Unsuccessful bidders can challenge procurement decisions before the IRP. While the PPA prescribes that IRP's recommendations are binding, no mechanism is in place to enforce IRP's decisions in case of non-compliance.

While Mauritius is deemed largely in compliance with the provision under review, it is nevertheless recommended that it take measures to strengthen the enforceability of the IRP recommendations on procurement.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

a) Procedures for the adoption of the national budget

According to the Constitution, the only authority for the expenditure of public funds is that which is given by the National Assembly by legislation. The basis of this system is the approval of the annual Estimates by the National Assembly, and this approval is given statutory force by the passing, each year, of an Appropriation Act in which the amount of money available for each Vote is set out. Once this Act has been passed, the amounts of money appropriated by it and any other laws must be considered as definitely limited and arranged, and the ultimate control rests with the National Assembly, through the office of the Director of Audit.

The Ministry of Finance and Economic Development issues a Budget Circular requesting all Ministries and Departments to submit their budget proposals, both expenditure and revenue, for the next three fiscal years in accordance with the Policy Guidelines for the preparation and submission of the budget proposals and Operational Guidelines.

Since January 2015 Mauritius has shifted from a Programme Based Budgeting to a more transparent and simpler Performance Based Budgeting as the former was bulky and too complicated for legislative purpose and for the public.

The budget preparation process has now been computerised with the introduction of the e-Budget System in Central Government. Ministries/Departments have been accordingly connected to the e-Budget Application. Finance Officers posted in Ministries/Departments have also been trained to operate the system. Public bodies have to arrange for inputting their expenditure proposals and revenue estimates in the E-Budget System.

Following wide consultations, the Minister of Finance and Economic Development presents his Budget, reviewing the country's economic performance in the previous year and announcing economic proposals for the coming year. Once the Minister of Finance and Economic Development has delivered the budget speech, the budget is subject to the Standing Orders and Rules of the National Assembly. This is followed immediately by the adoption of Financial Resolutions. There is a second reading followed by debates. This is followed by the Committee of Supply stage where itemized debates are held. The budget goes through a third reading and eventually a vote is taken on the Appropriation Bill.

Steps in the preparation of the national budget:

- The Ministry of Finance and Economic Development issues a Budget Circular requesting all Ministries and Departments to submit their budget proposals, both expenditure and revenue, for the next fiscal year in accordance with the Policy Guidelines for the preparation and submission of the budget proposals and Operational Guidelines.
- With the e-Budget System Ministries/Departments submit their e-Budget Application. Public bodies have to arrange for inputting their expenditure proposals and revenue estimates in the E-Budget System.
- Wide consultations are conducted by the Minister of Finance and Economic Development.
- The “People Budget Transparency Portal” (PBTP) setup since 2016 has made it possible for the Ministry to consult the public (*listen to and take account of people’s interests and concerns when establishing priorities, developing policies, and planning programs and services*) and encourage citizens’ constructive participation and dialogue in the budget process through online information, idea sharing, proposals, views, notes and comments
- Minister of Finance and Economic Development presents his Budget to the National Assembly
- The budget is subject to the Standing Orders and Rules of the National Assembly.
- Adoption of Financial Resolutions.

- Second reading followed by debates.
- Committee of Supply stage where itemized debates are held.
- Third reading and eventually a vote is taken on the Appropriation Bill.

Broadcast of budget proceedings

The budget speech is broadcasted live on the national radio and television. This is widely commented in the press, by trade unions federations, business and professional associations in various languages for better comprehension of the population. All debates held in the National Assembly are compiled (Hansard) and made public on the website of the Assembly.

<http://mauritiusassembly.govmu.org>

The budget speech is available on the website of the Ministry of Finance and Economic Development, on the internet, in the press, on the website of consultancy firms along with comments and analysis.

Public input and debate on the proposed national budget before its adoption

There is wide consultation with trade union federations, employer representatives, the civil society, etc during the preparation of the budget. Following the budget speech there is extensive debates on the proposed budget.

The Ministry of Finance and Economic Development invites all stakeholders, including Business and Trade Associations, Professional Bodies, Trade Unions, NGOs, Civil Society Organisations and the public at large to submit their suggestions and proposals in the context of the preparation of the forthcoming National Budget.

The Ministry of Finance and Economic Development has, on 02 April 2016, launched a “People Budget Transparency Portal” (PBTP), mauritiusfinance.com, which is an innovative online platform designed with the following objectives:

- a) Provide key public budget information in a summarised and user-friendly format and a one-stop shop platform that aggregates updated fiscal, financial and monetary information;
- b) Provide and generate a wide range of sources of information in the form of studies, surveys, policy recommendations, qualitative and quantitative analysis of various economic issues;
- c) Conduct an open, transparent and engaged pre-budget consultation process, Open new channels of communication for the public input and provide opportunities to people to communicate directly with policy makers;
- d) Consult the public, listen to and take account of people’s interests and concerns when establishing priorities, developing policies, and planning programs and services;
- e) Encourage citizens’ constructive participation and dialogue in the budget process through online information, idea sharing, proposals, views, notes and comments: what would citizens like to see in the budget? and
- f) Gather innovative ideas, new economic thinking and strategies to boost development, create new jobs, enhance the welfare of our people and promote better social inclusiveness, social justice and equity.

Institutions responsible for preparing revenue and expenditure reports

- a) The Treasury under the aegis of the Ministry of Finance and Economic Development (MOFED);

<http://treasury.mof.govmu.org/English/Pages/default.aspx>

- b) Statutory Bodies - Statutory Bodies (Accounts and Audit) Act 2012.

- c) The Ministry of Finance and Economic Development

<http://mof.govmu.org/English/Pages/default.aspx>

Institutions to which the reports are distributed and how the reports are made available to the public

The Accountant-General is required under Section 19 of the Finance and Audit Act 1973 to submit to the Director of Audit statements showing fully the financial position of the Republic of Mauritius on the last day of each fiscal year. These statements, together with the certificate of the Director of Audit thereon, form an integral part of the accounts of the Government of the Republic of Mauritius and are included in the Annual Report of the Accountant General published and tabled in the National Assembly every year. The Annual Report is available on the website of The Treasury.

<http://treasury.mof.govmu.org/English/Pages/default.aspx> Accounts are prepared on cash basis in line with the Generally Accepted Accounting Practices (GAAP) except for the cost of borrowings (interest on Treasury Bills, notes and advances)

b) Systems of accounting and auditing standards and related oversight

- PEFA - Public Expenditure and Financial Management Accountability
- General Data Dissemination System (GDDS) - In compliance with IMF's General Data Dissemination System

Public Expenditure and Financial Accountability (PEFA)

Public Expenditure and Financial Accountability (PEFA) supports integrated and harmonised approaches to assessment and reform in the field of public expenditure, procurement and financial accountability. PEFA assessment identifies strengths and weaknesses in the public finance management system. The framework for PEFA is based on six pillars of performance of public finance management cycle -

- (a) credibility of the budget - the extent of budget realisation in terms of being implemented as planned;
- (b) transparency and comprehensiveness - the budget and the fiscal risk oversight are comprehensive, and fiscal and budget information is accessible to the public;
- (c) policy-based budgeting - the budget is prepared with due regard to Government policy;
- (d) predictability and control in budget execution - the budget is implemented in an orderly and predictable manner and there are arrangements for the exercise of control and stewardship in the use of public funds;
- (e) accounting, recording and reporting - adequate records and information are produced, maintained and disseminated to meet decision-making control, management and reporting purposes;

- (f) external scrutiny and audit - arrangements for scrutiny of public finances and follow up by executive are operating.

Officers responsible for activities in respect of the pillars listed for PEFA assessment are required to ensure that weaknesses are addressed with a view to improving performance in public financial management.

Financial Management Review Committee (FMRC)

The Financial Management Review Committee (FMRC) meets twice a week so as to review, update and modernise financial rules, instructions, systems, procedures and reports to the Financial Secretary in respect thereof. These updates, after being vetted by the State Law Office, are issued in the form of Financial Instructions under Section 22 of the Finance and Audit Act 1973 and are posted on MOFED website.

The 10-year Economic and Social Transformation Plan (ESTP)

Mauritius has put in place a budget management process that links allocation of public resources to clear outputs and agreed outcomes and provides a framework for reporting on results.

Significant progress has again been made since 2012 to move the reform process still further, more specifically in building a framework for bridging the planning function and the budgeting one and in enhancing a “Whole-of-Government” approach:

- (i) A framework has been developed to initiate the formulation of a 10-year Economic and Social Transformation Plan (ESTP) which will set out the strategies and policies to unlock our growth potential. MOFED has worked with each Ministry and Department to jointly identify 10-year concrete outcome. This has led to the production of a 10-year National Vision Framework. The aim is to gradually link the ESTP to ensure that resources go first to the long-term priorities that are essential to ensure the transition of Mauritius to a high-income country through sustainable and equitable development.
- (ii) On that basis, a series of bilateral “Policy Dialogue” meetings have been held between policy-makers and high officials from MOFED with those of line ministries to discuss on strategic outcomes and policy priorities.
- (iii) As a result, long-term outcome indicators have been formulated and included in the PBB, strengthening the link between Planning and Budgeting. By associating the medium-term and long-term changes to the programmes of Ministries and Departments, a step forward has been made in linking allocation of budgetary resources to longer-term objectives.
- (iv) A review of the indicators has been conducted to ensure that the service standards meet the SMART criteria (Specific, Measurable, Achievable, Relevant and Time-Bound) in line with the recommendations of the Director of Audit. Consequently, the PBB 2013-2015 has reduced the number of activity indicators to focus on indicators that will lead to an improvement in service delivery.
- (v) A framework has been provided to document the specifications of all PBB indicators and help strengthen performance monitoring and reporting. To further improve the quality of performance information in the Budget, the PBB indicator templates will provide key information on how each indicator is precisely calculated and where this information is stored.
- (vi) The preparation phase, including definition of all technical requirements, of the e-Budgeting

system has been completed. The objective is to create a fully integrated macro-micro fiscal framework, enable systemic and deeper analysis, streamline allocation of resources and ease budget preparation.

c) Timely reporting on revenue and expenditure

The following legislations have made provisions for the preparation of financial statements and annual reports to be submitted to the Director of Audit and to be laid before the National Assembly for transparency and accountability purposes:

Finance and Audit Act 1973 (FAA 1973)

Section 19 (1) of the FAA 1973 makes provisions for the annual Statements to be signed and submitted by the Accountant-General within 6 months of the close of every fiscal year, to the Director of Audit showing fully the financial position of Mauritius on the last day of such fiscal year.

The Commissioner of the Island of Rodrigues shall also, within 3 months of the close of every fiscal year, sign and submit to the Director of Audit statements showing fully the financial position of the Island of Rodrigues on the last day of such fiscal year as per section 19(4) of the FAA 1973.

As per Section 20 FAA 1973, the Director of Audit shall, within 8 months of the close of every fiscal year, send to the Minister copies of the statements submitted in accordance with section 19 together with a certificate of audit and a report upon his examination and audit of all accounts relating to public money, stamps, securities, stores and other property -

- a) of Government;
 - (b) of the Regional Assembly relating to the Island of Rodrigues,
- and the Minister shall as soon as possible thereafter lay those documents before the National Assembly.

i. Statutory Bodies Act (Accounts and Audit) Act 1972

As per section 4 of the SBA 1972, every statutory body shall cause to be kept proper accounting records for the purpose of recording all the transactions relating to its undertakings, funds, activities and property.

A report on the performance of every statutory body shall also, not later than 31 October in every year, be submitted to the Minister to whom responsibility for the statutory body concerned is assigned, in respect of the previous financial year and on its strategic direction in respect of the following 3 financial years, pursuant to section 4A of the SBA 1972.

Section 4B of the SBA 1972 further provides that every statutory body shall, not later than 28 February in every year, submit to the Minister, in respect of the following financial year, estimates of income and expenditure, both recurrent and capital, prepared on a 3-financial year rolling basis, the estimates for the first year of every such period of 3 financial years requiring approval by the Minister.

With regards to Annual report, section 6A of the SBA 1972, provides for the preparation of an annual report by each statutory body, which shall consist of the financial statements in respect of the financial year to which the report relates, a report on the activities of the statutory body

during the financial year and a corporate governance report in accordance with the National Code of Corporate Governance. The Board of every statutory body shall further be responsible for the proper and timely performance established under this section.

With regards to the submission of annual report, section 7 of the SBA 1972 provides that:

- (1) The chief executive officer of every statutory body shall, not later than 3 months after the end of every financial year, submit to the Board for approval the annual report referred to in section 6A in respect of that year.
- (2) After approval by the Board, the chief executive officer shall, not later than 30 April after the end of every financial year, submit the annual report to the auditor.
- (3) The auditor shall, within 6 months of the date of receipt of the annual report pursuant to subsection (2), submit the annual report and his audit report to the Board.

Finally, section 9 of the SBA 1972 provides that:

- (1) On receipt of the annual report including the audited financial statements and the audit report under section 7(3), the Board shall, not later than one month from the date of receipt, furnish to the Minister such reports and financial statements.
- (1B) Every statutory body shall also prepare such other accounts as the Minister may require, and shall afford to him facilities for the verification of the information furnished, in such manner and at such times as the Minister thinks fit.
- (2) The Minister shall, at the earliest available opportunity, lay a copy of the annual report and audited accounts of every statutory body before the Assembly.

ii. Local Government Act 2011 (LGA 2011)

As per section 132 of the LGA 2011, the Chief Executive of every local authority, other than a Village Council, shall, within 3 months after the end of the financial year, submit to the Council financial statements.

As per Section 134 LGA 2011, every Chief Executive shall ensure that a copy of all financial statements which are subject to audit by the Director of Audit, duly made up and balanced, together with all rate books, account books, deeds, contracts, vouchers and receipts relating to the financial statements, shall be deposited in an appropriate office of the local authority and shall, for 7 working days before they are produced and submitted to the Director of Audit, be open at all reasonable hours to the inspection of all persons interested who may make copies of or extracts from the deposited documents on payment of such fee as may be prescribed. Every local authority shall further, every year before the audit of its financial statements by the Director of Audit, by advertisement in 2 or more daily local newspapers, give not less than 14 days' notice of the deposit of the financial statements required by this section, and the production of the newspaper containing the notice shall constitute proof of the publication.

The approved annual financial statements of every local authority shall be audited by the Director of Audit. The Chief Executive of every local authority shall, within 4 months of the end

of every financial year, submit the approved financial statements to the Director of Audit, pursuant to section 136 of the LGA 2011.

A Chief Executive shall then cause the financial statements, as finally certified, and the report of the Director of Audit, in respect of those financial statements, to be published in the Gazette within 14 days of their receipt by a local authority, as stated in section 139 of the LGA 2011.

d) A system of accounting and auditing standards and related oversight

The accounting frameworks for preparation of financial statements are specified in the Statutory Bodies Act, the relevant Act for the Special Funds, the Local Government Act for Local Authorities, Public Procurement Act and the Financial Report Act for Public Interest Entities (PIE).

i. Statutory Bodies Act 1972

Section 6A (3) Every statutory body specified in -

- (a) Part I of the Second Schedule of the Act shall prepare financial statements in compliance with the International Public Sector Accounting Standards (IPSAS) issued by IFAC;
- (b) Part II of the Second Schedule of the Act shall prepare financial statements in compliance with the financial reporting and accounting standards issued under section 72 of the Financial Reporting Act.

ii. Local Government Act 2011

Section 133. Contents and form of financial statements:

Subsection (1) The financial statements of a local authority shall present fairly the financial position, financial performance and the cash flow of the local authority.

Subsection (2) The financial statements shall -

- 2(a) be prepared in accordance with, and comply with, Accounting Standards, which should be in convergence with international accounting standards, as determined by the Minister to whom responsibility for the subject of finance is assigned;
- 2(c) comply with any requirement which applies to the local authority's financial statements under any other enactment.

iii. Financial Reporting Act 2004 (FRA 2004)

PART VI of the FRA 2004 - SETTING OF STANDARDS AND MONITORING

Section 72. Financial reporting and accounting standards

(1) The Council shall in relation to statutory bodies specified in Part II of the Second Schedule to the Statutory Bodies (Accounts and Audit) Act develop, issue and keep up-to-date financial reporting and accounting standards, and ensure consistency between the standards issued and the International Financial Reporting Standards.

(2) The Council shall specify, in the financial reporting and accounting standards, the minimum requirements for recognition, measurement, presentation and disclosure in annual financial statements, group annual financial statements or other financial reports which every public interest entity shall comply with, in the preparation of financial statements and reports.

(3) The Council shall specify in the financial reporting and accounting standards, the minimum requirements for recognition, measurement, presentation and disclosure in annual financial statements, group annual financial statements or other financial reports, with which every entity, other than a public interest entity, shall comply in the preparation of its financial statements and reports.

Section 73. Auditing standards

Subsection (2) The Council may issue rules and guidelines for the purposes of implementing - (a) the financial reporting and accounting standards referred to in section 72; and (b) the auditing standards.

(3) Every licensed auditor shall, in the exercise of his profession, comply with -

(a) such minimum requirements as shall be specified by the Council in the auditing standards;

(b) any rule and guideline issued under this Act.

Section 75. Compliance by public interest entities

Subsection (1) Where a public interest entity is required under any enactment to prepare a financial statement or report, it shall ensure that the financial statement or report is in compliance with the financial reporting requirements of this Act or any other relevant enactment, any regulations or rules made under this Act and with the IFRS.

Subsection (2) Every public interest entity shall adopt corporate governance in accordance with the National Code of Corporate Governance. Subsection

(3) Every public interest entity under subsection (2) shall submit to the Council a statement of compliance with the Code of Corporate Governance and where there is no compliance, the statement shall specify the reasons for non-compliance.

iii. Public Procurement Act 2006 (PPA 2006)

In accordance with Section 42 under Part V (The Bidding Process) of the PPA.- Auditor's Certificate:

“The auditor of every public body shall state in his annual report whether the provisions of this Part has been complied with”.

Any non-compliance with this part of the Act should be reported in the Audit Certificate in respect of all the Statutory Bodies, Local Authorities

and any other bodies as listed in the Schedule of the Act.

e) Auditing Standards adopted by the National Audit Office (NAO)

Audit Methodology

The Audit is carried out in accordance with the International Standards of Supreme Audit Institutions (ISSAIs). ISSAIs require that the auditor exercise professional judgment and maintain professional skepticism throughout the audit and, among other things, to:

- Identify and assess risks of material misstatement, whether due to fraud or error, based on an understanding of the entity and its environment, including the entity's internal control.
- Obtain sufficient appropriate audit evidence about whether material misstatements exist, through designing and implementing appropriate responses to the assessed risks.
- Form an opinion on the financial statements and any additional objectives on which reporting is mandatory based on conclusions drawn from the audit evidence obtained.

The NAO constantly review the audit approach adopted as per Guidelines from International Organisation of SAI (INTOSAI) and AFROSAI-E. The NAO also undertake capacity building in Risk Based Audit, Performance Audit and Information Technology (IT) Audit. The NAO endeavours to keep abreast with latest developments in auditing, accounting and other related issues, and encourage knowledge sharing.

f) Oversight, supervision and evaluation of the performance of government accountants and auditors

The system of financial control and accountability in Mauritius follows the Westminster model under which four institutions exercise financial control over public resources. These are the National Assembly, the Ministry of Finance, the Accounting Officer, who is the head of a Ministry/Department, the Director of Audit, and the Public Accounts Committee. The Director of Audit plays a pivotal role in the process of accountability.

- Report of the National Audit Office

Section 110 of the Constitution of Mauritius establishes the Office of the Director of Audit and provides for his powers and independence as follows: -

- a) The public accounts of Mauritius and of all courts of law and all authorities and officers of the Government shall be audited and reported on by the Director of Audit and for that purpose the Director of Audit or any person authorised by him in that behalf shall have access to all books, records and other documents relating to those accounts.
- b) In the exercise of his functions under the Constitution, the Director of Audit shall not be subject to the direction or control of any other person or authority.

The Finance and Audit Act further amplifies the constitutional powers and duties of the Director of Audit as well as the method of control and management of public funds. It also prescribes the function and responsibilities of the Minister responsible for Finance and those of Accounting Officers and the various accounts to be kept.

The mandate of the Director of Audit is primarily defined in the Constitution of Mauritius.

Additional provisions are made in various legislations, namely, the Finance and Audit Act, the Local Government Act, the Statutory Bodies (Accounts and Audit) Act and the Public Procurement Act. Agreements with several institutions/donor-funded projects also empower the Director of Audit to audit their accounts.

The following are audited by the Director of Audit:

- All Ministries and Government Departments;
- All Commissions of the Rodrigues Regional Assembly;
- All Local Authorities;
- Most Statutory Bodies;
- Special Funds;
- Other Bodies; and
- Donor-funded Projects.

Performance Audit is included in the mandate of NAO since 2008, following amendments made to the Finance and Audit Act. The Director of Audit is required to carry out Performance Audit and report on the extent to which a Ministry, Department or Division is applying its resources and carrying out its operations economically, efficiently and effectively.

The mandate of the Director of Audit does not extend to the audit of the Central and Public Sector banks, Statutory Corporations, whose enactments do not provide for audit by the Director of Audit, unless their Boards decide otherwise and Private Companies where Government has substantial interests in the form of shares, equity participation and other forms of interests.

The Director of Audit also does not audit all institutions where Government provides security for loans contracted, bank overdrafts taken or credit facilities obtained. There are some 40 such Bodies.

Please refer to nao@govmu.org for Audit Reports published.

· Public Accounts Committee

The PAC is a sessional Select Committee set up to examine audited accounts as reported by the Director of Audit and such other accounts laid before the Assembly as the latter may refer to it together with the Director of Audit's report thereon. Nine members constitute the Committee, with the Chairman being a member of the Opposition. The PAC is also empowered to send for persons and records, to take evidence and to report to Parliament from time to time. It has to satisfy itself that disbursements of public funds are as required, as legally provided, and in compliance with regulations. It has also to ensure that cases of negative expenditure and financial irregularities are subject to scrutiny.

The Public Accounts Committee derives its powers under Standing Order 69(2) of the Standing Orders and Rules of the National Assembly (1995). The PAC is an additional means to bring public expenditure under parliamentary control. In this process the report of the Director of Audit remains an invaluable tool for the PAC's work.

· The Internal Control cadre

The Internal Control cadre operates under the aegis of the Ministry of Finance and Economic Development and is responsible for conducting the internal audit of all

Ministries/Departments/Organisations in order to ensure that good governance principles are used to promote operational effectiveness and efficiency. The core objective of officers of the cadre is to develop and sustain the internal audit profession in Ministries/Departments/Organisations through appropriate functioning, coordination, support and communication. Moreover, the scope of the internal audit has been enlarged to also cover the Performance and Procurement auditing.

According to the Constitution, the only authority for the expenditure of public funds is that which is given by the National Assembly by legislation. The basis of this system is the approval of the annual Estimates of the National Assembly, and this approval is given statutory force by the passing, each year, of an Appropriation Act in which the amount of money available for each programme is set out. Once this Act has been passed, the amounts of money appropriated by it and any other laws must be considered as definitely limited and arranged, and the ultimate control rests with the National Assembly, through the office of the Director of Audit.

· Audit Committees

The Audit Committee has become one of the main pillars of the corporate governance system. In guiding companies through today's complex business environment, Boards need strong leadership from their Audit Committees. The Financial Reporting Act makes provision for establishing, reviewing and monitoring the effectiveness of Audit Committees as follows:

- Financial Reporting Act Section 75 (2): Every public interest entity shall adopt corporate governance in accordance with the National Code of Corporate Governance.
- Section 75 (3): Every public interest entity under subsection (2) above shall submit to the Council a statement of compliance with the Code of Corporate Governance and where there is no compliance, the statement shall specify the reasons for non-compliance.

Please refer to Circular SEC/M/3/18/2 dated 10 January 2013 requesting Supervising Officers of Ministries/Departments for the setting up of Audit Committees.

- Code of Corporate Governance Section: All companies should have, as a minimum, an Audit Committee and a corporate governance committee. The Code was revised in 2015 and a new version of the Code has been released in April 2016. <http://www.nccg.mu>

· Audit Committee Forum

The purpose of the Forum is to serve Audit Committee members and help them adapt to their changing role. Historically, Audit Committees have largely been left on their own to keep pace with rapidly changing information related to governance, risk management, audit issues, accounting, financial reporting, current issues, future changes and international developments. The Forum provides guidance for Audit Committees based on the latest legislative and regulatory requirements. It also highlights best practice guidance to enable Audit Committee members to carry out their responsibilities effectively. To this end, it provides a valuable source of information to Audit Committee members and acts as a resource to which they can turn for information or to share knowledge. The Forum's primary objective is thus to communicate with Audit Committee members and enhance their awareness and ability to implement effective Audit Committee processes.

· Financial Reporting Council (Section 5 of the FRA 2004)

The objects of the Council shall be to-

- (a) promote the provision of high quality reporting of financial and non-financial information by public interest entities;
- (b) promote the highest standards among licensed auditors;
- (c) enhance the credibility of financial reporting; and
- (d) improve the quality of accountancy and audit services.

The functions of the Council among others shall be to -

- (a) ensure, where applicable, the adoption of IFRS and the International Auditing and Assurance Standards;
- (b) monitor the truth and fairness of financial reporting;
- (c) monitor the practice of auditors with a view to maintaining high standards of professional conduct;
- (d) monitor and enforce compliance with financial reporting, accounting and auditing standards;
- (f) provide advisory; consultancy and informational services on any matter related to its functions;
- (g) monitor compliance with the reporting requirements specified in the Code of Corporate Governance and in any other guidelines issued by the National Committee on Corporate Governance;
- (h) ensure co-ordination and cooperation with international institutions in the development and enforcement of financial reporting, accounting and auditing standards;

Financial Reporting Act 2004

Section 76. Monitoring of financial statements, annual report and report on corporate governance - Amended by [Act No. 27 of 2012]

- (1) Where a public interest entity is required under any enactment to file its financial statements, annual report and its report on corporate governance with a government department or authority, the Council, or any officer authorised by it in writing, may review the financial statements, annual report and its report on corporate governance of a public interest entity filed with the government department or authority to determine whether the financial statements, annual report and its report on corporate governance are in compliance with this Act.
- (1A) Every public interest entity shall, not later than 6 months after the closing of its accounting year, submit to the Chief Executive Officer its financial statements, annual report and its report on corporate governance in respect of that year.

Section 77. Practice review of auditors

Subsection (1) The Council, or any officer authorised by it in writing, may review the practice of an auditor and may, for that purpose-

- (a) inspect any relevant book, document and record in the possession, or under the control of the auditor, his partner or employee and make copies of or take any abstract of or extract from any such book, document and record; and
- (b) seek information or clarification from any partner or employee of the auditor.

g) Effective and efficient systems of risk management and internal control

In accordance with the New Code of Corporate Governance and effective and efficient risk management and internal control systems encompass the following:

The Board should be responsible for risk governance and should ensure that the organisation develops and executes a comprehensive and robust system of risk management. The Board should ensure the maintenance of a sound internal control system.

It is the responsibility of the Board to disclose information on the risk management processes, which, at a minimum, include the following:

- The structures and processes in place for the identification and management of risk. The three lines of defence model can be used as the primary means to demonstrate and structure roles, responsibilities and accountabilities.
- The three lines of defence in the risk management model are: management control; the various risk control and compliance oversight functions established by management; and independent assurance provided by Internal Audit.
- The methods by which internal control and risk management are integrated.
- The methods by which the directors derive assurance that the risk management processes are in place and effective.
- A brief description of each of the key risks identified by the organisation and the way in which each of these is managed.
- Internal controls are designed to provide the following:
 - o Reasonable assurance on achievement of organisational objectives with respect to the effectiveness and efficiency of operations.
 - o Safeguarding of the assets and data of the organisation.
 - o Reliability of financial and other reporting.
 - o Prevention of fraud and other irregularities.
 - o Acceptance and management of risk.
 - o Conformity with the codes of practice and ethics adopted by the organisation.
 - o Compliance with applicable laws, rules, regulations and regulatory requirements.
 - o The sustainability of the business under normal as well as adverse operating conditions.

Management should be responsible for the design, implementation and monitoring of the internal control system. Senior management's role should be to oversee the establishment, administration

and assessment of the system and processes.

The Board should monitor the internal control systems and, at least annually, carry out a review of their effectiveness and report on that review in the annual report. The monitoring and review should cover all material controls, including financial, operational and compliance. The Board should satisfy itself that the system of internal control is functioning effectively. The Board should be apprised of the assessment of internal control deficiencies, the management actions to mitigate such deficiencies and how management assesses the effectiveness of the organisation's system of internal controls.

In line with the requirements of the Section 6 of the Statutory Bodies Act and the Financial Reporting Act, the statutory bodies and PIE are required to prepare annual reports including a report on Corporate Governance which should be laid before the National Assembly.

In respect of the Ministries/Departments the procedures, controls and policies are mostly regulated. Section 22 of the Finance and Audit Act 1973- provides for the compliance of Financial Instructions issued by the Minister. The financial management manual (FMM) is being updated by the Ministry of Finance and a FMM Kit is being issued whereby all the relevant chapters of the former FMM are being revised and updated gradually.

At the 26th Meeting of the Cabinet held on 13th July 2012, it was decided to set up Audit Committees (AC) in Ministries/Departments and to seek the support of the Office of Public Sector Governance (OPSG) to that effect. Accordingly, the Secretary to Cabinet and Head of the Civil Service conveyed his approval to the OPSG to establish, review and monitor the effectiveness of Audit Committees in Ministries and Departments as per its mandate.

Please refer to the following websites of the National Committee on Corporate Governance - www.nccg.mu

Please refer to Circular SEC/M/3/18/2 dated 10 January 2013 requesting Supervising Officers of Ministries/Departments for the setting up of Audit Committees.

- Annual Report of the MIOD: <http://www.miod.mu/media/26510/MIoD-AR-2015-Final-with-GRI.pdf>
- Please refer to the following websites of the National Committee on Corporate Governance - <http://www.nccg.mu>
- Please refer to Circular SEC/M/3/18/2 dated 10 January 2013 requesting Supervising Officers of Ministries/Departments for the setting up of Audit Committees.

(b) Observations on the implementation of the article

The procedures and competences for the elaboration and adoption of the national budget are set out in the Finance and Audit Act. The Ministry of Finance and Economic Development (MoFED) plays a key role in this regard, including through requesting and gathering budget proposals electronically from ministries and departments, conducting consultations and presenting the budget to the National Assembly for approval.

The legal framework around the accountability in the management of public finances includes the Finance and Audit Act, the Statutory Bodies Act, the Act for Special Funds, the Local Government Act and the Financial Reporting Act. Institutions with relevant mandates include: MoFED, NAO, Accountant General, Director of Audit, Public Accounts Committee and Financial Reporting Council. No sanctions are in place for heads of ministries/departments for late submissions of their

annual reports and financial statements. The Criminal Code includes several offences related to falsifying records and books (s. 106-112).

Mauritius is largely compliant with the provision under review. In view of further enhancing the implementation of the Convention, however, it is recommended that it enhance efforts to promote accountability in the management of public finances, such as providing sanctions for late submissions of financial statements by ministries/departments.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

There are provisions in the law namely Statutory Bodies (Account and Audit) Act 1972, the Finance and Audit Act 1973, the Constitution, the Internal controls implemented by Organisations and External Audit in terms of internal inspection checks are part of the requirement of law, the concept of corporate Governance, the Public Accounts Committee and issuing of Financial regulations and instructions (Financial Management Manual Kit).

According to Section 4 of the Statutory Bodies (Account and Audit) Act 1972 “every Statutory body shall cause to be kept proper accounting records for the purpose of recording all the transactions related to its undertakings, funds, activities and property”.

Section 110 of the Constitution gives the authority for the Director of Audit or any other officer authorised by him to have access to all books, records, reports and other documents relating to accounts to be audited by him. It provides that the public accounts of Mauritius and of all courts of law and all authorities and officers of the Government shall be audited and reported by the Director of Audit. Also, in the case of any corporate body directly established by law, the accounts of that body corporate shall be audited and reported on by the Director of Audit provided it is so prescribed.

Section 17 of the Finance and Audit Act 1973 provides that in the exercise of his duties under this Act, empower the Director of Audit to call upon any explanations and information.

Furthermore, Section 18 provides for losses and irregularities, where it appears to the Director of Audit that a fraud, serious loss or serious irregularity has occurred in the receipt, custody or public money etc., he shall immediately bring the matter to notice of the Financial Secretary who shall forthwith report such matter to the Minister.

The PAC is Select Committee appointed under the Standing orders of the National Assembly. Its function is to examine the accounts of the Government of Mauritius for each financial year together with the Audit Report of the National Audit Office and such other accounts laid before the National Assembly. It safeguards whether public money is spent for the purposes authorised by the latter.

The National Archives Act 1999 established the National Archives Department which is the central repository of all public and other archives, whether donated to it or entrusted to its custody.

The National Archives also ensures the proper disposal of records to achieve efficient, transparent and accountable governance. The procedures for disposal are as follows:

- The Public Records Appraisal Committee which has been set up under PART III of the National Archives Act No. 22 of 1999, regularly examines and appraises lists of non-current records submitted before it by various public bodies, and makes recommendations as to the disposal of those records.
- Whenever a Government institution or statutory body wants to dispose of its non-current records, the responsible officer should inform the Director of the National Archives by way of an official letter.
- The latter will afterwards request the former to prepare and submit a list (s) of records to be disposed of as per the Second Schedule of the Government Notice No. 28 of 2002.
- A meeting will be convened with all the members of the Committee to examine the list(s) of records, in the presence of a representative of the public or statutory body. The latter will have to bring a specimen of each item of records mentioned in the list.
- The Public Records Appraisal Committee, after consultation and deliberation among its members, will decide on the mode of disposal, i.e., retention for a limited period, transfer to the National Archives or outright destruction.
- Where the Committee decides that a public record is to be destroyed, it has to give public notice of its decision in the Government Gazette and in two daily newspapers. Any person may object to the destruction of that public record within 30 days of the publication of the notice.
- Where no objection is received after the said period of 30 days, the responsible officer of the public body shall cause the record to be burnt up in the presence of any officer deputed by him.
- The officer present at the destruction of the public record shall certify to the Director of the National Archives that the public record has been duly destroyed, in the form specified in the Third Schedule of Government Notice No.28 of 2002.

The National Archives is a Government Department that serves as the nation's repository of public records. It sees to it that an efficient and economical management of the records of the Government of Mauritius throughout their lifecycle is carried out. It also caters for the preservation of those public records of archival value for current and future use by the Government, citizens of Mauritius and international users.

The consequences and penalties or offences for falsifying records and books are dealt with under the Criminal Code. The relevant sections are as follows:

S106 Forgery by Public Officer

Any functionary, or public officer, acting in the discharge of his duty, who commits a forgery

- (a) by a false signature;
- (b) by the alteration of any act, date, writing, or signature;
- (c) by falsely stating the presence of a person; or
- (d) by any writing made or interpolated in any register or other public act, after it has been completed or closed,

shall be punished by penal servitude.

S107 Fraudulent alteration of public document

Any functionary, or public officer who, in drawing up a document or writing in the discharge of his duty, fraudulently alters its substance or particulars, whether by inserting any condition other than that directed or dictated by the parties, or by stating any false fact as true, or any fact as acknowledged which has not been so acknowledged, shall be punished by penal servitude.

S108 Forgery by private individual of public or commercial writing

Any other person who commits a forgery in an authenticated and public writing, or in a commercial or bank writing –

- (a) by counterfeiting or altering any writing, date or signature, or by the use of a fictitious name;
 - (b) by fabricating any agreement, condition, obligation or discharge, or inserting it in any such act after it has been completed; or
 - (c) by adding to any clause, statement or fact which such act was intended to contain and certify, or by altering such clause, fact or statement,
- shall be punished by penal servitude.

S109 Making use of forged public writing

In every case specified in sections 106 to 108, any person who makes use of any forged document or writing knowing it to be forged, shall be punished by penal servitude for a term not exceeding 20 years.

S111 Forgery of private writing

Any person who by one of the means specified in section 108, forges a private writing, shall be punished by penal servitude for a term not exceeding 20 years.

S112 Making use of forged private writing

The like punishment shall be inflicted upon any person who makes use of the forged writing, knowing it to be forged.

Please refer to the following:

- Report of the Public Accounts Committee:

<http://mauritiusassembly.govmu.org/English/Documents/PAC%20Report%202015.pdf>

- Report of the National Audit Office <http://nao.govmu.org>

(b) Observations on the implementation of the article

Under the National Archives Act, all public bodies are required to keep their records for seven years and the National Archives serves as the repository of public records.

Mauritius is deemed in compliance with the provision under review.

(c) Challenges, where applicable

The legislative requirements should be reinforced to make public bodies more compliant in terms of accountability and transparency.

(d) Technical assistance needs

Legislative assistance, Institution-building and Capacity-Building

Monitoring the implementation of post award of public contracts

The rationale behind the development and implementation of a prevention mechanism to better monitor the post award of public contracts is to be proactive and to prevent the occurrence of corruption in contract administration by enhancing supervision, oversight, insight, foresight and detection. Monitoring in itself is a strong deterrent to bring corruption under control. It starts with the allocation of a contract and ends with the taking over and commissioning of the project.

Enhanced prevention of malpractices and corruption in the monitoring of the post award of public contracts are expected to ensure value for money and keep at bay corruption and malpractices that inflate costs, affect quality, cause disputes, cost and time overruns, deviations from contract conditions and even jeopardize the safety and health of the public.

In this regard technical assistance is being sought for the following:

- a) Legislative assistance for the drafting of appropriate supplementary legal provisions to allow the unit to fulfil its duties properly;
- b) Institution-building for the setting up of a specific unit under the Systems Enhancement Branch of the Corruption Prevention and Education Division of the Independent Commission Against Corruption for the monitoring of public contracts;
- c) Building capacity and expertise of the officers assigned to the unit to monitor the post award of public contracts. The increasing complexities and volume of transactions and the constant change in financial reporting and auditing requirements is a major challenge to the National Audit Office. Adequate training should be provided on a frequent basis.

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.

No such assistance is being provided.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

Measures/Steps Already Taken

a) Government Online

The Government Online Centre (GOC) ensures the online delivery of Government services to citizens, non-citizens, businesses and Government round-the-clock. Every Ministry/Department now has its own website where relevant information are readily available pertaining to the different services provided. Public can access such websites for information with respect to applications for permits and licences, amongst others, as well as electronic versions of the relevant documents along with appropriate guidance.

The different e-government initiatives undertaken attempt, amongst others, to enhance access to public information.

With the setting up of the Government Online Centre, members of the public now have direct access to Ministries/Departments through their respective websites. All the websites have the contact details of the Ministry/Department such that the public can now easily get into direct contact with the decision-making authorities. Also, through the websites, members of the public can now readily access information with respect to applications for permits and licences, amongst others, as well as electronic versions of the relevant documents along with appropriate guidance.

b) Hansard All discussions in the National Assembly are recorded within 24 hours in verbatim and are available on the website, and in the library, of the National Assembly. The website also provides access to all legislative reports and discussions, parliamentary questions, draft bills and legislations tabled at the Assembly. Since March 2017, a channel of the national television is dedicated to the live transmission of all the debates in the National Assembly.

The link is: <http://mauritiusassembly.govmu.org/English/hansard/Pages/default.aspx>

c) Cabinet Decisions All cabinet decisions are rendered public on the same day on national television, radio and on the website of the Prime Minister's Office.

The link is: <http://pmo.govmu.org/English/Pages/default.aspx>

d) Public Procurement

All decisions of the Central Procurement Board and the Procurement Policy Office are posted on their respective websites. Decisions of the Independent Review Panel as well as policies, processes and circulars are available to the public on the website of the Procurement Policy Office. The Public Procurement Portal provides links to procurement notices, annual procurement plans, summaries of bid evaluation reports, notice of procurement awards,

procurement legislations, standard bidding documents and debarred/suspended/disqualified bidders.

The links are as follows:

Central Procurement Board: <http://cpb.govmu.org/English/Pages/default.aspx>

Procurement Policy Office: <http://ppo.govmu.org/English/Pages/default.aspx>

Public Procurement Portal: <http://publicprocurement.govmu.org/Pages/default.aspx>

e) Pay Research Bureau Reports

All reports on the Conditions of Service of the Pay Research Bureau (PRB), including the Errors, Omissions and Anomalies Committee (EOAC) Report are available on the websites of the Pay Research Bureau and the Ministry of Finance.

The links are as follows:

Pay Research Bureau: <http://prb.pmo.govmu.org/English/Pages/default.aspx>

Ministry of Finance and Economic Development:
<http://mof.govmu.org/English/Pages/default.aspx>

f) Budget speech

The budget speeches, proposals, pre-budgetary consultations and detailed revenue and expenditures are accessible to the public through the website of the Ministry of Finance. Debates/comments on the subject are available to the public on TV, radio and the internet. Please refer to information provided under Article 9 Paragraph 2

g) Decisions of Local Authorities

Procurement notices, bid evaluation reports, notifications of appointments, bidder registration forms, list of trade fees and applicable regulations are available from the respective websites of the different local authorities. As per the provisions of the Local Government Act, meetings of local authorities are held in public. Minutes of proceedings of the meetings, as well as abstracts of the accounts of local authorities are also available to the public upon payment of a prescribed fee.

The links are as follows:

Municipal Council of Beau Bassin/Rose Hill: <http://www.bbrh.org/>

Municipal Council of Quatre Bornes: <http://www.qb.mu/index.php?lang=en>

Municipal Council of Port Louis: <http://mpl.intnet.mu/home.htm>

Municipal Council of Vacoas/Phoenix: <http://www.vacoasphoenix.org/>

Municipal Council of Curepipe: <http://www.municipal-curepipe.org/>

District Council of Pamplemousses: <http://dcp.mu/>

District Council of Rivière du Rempart: <http://www.dcrempart.mu/>

District Council of Flacq: <http://www.flacqdc.mu/>

District Council of Grand Port: <http://dcgp.mu/>

District Council of Savanne: <http://dcsavanne.mu/>

District Council of Black River: <http://brdc.mu/>

District Council of Moka: <http://www.mokadc.mu/>

Please refer to Article 45 (Meetings of Local Authority) and Article 152 (Inspection of accounts, books and documents) of the Local Government Act 2011

<http://localgovernment.govmu.org/English/Legislations/Documents/LGA%20201530715.pdf>

h) Court judgments

The Supreme Court's website publishes judgments of the District Courts, Intermediate Court, Industrial Court and the Supreme Court. It also informs members of the public about important court procedures such as how to make applications for legal aid.

The link is: <https://supremecourtprod.govmu.org/SitePages/HomePage.aspx>

i) Office of the DPP

Decisions of the Director of Public Prosecutions (DPP) not to prosecute cases where it is in the public interest are published on its website. It gives the public a better insight of the workings of the Office. Overall, it makes the Office and the decisions it takes better understood and encourages the public it serves to maintain confidence in its decisions.

The Office of the DPP publishes its newsletter every month. The issues often deal with corruption offences. In addition to being available online on its website, the newsletter is forwarded, in soft copy, to over 20,000 government officials through the e-mailing database of the Government.

The link is: <http://dpp.govmu.org/English/Pages/default.aspx>

j) The Mauritius Police Force

The implementation of the E Business Plan for the Traffic Branch to manage driving licence details with a view to enhance the level of service delivery at the Traffic Branch has met with great success. The on-line application system was firstly introduced for application of Provisional Driving Licences for Motor Car, Motor Cycle and Auto Cycles. It has eventually been extended for Goods Vehicles, Buses and Taxis (Public Service Vehicles) since February 2013.

All application forms along with guidelines for the services being provided by the Mauritius Police Force are available online. Such an initiative has reduced the processing time of these applications and made the service easily available and accessible to the population.

Link: <http://police.govmu.org/English/Pages/default.aspx>

k) The Independent Commission Against Corruption

The ICAC publishes its newsletter quarterly wherein it lists the amount of complaints received, the amounts of cases prosecuted, and the convictions secured. In addition to comprehensive in-depth articles on the risks of corruption, the newsletter also tries to explain such risks by way of diagrams and cartoons so as to be accessible to a greater audience. In addition to the 20,000 government officials forming part of the government e-mailing database, the newsletter is also sent, in soft and hard copy to financial institutions (banking and non-banking), parastatal bodies and local authorities.

The ICAC, every year, publishes an annual report wherein it lists, in detail, the activities of the Commission during the preceding year. This report is made available online on the website of the Commission.

Anti-corruption materials and tools developed by the ICAC are posted on its website and are accessible to the public and public bodies.

The link is: <https://www.icac.mu/>

l) Go AML

The UN goAML project is an integrated web application developed by the UNODC. The goAML website enables online reporting of suspicious transactions. These are lodged with the Financial Intelligence Unit (FIU). The link is: <https://www.mruoaml.fiumauritius.org/>

m) Customer Charters

Most of the Ministries and Departments, parastatal bodies have developed customer charters which are available in hard copies and on their websites.

n) Constitution of Mauritius

Freedom of expression and Fundamental rights and freedoms of the individual are guaranteed under Chapter II of the Constitution of Mauritius. Awareness campaigns are conducted by various public bodies to inform the population about the services being offered. Customer charters have also been developed by various public bodies. Please refer to the Constitution of Mauritius <http://mauritiusassembly.govmu.org/English/constitution/Pages/constitution2016.pdf>

Please refer to information provided for Article 13 subparagraph (1)(b).

Additional measures to be taken:

Freedom of Information Act

Paragraph 258 of Government Programme 2015-2019 provides for the enactment of a Freedom of Information Act which will promote transparency and accountability in public administration and more particularly in contract allocations. Drafting instructions have been forwarded to the Attorney-General's Office and the drafting exercise is in progress.

The Attorney General's Office has already forwarded a copy of the working draft of the Freedom of Information Bill to the instructing Ministry, the Ministry of Foreign Affairs, Regional Integration and International Trade. The comments of the Ministry are still being awaited on the working draft.

Examples of Implementation can be found at the following links:

a) Independent Review Panel

Procurement Policy Office: <http://ppo.govmu.org/English/Pages/default.aspx>
<http://ppo.govmu.org/English/IndependantReviewPanel/Documents/Statistics%20from%20IRP.pdf>

b) Public Service Commission

Customer Charter

<http://psc.govmu.org/English/Documents/Advertisements/psscust.pdf>

Annual Report

<http://psc.govmu.org/English/Archives/Pages/Advertisement.aspx>

c) Local Government Service Commission

<http://lgsc.govmu.org/English/Pages/default.aspx>

Charter

(b) Observations on the implementation of the article

Mauritius plans to adopt a new Freedom of Information Act to fill the existing gaps with regard to access to information, such as lack of procedures for requesting information, no clear duty of public officials to disclose information and no sanctions for non-compliance.

Mauritius proactively shares information with the general public, including through publication of information on the internet, several e-portals and e-government initiatives.

Mauritius is largely in compliance with the provision under review. However, in view of further enhancing the implementation of the Convention, it is recommended that Mauritius:

- enhance access of general public to information, including through adopting a new law on the access to information that would fill the existing gaps, including grounds for refusal, timeframes and an appeal mechanism; and
- raise awareness among general public regarding their rights to request information.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

- a) The recommendations of the ICAC, following the conduct of Corruption Prevention Reviews (CPRs) though not mandatory have triggered remedial actions to reduce corruption opportunities by reinforcing systems/processes while promoting ethical behaviour and administrative procedural simplicity. Public bodies have come up with legislative reforms in some cases to address risk areas identified. This is a promising step towards sustainable efforts in maintaining public sector integrity along with prompt service delivery, quality service and technology led services. The expected effect of these legal reforms is the creation of an efficient institutional system for corruption prevention and reduction of corruption risks in public institutions

Please refer to information provided in relation to Art 5 Paragraph 3

- b) A comprehensive ICT reform can significantly decrease corruption opportunities by increasing transparency, reducing systemic hurdles, eliminating administrative red-tapism, increasing the risk of detection, enhancing accountability mechanisms and ultimately improving service

delivery by employing user-friendly administrative systems.

With the setting up of the Government Online Centre, members of the public now have direct access to Ministries/Departments through their respective websites. All the websites have the contact details of the Ministry/Department such that the public can now easily get into direct contact with the decision-making authorities. Also, through the websites, members of the public can now readily access information with respect to applications for permits and licences, amongst others, as well as electronic versions of the relevant documents along with appropriate guidance.

There is a dedicated channel since March 2017 on the national television for live broadcasting of all discussions of the National Assembly.

(b) Observations on the implementation of the article

Mauritius proactively shares information with the general public, including through publication of information on the internet, several e-portals and e-government initiatives.

ICAC has developed partnership strategies with numerous civil society organizations towards better prevention of corruption, including through the following platforms: Trade Union Action against Corruption; Civil Society Network against Corruption; NGO Focal Group; Anti-Corruption Academic Forum and Youth Against Corruption.

Mauritius is deemed in compliance with the provision under review.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

- a) The Public Sector Anti-Corruption Framework is being implemented in 78 public sector organisations. The framework provides a risk-based approach to enhancing integrity in these organisations. Risk assessment is an ongoing activity conducted by Anti-Corruption Committees. The measures adopted are published.
- b) The Corruption Prevention Reviews conducted by the ICAC is based on a corruption prevention audit which assesses mainly corruption risks and the recommendations are meant to reduce such risks. As at date 137 Corruption Prevention Reviews have been conducted with some 2638 recommendations.

The links to the relevant websites have been provided above and may be accessed at any time for

measures implemented.

(b) Observations on the implementation of the article

Mauritius publishes information on the risks of corruption through the PSACF and the Corruption Prevention Reviews conducted by the ICAC.

Mauritius is deemed in compliance with the provision under review.

(c) Challenges, where applicable

Corruption being a dynamic phenomenon, the anti-corruption legislation also needs to be dynamic. There is a pressing need to reinforce the present legislation to meet these challenges.

(d) Technical assistance needs

Legislative assistance: Assistance would be required for reviewing corruption offences as provided for in the Prevention of Corruption Act and the drafting of amendment.

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.

No such assistance is being provided.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

Judicial System of Mauritius

Structure and Establishment of the Upper Judiciary

The Supreme Court

Website: The link is: <https://supremecourtprod.govmu.org/SitePages/HomePage.aspx>

The Supreme Court is at the apex of the hierarchy of Courts, exercising original as well as appellate jurisdiction. It has unlimited jurisdiction to hear and determine any civil or criminal proceedings under any law other than a disciplinary law and such jurisdiction and powers as may be conferred

upon it by the Constitution or any other law. The Supreme Court is a superior court of record and the principal court of original civil and criminal jurisdictions which exercises general powers of supervision over all Districts, Intermediate and Industrial Courts and other special courts. The Supreme Court is also a Court of Equity vested with powers, authority and jurisdiction to administer justice and to do all acts for the due execution of such equitable jurisdiction in all cases where no legal remedy is provided by any enactment. The Supreme Court has full power and jurisdiction to hear and determine all appeals whether civil or criminal, made to the Court from a Judge in the exercise of his original jurisdiction, the Bankruptcy Division, the Master and Registrar, the Intermediate Court, the Industrial Court and the District Courts.

The Supreme Court is composed of the Chief Justice, the Senior Puisne Judge and such number of Puisne Judges as may be prescribed by the National Assembly.

The Bankruptcy Division is a division of the Supreme Court which has jurisdiction relating to all matters of bankruptcy, insolvency or the winding up of companies. The said jurisdiction is vested in and is exercised by the Judge in Bankruptcy and Master and Registrar concurrently with other Judges. The Judge in Bankruptcy and Master and Registrar is assisted by a Deputy Master and Registrar and Judge in Bankruptcy who has the powers of the Judge in Bankruptcy and Master and Registrar. The duties of the Judge in Bankruptcy and Master and Registrar consist in the taxing of costs, conducting and managing judicial sales, probate of wills and matters connected therewith, interdictions and local examinations and dealing with matters of audit, inquiry and accounts and generally all such matters as may be referred to him by the Chief Justice or the Judges. The Supreme Court further has jurisdiction to hear and determine any complaint of a disciplinary nature in respect of the professional conduct of a ministerial officer.

After the independence in 1968, the Judicial Committee of the Privy Council was kept as Mauritius' highest court of appeal.

As per section 81 of the Constitution and section 70A of the Courts Act 1945, any decision of the Court of Appeal or the Supreme Court may be appealed against before the Judicial Committee as of right or with the leave of the Court.

Structure and Establishment of the Lower Judiciary- Subordinate Courts

1. Intermediate Court

The Intermediate Court is established under section 80 of the Courts Act 1945 and consists of a Civil Division and a Criminal Division. Each Division is headed by a President and a Vice-President and consists of a number of Magistrates as may be established under the Civil Establishment Act of 1954.

(a) Civil Jurisdiction

The Intermediate Court has jurisdiction in all civil cases where the claim or matter in dispute, whether in balance of account or otherwise, does not exceed RS 500,000 except for a few limited cases which are excluded by law and which are either within the exclusive jurisdiction of the Supreme Court or that of the District Courts. The bench of the Intermediate Court is constituted by one or more Magistrates as may be decided by the President.

(b) Criminal Jurisdiction

The Intermediate Court has jurisdiction to hear and determine all criminal offences which are referred by the Director of Public Prosecutions. In certain cases it exercises concurrent jurisdiction with other courts such as the District Courts and in other cases it has been assigned exclusive jurisdiction by law. It has power to inflict penal servitude on convicted offenders for a period not exceeding fifteen years and imprisonment for a period not exceeding ten years.

However, for persistent offenders, the Intermediate Court may increase the sentence to twenty years' penal servitude. The Intermediate Court is also empowered to inflict a higher sentence for offences under the Dangerous Drugs Act and the Criminal Code.

(c) Appeals

A final judgment from the Intermediate Court may be appealed against before the Supreme Court. A notice of same shall be given within 21 days as from the date of the judgment. [Sections 36 and 37 of the District and Intermediate Court (Civil Jurisdiction) Act and section 92 to 100 of the District and Intermediate Court (Criminal Jurisdiction Act)]

2. Industrial Court

The Industrial Court consists of a President and a Vice-President. The Industrial Court is established under the Industrial Court Act and by virtue of Section 3 of the Industrial Court Act 1973, has exclusive civil and criminal jurisdiction to try any matter arising out of the now repealed Labour Act, Boilers Act, Employment and Training Act, Export Processing Zones Act, Passenger Transport Industry (Buses) Retiring Benefits Act, Sugar Industry Retiring Benefits Act, Workmen's Compensation Act, Employment Rights Act 2008, the Occupational Health and Safety Act and other Health & Welfare legislations.

As per section 12 of the Industrial Court Act, a decision of the Industrial Court may be subject to appeals. Where the proceeding of the Court have not been the subject of an appeal, same may be reviewed by the Reviewing Authority.

3. District Courts

There are twelve District Courts in the Island of Mauritius and one in Rodrigues. The District Courts have jurisdiction to try and determine both civil and criminal cases as provided for by the law. Each District Court is presided by a Senior District Magistrate and any such number of District Magistrates as may be decided by the Chief Justice.

(a) Civil Jurisdiction

The District Court has jurisdiction in all civil cases where the claim or matter in dispute does not exceed RS 50,000. District Magistrates have exclusive jurisdiction in landlord and tenant disputes regarding possession of tenement and non-payment of rent not exceeding RS 50,000.

(b) Jurisdiction under the Domestic Violence Act 1997

By virtue of the Protection from Domestic Violence Act 1997, District Magistrates are empowered to hear and determine such cases of domestic violence and to issue Protection Orders, Occupation Orders and Tenancy Orders.

(c) Child Protection Act

Under the Child Protection Act, District Magistrates can issue Emergency Protection Orders to protect a child in danger and even to issue Committal Orders to places of safety.

(d) Small Claims Procedure

The Small Claims Procedure was introduced in 1999 to enable the District Courts to adjudicate on minor claims not exceeding RS 25,000 in a summary and expeditious manner. Such claims are lodged at the court by the litigants themselves after filling in a prescribed form which is served on the adverse parties. Both parties are convened before the Magistrate in Chambers to resolve the dispute. In the event of no agreement between the parties, the matter is set down for

trial.

(e) Criminal Jurisdiction

The District Court has power and jurisdiction to hear, try and determine criminal cases not excluded by law and punishable by a term of imprisonment not exceeding five years and a fine not exceeding RS 100,000. Magistrates also are empowered to deal with cases of breach of the peace.

Measures relating to the judiciary and prosecuting services

The Judiciary is concerned with Article 11(1) (supra) which speaks of two measures relating to the Judiciary namely:

- Strengthening integrity amongst the members of the Judiciary; and
- Preventing opportunities for corruption amongst the members of the Judiciary.

Integrity of the judiciary

a) Code of Ethics for the Judiciary

The Guidelines for Judicial Conduct (G.N 2077 of 2002) hereinafter referred to as the 'Guidelines' intends to establish standards of ethical conduct of Judges. The 'Judge' includes a Magistrate or any person exercising judicial office however designated.

The principles applicable to judicial conduct have three main objectives:

- To uphold public confidence in the administration of justice
- To enhance public respect for the institution of the judiciary
- To protect the reputation of the individual Judges and of the Judiciary

The values which the Guidelines uphold and against which judicial conduct should be tested are:

- Propriety
- Independence
- Integrity
- Impartiality
- Equality
- Competence and diligence

The Guidelines provide that as Magistrates, being a constant subject of public scrutiny, should freely and willingly accept personal restrictions that might be viewed as burdensome by the ordinary citizen.

The Test

In the case of *M.A.C Anne v State of Mauritius* (2010) SCJ 164, there was an application for

redress under section 17 of the Constitution whereby the plaintiff alleged that her right to be tried by an independent and impartial court guaranteed under section 10(1) of the Constitution has been breached in that one of the Judges who heard and dismissed the appeal against the conviction by the Intermediate Court for the offence of issuing cheque without provision, was the very person who held the substantive post of DPP at the time of prosecution. It was undisputed that the learned Judge did not handle the file at any time as she had been away from office, but the file was handled by an Ag DPP who advised prosecution and also advised the case to be proceeded with in spite of withdrawal made by the complainant.

But the application was granted. The learned Judges held that although the test for apparent bias has been considered in a number of cases, we take the view that it was most authoritatively stated in the speech of Lord Hope of Craighead in *Porter v Magill* [2002] 2 AC 357 at p 494 (paragraphs 102 and 103) which was referred to in *T. Khedun-Seegobin v The Public Service Commission & Ors* [2010 SCJ 6a]. It was held that an objective test had to be applied. The court must first ascertain all the circumstances which have a bearing on the suggestion that the judge was biased. The question was whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the tribunal was biased.

The learned Judges bore in mind the specificities of the Mauritian context with which they were quite familiar. They highlighted that there had not been the slightest suggestion that the learned Judge had displayed any lack of independence or impartiality in the discharge of her functions either as Director of Public Prosecutions or subsequently as Judge of the appellate court. However, the issue of bias is not to be judged either from their perspective or from the perspective of the appellate court but from that of the fair-minded and informed observer.

They held that it would not be unreasonable, from the vantage point of the fair-minded and informed observer, to come to the conclusion that a real possibility of bias remained. They added that it “is of fundamental importance that justice should not only be done but should manifestly and undoubtedly be seen to be done”: *R v Sussex Justices, Ex Parte Mc Carthy* 1924 1KB 256 at p 259. They accordingly held that the plaintiff’s right to a fair trial and to be tried by an independent and impartial court guaranteed under section 10(1) of the Constitution has been breached.

The greatest strength of the judiciary is the faith of the people in it. Faith, confidence and acceptability cannot be commanded; they have to be earned. And this can be done only by developing the inner strength of morality and ethics.

b) Recusal from cases

Strong efforts have been made to raise the awareness of conflict of interests among judicial officers. Judicial officers should not allow their private interest to unduly influence the performance of their official responsibilities.

The Guidelines for Judicial Conduct expressly stipulates that: “A judge shall not participate in the determination of a case in which any member of the judge’s family represents a litigant or has an interest in the case.” (Article 1.4)

This is the most common form of conflict of interests. The subsequent articles lay down other instances where the Judge should refrain from certain conducts to at least avoid the appearance of conflict of interests, for instance a Judge should refrain to participate in public discussions and political activities (Articles 1.6 and 1.7).

Moreover, under Section 125(1) of the Courts Act, it is provided that

‘No challenge shall be allowed against a Magistrate save on the ground of personal interest in any cause or matter brought before him or his related to one of the parties in the suit by blood or marriage, either in the direct line or in the collateral line to the degree of first cousin inclusively.’

The procedure for disqualification is as follows under section 125 of Courts Act:-

- (a) A challenge against a Magistrate shall be deposited at the registry of the court where the Magistrate sits. The Magistrate can accept the challenge or else he shall set down in writing the reasons for not abstaining to hear the case. The matter is transmitted to the Registrar for submission to a Judge in Chambers who shall determine the matter in the absence of the parties.
- (b) Where a Magistrate considers that he should abstain from hearing a case he shall give notice of his reason to the Chief Justice who shall adjudicate on it and make an order.

In the case of *D Hurnam V The Judicial and Legal Service Commission* and Ors 2002 SCJ 53, the Supreme Court took a broader approach and observed that whether in the District Court, Intermediate or Supreme Court, a party may challenge a Magistrate on the ground that having regard to certain specified facts, the party’s constitutional right to a fair trial would be likely to be prejudiced should the case be heard by that Magistrate or Judge. The Supreme Court however held that:

“It would in the circumstances be a wise move on the part of the legislator to repeal section 125 of the Courts Act and to introduce appropriate legislation to govern the issue of challenge of Magistrates and Judges. But so long as section 125 of the Courts Act remains on the statute book, there will be, in relation to the challenge of Magistrates, a specific procedure as per that section in relation to the grounds therein specified and some other appropriate procedure would have to be followed in relation to the grounds of challenge not therein specified but falling under the notion of fair trial. That dichotomy in relation to the procedure will not however be encountered when there is a challenge of a Supreme Court Judge since Section 125 of the Courts Act is only applicable to a challenge of a Magistrate.”

Alternatively, the Guidelines for Judicial Conduct also provides that at Par 4.8 that a Judge who would otherwise be disqualified on the grounds specified above may instead of withdrawing from the proceedings disclose on the record the basis of such disqualification. If based on such disclosure the parties agree in writing or on the record that the Judge may participate in the proceedings the Judge may do so.

c) Training

(i) The Institute for Judicial and Legal Studies of Mauritius launched on the 27 July 2012

The Institute for Judicial and Legal Studies Act 2011 establishes the Institute for Judicial and Legal Studies which is entrusted with the responsibility to:

- conduct or supervise courses, seminars or workshops for the continuous training of judicial and legal officers;
- organise and conduct courses for court staff with a view to improving the administration of justice;
- promote proficiency and ensure the maintenance of standards in the Judiciary and among law

practitioners and legal officers, and in the delivery of court services in general; and

The Institute for Judicial and Legal Studies of Mauritius is currently based in the premises of the Happy World House in Port Louis.

The role of Judges today does not only consist of dispute resolution. Judges are now also called upon to decide on broader issues such as social values and human rights. Thus, the importance of legal training which enhances the quality of judicial decisions and provides the opportunity to Judicial Officers to deepen their legal knowledge and to develop complementary skills.

(ii) Judicial Seminar was organized on Judicial Independence, Ethics and Judgment Writing by the Commonwealth Secretariat

In December 2015, a seminar was organized on Judicial Independence, Ethics and Judgment Writing exclusively for Judges and Magistrates by the Commonwealth Secretariat. The objectives of the course were mainly to promote an understanding of the principle of separation of powers and familiarisation with the Commonwealth Latimer House Principles on the accountability of and the relationship between the three branches of Government; a better understanding of the concept of judicial independence and the need to ensure that it is safeguarded; an awareness and active consideration of judicial ethics and familiarisation with the local Guidelines for Judicial Conduct and international principles. There was equally a discussion and debate amongst Magistrates and Judges as to the approach to ethical problems, including relevant issues of contempt of court and public perception.

Independence of the judiciary

a) Financing the Judiciary

The funding of courts is linked to the issue of the independence of judges. It determines the conditions in which the courts function. Access to justice and the right to be tried within a reasonable time by a court of law are important features for an efficient performance of the judicial system. Without proper funding, the judiciary cannot properly perform its function.

There is the need for adequate financing to attract suitable candidates, providing them with reasonable working conditions and developing and implementing management systems and educational programs that will further the values and practices of independence, integrity, accountability and transparency.

At present the Judiciary is not allocated with its own budget but relies upon the Government for funding which is not in line with the principle of Separation of Powers.

b) Administration of the Courts and Transparency

(i) Court Staff

They are responsible for administrative works such as handling with court files, issuing of warrants and summons, handling bail bonds and dealing with all appeal procedures preparing briefs for appeal. They are the ones to deal with members of the public. It is therefore important that there is proper continuous training given to staff members to maintain the integrity required in the judiciary.

In August this year the Corruption Prevention and Education Division of the ICAC in collaboration with the Registrar of the Supreme Court conducted full-day anti-corruption sessions at the Institute for Judicial and Legal Studies with all Court Officers over a period of three days.

(ii) Assignment of Cases

The assignment of cases is a judicial function. Normally the Magistrate in charge of the lower Court

or the Chief Justice at the Supreme Court level are entrusted with the responsibility of assigning cases which is governed by the principle of transparency and equal distribution of caseload.

Following remarks regarding significant amount of public funds being paid to public officers whilst under prolonged periods of interdiction from the Director of Audit, 82 ICAC cases involving public officers on interdiction were assigned among the eight Magistrates of the Intermediate Court (Criminal Division) with the responsibility to dispose these cases on a priority basis and with due diligence.

(iii) Digital Recording of Proceedings and E-Filing

Most of our courts are equipped with the system of Digital Recording. This has uniformed the method of recording in proceedings and created more transparency and enhanced integrity in proceedings. The Commercial Division of the Supreme Court has now enabled the system of e-filing, whereby pleadings are filed electronically.

(iv) Public Hearing

Proceedings are heard and judgment are delivered in public in all our Courts, save for some exceptions provided in the law. This means that the public and the media have access to courtrooms during a hearing and this enhances transparency and integrity in the process.

(v) The Media

The media is the key link between the public and the court as it conveys information to the public through which the transparency of the justice system can be enhanced.

All information gathered during the court proceedings are in turn conveyed to members of the public which highlights public confidence in the administration of justice.

However misreporting and inaccurate coverage of a proceeding can undermine public trust in court proceedings.

c) Appointment

Magistrates and legal officers are appointed by an independent body namely Judicial and Legal Service Commission set up by virtue of Section 85 of the Constitution which enunciates as follows:

Judicial and Legal Service Commission

(1) There shall be a Judicial and Legal Service Commission which shall consist of the Chief Justice, who shall be Chairman, and the following members -, the Senior Puisne Judge; the Chairman of the Public Service Commission; and one other member (in this section referred to as 'the appointed member') appointed by the President, acting in accordance with the advice of the Chief Justice.

(2) The appointed member shall be a person who is or has been a judge of a court having unlimited jurisdiction in civil or criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court.

(3) Where the office of the appointed member is vacant or the appointed member is for any reason unable to perform the functions of his office, the President, acting in accordance with the advice of the Chief Justice, may appoint a person qualified for appointment as such a member to act as a member of the Commission and any person so appointed shall continue to act until his appointment is revoked by the President, acting in accordance with the advice of the Chief Justice."

Disciplinary Control over Judicial Officers

Section 86 (1) of the Constitution also provides as follows:

(1) Power to appoint persons to hold or act in offices to which this section applies (including power to confirm appointments), to exercise disciplinary control over persons holding or acting in such offices and to remove such persons from office shall vest in the Judicial and Legal Service Commission.

Appointment of Court Staff

The appointment of the Court Staff on the other hand is done by the Public Service Commission.

Section 88 of the Constitution sets up the Public Service Commission which stipulates as follows:

There shall be a Public Service Commission, which shall consist of a Chairman, 2 Deputy Chairman and 4 other Commissioners appointed by the President.

Section 85 of the Constitution provides for Appointment of public officers and section 85 (1) stipulates as follows:

Subject to this Constitution, power to appoint persons to hold or act in any offices in the public service (including power to confirm appointments), to exercise disciplinary control over persons holding or acting such offices and to remove such persons from office shall vest in the Public Service Commission.

Section 85(3) of the Constitution specifies that section 85 shall not apply to -

- the office of Chief Justice or Senior Puisne Judge;
- any office, appointments to which are within the functions of the Judicial and Legal Service Commission

Article 93 of the Constitution of Mauritius - Removal from office

93 Removal of certain officers

(3) Any such person shall be removed from office by the President if the question of his removal from that office has been referred to a tribunal appointed under subsection (4) and the tribunal has recommended to the President that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(4) Where the appropriate Commission considers that the question of removing any such person ought to be investigated –

(a) the President, acting in his own deliberate judgment, shall appoint a tribunal which shall consist of a chairman and not less than 2 other members, being persons who hold or have held office as a Judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from such a court; and

(b) that tribunal shall enquire into the matter and report on the facts to the

President and recommend to the President whether he ought to be removed under this section.

(5) Where the question of removing any such person has been referred to a tribunal under this section, the President, acting in his own deliberate judgment, may suspend him from performing the functions of his office and any such suspension may at any time be revoked by the President, acting in his own deliberate judgment, and shall in any case cease to have effect if the tribunal recommends to the President that he should not be removed.

(6) The offices to which this section applies are those of Electoral Commissioner, Director of Public Prosecutions, Commissioner of Police and Director of Audit.

(7) In this section “the appropriate Commission” means –

(a) in relation to a person holding the office of Electoral Commissioner or Director of Public Prosecutions, the Judicial and Legal Service Commission;

(b) in relation to a person holding the office of Commissioner of Police, the Disciplined Forces Service Commission;

(c) in relation to a person holding the office of Director of Audit, the Public Service Commission.

(8) The retiring age for holders of the offices mentioned in subsection (6) shall be 60 or such other age as may be prescribed: Provided that a provision of any law, to the extent that it alters the age at which persons holding such offices shall vacate their offices, shall not have effect in relation to any such person after his appointment unless he consents to its having effect.

Link: Constitution of Mauritius –

<http://mauritiusassembly.govmu.org/English/constitution/Pages/constitution2016.pdf>

(b) Observations on the implementation of the article

The Judicial and Legal Services Commission (JLSC) is responsible for appointment and disciplinary control of the legal officers of the Office of the Attorney General and of the Office of the Director of Public Prosecution (DPP), magistrates and judicial officers (Constitution s. 86 and JSLC Regulations 1967). Appointment and removal procedures for judges of the Supreme Court and the DPP are provided for in the Constitution (s. 72, 77-78).

Guidelines for Judicial Conduct establish standards of ethical conduct for judges and magistrates, and address, among others, the issues of conflict of interests and recusal. The JLSC regulations set out the disciplinary mechanism (s. 14-21).

Mauritius is deemed in compliance with the provision under review.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

The Office of the Director of Public Prosecutions (ODPP) is made up of:

- (a) the Director of Public Prosecutions (DPP);
- (b) legal staff (Prosecution State Counsel and Prosecuting State Attorneys); and
- (c) non-legal staff.

Set up under Article 72 of the Constitution, the post of DPP is a constitutionally independent one which is not “subject to the direction or control of any other person or authority”. There are specific provisions regarding the eligibility for appointment to the post of DPP, and the manner in which such appointment is to be made, both in the Constitution and the Judicial and Legal Service Commission Regulations 1967.

The DPP enjoys security of tenure inasmuch as he/she can only be removed from office by the President after the removal has been recommended by a tribunal specifically set up to consider the matter. There are only two grounds on which a DPP may be removed from office, namely: inability to discharge the functions of his/her office (whether arising from infirmity of body or mind or any other cause) and misbehaviour.

The legal staff of the ODPP is appointed by the Judicial and Legal Services Commission. Even though the Commission exercises disciplinary control over the staff, clear rules are provided in the Judicial and Legal Service Commission Regulations 1967 as to the grounds on which disciplinary proceedings may be initiated and the manner in which they may be conducted.

Being law professionals, both the DPP and his/her legal staff are guided, if they are barristers, by the Code of Ethics for Barristers or, if they are attorneys, by the Code of Ethics for Attorneys. Each code sets down written standards of professional conduct to be observed by either set of law professionals.

In addition, as law professionals, unless exempted by the Chief Justice, each member of the legal staff has the obligation to undertake 12 hours of Continuous Professional Development courses, of which 2 hours has to mandatorily be Ethics courses.

The non-legal staff of the ODPP is governed by the Public Services Commission. Specific, clear and transparent provisions are set out in the Public Services Commission Regulations 1967 with regards to the appointment, promotion and discipline of those officers.

The link to the website of the ODPP is: <http://dpp.govmu.org/English/Pages/default.aspx>

Please refer to the website of the Supreme Court for further information

<http://supremecourt.govmu.org>

(b) Observations on the implementation of the article

The Judicial and Legal Services Commission (JLSC) is responsible for appointment and disciplinary control of the legal officers of the Office of the Attorney General and of the Office of the Director of Public Prosecution (DPP), magistrates and judicial officers (Constitution s. 86 and JSLC Regulations 1967). Appointment and removal procedures for judges of the Supreme Court and the DPP are provided for in the Constitution (s. 72, 77-78).

Prosecutors are guided by the Guidelines on Prosecution and the Code of Ethics for Barristers and Attorneys. The JLSC regulations set out the disciplinary mechanism (s. 14-21).

Mauritius is deemed in compliance with the provision under review.

(c) Challenges, where applicable

Actions required for a better implementation of the measures relating to the judiciary and prosecution services:

- The Judiciary to be allocated with its own budget to ensure financial independence
- A Code of Conduct for Judicial Staff could be considered.
- There is a need to extend the Digital Recording facility to all courts throughout the island.
- It is important for media reporters to be properly trained with basic knowledge about court procedures and legal jargon for a more accurate and precise dissemination of information.
- The appointment of a Judicial Press Report Officer within the Judiciary would also be beneficial.
- There is still the issue of access to case law and appropriate legal instruments. Legal research services like LexisNexis have yet to be made available to judicial officers.

(d) Technical assistance needs

Legislative assistance: Drafting of additional legislation pertaining to the criminalization of fraud and corruption.

Capacity-building: Training on case management, court administration and ICT.

Research/data-gathering and analysis: Access to international research tools.

Facilitation of international cooperation with other countries: Exchange programs between countries for better training and comparison of foreign jurisdictions.

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.

No such assistance is presently being provided.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

The following legislations have been enacted by the State to prevent corruption in the private sector:

- Companies Act 2001

www.companies.gov.mu/English/Legislation/Pages/Companies-Act-2001

- Prevention of Corruption Act 2002

<http://www.icac.mu>

- Financial Intelligence and Anti Money Laundering Act 2002 www.fiumauritius.org
<http://www.fiumauritius.org>

- Financial Reporting Council Act 2004
www.frc.mu

- Securities Act 2005
<http://www.stockexchangeofmauritius.com>

- Bank of Mauritius Act
<http://www.bom.mu>

- Public Procurement Act 2006
www.ppo.gov.mu

- Public Procurement Regulations 2008
www.ppo.gov.mu

- Financial Services Act 2007
www.fscmauritius.org

Financial Reporting Act 2004

Following the Proclamation of the Financial Reporting Act in 2004 the following four statutory bodies were set up

- (1) The Financial Reporting Council <http://www.frc.mu>
- (2) The Mauritius Institute of Professional Accountants www.mipa.mu
- (3) The National Committee on Corporate Governance <http://www.nccg.mu>
- (4) The Mauritius Institute of Directors <http://www.miod.mu>

The primary objects of the Financial Reporting Council are to:

- licence auditors and to promote the highest standards in the accountancy profession by encouraging accountants to improve the quality of accountancy and audit services,
- promote the provision of high-quality reporting of financial and non-financial information by

- public interest entities and enhance the credibility of financial reporting in Mauritius and
- approve the names of firms of auditors.

The Finance Act which was enacted in July 2008 amended the definition of public interest entities to include any public company or private company which has an annual revenue of 200 million rupees.

As from July 2009, public interest entities are required to adopt corporate governance in accordance with the Code of Corporate Governance. Any such entity that does not adopt corporate governance must explain its reasons for non-compliance in its annual report and financial statements.

Two panels have been set up by the Financial Reporting Council under the Act. They are the:

- a) Audit Practice Review Panel and
- b) Financial Reporting Monitoring Panel which examines the annual reports and financial statements to ensure that they have been prepared in accordance with International Financial Reporting Standards (IFRS).

Since Mauritius has adopted international standards for accounting and auditing, it has not been necessary so far to have a national Standards Setting Panel. On the other hand, the Financial Reporting Council has prepared an Accounting Framework for the guidance of those state-owned enterprises which are being exempted from compliance with IFRS.

Mauritius Institute of Professional Accountants (MIPA)

The Mauritius Institute of Professional Accountants was set up under the Financial Reporting Act to supervise and regulate the accountancy profession and to promote the highest standards of professional and business conduct of, and enhance the quality of services, offered by Professional and Public Accountants in Mauritius. Its functions are, amongst others, to:

- a) Lay down its bye-laws, including those relating to membership rules.
- b) Establish, publish and review a Code of Professional Conduct and Ethics for professional accountants consistent with the IFAC's Code of Ethics. MIPA has adopted IFAC's Code of Ethics in its entity.
- c) Maintain registers of Professional Accountants, Public Accountants, Member Firms, etc.
- d) Conduct, or arrange for the conduct of, such examinations as it thinks necessary for the purposes of registering professional accountants.
- e) Devise, enforce and monitor compliance of Continuous Professional Development (CPD) standards.
- f) Inquire into any written complaints and to institute disciplinary actions as required.

Mauritius Institute of Directors (MIoD)

The Mauritius Institute of Directors has been set up with a mission to champion best business practices and effective corporate governance, supporting Mauritius as a regional leader; and to be the voice of Directors, through training and certification programmes, workshops and networking events, advocacy, research and thought leadership, reaching out to both private and public sector enterprises.

As per the MIOD's Constitution, its objectives are to:

- promote the highest standards and best practices of corporate governance through training and development, to promote excellence, ethics and integrity amongst directors and prospective directors of all organisations and to improve their skills and knowledge on such matters as their rights, duties and responsibilities and of global best practices in corporate governance;
- promote the highest standards of business and ethical conduct of directors serving on the boards of companies and state-owned enterprises, including para-statal bodies;
- co-operate with the Financial Reporting Council of Mauritius, the National Committee on Corporate Governance and with other institutions and organisations having objects similar to those of the Mauritius Institute of Directors in order to fulfil its objects;
- assess the needs of directors in Mauritius, and to improve their skills and knowledge by organising conferences, seminars, workshops, training courses and such other events for its Members;
- hold examinations and issue certificates to its Members;
- promote the study, research and development of the practice of corporate governance, and to publish, disseminate or otherwise make available the results of such study or research;
- represent the interests of its members and the business community in all public fora;
- provide facilities and services of all kinds to any interested person including its Members, and to organise conferences, seminars and other events;
- hold and supervise examinations and to award, revoke and/or replace certificates, diplomas, or prizes, either alone or jointly with other bodies;
- publish, in any manner or medium, material of interest for its Members or of relevance to any aspect of its objects and activities;
- affiliate with any other non-profit making organisation or other body, and to co-operate with other bodies or organisations or to engage in joint activities of any kind which may advance the objects of the Company; and
- generally, to do all such other things as are conducive or incidental to the attainment of the above objects.

The MIOD has set up a Whistleblowing Council in collaboration with Transparency Mauritius. The objectives of the Council are to:

- Promote whistleblowing within the private sector;
- Analyse trends and make recommendations accordingly; · Act as an advisory council to relevant stakeholders; and · Raise awareness on whistleblowing initiatives.

The MIOD is a member of the African Corporate Governance Network (ACGN). The ACGN is composed of 16 Institutes of Directors from 16 countries in Africa. <https://www.afcgn.org/>

The prime objective of the ACGN is to develop institutional member capacity for enhancing effective corporate governance practices, building better organizations and corporate citizens in Africa.

MIOD Annual Report: <http://www.miod.mu/media/26510/MIOD-AR-2015-Final-with-GRI.pdf>

MIOD Publications: <http://www.miod.mu/info-centre/publications.aspx>

Mauritius Revenue Authority

Although the MRA Act does not directly regulate the private Sector, it administers some other laws that regulate the private sector for e.g.:

- (i) Sections 117-124, Customs Act deals with appointment and disciplinary action, appointment of Customs House Brokers, Freight Forwarding Agents, Customs Agents.
- (ii) Appointment and revocation of warehouses for storage of goods under Customs Control: Sections 67-72
- (iii) Conditions for registration as well as obligations as tradenet users : Customs (Use of Computer) regulations 1997
- (iv) Registration of economic operators and Authorised Economic Operators (AEOs)- Customs (Cargo Community System) Regulations 2008
- (v) Freeport Operators are governed by the Freeport Act
- (vi) Local manufacturers of excisable goods are governed by the provisions under the Excise Act and Excise Regulations 1994
- (vii). Duty Free Shops and Deferred Duty and Tax schemes: Sections 22 & 22A, Customs Act and Regulations 90 & 90A, Customs Regulations 1989

a) Promoting cooperation between law enforcement agencies and private entities

With the Customs House project all the services of the MRA which were scattered in different locations have been brought under a single roof. This has contributed positively towards increased trade facilitation and deter stakeholders from facilitation fees to obtain preferential treatment.

b) Integrity Policy Statement

MRA has issued an Integrity Policy Statement to clearly convey the organisation's stand on integrity, corruption and bribery and to communicate to its stakeholders the ethical and moral standards expected from them. The Policy Statement has been disseminated in brochures and posters which have been circulated to all stakeholders. The integrity policy is taken up during integrity workshops and the statement is also posted in relevant places where the public has access.

(<http://www.mra.mu/download/MRA-IntegrityPolicyStmntENGLISH.pdf>)

c) Transparency

The MRA has also set up an Objections, Appeal and Dispute Resolutions Department (OADR) to give taxpayers a more equitable and transparent way to challenge or seek review of decisions.

d) Regulatory Framework

At the MRA, Laws, regulations, administrative guidelines and procedures are harmonised and simplified to the greatest extent possible to facilitate compliance. The practices and procedures have been reviewed and redesigned to reduce unnecessary duplication and to provide an ISO 9001 quality service.

Corruption and malpractices typically occur in situations where out-dated and inefficient practices are employed or where stakeholders have an incentive to attempt to avoid slow or burdensome procedures by offering bribes and paying facilitation fees. At the MRA infusion of new technology, professionalism and maintaining continuous efforts to raise the standard of

service offered to taxpayers and stakeholders remain the organisation core objectives. All these initiatives have enhanced integrity in revenue collection and reduce human interaction.

(<http://www.mra.mu/download/MRACorporatePlan2014-2016.pdf>)

These are reflected in the following recent initiatives taken by MRA:

- a) E-filing of income tax returns through username and password;
- b) E-filing of individual income tax returns through smart phones, tablets and mobile phones;
- c) Extending the payment of tax through mobile phones, credit cards;
- d) Short message service (SMS) facilities for economic operators to notify them regarding payment for Customs declaration & status of Customs clearances;
- e) Web-based Customs declarations;
- f) Web-based second-hand vehicle valuation system;
- g) Online objections to assessment and payment;
- h) Taxpayer portal- A self -service facility for taxpayers;
- i) E-procurement; and
- j) E-application for job applicants.

Public Private Platform Against Corruption (PPPAC)

The ‘Public Private Platform Against Corruption’ was set up in 2013 to ensure collective actions against corruption from two major stakeholders namely the public sector and the private sector. It enables various interest groups to work together to build a strong alliance against this crime.

The PPPAC is co-chaired by the Executive Director of Business Mauritius which is the apex body of the private sector and the Director of the Corruption Prevention and Education Division of the Independent Commission Against Corruption (ICAC).

The platform identified ‘procurement and contract management’ as a priority area for action. In this context, a sub-committee of the PPPAC was set up to identify the weaknesses in processes of procurement and contract management and make appropriate recommendations. The committee submitted its report and some of the recommendations pertaining to procurement were taken on board in the Finance Act 2015 (Paragraph 43).

These amendments provide amongst others, that every exempt organisation shall establish its own procurement rules in relation to such types of contracts as may be prescribed. “Exempt organisation” means a body which is, by regulations, excluded from the application of the Public Procurement Act (for example, Agricultural marketing Board, Central Electricity Board, State Trading Corporation). Subsequently, the Chief Executive of an exempt public organisation has to certify that all procurement rules at the level of the Board have been complied with, to act in accordance with such directives as he/she may receive from the Board and to be accountable and answerable to the Board. Moreover, an amendment relates to procurement for consultancy services, whereby, the process has been made more competitive thus allowing more bidders to participate.

The PPPAC set up another sub-committee to examine the process of allocating building and land use licenses and permits in local authorities. The report has been finalized and submitted for implementation to the Ministry of Local Government and to local authorities.

In line with the preliminary recommendations made, the ICAC in collaboration with the Ministry

of Local Government organised an empowerment workshop for 60 technical cadres of local authorities. The main objective of the workshop was to empower participants to identify possible risks and opportunities for corruption in the processing and allocation of permits and licenses in local authorities and discuss possible solutions.

In the 2016-2017 Budget it is mentioned that measures will be taken to cut drastically the time it takes to deliver Building and Land Use Permits (BLPs) and clearances for all construction-related projects. To this end,

- the requirement for approval by the Executive Committee of the Local Authority concerned when determining a BLP is being abolished;
- the Local Authority will have only 8 working days to seek any additional information from an applicant; and
- all applications for constructions with a floor area exceeding 150 square meters be made on-line.

Provision is also being made in the 2016-2017 budget for the Investment Promotion Act to be amended to authorise the Board of Investment to issue the necessary clearances and approvals for a business to start operation in cases where the statutory deadlines for processing applications have lapsed. It should unlock a significant number of projects which are in the pipeline, accelerate job creation, turn around the declining trend in private investment, increase Foreign Direct Investment and boost up economic growth.

The Private Sector Anti-Corruption Task Force (“PACT”)

The Private Sector Anti-Corruption Task Force (PACT) is a voluntary private-sector anti-corruption initiative, which has been set up with the collaboration of the MIOD various private sector companies, and the ICAC.

The mission of PACT is to promote a culture of integrity, responsibility, accountability, fairness and transparency among private sector entities in Mauritius through the adoption of an Integrity Pledge and the practice of fundamental ethical principles. The Integrity Pledge Project is partly funded by the Center for International Private Enterprise (“CIPE”). CIPE will assist the MIOD to develop an auditable standard, including a self-assessment tool, for Mauritian companies to voluntarily use as an instrument to assess their ethical culture, anti-corruption framework and integrity model.

Construction Industry Anti-Corruption Committee

Public perception regarding the level of corruption in the construction industry has always been on the high side. In this vein, a Construction Industry Anti-Corruption Committee was set up under the aegis of the ICAC to work out strategies to eliminate corruption and perception of corruption in the sector. The Committee is working towards the inclusion of anti-corruption elements such as issues of gifts, conflict of interests, secondary employment in Codes of Conduct of private sector organisations.

Another initiative taken by the Committee was to empower would-be-professionals from tertiary education institutions in the construction-related fields. The aim of this initiative is to create a society of professionals who are aware of possible risks of corruption and how to counter these for a cleaner generation of construction professionals.

Financial Services Commission

The Financial Services Commission, Mauritius (the 'FSC') is the integrated regulator for the non-bank financial services sector and global business. Established in 2001, the FSC is mandated under the Financial Services Act 2007 and has as enabling legislations the Securities Act 2005, the Insurance Act 2005 and the Private Pension Schemes Act 2012 to license, regulate, monitor and supervise the conduct of business activities in these sectors.

In carrying out its mission, the FSC aims to:

- promote the development, fairness, efficiency and transparency of financial institutions and capital markets in Mauritius;
- suppress crime and malpractices so as to provide protection to members of the public investing in non-banking financial products; and
- ensure the soundness and stability of the financial system in Mauritius.

FSC's objective is to position Mauritius as a jurisdiction of substance with the right balance between regulation and business development. The revision of the legislative framework in 2007 and the implementation of the Risk-Based Supervision framework, further reinforce the supervision of the financial services sector, the continuous review of the legislations and the supervisory tools ensure alignment with international norms and standards.

The FSC is mandated under the Financial Services Act 2007, to inter alia:

- ensure the orderly administration of the financial services and global business activities;
- ensure the sound conduct of business in the financial services sector and in the global business sector;
- elaborate policies which are directed to ensure fairness, efficiency and transparency of financial and capital markets in Mauritius;
- study new avenues for development in the financial services sector, to respond to new challenges and to take full advantage of new opportunities for achieving economic sustainability and job creation;
- ensure soundness and stability of the financial system in Mauritius; and
- work out objectives, policies and priorities for the development of the financial services sector and global business

The FSC's core functions are:

- Regulate and supervise - The FSC regulates and supervises entities licensed and/or registered under its Enabling Laws.
- License - The Financial Services (Consolidated Licensing and Fees) Rules 2008 apply to all entities licensed and regulated by the FSC and aim at streamlining the licensing process by providing a comprehensive set of licensing criteria and requirements within a well-defined and consolidated framework.
- Enforce regulatory and compliance requirements - The FSC requires that its licensees demonstrate compliance with the requirements set out in the legislative framework. Our legislation has over the years been consolidated to reinforce our powers to mitigate risks while creating an innovative business environment.
- Policy formulation - The FSC elaborates policies which aim at ensuring fairness, efficiency, transparency and stability of the financial system in Mauritius.

- Combat fraud and money laundering - The FSC takes measures to prevent and address investment business abuse, market abuse and financial fraud in relation to any activity conducted in the non-banking financial services and global business sector by implementing an Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) framework and adhering to international norms and standards.
- Promote the development of the sector - The FSC has the statutory obligation to promote development in the financial services sector so as to respond to new challenges and achieve economic stability. In this respect, the FSC values the contribution of the industry and other stakeholders.
- Ensure consumer education and protection - The FSC through its legislative framework ensures the protection of consumers and investors. The FSC promotes access to financial services through dissemination of financial information and awareness of the benefits and risks associated with the financial markets.

Bank of Mauritius

The Bank of Mauritius has as primary objective to maintain price stability and to promote orderly and balanced economic development. The other objects of the Bank are to regulate credit and currency in the best interests of the economic development of Mauritius; ensure the stability and soundness of the financial system of Mauritius; and act as the central bank for Mauritius.

The Bank has such functions as are necessary to achieve the attainment of its objects and, in particular to:

- (a) conduct monetary policy and manage the exchange rate of the rupee, taking into account the orderly and balanced economic development of Mauritius;
- (b) regulate and supervise financial institutions carrying on activities in, or from within, Mauritius;
- (c) manage, in collaboration with other relevant supervisory and regulatory bodies, the clearing, payment and settlement systems of Mauritius;
- (d) collect, compile, disseminate, on a timely basis, monetary and related financial statistics; and
- (e) manage the foreign exchange reserves of Mauritius.

The Bank of Mauritius has issued guidelines to enhance the level of integrity in the banking sector. Please also refer to information provided under Article 14, 52 and 58.

Companies Act 2001

With the rapid developments taking place in the financial sector, the Companies Division has had to keep pace. Hence all international companies are incorporated at this Division which also keeps a complete service of records for each of these companies.

In 2006, the Business Registration Act came into force and as from 1 October 2006, all persons doing businesses in Mauritius & Rodrigues are registered at the Companies Division. In 2009, the Insolvency Act came into force on 1st June 2009. In 2011, the Limited Partnership Act came into force on 15th December 2011.

Code of Corporate Governance

The Code of Corporate Governance for Mauritius was first published in 2003 by the National Committee on Corporate Governance (NCCG). In May 2014, the process of revision of the Code began. The revised Code adopts the new methodology of “apply and explain” and consists of 8 corporate governance principles applicable to all organisations covered by the Code and are as follows:

The following eight corporate governance principles have been designed to be applicable to all organisations covered by the Code.

- a) Governance Structure
- b) The Structure of the Board and Its Committees
- c) Director Appointment Procedures
- d) Director Duties, Remuneration and Performance
- e) Risk Governance and Internal Control
- f) Reporting with Integrity
- g) Audit
- h) Relations with Shareholders and Other Key Stakeholders

The new Code comprises a set of principles and guidance aimed at improving and guiding the governance practices of organisations within Mauritius. It forms part of a larger body of existing laws, rules, regulations, principles and best practices.

The Code intends to:

- Advance corporate governance reforms in both the public and private sectors in Mauritius by creating a corporate governance framework of principles for business leaders to apply.
- Encourage change amongst the Mauritian business community by focusing on improving the effectiveness of governance practices.
- Provide maximum flexibility through a focus on principles rather than mandatory regulations and rules.

The new Code of Corporate Governance for Mauritius (2016) applies to the following entities:

- Public Interest Entities as defined by the Financial Reporting Act 2004
- Public Sector organisations including state-owned enterprises, statutory corporations and parastatal bodies.
- Other companies are also encouraged to give due consideration to the application of this code, insofar as the principles are applicable.

Website: www.nccg.mu

http://www.nccg.mu/sites/default/files/files/the_code_of_corporate_governance_for_mauritius.pdf

Sanctions and Penalties

In line with its statutory objectives of preserving and maintaining the good reputation of the Mauritius International Financial Centre, the FSC is empowered under the Financial Services Act (FSA) to inter alia:

- issue a private warning;
- issue a public censure;
- disqualify a licensee from holding a licence;
- disqualify the officer of a licensee;
- impose an administrative penalty;
- revoke a licence;
- request for information and production of such records or documents by a licensee;
- hold on-site inspections to be carried out on the business premises of a licensee;
- appoint an administrator in relation to the whole or part of the business activities of a person whose licence has been suspended, revoked or otherwise terminated;
- apply to the Judge in Chambers or to any Court of Competent jurisdiction for Injunctive relief;
- apply to the Judge in Chambers for a freezing order or attachment order.

Companies Act 2001

The penalties for non-compliance to the Companies Act 2001 are described under Part XXVIII of the act as follows:

- Section 329 (Companies Act 2001) - Penalty where company fails to comply with Act
- Section 330 (Companies Act 2001) - Penalty on director or authorised agent of foreign company in cases of failure by director, agent or Board to comply with Act
- Section 332 (Companies Act 2001) - False statements
- Section 333 (Companies Act 2001) - Fraudulent use or destruction of property
- Section 334 (Companies Act 2001) - Falsification of records
- Section 335 (Companies Act 2001) - Carrying on business fraudulently
- Section 340 (Companies Act 2001) - Failure to keep accounting records
- Section 341 (Companies Act 2001) - Other offences
- Section 342 (Companies Act 2001) - Reports of offences and production and inspection of accounting records

Companies Act 2001:

www.companies.gov.mu/English/Legislation/Pages/Companies-Act-2001
<http://www.companies.gov.mu/English/Legislation/Pages/Companies-Act-2001>

Banking Act 2004 In the Banking Act 2004 as amended, offences and penalties for non-compliance and prosecution are described under the following articles:

Section 97 (Banking Act 2004) Offences and penalties

Article 98 (Banking Act 2004) Prosecution for offence

No prosecution for an offence under this Act or any regulations made thereunder shall be instituted except by or with the consent of the Director of Public Prosecutions.

Article 99 (Banking Act 2004) Compounding of offences

(1) The central bank may, with the consent of the Director of Public Prosecutions, compound any offence committed by a person under this Act which is prescribed as a compoundable offence, where the person agrees in writing to pay such amount not exceeding the maximum penalty specified for the offence, acceptable to the central bank.

(2) Every agreement to compound shall be final and conclusive and on payment of the agreed amount, no further proceedings in regard to the offence shall be taken against the person who agreed to the compounding.

(3)

(a) The Bank may cause to be published, in such form and manner as it thinks fit, a public notice setting out the particulars of the agreed amount under subsection (1).

(b) A notice under subparagraph (a) shall not contain any information which the Bank considers to be sensitive.

Please refer to Banking Act 2004: <http://www.bom.mu/about-bank/legislations/banking-act-2004>

Bank of Mauritius: <http://www.bom.mu>

Section 13(2)(d) of the Securities Act 2005 provides that a securities exchange may make rules, not inconsistent with the Act, any regulations made under the Act or any FSC Rules, with regard to enforcement and disciplinary procedures and sanctions to be applied. Where the SEM suspects a breach of the rules of the Exchange by a Market Participant or any of its directors, employees or ATS Operators, SEM shall enquire into the alleged misconduct. The breaching party may be requested to take appropriate remedial action or disciplinary action may be initiated depending on the seriousness of the breach. The matter will also be reported by SEM to the FSC.

Listed Issuers If the Stock Exchange of Mauritius (SEM) considers that an issuer has contravened the Listing Rules it may do one or more of the following:

- censure the issuer, which may include a formal written notice of censure being served upon the issuer and the requirement that the issuer provide a written explanation of its actions to the SEM and an undertaking to rectify the breach immediately;
- publish the fact that the issuer has been censured for failing to comply with the Listing Rules;
- refer the matter to the FSC for appropriate action; and where applicable, suspend or withdraw a company from the Official List of the SEM.
- Similar sanctions apply to DEM companies for contravention of the Rules for the Development & Enterprise Market (DEM Rules).

Public Procurement Act 2006

The Public Procurement Act 2006 has been enacted to provide for the basic principles and procedures to be applied in, and regulate, the public procurement of goods, public works, consultant services, and other services and for the institutions responsible for those matters. The penalties for non-compliance to the act are as follows:

Section 52 (Public Procurement Act 2006) - Conduct of bidders and suppliers

- (1) A bidder or a supplier shall not engage in or abet any corrupt or fraudulent practice, including the offering or giving, directly or indirectly, of improper inducements, in order to influence a procurement process or the execution of a contract, including interference in the ability of competing bidders to participate in procurement proceedings.
- (2) A bidder or a supplier shall not engage in any coercive practice threatening to harm, directly or indirectly, any person or his property to influence his participation in a procurement process, or affect the execution of a contract.
- (3) A bidder shall not engage in collusion, before or after a bid submission, designed to allocate procurement contracts among bidders, establish bid prices at artificial non-competitive levels or otherwise deprive a public body of the benefit of free and open competition.
- (4) A public body shall reject a bid if the bidder offers, gives or agrees to give an inducement referred to in subsection (1) and promptly notify the rejection to the bidder concerned and to the Policy Office.
- (5) (a) Subject to paragraph (b), a bidder or supplier who is responsible for preparing the specifications or bidding documents for, or supervising the execution of a procurement contract, or a related company of such a bidder or supplier, shall not participate in such bidding.

Part VIII Section 53 (Public Procurement Act 2006) - Procurement Integrity

Section 53 - Suspension and debarment of bidders and suppliers

- (1) Subject to subsection (2), the Policy Office may, under such conditions as may be prescribed, suspend or debar a potential bidder or supplier from participation in procurement on the following grounds -
 - (a) supplying false information in the process of submitting a bid or prequalification application;
 - (b) collusion between the bidders or a bidder and a public official concerning the formulation of any part of the bidding documents;
 - (c) interference by a supplier with the participation of competing bidders;
 - (d) misconduct relating to the submission of bids, including corruption, price fixing, a pattern of under-pricing bids, breach of confidentiality, misconduct relating to execution of procurement contracts, or any other misconduct relating to the responsibilities of the bidder or supplier;
 - (e) conviction for an offence relating to obtaining or attempting to obtain a procurement contract; or

- (f) conviction for an offence related to dishonesty or fraud in his professional activity.
- (2) A suspension or debarment of a bidder or supplier under subsection (1) shall not be effected unless the Policy Office -
- (a) reviews and considers the factual record developed by the public body that proposes the action;
- (b) gives reasonable notice to the bidder or supplier involved of the basis for the proposed action; and
- (c) gives reasonable opportunity to the bidder or supplier to respond to the proposed action.
- (3) A period of debarment under subsection (1) shall not exceed 5 years.

Financial Intelligence and Anti-Money Laundering Act 2002

The penalties for non-compliance of private companies under the Financial Intelligence and Anti-Money Laundering Act 2002 as amended are as follows:

Part IV Section 18 - Regulatory action in the event of non-compliance

(1)

(a) The supervisory authorities may issue such codes and guidelines as they consider appropriate to combat money laundering activities and terrorism financing, to banks or cash dealers subject to their supervision, or to financial institutions, as the case may be.

(b) The Bank of Mauritius shall supervise and enforce compliance by banks and cash dealers with the requirements imposed by this Act, regulations made under this Act and such guidelines as it may issue under paragraph (a).

(c) The Financial Services Commission shall supervise and enforce compliance by financial institutions with the requirements imposed by this Act, regulations made under this Act and such guidelines as it may issue under paragraph (a).

(2) Where it appears to the Bank of Mauritius that any bank or cash dealer subject to its supervision has failed to comply with any requirement imposed by this Act or any regulations applicable to that bank or cash dealer and that the failure is caused by a negligent act or omission or by a serious defect in the implementation of any such requirement, the Bank of Mauritius, in the absence of any reasonable excuse, may -

(a) in the case of a bank, proceed against it under sections 7 and 8 of the Banking Act on the ground that it is carrying on business in a manner which is contrary to the interest of the public;

(b) in the case of a person carrying on a deposit-taking business, cancel that person's authorisation under section 13A of the Banking Act; and

(c) in the case of a cash dealer, inform the Minister to whom responsibility for the subject of finance is assigned that it has reason to believe that the cash dealer is carrying on business under the Foreign

Exchange Dealers Act in a manner which is not conducive to the orderly operation or development of the foreign exchange market in Mauritius.

(3) Where it appears or where it is represented to the Financial Services Commission that any financial institution has refrained from complying or negligently failed to comply with any requirement of this Act or regulations, the Financial Services Commission may proceed against the financial institution under section 7 of the Financial Services Development Act 2001 on the ground that it is carrying on its business in a manner which is contrary or detrimental to the interest of the public.

(4) Where it appears or is represented to any disciplinary body that any member of a relevant profession or occupation over which it exercises control has refrained from complying or negligently failed to comply with any requirement of this Act or regulations, the disciplinary body may take, against the member concerned, any action which it is empowered to take in the case of professional misconduct by that member.

Part IV Section 19 - Offences relating to obligation to report and keep records and to disclosure of information prejudicial to a request

(1) Any bank, financial institution, cash dealer or any director or employee thereof or member of a relevant profession or occupation who, knowingly or without reasonable excuse

a) fails to make a report, supply an information requested by the FIU under section 13(2) verify, identify or keep records, registers or documents, as required under section 17;

b) destroys or removes any record, register or document which is required under this Act or any regulations;

c) warns or informs the owner of any funds of any report required to be made in respect of any transaction, or of any action taken or required to be taken in respect of any transaction, related to such funds; or

d) facilitates or permits the performance under a false identity of any transaction falling within this Part,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.

(2) Any person who -

a) falsifies, conceals, destroys or otherwise disposes of or causes or permits the falsification, concealment, destruction or disposal of any information, document or material which is or is likely to be relevant to a request to which section 23 applies; or

b) knowing or suspecting that an investigation into a money laundering offence has been or is about to be conducted, divulges that fact or other information to another person whereby the making or execution of a request to which section 23 applies is likely to be prejudiced,

shall commit an offence and shall, on conviction, be liable to a fine not

exceeding one million rupees and to imprisonment for a term not exceeding 5 years.

Financial Reporting Act 2004

The sanctions and penalties under the Financial Reporting Act 2004 are as follows:

Section 43. Sanctions on licensed auditors

(1) The Council may either cancel or suspend a licence granted to an auditor under section 33 where the auditor

- a) has obtained the licence by fraud or misrepresentation;
- (b) no longer satisfies the requirements of section 33;
- (c) has acted in breach of this Act or any rule made by the Council.

(2) Notwithstanding subsection (1), where a licensed auditor has committed a breach of this Act or any rule made by the Council, the Council may issue a warning to the licensed auditor.

Section 56. Cancellation or suspension of registration

(1) The Mauritius Institute of Professional Accountants may either suspend or cancel the registration of a professional accountant, a public accountant or a member firm, and order the removal of his or its name from the relevant register where -

- (a) the person or firm has obtained its registration by fraud or misrepresentation;
- (b) the person or firm no longer satisfies or has acted in breach of any rule of the Mauritius Institute of Professional Accountants;
- (c) the registration of that person has been suspended or cancelled by a professional accountancy body of which he is a member;
- (ca) professional accountant, public accountant or the member firm has been found guilty following disciplinary action instituted under section 46 (1)(h); or .
- (d) the person or firm has acted in breach of the provisions of this Act.

(2) Where the Mauritius Institute of Professional Accountants cancels a practising certificate, it may also cancel the membership of Mauritius Institute of Professional Accountants of the holder of the practicing certificate.

(3) Where the Mauritius Institute of Professional Accountants suspends a practising certificate, it may suspend the membership of the holder of the practising certificate of the Mauritius Institute of Professional Accountants for the period for which the certificate has been suspended

Section 79. Sanctions on public interest entities

(1) Where the Council reaches a final decision under section 23, to the effect that a public interest entity has failed to comply with any financial reporting and accounting standard, code or guideline issued under this Act, and with such other financial reporting and accounting standards as may be specified under the relevant enactments, the Council may issue a warning to the entity or serve a notice on the entity for an immediate restatement of its financial statement.

(2) Where a notice is served on an entity under subsection (1), it shall, within 30 days of the service of the notice, restate its financial statements and resubmit them to the Council and to the government department or authority.

(3) Any entity which fails to comply with the notice referred to in subsection (2) shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees, and the Council may refer the matter to the Registrar of Companies or the relevant government department or authority for appropriate action.

Guidelines on Sanctions on Auditors

Pursuant to section 6(2)(f) of the Financial Reporting Act, the Financial Reporting Council has issued Guidelines on Sanctions on Auditors. These are for the guidance of auditors licensed under the Act.

3.2 Sanctions shall be commensurate with the gravity and impact of the breach of the Act.

3.3 The sanctions which may be imposed on an auditor are as follows -

- (a) warning;
- (b) suspension of licence;
- (c) a cancellation of licence.

3.4 These guidelines may be subject to review.

Internal or external reports regarding the adoption and implementation in the private sector of guidelines, procedures or policies to prevent corruption promulgated by the government

- Code of conduct -Large Companies and Multinationals (ex ENGEN Mauritius)
- Annual Reports of companies listed on the Stock Exchange of Mauritius. <http://www.sem.mu>
- Setting up of a common platform comprising the Independent Commission Against Corruption, Mauritius Institute of Directors, Business Mauritius, Mauritius Chamber of Commerce and Industry working towards the active involvement of private businesses in the fight against corruption.
- Whistleblowing council - MIOD Annual Report 2015 - <http://www.miod.mu>
- Appointment of Ethics Officers by large companies <http://www.miod.mu>
- Mechanism for internal reporting in private business Ex IBL <http://www.iblgroup.com>
- United Nations Global Compact signatories <http://www.unglobalcompact.org>

a) Global Compact Network Mauritius

http://ungc-mu.org/mauritius/index.php?option=com_content&view=article&id=56:gcln-mauritius&catid=35:global-compact&Itemid=78

The Global Compact offers facilitation and engagement through Networks of local participants who come together to advance the UN Global Compact and its principles within a country context and create opportunities for multi-stakeholder engagement and collective action.

The UN Global Compact initiative in Mauritius was launched in December 2007 by the Mauritius Employers' Federation (MEF) with the support and collaboration of the ILO and UNDP Mauritius.

The Global Compact provides a practical framework for advancing corporate citizenship and promoting responsible business practices in Mauritius. Local participants, which range from large conglomerates to small and medium enterprises, are committed to applying the principles of the Global Compact in their strategy, culture, day to day operations and within their sphere of influence while expressing this commitment to their stakeholders.

The emerging Global Compact Network Mauritius brings together local signatories and subsidiaries of multinational participants of the Global Compact. It seeks to:

- Assist participants in the implementation of the ten principles and to report on their progress by encouraging the sharing and exchange of experiences and knowledge, developing tools and resources, organising learning events and convening external expertise;
- Promote collective action through common initiatives between Global Compact participants and partnership projects involving the participation of stakeholders in diverse economic, social and environmental areas for the advancement of the development objectives of the country;
- Provide a mechanism for dialogue and communication on aspects of mutual interest and concern concerning CSR;
- Strengthen corporate citizenship and further the UN Global Compact initiative in Mauritius as a framework from which businesses may align operations and strategies with responsible and sustainable business practice.

Network Participants (Local Signatories)

1. Caudan Security Services Ltd
2. Centre international de developement clinique ltee & group
3. Ceridian Mauritius Ltd
4. Change Express Ltd
5. Corona Clothing (HK) Co. Ltd
6. Deep River - Beau Champ Ltd
7. Edge Consulting ltd.
8. Editions de L'Ocean Indien Ltée
9. Express Solutions
10. Ireland Blyth Limited
11. Mauritius Duty Free Paradise Co. Ltd
12. Mauritius Employers' Federation

13. Medine Sugar Estates Co. Ltd
14. OSBM ltd.
15. Rogers and Co. Ltd
16. Service Bureau Ltd.
17. The Mauritius Commercial Bank Ltd
18. TNT

Subsidiaries of Multinational Signatories

1. Standard Bank Limited
 2. HSBC
 3. Shell Mauritius Ltd
 4. Deutsche Bank (Mtius) Ltd
- b) Legal or other incentives that encourage private entities to report instances of corruption to law enforcement agencies;
- Enactment of the Prevention of Corruption Act 2002 - Anonymous reporting to the ICAC <http://www.icac.mu>
 - Enactment of the Prevention of Corruption Act 2002-Protection of informers.
 - Other incentives: Awareness sessions by the ICAC on corruption in private businesses.
- c) Mechanisms and procedures used by law enforcement to strengthen cooperation with the private sector, including outreach, points of contact and confidential reporting lines.
- The following platforms are used by law enforcement to strengthen cooperation with the private sector, including outreach, points of contact and confidential reporting lines.
- Business Mauritius
 - Mauritius Chamber of Commerce and Industry
 - Mauritius Institute of Directors
 - Public Private Platform Against Corruption (PPPAC)
 - Report by the PPPAC on procurement and contract management and licensing.
 - Report on Building and Land Permit in local authorities
 - Workshop conducted by ICAC for technical officers on Building and Land Use Permit in local authorities.
 - Private Sector Anti-Corruption Task Force (PACT)
- d) Promoting the development of standards and procedures designed to safeguard the integrity of private sector entities, including through the distribution of models, guidance and/or training on the following:
- Financial Reporting Council
 - Guidelines on Compliance with Code of Corporate Governance
 - Guidelines on Sanctions on Auditors
 - Guidelines on Reporting Compliance with CCG by Auditors

- Financial Reporting Framework and Standards for Statutory Bodies
 - ‘Integrity Pledge’ for businesses. An initiative of the Private Sector Anti-Corruption Task Force.
 - Price Waterhouse Coopers Annual Reports Award - PWC website
- e) Codes of conduct for private entities in the performance of business activities, including for relevant professions (legal, medical, construction, etc.) and in the prevention of conflicts of interest; and
- Code of Ethics: (Large companies)
 - Mauritius Bar Association Act 1957 <http://www.attorneygeneral.gov.mu> ;
 - Medical Council Act of Mauritius 1999 <http://www.medicalcouncilmu.org>
 - Council of Registered Professional Engineers Act 1966 <http://www.carpemauritius.com>
 - Professional Quantity Surveyors Council Act 2013 <http://www.pqsq.mu>
 - Professional Architects Council Act 2011 <http://www1.gov.mu/scourt/publegislation/showDocActReg.do?id=21762>
 - International Federation of Accountants (IFAC) Code of Professional Conduct and Ethics and any International Standards on Auditing <http://www.ifac.org>
 - ICAC Handbook on Conflict of interests <http://www.icac.mu>
- f) Standards representing good business practices, both among businesses and in any contractual relations they may have with the State.
- Code of Corporate Governance Mauritius <http://www.nccg.mu>
 - Guidelines on Code of Corporate Governance <http://www.frc.mu>
 - Public Procurement Act 2006 <http://www.ppo.gov.mu>
 - Public Procurement Regulations 2008 <http://www.ppo.gov.mu>
 - Bid Evaluation Guide <http://www.ppo.gov.m>
 - Standard bidding documents-Public Procurement Office <http://www.ppo.gov.mu>
- g) The Standard Bidding Documents in Mauritius have been prepared by the Procurement Policy Office pursuant to section 7(c) of the Public Procurement Act 2006 and in accordance with the World Bank’s Standard Bidding Documents.
- h) Training conducted by MIO on Good Governance, ethics, risk management among others

DATE	WORKSHOP	NO OF PARTICIPANTS
27 Feb 2010	Ethics Officer Certification Programme	6
05 May 2010	Risk Management & Internal Control	15
28 March 2011	Ethics Officer Certification Programme	11
04 April 2011	Risk Management & Internal Control	26
08 June 2011	Disclosure & Transparency	18

20 Oct 2011	Risk Management & Internal Control	13
10 May 2012	Disclosure & Transparency	16
05 July 2012	Risk Management & Internal Control	52
15 April 2013	Ethics Officer Certification Programme	5
4 July 2013	Disclosure & Transparency	10
12 May 2014	Ethics Officer Certification Programme	5
01 July 2014	Risk Management & Internal Control	48
06 Nov 2014	Disclosure & Transparency	10
20 April 2015	Ethics Officer Programme	12
10 Sept 2015	Risk Management & Internal Control	33
24 Nov 2015	Disclosure & Transparency in collaboration with ACCA	25

i) Surveys and Reports

- Survey on the state of compliance with the Code of Corporate Governance in Mauritius - Report October 2009; National Committee on Corporate Governance. <http://www.nccg.mu>
- Report on Observance of Standards and Codes 2010
<http://www.miod.mu/media/5425/Mauritius-Corporate-Governance-ROSC>
- Mauritius Commercial Bank report on corporate Governance;
- Corporate Governance State Bank of Mauritius; and
- other large companies.

(b) Observations on the implementation of the article

The relevant legal framework includes Companies Act, FIAMLA, Financial Reporting Act (FRA), Financial Services Act, Securities Act, Bank of Mauritius Act, Banking Act and PPA.

The Financial Reporting Council (FRC) promotes high-quality reporting by public interest entities and improves the quality of accounting and auditing services. The Mauritius Institute of Professional Accountants supervises and regulates the accountancy profession and has established a Code of Professional Conduct and Ethics for Accountants. Mauritius Institute of Directors (MIoD) promotes corporate governance through training and development. The Financial Services Commission (FSC) regulates and monitors the non-bank financial services sector.

The Code of Corporate Governance comprises a set of principles and guidance aimed at improving the governance practices of organizations within Mauritius. It governs conduct of all public interest entities (as defined in the FRA), state-owned enterprises, statutory corporations and parastatal bodies, and has been revised in 2016 to better implement the existing international standards. Among others, the Code calls for the development of internal risk management systems. While no sanctions exist for non-compliance, the FRC may write to the board of a given entity to encourage them to comply. The FRC reviews the annual reports of all public interest entities.

In 2013, the Public Private Platform against Corruption was set up to build synergies between the public and private sectors. The Private Sector Anti-Corruption Task Force was established in

collaboration with the MIO, Business Mauritius amongst others as a voluntary private-sector anti-corruption initiative.

Mauritius has amended the Business Facilitation Act to enhance transparency in obtaining registrations, licences and permits for various commercial activities at both state and local levels.

While Mauritius is in compliance with the provisions under review, the following recommendations have nevertheless been made in view of further enhancing the implementation of the Convention:

- continue the efforts of the Financial Reporting Council to monitor the compliance of the relevant entities with the Code of Corporate Governance; and
- enhance transparency in procedures regarding licenses and permits granted by public authorities, including through amendments of the Business Facilitation Act.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

The Financial Reporting Act 2004, the Companies Act, the Finance and Audit Act and the Statutory Bodies Act 1972 provide the necessary accounting and auditing standards and framework in Mauritius.

The Financial Reporting Act through the institutions' set up under the act, that is, the Financial Reporting Council, the Mauritius Institute of Directors and the Institute for Professional Accountants.

Section 40 deals with Material irregularity,

Section 46 with the Functions of Mauritius Institute of Professional Accountants and

Section 72 - Financial Reporting and Accounting standards

Link:

Furthermore, for companies registered under the Companies Act 2001, Section 193 of the Act provides for the Accounting records to be kept as follows:

- (1) Subject to the other provisions of this section, the Board of a company shall cause accounting records to be kept that -
 - (a) correctly record and explain the transactions of the company;
 - (b) shall at any time enable the financial position of the company to be determined with reasonable accuracy;
 - (c) shall enable the directors to prepare financial statements that comply with this Act; and
 - (d) shall enable the financial statements of the company to be readily and properly audited.
- (2) The accounting records shall contain -
 - (a) entries of money received and spent each day and the matters to which it relates;
 - (b) a record of the assets and liabilities of the company;
 - (c) where the company's business involves dealing in goods-
 - (i) a record of goods bought and sold, except goods sold for cash in the ordinary course of carrying on a retail business, that identifies both the goods and buyers and sellers and relevant invoices;
 - (ii) a record of stock held at the end of its accounting period together with records of any stock takings during that period;
 - (d) where, the company's business involves providing services, a record of services provided and relevant invoices.
- (3) The accounting records shall be kept-
 - (a) in written form and in the English or French language; or
 - (b) where not kept in the English or French language, then the directors shall cause to be made a true translation in the English or French language of such accounting records at intervals of not more than 7 days and the translation shall be kept with the original accounting records for so long as the original accounting records are required to be retained under this Act.

Financial Reporting Council Audit Practice Review Panel

The Financial Reporting Act 2004 prescribes the establishment of an Audit Practice Review function within the FRC and an Audit Practice Review Panel (APRP), to advise and provide guidance on the review of the audit practice of licensed auditors in Mauritius.

The responsibilities of the FRC, in relation to the Audit Practice Review (APR) include:-

- (i) review the practice of an auditor; and
- (ii) Investigate or cause to be investigated -
 - any complaint of dishonest practice, negligence, professional misconduct, or malpractice made against a licensed auditor; or
 - any breach of the IFAC Code of Professional Conduct and Ethics by a licensed auditor; or · any material irregularity notified to it pursuant to section 40(2).

Specific Responsibilities of the Audit Practice Review Panel

The specific responsibilities of the APRP encompass:-

- monitoring the practice of auditors with a view to maintaining high standards of auditing practices and ensuring compliance with the Quality Management System, IFAC Code of Professional Conduct and Ethics and with auditing standards;
- enforcing compliance with this Act and the rules of the Council by conducting investigations;
- advising the Council and other panels of the FRC on any matter relating to audit practices
- providing information to and otherwise coordinating activities, as appropriate, with other panels of the FRC, including activities related to matters for corrective action.

Link: <http://frc.govmu.org/English/opecpanels/aprp/Pages/Policies.aspx>

Financial Reporting Monitoring Panel

The Financial Reporting Monitoring Panel (FRMP) will advise and assist in the monitoring of financial statements of PIEs, refers non-compliance and deficiencies in such reporting and report the results of the monitoring activity to the Financial Reporting Council (FRC).

FRC Responsibilities in relation to the FRMP

The responsibility of the FRC, in collaboration with the FRMP will review the financial statements and reports of a public interest entity filed with the government department or authority to determine whether the financial statements and reports are in compliance with this IFRSs, Code of Corporate Governance and the Financial Reporting Act 2004.

Specific Responsibilities of the Financial Reporting Monitoring Panel

The FRMP shall be responsible for the provision of guidance and advice in reviewing, analysing and identifying any failure on the part of any public interest entity (PIE) to comply with any financial reporting and accounting standard, code or guideline issued under this Act, and with such other financial reporting and accounting standards as may be specified under the relevant

enactments.

FRMP will further ensure that policies and systems are developed to communicate issues of importance, as appropriate, to the stakeholders.

The Financial Reporting Monitoring Panel (FRMP)-

<http://frc.govmu.org/English/oepanels/frmp/Pages/Policies.aspx>

MIPA/FSC/BOM

Please refer to information provided under Article 12 paragraph 1

Examples of Implementation:

Infinity BPO Ltd (In winding up) v Gerald Bouillard (2013 SCJ 104]

Related to material irregularities and strong suspicion of a fraud having been perpetrated against Infinity BPO Ltd whereby evidence was brought illustrating a letter from PWC referring to matter to the Financial Reporting Council and the Mauritius Institute of Professional Accounts. The Court granted the application for winding up and ordered the reimbursement of misappropriated funds to the Applicant.

a) Guidelines on Sanctions on Auditors

Pursuant to sections 6(2)(f) of the Financial Reporting Act, the Financial Reporting Council has issued Guidelines in 2014 on Sanctions on Auditors. These are for the guidance of auditors licensed under the Act.

The purpose of imposing sanctions on auditors is to:

- (a) protect the public interest;
- (b) maintain and promote confidence in the performance of Registered Auditors and compliance with the Act.

As per the guidelines, sanctions shall be commensurate with the gravity and impact of the breach of the Act. The sanctions which may be imposed on an auditor are as follows -

- (a) warning;
- (b) suspension of licence;
- (c) cancellation of licence.

Link:

<http://frc.govmu.org/English//DOCUMENTS/GUIDELINES%20ON%20SANCTIONS%20ON%20AUDITORS.DOC>

b) Guidelines on reporting on compliance with the Code of Corporate Governance

Pursuant to Sections (6)(2)(f) and 39(3) of the Financial Reporting Act, the Financial Reporting Council has issued Guidelines on reporting on compliance with the Code of Corporate Governance by the Auditor.

Link:

<http://frc.govmu.org/English//DOCUMENTS/GUIDELINES%20-20CCG%20BY%20AUDITORS.PDF>

c) Works of FRC on IFRS Conceptual Framework on Financial Reporting

- Exposure Draft on Conceptual Framework for Financial Reporting
- Highlights on Exposure Draft on Conceptual Framework for Financial Reporting
- Exposure Draft on Updating References to the Conceptual Framework
- Highlights on Exposure Draft Updating References to the Conceptual Framework

d) Reviews conducted by FRC

FRC had started the annual report review function in the year 2008. As at 31 December 2014, FRC had conducted the review of 858 annual reports (full and follow-up reviews) as illustrated in the table below:

Categories	30 June 2009	Dec 2010	Dec 2011	Dec 2012	Dec 2013	Dec 2014	Total
Listed	63	64	46	56	54	53	336
Other PIEs	22	88	73	85	115	139	522
Total	85	152	119	141	169	192	858

FRC Annual Report 2015 (Chapter 6): www.frc.mu <http://www.frc.mu>

Please refer to information provided under Article 9.

(b) Observations on the implementation of the article

The relevant legal framework includes Companies Act, FIAMLA, Financial Reporting Act (FRA), Financial Services Act, Securities Act, Bank of Mauritius Act, Banking Act and PPA.

Mauritius is deemed in compliance with the provision under review.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

Mauritius does not allow tax deductibility of expenses that constitute bribes (s. 26, Income Tax Law). A Ministerial Committee chaired by the Deputy Prime Minister is working on a draft legislation towards Transparent and Accountable Political financing.

The Ministerial Committee on Electoral Reforms set up by the Government has already submitted its recommendations on the financing of political parties and these recommendations are being examined. The Attorney-General's Office will finalise the bill after consultations with the Electoral Supervisory Commission, the Office of the Electoral Commissioner and other stakeholders once certain issues have been cleared.

(b) Observations on the implementation of the article

Tax deductibility of expenses that constitute bribes is not allowed (s. 26, Income Tax Law).

Mauritius is deemed in compliance with the provision under review.

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 ordre public or of public health or morals.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

Enhancing transparency of and promoting the contribution of the public in decision-

making process

Citizen and stakeholder involvement in decision-making processes

In order to enlist a sustained and concerted Civil Society support in the fight against corruption and nurture a sense of ownership to the national anti-corruption strategy, the ICAC has over the last thirteen years developed partnership strategies with the most influential components of the Civil Society. To further reinforce and engage the civil society in the fight against corruption, the following platforms have been constituted:

- Trade Union Action Against Corruption (TAC)
- Civil Society Network Against Corruption (CSNAC)
- NGO Focal Group
- Youth Against Corruption (YAC)
- Integrity Clubs in Secondary Schools

These platforms have been working towards making corruption a high-risk activity, increasing public vigilance, improving integrity at all levels and promoting values among citizens. The following measures were taken to build citizen and stakeholder involvement in decision-making processes:

Trade Unions

The engagement of trade unionists in the fight against corruption was consolidated in 2005 with the signing of a Memorandum of Understanding (MoU) between the ICAC and ten major Trade Union Federations in Mauritius to sustain the partnership. A Trade Union Core Group was setup and several workshops were organised over the years to empower trade unionists and enlist their engagement in the fight against corruption. This partnership has allowed the ICAC to reach workers at grassroot and getting their participation in the fight against corruption.

To give another boost to this partnership, a trade union platform has been set up in 2015 - the Trade Union Action Against Corruption. One of the main activities of the platform was the organisation of a one-day Symposium in August 2015 targeting some 130 trade union members. The theme was 'Promoting Trade Union Engagement in the Fight against Corruption'. The symposium aimed at increasing the impact of trade union collective anti-corruption actions. The symposium contributed to empowering trade union members to act as agents of change, act as a check on public bodies in the decision-making process and supporting the national integrity strategy to combat corruption.

NGOs Engagement

The ICAC has consolidated its partnership with civil society organisations in the fight against corruption. In recent years, the strategy was geared towards driving civil society organisations to take ownership of anti-corruption initiatives and demonstrate their anti-corruption commitments through concrete actions. Accordingly, five Anti-Corruption Focal Groups were set up in 2014 on a regional basis. Each focal group comprises some 100 volunteers from those regions. The terms of reference of the group are to:

- develop and implement anti-corruption initiatives at the level of their respective communities;
- encourage networking and exchange of ideas among Non-Governmental Organisations/

Community-Based Organisations (NGOs/CBOs); and

- empower social leaders to provide guidance to community members, and act as a vigilance group against corruption.

Moreover, an empowerment workshop on the theme “NGO’s role in building a corrupt-free

Mauritius “was organised recently, in collaboration with the Common Training Strategy Committee of the Ministry of Social Security, National Solidarity and Reform Institutions, NGO Trust Fund and MACOSS, the apex body for NGO’s in Mauritius. Participants were empowered on issues such as organisational values, financial management, procurement, asset management, fundraising and project management and monitoring and enforcing them in daily practices.

Other main activities organised in the recent past

‘Regional NGO Meets’ were organised in four districts in collaboration of the Common Training Strategy Committee of the Ministry of Social Security, National Solidarity and Reform Institutions (a committee comprising members from the Ministry, NGO Trust Fund, MACOSS, Decentralised Cooperation Programme Office and the Non-State Actor Unit). The theme of the “Regional NGO Meet” was ‘Reinforcing NGO Engagement in the fight against Corruption’.

As a follow up to these regional meets, four NGO Anti-Corruption Focal Groups have been set up in these districts respectively. The main aim of the anti-corruption focal groups is to engage local people in the fight against corruption, act as a vigilant group against corrupt practices and encourage dissemination of anti-corruption messages among the community in different parts of the island.

A “National NGO Meet” was organised in April 2014.

Youth Participation

Youth is a major agent of change and constitutes a key stakeholder in the fight against corruption. Securing their engagement is imperative for meaningful and sustained results in the fight against corruption. As future leaders, youth has a significant role to play in making Mauritius, a corrupt-free country. In line with ICAC’s mandate and Article 13, our actions since 2003 aimed at strengthening trust and confidence among the youth in the fight against corruption.

Accordingly, a four-phased ‘Youth Empowerment Programme’ (YEP) aiming at instilling a high sense of righteousness among the younger generation, was launched in 2004. Spreading over a span of five years, the YEP comprised various steps which were articulated around creating opportunities for youth participation, interaction between other stakeholders and youth leaders, formulation and implementation of pro-social projects on a regional basis and consolidating an intensive networking in the social web.

The National Anti-Corruption Youth Working group (NAYWG) - one of the outcomes of the YEP - was set up to advocate for the formulation and implementation of youth oriented anti-corruption projects geared towards upholding high ethical standards among youth to create a new breed of corrupt-free citizens.

To commemorate the 6th Anniversary of the group, a souvenir magazine depicting ‘Youth Engagement in the Fight against Corruption - 6 Years Achievement’ and recalling the precious contribution of NAYWG members over six years (2004 - 2010) was launched during a Youth Forum held in the context of the International Youth Day 2011.

Since 2012, ICAC strategy with respect to youth focused on:

- (i) mobilizing youth efforts towards concrete actions through a ‘Youth Networking Forum’;
- (ii) the consolidation of the ‘Youth Against Corruption’ (YAC) platform to promote youth engagement;
- (iii) promoting an anti-corruption culture among the youth in the formal and informal sector;
- (iv) sustaining ‘Integrity clubs’ in secondary schools and ‘Anti-Corruption Clubs’ in tertiary education institutions;
- (v) empowering youth on corruption and related issues through workshops and seminars; and
- (vi) triggering research and reflection through anti-corruption competitions.

The National Anti-Corruption Youth Working Group (NAYWG) set up in 2005, comprising of youth leaders from both the formal and informal sectors was reviewed in 2015 to accommodate young professionals from both the public and the private sectors. The youth platform is since known as the Youth Action Against Corruption (YAC).

Main activities recently organised with the youth

a) Youth Networking Forum

ICAC held a Youth Networking Forum regrouping more than 180 young leaders on the 25th of August 2015 during which the chief guest was Her Excellency Mrs. Ameenah Gurib-Fakim, G.C.S.K., C.S.K, Ph.D., President of the Republic of Mauritius. Following this forum, the Youth Against Corruption (YAC) platform was set up.

Over and above educating and sensitising members of the YAC on the fight against corruption, the broad objective of the platform is to empower the youth to act as ambassadors of this fight. Youth engagement for a better society needs to be visible at all times, especially at the personal and professional level to be able to inspire and motivate the younger generation. YAC members are expected to serve as role models and take ownership of the fight against corruption. This implies, amongst others:

- (i) joining or creating anti-corruption pressure groups and participating in anti-corruption initiatives;
- (ii) making workplaces corruption free-zone and securing organisational participation in promoting anti-corruption culture;
- (iii) identifying corruption risks, analysing them and acting accordingly;
- (iv) taking the lead to initiate anti-corruption activities and enlisting the support of colleagues and their staff, and
- (v) striving for collective actions against corruption and demanding for enhanced accountability, transparency from service providers and higher level of integrity.

b) Anti-Corruption Youth Colloquium

An Anti-Corruption Youth Colloquium and Empowerment Session for Youth was conducted on the theme “Sustaining Youth Engagement in the Fight Against Corruption” with the objectives to further empower the youth to act as agents of change and widen and reinforce the youth network against corruption in Mauritius.

The colloquium was held in June 2014 with 644 participants from different sectors namely:

secondary schools, tertiary and vocational institutions, Ministries and Public sector departments, the Mauritius Institute of Education, Police Training School and young professionals from the private sector. Among the panellists were an ex Editor in Chief of a daily Newspaper, an ICAC investigator and winners of the Public Speaking Competition 2012 and 2013.

Empowerment of Students on corruption related issues

Sustaining anti-corruption education and sensitising youngsters on the scourge of corruption and the need to develop intolerance towards it were the objectives for the anti-corruption campaign in schools over the years. Some 17,000 students are sensitised almost every year through a targeted campaign in all public and private schools. In 2015, the campaign which targeted Lower VI students had as objectives to provide information on corruption and related issues, highlight the role and responsibilities of the youth and secure youth engagement in the fight against corruption.

Feedback gathered from rectors, educators and students indicated that the campaign was successful and could become an annual feature at secondary school level. Such campaigns no doubt help students to recognise, resist, reject corruption and develop intolerance towards corruption.

Integrity Clubs in Secondary Schools

Some 30 new Integrity Clubs have been set up in 2015. The main philosophy behind the integrity club project is to instil a culture of integrity and responsible citizenship amongst students. Members of Integrity Clubs are encouraged to initiate anti-corruption and integrity building activities. As at 31st December 2015, 102 Integrity Clubs have been set up in secondary schools including 5 in Rodrigues island.

Feedback collected revealed the following:

- Students are more aware of what constitutes an act of corruption;
- There is increased youth involvement in anti-corruption activities;
- Integrity Clubs are taking novel anti-corruption initiatives and using Internet to give visibility to their actions;
- Engagement of students in the promotion of anti-corruption values is equally more visible; and
- Other clubs are extending their actions outside school walls to reach other educational institutions and the community.

A 6-minutes video clip on Integrity Clubs has been produced highlighting the benefits of Integrity Clubs and the potential impact of its activities. This video clip captures the feelings, emotions and most importantly, the commitment of Integrity Club members and facilitators in enhancing the school environment, staff and students attitudes' towards a culture of integrity. The clip has been widely disseminated amongst the youth through social media.

Empowerment of Integrity Club Members and School Facilitators

Four half-day empowerment workshops are organised annually for Integrity Club members and school facilitators. In 2015 the theme of the workshop was "Breaking the corruption

chain”. The objectives of the workshops are to:

- raise concern on the need for promoting an ethical culture at school level;
- share, synergise and sustain anti-corruption initiatives in secondary schools; and
- trigger a change in mindset towards right behaviour and good practices among the youth.

Anti-Corruption Clubs in Tertiary Education Institutions

Anti-corruption clubs have been set up in five tertiary institutions to enable tertiary education students to take ownership of anti-corruption initiatives within their respective institutions.

Sensitisation of Students of the University of Mauritius

Following a request made by the Law Society of the UOM, a sensitisation session was organised for some 50 students. The presentation focused on the salient aspects of Prevention of Corruption Act 2002 and ethical obligations of the youth in the national fight against corruption.

Other Activities for youth

The ICAC in collaboration with its stakeholders conducts a series of anti-corruption activities throughout the year. Some of the activities are as follows:

- Anti-Corruption Competitions (Debates, essay writing, elocution contests, on-the-spot painting, posters, short film, slogan, songs, frescoes, etc.)
- Seminars and workshops
- Forums
- Talks, sensitisation and empowerment sessions
- Setting up of Integrity Clubs in Secondary Schools and tertiary Institutions
- Activities organised by Integrity Clubs
- Awareness Campaigns in Primary and Secondary Schools
- Anti-Corruption educational support materials

Ensuring that the public has effective access to information;

ICAC Newsletter

The ICAC Newsletter is published on a quarterly basis where information pertaining to corruption cases, prevention and educational activities, statistics on cases lodged and complaints received are provided to the public. Some 2500 hard copies are widely distributed across the country and abroad. The e-version is sent to all our stakeholders and public bodies for wide distribution.

ICAC Website

Relevant and updated information of interest to the public are posted on the website of the ICAC. These include: legislations, summary of cases and judgments, publications, ongoing activities,

events, etc.

Link: <https://www.icac.mu>

Annual Reports of the ICAC

The Annual Reports of the ICAC contain detail information pertaining to the Independent Commission Against Corruption and its various divisions, and its activities, audited financial reports. These reports are tabled in the National Assembly.

Social Media

Facebook is the world's mostly used online social networking service and it has till date connected a number of users from diverse segments. The ICAC Facebook page is active and has been a key social marketing tool for greater interaction with stakeholders. Since 2012, the ICAC Facebook is being used as a platform mostly by the youth.

facebook.com/icacmauritius

Youtube.com/icacmu

Public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including school and university curricula

Educational courses/modules introduced

Please refer to information provided under Article 5, Paragraph 1 for details on the information provided below.

- A module entitled "Moral Values and Good Governance" for students of the University of Mauritius
- A "Corruption and Ethics" module for students the Université des Mascareignes Mauritius
- A corruption module for students of the University of Technology.
- A "Work Ethics" module for students of the Mauritius Institute for Training and Development (MITD)
- A corruption module for new recruits of the Police Force
- A module on "Cooperative Governance" for small entrepreneurs
- Public Sector Guidelines
- Code of Ethics
- Anti-Corruption theme at general Paper level

Integration of an Anti-Corruption Module in the 'Training of Secondary Educators' Programme

The empowerment of Secondary Educators is an ongoing activity. Anti-Corruption empowerment workshops are conducted on a yearly basis with 200 Secondary Educators from the different educational zones.

All trainees following courses at the Mauritius Institute of Education are empowered to play a

more effective role in the transmission of anti-corruption values to our students. In line with the educational reform underway, the ICAC has worked out an anti-corruption module which is being integrated into the “Training for Secondary Educators” programme run by the Mauritius Institute of Education. The aim is to empower and persuade teachers that education has a key role in anti-corruption efforts and to empower them to tackle the anti-corruption component in the school curriculum.

Value-based interactive CD-ROM to all Standard VI pupils

The ICAC has developed and distributed a value-based interactive CD-ROM to all Standard VI pupils of the Republic of Mauritius. Valuable lessons on the importance of being a responsible citizen will thus be nurtured through the use of the value-based interactive CD-ROM as a teaching aid both in schools and at home.

The “value based interactive CD-ROM” is meant to be used as a communication tool and teaching aid to impart value-based messages; to provide an entertaining means for pupils to reflect on the need to be a person of integrity; bring together educators, parents and the pupils in the promotion of values; and set up a network of primary schools educators for the dissemination of anti-corruption messages in schools.

Participation in ‘Les assises de L’éducation’

‘Les Assises De L’Education’ organized by the Ministry of Education & Human Resources was held from 14 to 17 October 2013. ICAC was invited to the Forum and seized the opportunity to make two main proposals namely that:

- Anti-corruption education be treated as extra or co-curricular activities.
- Anti-corruption values (honesty, responsibility, respect, etc.) be made an integral part of the secondary school curriculum. Values should not be taught as a subject but rather be part of the school curriculum. The appropriate methodology for the transmission of anti-corruption values could be taken care of by the Mauritius Institute of Education in the context of teacher training. Values represent antidotes to corruption and can contribute to fighting all forms of indiscipline in schools.

Respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption.

- Constitutional provisions

The framers of the Mauritian constitution had guaranteed as fundamental rights an independent judiciary and the right to free expression in the context of a democracy based on the rule of law.

Section 3 of the Constitution provides that no person will be discriminated in his enjoyment of his right to freedom of expression and reads as follows:

It is hereby recognised and declared that in Mauritius there have existed and shall continue to exist without discrimination by reason of race, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, each and all of the following human rights and fundamental freedoms -

- (a) the protection of the law;
- (b) freedom of conscience, of expression...

Section 12 is the substantive provision which deals with freedom of expression and reads:

(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of expression, that is to say, freedom to hold opinions and to receive and impart ideas and information without interference, and freedom from interference with his correspondence.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision-

In the interests of defence and... public [order]

For the purpose of protecting the ... private lives of persons concerned in legal proceedings, [and].... maintaining the authority and independence of the courts...;

(c) ...except so far as that provision or, as the case may be, the thing done under its authority is shown not to be reasonably justifiable in a democratic society.

The right to freedom of expression is the right to hold opinions and to receive and impart ideas and information without interference. It is the right of every citizen of Mauritius. It is not absolute and is subject to a number of qualifications that are reasonably necessary for a democracy.

Corruption is an issue of high market value, is of much interest to the media. Corruption cases are closely followed and widely commented by the press in Mauritius. The press also plays an important role in bringing to the forefront alleged cases of corruption and malpractices.

The timely release of court rulings and judgments greatly facilitates the dissemination of information concerning corruption. The media in Mauritius enjoys the freedom to seek, receive and publish information concerning corruption and this makes it possible for cases of corruption to be commented live on the media.

Promoting Investigative Journalism

Workshop on Investigative Journalism

Transparency Mauritius conducted a workshop on investigative journalism in 2013 with Mauritian journalists. The workshop was facilitated by Birgit Schwarz of the Institute for the Advancement of Journalism of South Africa and supported by Transparency International.

Transparency Mauritius Investigative Journalism Award

Transparency Mauritius has since 2013 been organising the Award to promote investigative journalism as a tool in the fight against corruption.

Please refer to the website of the following newspapers in Mauritius

· Le Mauricien <http://www.lemauricien.com/>

- -Le Mauricien Archive of Print Versions (PDF) http://www.lemauricien.com/printed_LM
- Mauritius Times <http://www.mauritiustimes.com/>
- 'LExpress <http://www.lexpress.mu/>
- Weekend Archive of Print Versions (PDF) http://www.lemauricien.com/printed_we
- Scope Archive of Print Versions (PDF) http://www.lemauricien.com/printed_scope
- Defi Media Group <http://defimedia.info/>
- ICAC Newsletter is a quarterly publication in both hard and soft copies for wide distribution in Mauritius and abroad. It is meant to keep all stakeholders informed about current and future anti-corruption initiatives and events in Mauritius. It is also a means to share anti-corruption initiatives with our counterparts in Africa and Small Island Developing States.

(b) Observations on the implementation of the article

ICAC has developed partnership strategies with numerous civil society organizations towards better prevention of corruption, including through the following platforms: Trade Union Action against Corruption; Civil Society Network against Corruption; NGO Focal Group; Anti-Corruption Academic Forum and Youth Against Corruption.

ICAC has developed a range of public education programmes, including anti-corruption modules at all education levels and training activities for public and parastatal bodies.

Mauritius is deemed largely in compliance with the provision under review. In view of further enhancing the implementation of the Convention, it is recommended that Mauritius:

- enhance access of the general public to information, including through adopting a new law on the access to information that would fill the existing gaps, including grounds for refusal, timeframes and an appeal mechanism (reference to sub-paragraph a of Article 10);
- raise awareness among the general public regarding their rights to request information; and
- continue efforts to engage in consultations with the civil society with regard to the development of new laws, such as the upcoming law on the access to information and the law on the funding of political parties.

(c) Successes and good practices

Wide multi-stakeholder engagement and regular consultations with the civil society were recognized as a good practice by the reviewing experts.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

The ICAC since 2003, has been aiming at creating awareness among the population of the dangers of corruption and the development of a culture of intolerance among the population. The reporting of acts of corruption is an integral component of all awareness campaigns and anti-corruption programmes of the ICAC.

Anti-Corruption activities are conducted by the Corruption Prevention and Education Division (CPED) of the ICAC throughout the year in collaboration with stakeholders. Anti-Corruption activities form part of the approved list of Extra-Curricular activities of the Ministry of Education and Human Resources, Tertiary Education and Scientific Research.

Mass communication campaigns using the most influential means are conducted regularly to create awareness among the population. TV and radios programmes, spots and live talks are also regularly conducted.

Reporting of Acts of corruption

The following structures are in place to deal effectively with grievances and complaints:

The ICAC has set up in accordance with the provisions of the PoCA 2002 as amended, a Complaints and Advice Processing Unit - CAPU where acts of corruption are reported. Complaints can be in the form of letters, phone calls, fax, email or people coming in person. The complainant can also choose to remain anonymous. Communications equipment capable of receiving complaints by fax, e-mail, or toll-free hotline are also available on a 24-hour basis.

The Complaints and Advice Processing Unit (CAPU) is opened from 0800 to 1900 from Monday to Friday.

Referrals to ICAC: Referrals may be made to the ICAC as prescribed under Section 45 of the Prevention of Corruption Act 2002 as amended:

Section 45 Referrals to the Commission

(1) Notwithstanding sections 43 and 44, where in the exercise of his functions-

- (a) a Judge or Magistrate;
- (b) the Ombudsman;
- (c) the Director of Public Prosecutions;
- (d) the Director of Audit; or
- (e) the chief executive of a public body,

is of the opinion that an act of corruption may have occurred, he may refer the matter to the Commission for investigation.

(2) Where in the course of a Police enquiry -

- (a) it is suspected that an act of corruption or a money laundering offence has been committed; and
- (b) the Commissioner of Police is of the opinion that the matter ought to be

investigated by the Commission, the Commissioner of Police may, notwithstanding the Financial Intelligence and Anti Money Laundering Act 2002 and subject to subsection (3), refer the matter to the Commission for investigation.

(3) The Commissioner of Police shall forthwith notify the FIU of the nature of the money laundering offence referred to in subsection (2) (a).

Complaints Registered at ICAC

Following the intensive campaigns during the initial years of operation and regular anti-corruption/ mass media campaigns, the number of complaints registered at the ICAC have kept on increasing as follows:

Year	Complaints Registered at ICAC
2003-2006	Average 650
2007	1057
2008	1153
2009	1269
2010	1350
2011	1725
2012	1743
2013	1613
2014	1534
2015	1588

Please refer to Annual Reports of the ICAC for further details.

(b) Observations on the implementation of the article

Any person may report an act of corruption to ICAC (POCA s. 43). ICAC has established several reporting channels, including through a mailbox, hotline, letters, internet, anonymously or in person.

Mauritius is deemed in compliance with the provision under review.

(c) Challenges, where applicable

There is a need to enhance the capacity of journalists in investigative journalism.

(d) Technical assistance needs

Capacity-building for fighting impunity and uncovering corruption through investigative journalism

The media is an important partner in the fight against corruption and can play an increasing part in fighting impunity. The press is used to reporting acts of corruption or commenting on corrupt cases and scandals related to corruption. Private radios are also increasingly opening the doors to the public to denounce and comment on corruption scandals. The media also plays a crucial role in providing citizens with information that enables them to stand up to and fight the corrupt.

Insiders who blow the whistle and expose corrupt or illegal activities are an important source of information for journalists. From their position inside governments, companies, and other organizations, they can provide crucial leads, evidence that exposes everything from fraud, corruption to white-collar crimes. It is thus important for journalists and media people to identify the motives of informers and to verify their information. Equally essential is knowing how to best protect them as sources.

Technical assistance is being sought for the holding of a high-level conference to help and empower journalists in Mauritius to

- a) navigate this challenging terrain;
- b) ensure that the quality of information is there and supported by tools that allow for proper analysis;
- c) increase media's ability to uncover corruption and wrongdoings;
- d) access resources from international sources.

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.

Transparency International is providing technical support to Transparency Mauritius in this respect.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

1.1 The AML/CFT Legal Framework

Mauritius took its first AML measures in 1995 with the adoption of the Dangerous Drugs Act which criminalized money laundering where the predicate offence relates to drug offences. It then introduced a more comprehensive AML legislation in June 2000, namely the Economic Crime and Anti Money Laundering Act (ECAMLA) in its first attempt to implement the international FATF standards. The Economic Crime Office was set up and was endowed with the functions of intelligence gathering as well as that of investigating economic offences, including money laundering. The ECAMLA was repealed in 2002 and a new AML legislation was introduced,

namely the Financial Intelligence and Anti Money Laundering Act 2002. Mauritius also enacted the Prevention of Terrorism Act 2002 and the Prevention of Corruption Act 2002, which established the Independent Commission against Corruption (ICAC) with the specific mandate to investigate corruption and money laundering offences.

Mauritius underwent a first AML/CFT assessment under the Financial Sector Assessment Programme (FSAP) in 2002/3. In response to the recommendations made by the FSAP team a series of new legislation was enacted in 2003 to reinforce the legal and institutional AML/CFT framework. These included the Anti-Money Laundering (Miscellaneous Provisions) Act, the Mutual Assistance in Criminal and Related Matters Act and the Financial Intelligence and Anti-Money Laundering Regulations. The Convention for the Suppression of the Financing of Terrorism Act was also adopted in 2003 to criminalise the financing of terrorism.

In addition, the regulatory framework in the financial services sector underwent significant review and new laws were enacted to meet international standards and modernize the regulation of financial services in Mauritius. In October 2004, the Government of Mauritius introduced new banking laws, namely the Bank of Mauritius Act 2004 and the Banking Act 2004 in order to amend and consolidate the laws relating to the business of banking and other financial institutions.

In the non-bank financial services sector, with the enactment of the Securities Act 2005, Insurance Act 2005 and the Financial Services Act 2007, the regulation of the non-bank financial services sector was enhanced and refined for optimum regulation.

Following a second FSAP assessment in 2007, several changes were brought to the Mauritian legislative framework to implement the Mutual Evaluation Report (MER) recommended actions. For instance, the Trafficking in Persons Act and the Prevention of Terrorism (International Obligations) Act were enacted. The Bank of Mauritius amended its AML/CFT Guidance Notes while the Financial Services Commission reviewed its AML/CFT Codes. The Financial Intelligence and Anti-Money Laundering Act 2002 was amended to, among others, enhance the existing provisions relating to the money laundering and terrorist financing offences and to subject land promoters, property developers, agents in Land and/or Building or estate agencies under the Local Government Act as well as dealers under the Jewellery Act to AML/CFT preventive measures. Amendments were also brought to the Customs Act with respect to the implementation of Special Recommendation IX of the FATF. Moreover, Mauritius moved from a disclosure system to a declaration system for incoming and outgoing cross-border transportation of foreign currencies or bearer negotiable instruments of an amount exceeding Rs 500,000 or its equivalent in foreign currency.

Main pieces of the Anti-Money Laundering Legislation

a) The Financial Intelligence and Anti-Money Laundering Act 2002 - “FIAML Act”

The principal anti-money laundering legislation in Mauritius is the FIAML Act 2002 which repealed the Economic Crime and Anti-Money Laundering Act 2000. The offences of money laundering are contained within Part II of the FIAML Act:

Part II of the FIAML Act 2002

Section 3 - Money Laundering

(1) Any person who -

(a) engages in a transaction that involves property which is, or in whole or

in part directly or indirectly represents, the proceeds of any crime; or

(b) receives, is in possession of, conceals, disguises, transfers, converts, disposes of, removes from or brings into Mauritius any property which is, or in whole or in part directly or indirectly represents, the proceeds of any crime, where he suspects or has reasonable grounds for suspecting that the property is derived or realized, in whole or in part, directly or indirectly from any crime, shall commit an offence.

(2) A bank, financial institution, cash dealer or member of a relevant profession or occupation that fails to take such measures as are reasonably necessary to ensure that neither it nor any service offered by it, is capable of being used by a person to commit or to facilitate the commission of a money laundering offence or the financing of terrorism shall commit an offence.

(3) In this Act, reference to concealing or disguising property which is, or in whole or in part, directly or indirectly, represents, the proceeds of any crime, shall include concealing or disguising its true nature, source, location, disposition, movement or ownership of or rights with respect to it.

In relation to the offences:

- A person may be convicted of a money laundering offence notwithstanding the absence of any conviction of another person for any underlying predicate crime - the proceeds of which are allegedly laundered.
- The offences contain an important objective test of suspicion. The test means that it is possible for the offences to be committed in circumstances where a person ought to have reasonable grounds to suspect that the property had derived from crime, even where they did not actually suspect that to be the case.
- The offences can be committed in relation to proposed as well as to actual transactions.
- A separate offence of conspiracy to commit an offence is contained within section 4 of the FIAML Act.

5. Limitation of payment in cash (FIAMLA) (This section aims to encourage cashless transaction and therefore enables the maintenance of money trail.

- (1) Notwithstanding sections 30 and 31 of the *Bank of Mauritius Act*, but subject to subsection (2), any person who makes or accepts any payment in cash in excess of 500,000 rupees or an equivalent amount in foreign currency, or such amount as may be prescribed, shall commit an offence.
- (2) Subsection (1) shall not apply to an exempt transaction.

b) The Financial Services Act 2007 - “FS Act”

The FS Act regulates the conduct of business by Licensees and makes provisions for the regulatory and supervisory powers of the Financial Services Commission (FSC). Pursuant to section 7(1) of the FS Act, the FSC has such powers as necessary to enable it to discharge its functions, including those which arise under sections 7(1), 43 and 44 of the FS Act.

Further, section 18 (3) of the FIAML Act empowers the Commission to proceed against a Licensee under section 7 of the FS Act on the grounds that it is carrying on its business in a

manner which is contrary or detrimental to the interests of the public.

The FSC has also issued a Code requiring its licensees to implement AML/CFT measures.

For the purposes of the exercise of this power, the FSC will have regard to the extent to which a Licensee takes positive action to protect itself against the threat of money laundering and terrorist financing by complying with this Code.

c) Related Legislations

- Dangerous Drugs Act 2000
- Trusts Act 2001
- Financial Intelligence AML Regulations 2003
- Mutual Assistance in Criminal and Related Matters Act 2003
- Bank of Mauritius Act 2004
- Banking Act 2004
- Financial Reporting Act 2004
- Insurance Act 2005 and Securities Act 2005
- Gambling Regulatory Authority Act 2007
- Asset Recovery Act 2011
- The Good Governance and Integrity Reporting Act 2015

Related Conventions subscribed by Mauritius

- In March 2001, Mauritius acceded to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 20th December 1988, known as the Vienna Convention.
- On 18 April 2003, Mauritius ratified the United Nations Convention against Transnational Organised Crime dated the 15th December 2000 and known as the Palermo Convention.
- On 14 December 2004, the UN Convention against Corruption and known as the Merida Convention was ratified by Mauritius.
- On 11 December 2004, Mauritius ratified the International Convention for the Suppression of the Financing of Terrorism.

1.2 The AML/CFT Institutional Framework

The institutions that are concerned with matters relating to anti-money laundering and combating the financing of terrorism are as follows:

- The Financial Intelligence Unit (FIU), which is the central agency in Mauritius responsible for receiving, requesting, analysing and disseminating to the investigatory and supervisory authorities disclosures of financial information concerning suspected proceeds of crime, alleged money laundering offenses, and the financing of any activities or transactions related to terrorism;
- The Asset Recovery Investigation Division (ARID): Following the enactment of the Asset

Recovery Amendment Act of 2015, the ARID has become the Enforcement Authority with respect to Asset Recovery and acts under the aegis of the Financial Intelligence Unit.

Investigatory Bodies

- The ICAC was set up under the Prevention of Corruption Act 2002. Its role is to investigate corruption and money laundering offenses;
- The Mauritius Police Force has three different units which may be called upon to investigate money laundering cases: the Special Cell and the Fiscal Unit (both located within the Central Crime Investigation Department), and the Anti-Drugs and Smuggling Unit;
- The Mauritius Revenue Authority (including the Customs Department): All travellers, entering or leaving Mauritius with more than Mauritian rupees 500,000 in cash or Bearer Negotiable Instruments, i.e. money instruments in bearer form, bearer travellers cheques, promissory notes, cheques money orders in bearer form or endorsed without restriction, or its equivalent in any foreign currency must declare the sum to Customs, in order to comply with Section 131A of the Customs Act 1988.

Any person who fails to comply with the provisions of Section 131A of the Customs Act shall commit an offence and on conviction be liable to a fine of up to Mauritian rupees 500,000 and imprisonment of up to three years.

- The Good Governance and Integrity Reporting Services Agency: The Agency has been set up under the Good Governance and Integrity Reporting Act 2015. Under Section 5(1)a of the Act, on receipt of a report or on its own initiative, the Agency has the power to request any person to explain, by way of affidavit, within 21 days or any period which the Director may determine, the source of any funds which the person owns, possesses, has the custody or control of, or which are believed to have been used in the acquisition of any property.

Section 5 (1)(b) provides for the Agency shall apply for a disclosure order where it does not receive a reply within the period specified above.

Section 6(1) provides for Exchange of any relevant information with other public sector agency for the purpose of discharging its functions under the Act.

Section 6(3) empowers the Agency to enter into any agreement or arrangement for the exchange of information with a public sector agency, a foreign supervisory institution, a law enforcement agency or an international organization where the Agency is satisfied that they have the capacity to protect the confidentiality of the information imparted, whenever required.

Under section 8(2) an enforcement authority may be required to provide any information the Agency thinks relevant in the discharge of its duties. It may under section 8(2)(c) call for the communication or production of any relevant record, or article from any person.

Under Section 9 any Judicial Officer, the Ombudsperson, the Director of Audit, the Director-General ICAC, the Director Mauritius Revenue Authority, The Governor of the Bank of Mauritius, amongst others, having reasonable ground to suspect that person has acquired unexplained wealth, shall make a written report on the matter to the Agency.

The Good Governance and Integrity Reporting Act further provides for report to the Agency by other persons where they have reasonable ground to suspect a person has acquired unexplained wealth. The Act also provides for an Integrity Reward system.

The Agency may inscribe a privilege in favour of the Government on the property in respect of which the person is unable to give satisfactory account of his unexplained wealth. In relation to

a suspected case of unexplained wealth, the Agency may, under section (13) apply to the Judge in Chambers for a disclosure order. Where the Board of the Agency has reasonable ground to believe that a person has unexplained wealth, it shall direct the Agency to apply to a Judge in Chambers for an unexplained wealth order for the confiscation of that unexplained wealth.

Regulatory/Supervisory Bodies

- The Bank of Mauritius is the licensing and supervisory body of all banks, non-bank deposit-taking institutions, and cash dealers operating in Mauritius;
- The Financial Services Commission licenses, regulates, and supervises nonbank financial institutions in Mauritius. The nonbank financial sector includes institutions involved in insurance (including captive insurance) and pensions, capital market operations, investment funds, leasing, and credit finance as well as global business activities;
- The Gambling Regulatory Authority established under the Gambling Regulatory Authority Act 2007
- Mauritius Institute of Professional Accountants established under the Financial Reporting Act 2004
- Financial Reporting Council established under the Financial Reporting Act 2004
- Attorney-General's Office
- Bar Council established under the Mauritius Bar Association Act
- Mauritius Law Society Council referred to in the Mauritius Law Society Act
- Chamber of Notaries established under the Notaries Act

1.3 Anti-Money Laundering Requirements

The Financial Intelligence and Anti-Money Laundering Act 2002 and the Financial Intelligence and Anti-Money Laundering Regulations 2003 (as amended in 2005) are the primary legislations that impose the adoption of preventive AML/CFT measures on reporting entities.

List of relevant institutions subject to the regime

- Banks;
- Financial institutions;
- Cash dealers;
- Professional accountants, public accountants and member firms under the Financial Reporting Act;
- Licensed auditors under the Financial Reporting Act;
- Law firms, foreign law firms, joint law ventures, foreign lawyers under the Law Practitioners Act;
- Barristers;
- Attorneys;
- Notaries;

- Persons licensed to operate a casino, gaming house, gaming machine, totalisator, bookmaker and interactive gambling under the Gambling Regulatory Authority Act;
- Dealers under the Jewellery Act;
- Agents in Land and/or Building or Estate Agencies under the Local Government Act; and
- Land Promoters and Property Developers under the Local Government Act.

Relevant Regulatory and Supervisory Authorities

- Bank of Mauritius

The Bank of Mauritius (BOM) is the supervisory authority for banks, non-bank deposit-taking institutions and cash dealers, foreign exchange dealers and money changers. It has issued Guidance Notes on Anti-Money Laundering and Combatting the Financing of Terrorism. Failure to implement the provisions of the Guidance Notes or the requirements imposed in the FIAMLA 2002 and FIAML Regulations 2003, is subject to sanction by the BOM.

The Guidance Notes issued by the Bank of Mauritius encompass the principles set out in the FATF Recommendations for combating money laundering and terrorist financing issued by the Financial Action Task Force and outline the broad parameters within which financial institutions should operate in order to ward off money laundering and terrorist financing risks. The Guidance Notes requires banks and other financial institutions to put in place, inter alia:

- a) internal systems and controls;
- b) KYC and Due Diligence Procedures, which include identifying the ultimate beneficial owners of companies/partnerships/trusts etc.;
- c) on-going monitoring of account;
- d) enhanced due diligence for higher-risk customers and countries;
- e) record keeping requirements;
- f) training of staff; and
- g) reporting of suspicious transaction reports to the FIU.

The Guidance Notes are reviewed on a regular basis in the light of changes brought, both domestically and on the international front, in the existing AML/CFT framework and experience gathered and constant dialogue between the Bank and stakeholders.

The Guidance Notes are enforceable to the extent that it is mandatory for financial institutions to comply thereto. A breach of the Guidance Notes is a criminal offence under the Banking laws and may entail penal sanctions. These breaches may, however, be compounded with the consent of the Director of Public Prosecutions and a fine may be imposed on the defaulting financial institution with its agreement as set out in the Banking laws. Furthermore, the Bank is empowered under the Bank of Mauritius Act to impose an administrative penalty on any financial institution which has refrained from complying, or negligently failed to comply, with any instructions or guidelines issued or requirement imposed by the Bank under the banking laws. The electronic version of the banking laws and the Guidance Notes on AML/CFT may be downloaded from the website of the Bank of Mauritius at <http://www.bom.mu>. The terms and conditions attached to a banking licence may be amended or the banking licence revoked under the Banking Act 2004 in the absence of a reasonable excuse for a transgression, and on the basis that business is being carried out in a way

contrary to the interest of the public.

It is also the practice for the Bank of Mauritius, as the regulator, to take certain preventive measures, which are within the statutory parameters of the Bank to prevent that the banking system is being abused by money launderers and terrorist perpetrators. In this respect, the Bank has provided all financial institutions falling under its purview with the list of persons and entities identified as terrorist by the United Nations Security Council. The Bank has requested financial institutions under its purview to inform the Bank whether the persons and entities mentioned in the list hold any account with them and to seek the approval of the Bank before executing any request for transactions in respect of those persons and entities.

· Financial Services Commission

The Financial Services Commission (FSC) set up under the Financial Services Development Act (FSDA) 2001 (now repealed and replaced by the Financial Services Act 2007) regulates the non-bank financial services sector. The FSC issued Codes on the Prevention of Money Laundering and Terrorist Financing for three categories of businesses namely

- a) Management Companies;
- b) Investment Businesses; and
- c) Insurance Entities.

It is also empowered to take regulatory sanction against any financial institution for non-compliance, through negligence or otherwise, with any requirement in the FIAMLA 2002 or FIAML Regulations 2003.

· Other AML/CFT Regulatory bodies

	Member of a relevant profession or occupation	Regulatory body
1	Professional accountant, public accountant and member firm under the Financial Reporting Act	Mauritius Institute of Professional Accountants established under the Financial Reporting Act
2	Licensed auditor under the Financial	Financial Reporting Council established under the Financial Reporting Act
3	Law firm, foreign law firm, joint law venture, foreign lawyer, under the Law Practitioners Act	Attorney-General
4	Barrister	Bar Council established under the Mauritius Bar Association Act
5	Attorney	Mauritius Law Society Council referred to in the Mauritius Law Society Act
6	Notary	Chamber of Notaries established under the Notaries Act
7	Person licensed to operate a casino, gaming house, gaming machine, totalisator, bookmaker	Gambling Regulatory Authority established under the Gambling Regulatory Authority Act

	and interactive gambling under the Gambling Regulatory Authority Act	
8	Dealer under the Jewellery Act	FIU
9	Agent in Land and/or Building or Estate Agency under the Local Government Act	FIU
10	Land Promoter and Property Developer under the Local Government Act	FIU

1.3.1 Reporting of Suspicious Transactions

The FIU Mauritius initiates analysis on the basis of suspicious transactions reports (STRs) received from reporting institutions under Section 14 of the FIAMLA, and non-STRs, which are disclosures made by regulators, investigatory bodies, foreign FIUs and other requests from Government bodies and members of the public.

The requirement to report suspicious transactions, established under Section 14 of the FIAMLA (2002), is as follows:

- (1) Every bank, financial institution, cash dealer or member of a relevant profession or occupation shall, as soon as practicable, but not later than 15 working days, make a report to the FIU of any transaction which the bank, financial institution, cash dealer or member of the relevant profession or occupation has reason to believe may be a suspicious transaction.
- (1A) Where the FIU receives a report under subsection (1), it shall provide feedback in writing on the outcome of the report to the bank, financial institution, cash dealer or member of the relevant profession or occupation and to the relevant supervisory authority.
- (2) Nothing in subsection (1) shall be construed as requiring a law practitioner to report any transaction of which he has acquired knowledge in privileged circumstances unless it has been communicated to him with a view to the furtherance of a criminal or fraudulent purpose.

The reporting of suspicious transactions may be done using the following ways:

- STR Form
- GoAML Application

Report of suspicious transactions can be lodged with the FIU via the goAML Web, which is an integrated IT application. The UNODC goAML software was deployed at the FIU on 21 January 2014. As at date, all banks and all licensees under the FSC are using the goAML web Portal to submit suspicious transaction reports and exchange information with the FIU. The goAML software, which has been developed by the UNODC, is specifically designed to meet the data collection, management, analytical, document management, workflow and statistical needs of any FIU.

Financial Intelligence Unit	The Mauritius FIU has issued guidelines in September 2014 to assist Designated Non-financial Businesses and Professions (DNFBPs) in complying with their obligations in relation to the prevention, detection and reporting of money laundering and financing of terrorism and pursuant to section 10(2) (ba) of the Financial Intelligence and Anti-Money Laundering Act (FIAMLA) 2002, as amended. These guidelines provide ‘measures to combat money Laundering or financing of terrorism that are in force in jurisdictions having standards comparable to Mauritius’. An electronic copy of the guidelines can be accessed at http://www.fiumauritius.org
	Suspicious Transaction Report - Guidance Note 3 (2014)
Financial Services Commission	Code on Prevention of Money Laundering and Terrorist Financing (March 2012)
Bank of Mauritius	Guidance Notes on Anti-Money Laundering and Combating the Financing of Terrorism for Financial Institutions (issued in June 2005 and updated from time to time. The latest update was made in March 2016)

1.3.2 Customer Due Diligence

Section 17(a) of the FIAMLA requires every bank, financial institution, cash dealer or member of the relevant profession or occupation to verify, in such manner as may be prescribed, the true identity of all customers and other persons with whom they conduct transactions:

17. Other measures to combat money laundering

Without prejudice to section 3(2), every bank, financial institution, cash dealer or member of a relevant profession or occupation shall -

- (a) verify, in such manner as may be prescribed, the true identity of all customers and other persons with whom they conduct transactions;
- (b) keep such records, registers and documents as may be required under this Act or by regulations;
- (c) upon a Court order, make available such records, registers and documents as may be required by the order; and
- (d) put in place appropriate screening procedures to ensure high standards when recruiting employees.

Regulation 4(1) of the Financial Intelligence and Anti-Money Laundering Regulations 2003 provides that, subject to the exceptions in Regulation 5, every person shall, in the circumstances set

out in Regulation 2, establish and verify:

- (a) the identity and the current permanent address of an applicant for business; and
- (b) the nature of the applicant's business, his financial status and the capacity in which he is entering into the business relationship with the relevant person.

Subject to paragraph (6), which deals with introductions, where an applicant for business is an individual customer, he shall, for the purposes of paragraph (1)(a), submit to a relevant person, the original or a certified copy of an official valid document containing details of his current permanent address, a recent photograph of him and such other documents as may be required, to enable the relevant person to establish his identity. Proof of identity shall be evidenced, in the case of:

- (a) a body of persons, whether corporate or unincorporated, by:
 - (i) official documents and such other information as may be required which collectively establish their legal existence;
 - (ii) a certified copy of the resolution of the Board of Directors or managing body and the power of attorney granted to its managers, officers or employees to transact on its behalf; and
- (b) every manager, officer and employee referred to in sub-paragraph (a)(ii), by the same documents as those specified in paragraph (4).

Identification of beneficial owners: Paragraphs (7) to (10) of regulation 4 cast a duty on financial institutions to take reasonable measures to determine whether applicants for business are acting on behalf of a third party. If they are so acting, institutions are required to undertake due diligence on the third party. The Mauritian authorities consider that these provisions apply to beneficial owners. Where a relevant person determines that the applicant for business is acting on behalf of a third party it must keep a record that sets out:

- (i) where the third party is a natural person, the identity of the third party;
- (ii) where the third party is a body corporate or unincorporate, proof of identity as specified in paragraph (5); and
- (iii) the relationship between the third party and the applicant for business.

1.3.3 Record-Keeping

Section 17(b) of the Financial Intelligence and Anti-Money Laundering Act 2002 provides that every bank, financial institution, cash dealer or member of the relevant profession or occupation shall keep such records, registers and documents as may be required under the Act or by regulations. In this respect, regulation 8 of the Financial Intelligence and Anti-Money Laundering Regulations 2003 provides that every relevant person shall keep:

- (a) records of customer identification, for not less than 5 years after the closure of the account or cessation of business relationship with the customer concerned;
- (b) records of transactions carried out for customers, for not less than 5

- years after completion of the transactions concerned;
- (c) records of all reports made to and by the MLRO, for not less than 5 years after the date on which the report is made; and
- (d) records of any money laundering training delivered to employees.

Extracts

17. Other measures to combat money laundering (FIAMLA)

Without prejudice to section 3(2), every bank, financial institution, cash dealer or member of a relevant profession or occupation shall -

- (a) verify, in such manner as may be prescribed, the true identity of all customers and other persons with whom they conduct transactions;
- (b) keep such records, registers and documents as may be required under this Act or by regulations;
- (c) upon a Court order, make available such records, registers and documents as may be required by the order; and
- (d) put in place appropriate screening procedures to ensure high standards when recruiting employees.

Financial Intelligence Anti-Money Laundering Regulations (2003)

Regulation 4

4.

- (1) Subject to regulation 5, every relevant person shall, in the circumstances set out in paragraph (2), establish and verify in accordance with this regulation -
 - (a) the identity and the current permanent address of an applicant for business; and
 - (b) the nature of the applicant's business, his financial status and the capacity in which he is entering into the business relationship with the relevant person.
- (2) The circumstances mentioned in paragraph (1) shall be-
 - (a) where the parties form, or resolve to form, a business relationship between them;
 - (b) in respect of a one-off transaction, where a relevant person dealing with the transaction knows or has reasonable grounds to suspect that the transaction is a suspicious transaction;
 - (c) in respect of a one-off transaction, where payment is to be made by, or to the applicant for business of an amount in excess of 350,000 rupees or an equivalent amount in foreign currency ; and
 - (d) in respect of 2 or more one-off transactions, where it appears

at the outset or subsequently to a relevant person dealing with any of the transactions, that the transactions are linked and that the total amount, in respect of all of the transactions, which is payable by or to the applicant for business is in excess of 350,000 rupees or an equivalent amount in foreign currency.

(3) Where, at the time of the transaction, the amount of money involved is not known, the obligation to establish the identity of the applicant for business shall apply as soon as the amount becomes known or the threshold of 350,000 rupees cash, or an equivalent amount in foreign currency is reached.

(4) Subject to paragraph (6), where an applicant for business is an individual customer, he shall, for the purposes of paragraph (1)(a), submit to a relevant person, the original or a certified copy of an official valid document containing details of his current permanent address, a recent photograph of him and such other documents as may be required, to enable the relevant person to establish his identity.

(5) Subject to paragraph (6), proof of identity shall be evidenced, in the case of -

(a) a body of persons, whether corporate or unincorporate, by-

(i) official documents and such other information as may be required which collectively establish their legal existence;

(ii) a certified copy of the resolution of the Board of Directors or managing body and the power of attorney granted to its managers, officers or employees to transact on its behalf; and

(b) every manager, officer and employee referred to in subparagraph (a)(ii), by the same documents as those specified in paragraph (4).

(6)

(a) Where an applicant for business is introduced to a relevant person by an eligible introducer or a group introducer, it shall be sufficient compliance with paragraphs (4) and (5) where the relevant person -

(i) obtains and maintains documentary evidence that the eligible introducer or group introducer is regulated for the purposes of preventing money laundering and terrorist financing; and

(ii) is satisfied that the procedures laid down by the eligible introducer or group introducer meet the requirements specified in the Act, or any code or guidelines issued by a supervisory authority.

(b) A relevant person relying on customer identification documentation in the possession of an eligible introducer or group introducer shall not be required to retain copies of that customer identification documentation in his own records

where he is satisfied that he may obtain that customer identification documentation from the eligible introducer or group introducer upon request.

- (c) Every relevant person shall comply with the requirements specified in any code or guidelines issued by its supervisory authority, relating to the conduct of business with eligible introducers or group introducers.
- (7) A relevant person shall, at the time of establishing a business relationship, take reasonable measures to determine whether the applicant for business is acting on behalf of a third party.
- (8)
 - (a) Subject to subparagraph (b), a relevant person who determines that the applicant for business is acting on behalf of a third party shall keep a record that sets out --
 - (i) where the third party is a natural person, the identity of the third party;
 - (ii) where the third party is a body corporate or unincorporate, proof of identity as specified in paragraph (5); and
 - (iii) the relationship between the third party and the applicant for business.
 - (b)
 - (i) Subparagraph (a) shall not apply to an omnibus account which is held by a relevant person.
 - (ii) Every relevant person shall comply with any code or guidelines issued by its supervisory authority in respect of omnibus accounts.
- (9) Where a relevant person is not able to determine that the applicant for business is acting for a third party, he shall
 - (a) make a record of the grounds for suspecting that the applicant for business is so acting; and
 - (b) make a suspicious transaction report to the Financial Intelligence Unit.
- (10) In determining what constitutes 'reasonable measures' for the purpose of paragraph (7), all the circumstances of the case shall be taken into account, and regard shall be had to any guideline or code applicable to the relevant person and, in the absence of any guideline or code, to best practice which, for the time being, is followed in the relevant field of business and which is applicable to those circumstances.
- (11) A relevant person shall comply with the obligation under regulation 4(1), as soon as reasonably practicable after he has entered into a business relationship with an applicant for business, with a view to -
 - (a) agreeing with the applicant for business to carry out an initial

transaction; or

(b) reaching an understanding, whether binding or not, with the applicant for business that it may carry future transactions.

(12) For the purposes of paragraph (11), where the applicant for business does not supply

evidence of identity as soon as reasonably practicable, the relevant person shall -

(i) discontinue any transaction it is conducting for him; and

(ii) bring to an end any understanding it has reached with him.

unless the relevant person has informed the Financial Intelligence Unit.

Regulation 5

(1) It shall not be a requirement for a relevant person to comply with identification procedures where -

(a) the applicant for business -

(i) is itself a bank, a financial institution or a cash dealer; and

(ii) is based either in Mauritius or in an equivalent jurisdiction;

(b) in respect of a life insurance policy -

(i) the annual premium does not exceed 40,000 rupees; or

(ii) the single premium does not exceed 100,000 rupees; or

(c) the proceeds of a one-off transaction are not paid, but are directly reinvested in another transaction on behalf of the person to whom the proceeds are payable, provided the relevant person keeps a record of those transactions.

(2) Every relevant person shall, in the circumstances referred to in paragraph (1)(a), obtain and retain from the applicant for business, written documentary evidence of the existence of its legal entity and of its regulated status.

Regulation 8

(1) For the purposes of section 17 (b) of the Act, every relevant person shall keep -

(a) records of customer identification, for not less than 5 years after the closure of the account or cessation of business relationship with the customer concerned;

(b) records of transactions carried out for customers, for not less than 5 years after completion of the transactions concerned;

(c) records of all reports made to and by the Money Laundering Reporting Officer, for not less than 5 years after the date on

- which the report is made; and
- (d) records of any money laundering training delivered to employees.
 - (2) Notwithstanding paragraph (1), any guideline or code applicable to a relevant person may provide for a longer period for the keeping of records.

1.3.4 Sanctions for Non-Compliance

Sections 10, 18 and 19 of the Financial Intelligence and Anti-Laundering Act 2002 as amended deal with regulatory and non-compliance as follows:

Section 10. Functions of the FIU

- (4) Where an institution or a person fails to comply with guidelines issued under subsection (3), the institution or person shall be liable to pay a penalty not exceeding 50,000 rupees for each day on which such breach occurs as from the date on which the breach is notified or otherwise comes to the attention of the FIU and such penalty may be recovered by the Director as if it were a civil debt.

Section 18. Regulatory action in the event of non-compliance

- (1)
 - (a) The supervisory authorities may issue such codes and guidelines as they consider appropriate to combat money laundering activities and terrorism financing, to banks, cash dealers or financial institutions, subject to their supervision.
 - (b) The Bank of Mauritius shall supervise and enforce compliance by banks and cash dealers with the requirements imposed by this Act, regulations made under this Act and such guidelines as it may issue under paragraph (a).
 - (c) The Financial Services Commission shall supervise and enforce compliance by financial institutions with the requirements imposed by this Act, regulations made under this Act and such guidelines as it may issue under paragraph (a).
- (2) Where it appears to the Bank of Mauritius that any bank or cash dealer subject to its supervision has failed to comply with any requirement imposed by this Act or any regulations applicable to that bank or cash dealer and that the failure is caused by a negligent act or omission or by a serious defect in the implementation of any such requirement, the Bank of Mauritius, in the absence of any reasonable excuse, may -
 - (a) in the case of a bank, proceed against it under sections 11 and 17 of the Banking Act 2004 on the ground that it is carrying

on business in a manner which is contrary to the interest of the public;

- (b) in the case of a cash dealer, proceed against him under section 17 of the Banking Act 2004 on the ground that he is carrying on business in a manner which is contrary to the interest of the public.
- (3) Where it appears or where it is represented to the Financial Services Commission that any financial institution has refrained from complying or negligently failed to comply with any requirement of this Act or regulations, the Financial Services Commission may proceed against the financial institution under section 7 of the Financial Services Act 2007 on the ground that it is carrying on its business in a manner which is contrary or detrimental to the interest of the public.
- (3A) A regulatory body shall supervise and enforce compliance by members of a relevant profession or occupation with the requirements imposed by this Act, the regulations made under this Act and such guidelines as may be issued under section 10(2) (b) and (c).
- (4) Where it appears or is represented to any regulatory body that any member of a relevant profession or occupation over which it exercises control has refrained from complying or negligently failed to comply with any requirement of this Act or regulations, the regulatory body may take, against the member concerned, any action which it is empowered to take in the case of professional misconduct, or dishonesty, malpractice or fraud, by that member.

Section 19. Offences relating to obligation to report and keep records and to disclosure of information prejudicial to a request

- (1) Any bank, cash dealer, financial institution or member of a relevant profession or occupation or any director, employee, agent or other legal representative thereof, who, knowingly or without reasonable excuse -
 - (a) fails to -
 - (i) supply any information requested by the FIU under section 13(2) or 13(3) within the date specified in the request;
 - (ii) make a report under section 14; or
 - (iii) verify, identify or keep records, registers or documents, as required under section 17;
 - (b) destroys or removes any record, register or document which is required under this Act or any regulations;
 - (c) warns or informs the owner of any funds of any report

required to be made in respect of any transaction, or of any action taken or required to be taken in respect of any transaction, related to such funds; or

- (d) facilitates or permits the performance under a false identity of any transaction falling within this Part,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.

(2) Any person who -

- (a) falsifies, conceals, destroys or otherwise disposes of or causes or permits the falsification, concealment, destruction or disposal of any information, document or material which is or is likely to be relevant to a request to under the Mutual Assistance in Criminal and Related Matters Act 2003; or

- (b) knowing or suspecting that an investigation into a money laundering offence has been or is about to be conducted, divulges that fact or other information to another person whereby the making or execution of a request to under the Mutual Assistance in Criminal and Related Matters Act 2003 is likely to be prejudiced,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.

Financial Intelligence Anti-Money Laundering Regulations

Regulation 11

Any person who contravenes these regulations shall commit an offence and shall on conviction be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

Sanctions for non-compliance with the Code on Prevention of Money Laundering and Terrorist Financing (March 2012)

Non-compliance with the Code will expose the Licensee to regulatory action i.e. a direction under section 7(1)(b) and section 46 of the FS Act or section 93 of the Insurance Act 2005 to observe the Code. Failure to comply with the direction shall amount to an offence under section 91 of the FS Act and may further lead to sanctions imposed by the Enforcement Committee pursuant to section 53 of the FS Act.

The sanctions available to the Enforcement Committee to look into breaches include:

- issuing a private warning;
- issuing a public censure;
- disqualifying a Licensee from holding a licence or a licence of a specified kind for a specified

period; in the case of an officer of a Licensee, disqualifying the officer from a specified office or position in a Licensee for a specified period;

- imposing an administrative penalty; and
- revoking a licence.

Sanctions for non-compliance with the Guidance Notes on Anti-Money Laundering and Combating the Financing of Terrorism issued by the Bank of Mauritius

The Financial Intelligence and Money Laundering Act (FIAMLA) provides that the Bank of Mauritius -

- a. may issue such codes and guidelines as it considers appropriate to combat money laundering activities and terrorism financial to financial institutions falling under its purview [section 18(1)(a)];
- b. shall supervise and enforce compliance by financial institutions falling under its purview, with the requirements imposed by the FIAMLA, regulations made thereunder and such guidelines as may be issued by the Bank under section 18(1)(a) of the FIAMLA [section 18(1)(b)]
- c. may, among others, revoke, vary or suspend the licence of the financial institution if it has failed to comply with the requirements of the FIAMLA, regulations made thereunder.

In addition to the above, the Bank of Mauritius may issue Guidelines under Section 100 of the Banking Act or Section 50 of the Bank of Mauritius Act.

The Guidance Notes on Anti-Money Laundering and Combating the Financing of Terrorism have accordingly been issued by the Bank of Mauritius to financial institutions falling under its jurisdiction, by virtue of powers conferred upon it by section 50(2) of the Bank of Mauritius Act 2004, section 100 of the Banking Act 2004 and section 18(1)(a) of the Financial Intelligence and Anti-Money Laundering Act 2002.

The Guidance Notes also require financial institutions incorporated in Mauritius with overseas branches or subsidiary undertakings to put in place a group AML/CFT policy to ensure that all branches and subsidiary undertakings that carry on the same business as a financial institution in a place outside Mauritius have procedures in place to comply with the CDD and record-keeping requirements similar to those imposed under the Guidance Notes on AML/CFT to the extent permitted by the law of that place. The financial institution should communicate the group policy to its overseas branches and subsidiary undertakings and where a branch or subsidiary undertaking of a financial institution outside Mauritius is unable to comply with requirements that are similar to those imposed under these Guidance Notes because this is not permitted by local laws, the financial institution must:

- a. inform the Bank of Mauritius of such failure; and
- b. take additional measures to effectively mitigate ML/TF risks faced by the branch or subsidiary undertaking as a result of its inability to comply with the above requirements.

The Guidance Notes are reviewed on a regular basis in the light of changes brought, both domestically and on the international front, in the existing AML/CFT framework and experience gathered and constant dialogue between the Bank of Mauritius and stakeholders.

Any guideline issued by the Bank of Mauritius under the ambit of the provisions of section 100 of the Banking Act or section 50 of the Bank of Mauritius Act are enforceable to the extent that it is mandatory for financial institutions to comply thereto.

A breach of the Guidance Notes is a criminal offence under section 100(4) of the Banking Act 2004 and sections 50 and 53 of the Bank of Mauritius Act 2004 and may entail penal sanctions.

Section 100(4) of the Banking Act provides that any person who fails to comply with the guidelines or instructions made under this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years, while in terms of section 53 of the Bank of Mauritius Act, any bank or other financial institution which fails to comply with, inter alia, section 50 or fails to furnish, within the time limit specified by the Bank of Mauritius, any information required to satisfy the Bank of Mauritius that it is complying with the provisions of section 50, shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees for each day on which the offence occurs or continues.

These breaches may, however, be compounded with the consent of the Director of Public Prosecutions and a fine may be imposed on the defaulting financial institution with its agreement as provided in section 69 of the Bank of Mauritius Act or section 99 of the Banking Act.

Furthermore, the Bank of Mauritius is empowered under section 50(6) of the Bank of Mauritius Act to impose an administrative penalty on any financial institution which has refrained from complying, or negligently failed to comply, with any instructions or guidelines issued or requirements imposed by the Bank under the banking laws.

The Bank has in fact imposed fines and issued warnings for non-compliance with the Guidance Notes on AML-CFT.

A breach of the Guidance Notes on AML/CFT, therefore, may entail criminal, civil and administrative sanctions. The Bank of Mauritius has imposed fines and issued warnings for non-compliance with the Guidance Notes on AML-CFT.

Mauritius does not presently have a register of beneficial owners. Following the realignment of its AML/CFT framework with the 2011 FATF Recommendations, this will be considered.

Please refer to the Annual Report 2013 of the Financial Services Commission

Link: <http://www.fiumauritius.org>

STATISTICS CORRUPTION & MONEY LAUNDERING CASES						
YEAR	LODGED	ML	C	CONVICTED	ML	C
2004	10(14)	1(2)	9(12)	-	-	-
2005	4(4)	0	4(4)	-	-	-
2006	5(7)	1(1)	4(6)	2(2)	0	2(2)
2007	21(27)	1(3)	20(24)	2(2)	1(1)	1(1)
2008	26(31)	5(6)	21(25)	7(8)	0	7(8)
2009	55(72)	20(30)	35(42)	10(11)	5(5)	4(6)
2010	72(89)	31(38)	41(51)	30(32)	19(19)	11(13)
2011	60(82)	20(30)	40(52)	25(28)	19(22)	6(6)
2012	42 (60)	18(31)	16(21)	21(27)	14(20)	7(7)
2013	59(66)	22(27)	37(39)	21(23)	14(16)	7(7)
2014	23(36)	10(15)	13(21)	18(21)	13(14)	5(7)
2015	44(64)	25(38)	19(26)	19(23)	10(14)	9(9)

TOTAL	421(552)	154(221)	259(323)	155(178)	114(131)	59(66)
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C - Corruption cases

ML - Money Laundering cases

Figures in bracket indicate the number of persons involved

No of cases pending before the Intermediate Court = 151

No of persons involved 232

No of charges involved - 1075

Court Cases

1. Independent Commission Against Corruption v Anderson Ross & others 2014 INT 35 (Extract)

The accused concerned were charged with the offence of Money Laundering in breach of section 3(2) of the FIAMLA, which provides:

A bank, financial institution, cash dealer or member of a relevant profession or occupation that fails to take such measures as are reasonably necessary to ensure that neither it nor any service offered by it, is capable of being used by a person to commit or to facilitate the commission of a money laundering offence or the financing of terrorism shall commit an offence.

The word ‘measures’ under the above section is not defined under the FIAMLA and it was the case of the prosecution that the source of those measures was the FSC Code.

The Court found that the FSC Code was issued under the aegis of section 7(1) of the Financial Services Development Act (‘FSDA’) and section 18 of the FIAMLA, which empowers the FSC to issue guidelines as a supervisory authority. After interpreting the above sections, the Court found that the extent of non-compliance with measures stipulated in the FSC Code is merely regulatory and administrative.

Therefore, non-compliance with the measures under the FSC Code may only lead to a direction to comply and to regulatory actions but not to a criminal sanction outright. In this regard, the Court noted that only in the event of non-compliance with a direction from the FSC that a person may incur criminal liability under section 43(1) of the FSDA Act. The Court referred to article 7(1) of the European Court of Human Rights which is to the effect that no person shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. The Court ordered that proceedings under the other counts against the accused parties should proceed.

2. AUDIT Y v THE STATE & ANOR 2016 SCJ 282 Record No. 8613- 3/32/14

This is an appeal from the judgment of the learned Magistrate of the Intermediate Court (Criminal Division) convicting the appellant on all five counts of the offence of money laundering in breach of sections 3(1) (b), 6(3) and 8 of the Financial Intelligence and Anti Money Laundering Act 2002 (FIAMLA). The learned Magistrate also ordered the forfeiture of the properties, the subject matter of the offences namely: a portion of land comprising of a concrete house; two private cars; a sum of money in a bank account. The appeal was dismissed.

3. Independent Commission Against Corruption v S Dressler and Afrasia Bank Limited 2015 INT 125

Accused no.1 was prosecuted under with 'limitation of payment in cash' in breach of section 5(1) and 8 of the FIAMLA for two cash deposits of 60,000 euros and 30000 euros respectively. Accused no.2 (the Afrasia Bank) was prosecuted for having accepted the cash deposits of 60,000 euros and 30,000 euros from Accused no.1. Both accused were found guilty.

The Magistrate highlighted that It is undisputed that as per Guidance note 2 issued by FIU, paragraph 3.1, the FIU has made it mandatory to report any payment in cash in excess of 500,000 rupees or an equivalent amount in foreign currency and that Accused no.2 company has an obligation to make such a report after the transaction, hence Accused no.2's argument that it could not do otherwise than to accept the deposit and then raise suspicious transaction report (STR). It is here most relevant to note that section 18 of FIAMLA makes it mandatory for financial institutions as Accused no.2 Company to comply with such codes and guidelines issued by Bank of Mauritius and one of such guidelines has already been mentioned above.

4. ICAC v A.D.Pydiah 2011 INT 979/10

The Accused was charged under 16 counts in an Information with the offence of Money Laundering in breach of section 3 of the Financial Intelligence and Anti-Money Laundering Act 2002 (FIAMLA). It was averred under each count in the Information that the Accused was in possession of a sum of money in his bank account, which sum was derived from a crime. The total sum of money under all 16 counts amounted to Rs 394,300/-. The Accused pleaded Guilty to all counts. The particulars of the offence before the Court were that the crime committed was larceny by person in wages, in that he forged signatures of clients of a commercial bank to transfer sums of money electronically and by way of cheques from clients holding money at the bank into his personal account.

5. ICAC v S.Rymanbee (8 yrs penal servitude) 2011 INT 617/11

The Accused stood charged with the offence of Money Laundering in breach of section 3(1)(a) of the FIAMLA 2002. It was averred that the Accused deposited a certain sum of money into bank accounts and that the Accused had reasonable grounds for suspecting that the money was

derived directly from crimes, that is, Swindling and Unauthorised Access to Computer Data. The total of the sum involved was Rs 1,177,200/-.

Accused confessed having, on the dates averred in the Information, having withdrawn various sums of money from different persons' bank accounts using these persons ATM debit card at different casinos. He further confessed having given the sum of Rs 10,000/- to one of his friends who works at the National Identity Card Unit for the issue of a fake National Identity Card, which he used to withdraw money from a bank account.

6. Shibani Finance Co Ltd v ICAC and State of Mauritius 2012 SCJ 413

The accused company as represented is charged with the offence of 'Limitation of payment in cash' under three counts, in breach of sections 5(1) and 8 of the FIAMLA 2002 coupled with section 44(2) of the Interpretation and General Clauses Act.

The accused company, as represented, pleaded not guilty to the three counts. There is no dispute that the accused company, a duly licensed Foreign Exchange Dealer, carried out the transactions averred in the information, namely exchanged GBP60,000, GBP30,000 and GBP15,000 for Mauritian rupees which were remitted to Mr. Y. Meeajun. The contention of the prosecution was that the three sums accepted by the accused company from Mr. Y. Meeajun do not fall within the category of exempt transaction under section 2 of the FIAMLA and also Mr Meeajun did not hold any account with the financial institution. while the defence point was that the accused company regarded the transactions as exempt ones.

After analyzing the evidence on record, the court found that even the accused company made all verifications, since it does not fall within the definition of 'financial institution' as provided by section 2 of the FIAMLA, the transactions are not 'exempt transactions' within the meaning at section 2 of the FIAMLA. Court held that the prosecution has proved its case against the accused company as represented beyond a reasonable doubt on all three counts found the accused company as represented guilty as charged on all three counts.

7. BEEZADHUR v The Independent Commission Against Corruption and Anor 2013 PRV 83 (JCPC)

The Appellant was convicted by the Intermediate Court of Mauritius for breach of sections 5(1) and 8 of FIAMLA under 5 counts. Section 5(1) of the FIAMLA reads as follows:

... any person who makes or accepts any payment in cash in excess of 500,000 rupees or an equivalent amount in foreign currency, or such amount as may be prescribed, shall commit an offence.

Section 5(2) of FIAMLA reads as follows:

Subsection (1) shall not apply to an exempt transaction.

The Board of the Judicial Committee of the Privy Council (JCPC) upheld the decision of the lower court. Two issues were raised namely (i) On which party did the onus of proof lie regarding the application of exemptions under section 5(2) of FIAMLA? ; and (ii) What were meant by the words “lawful business activities” in the definition of “exempt transaction” in section 2 of FIAMLA?

The Board held that “Strict control of cash transactions was clearly seen as an important part of the strategy for countering financial abuse. The exemptions were narrowly defined, being directed principally at transactions under the control of the central bank, or between recognized banks and financial institutions. The last category extends the exemption more widely, while still subject to some control by the banks, but it is not surprising to find it limited to businesses with a pattern of cash transactions, as opposed to the public at large.” On this issue, the appeal therefore failed.

(b) Observations on the implementation of the article

The reviewing experts noted that Mauritius has in place a regime of regulations for banks, non-bank institutions and other bodies to prevent money laundering.

The Mauritius AML regulatory and supervisory regimes include the Financial Intelligence and Anti-Money Laundering Act (FIAMLA) 2002, the Financial Services Act 2007, the Banking Act, the Bank of Mauritius Act and related regulations:

The FIAMLA and the Financial Intelligence and Anti-Money Laundering Regulations 2003 (as amended in 2005) are the primary legislations that impose the adoption of preventive AML/CFT measures on reporting entities.

The Financial Services Act regulates the conduct of business through licensees and makes provisions for the regulatory and supervisory powers of the Financial Services Commission (FSC).

In October 2004, the Government of Mauritius introduced the Bank of Mauritius Act 2004 and the Banking Act 2004 amending and consolidating the laws relating to the business of banking and other financial institutions. The Bank of Mauritius and the Financial Services Commission, as regulators for the financial services sector, issue legally binding guidance notes on AML/CFT to their licensees. The Financial Intelligence Unit has issued guidelines on the filing of suspicious transaction reports.

Mauritius provided examples of court cases that demonstrate the implementation of the above-cited legislation.

Mauritius is partially in compliance with the provision under review, and in view of further enhancing the implementation of the Convention, it is recommended that Mauritius:

- widen the non-financial businesses and professions scope of the FIAMLA applicable to other sectors that are vulnerable to money-laundering that are not currently covered by the existing AML legislation;
- establish and ensure appropriate access to a bank account register with ultimate beneficial ownership information, which is at present under consideration, within one of the existing anti-money laundering bodies; and

- ensure the finalization and adoption of the AML/CFT National Strategy and Roadmap in order to establish a clear delineation of responsibilities amongst complimentary competencies and avoid overlap and enhance inter-institutional cooperation.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

1.1 Domestic Cooperation

1.1.1 The National Committee on AML/CFT

The objectives of the National Committee are to:

- (a) assess the effectiveness of policies and measures to combat money laundering and the financing of terrorism;
- (b) make recommendations to the Minister for legislative, regulatory and policy reforms in respect of anti-money laundering and combating the financing of terrorism;
- (c) promote co-ordination among the FIU, investigatory authorities, supervisory authorities and other institutions with a view to improving the effectiveness of existing policies to combat money laundering and the financing of terrorism;
- (d) formulate policies to protect the international reputation of Mauritius with regard to anti-money laundering and combating the financing of terrorism;
- (e) generally advise the Minister in relation to such matters relating to anti-money laundering and combating the financing of terrorism, as the Minister may refer to the National Committee.

Membership of National Committee on AML/CFT

- The Financial Secretary or his representative (Chairperson)
- A representative of the Prime Minister's Office;
- A representative of the Attorney-General's Office;
- The Director of Public Prosecutions or his representative;
- The Commissioner of Police or his representative;
- The Registrar of Associations or his representative;

- A representative of the Ministry responsible for foreign affairs;
- the Director-General of the Mauritius Revenue Authority or his representative;
- The Director of the FIU or his representative;
- A Deputy Governor of the Bank of Mauritius or his representative;
- The Chief Executive of the Financial Services Commission or his representative;
- The Commissioner appointed under section 45(8) of the Dangerous Drugs Act or his representative;
- The Director-General appointed under section 19 of the Prevention of Corruption Act 2002 or his representative;
- The Chief Executive of the Gambling Regulatory Authority or his representative.

The National Committee may co-opt such other persons as appear to it to have special knowledge or experience in anti-money laundering or combating the financing of terrorism.

1.1.2 Domestic Cooperation and AML/CFT Authorities

1.1.2.1 FIU

In addition to its involvement in the works of the National Committee on AML/CFT, the FIU has signed MOUs with domestic partners. In this context, it has over the years entered into bilateral MoUs with almost all of its AML/CFT partners to formally recognize the cooperation that exists between them. Domestic MOUs include those signed with the Enforcement Authority (2013), Bank of Mauritius (2009), the Mauritius Revenue Authority (2007), the Registrar of Companies (2006) and the Financial Services Commission (2004).

Cooperation and Exchange of Information under the FIAMLA 2002

19A Establishment of National Committee (1) There is established for the purposes of this Act a National Committee for Anti-Money Laundering and Combating the Financing of Terrorism.

(2) The National Committee shall consist of –

- (a) the supervising officer of the Ministry responsible for the subject of finance or his representative, who shall act as Chairperson;
- (b) a representative of the Prime Minister's Office;
- (c) a representative of the Attorney-General's Office;
- (d) the Director of Public Prosecutions or his representative;
- (e) the Registrar of Associations or his representative;
- (f) a representative of the Ministry responsible for foreign affairs;
- (g) the Commissioner of Police or his representative;

- (ga) the Director of the Integrity Reporting Services Agency established under the Good Governance and Integrity Reporting Act, or his representative;
- (h) the Director-General of the Mauritius Revenue Authority or his representative;
- (i) the Director of the FIU or his representative;
- (j) a Deputy Governor of the Bank of Mauritius or his representative;
- (k) the Chief Executive of the Financial Services Commission or his representative;
- (l) the Commissioner appointed under section 45(8) of the Dangerous Drugs Act or his representative;
- (m) the Commissioner appointed under section 19 of the Prevention of Corruption Act 2002 or his representative. (n) the Chief Executive of the Gambling Regulatory Authority or his representative.
- (3) The National Committee may co-opt such other persons as appear to it to have special knowledge or experience in anti-money laundering or combating the financing of terrorism.

The Mauritius National AML Committee intends to draft a new AML/CFT national strategy and road map so as to realign the AML/CFT framework to the 2012 recommendations of the Financial Action Task Force, as well as to help strengthen and harmonize inter-institutional cooperation.

Section 11 - Exercise of functions of the FIU

- (2) In furtherance of the functions of the FIU, the Director shall consult with and seek such assistance from such persons in Mauritius concerned with combating money laundering, including law officers, the Police and other Government agencies and persons representing banks, financial institutions, cash dealers and members of the relevant professions or occupations, as the FIU considers desirable.

Section 13 - Dissemination of information by Director

- (1) Where there are grounds to suspect money laundering, predicate offences or terrorism financing, the Director shall disseminate information and the results of the analysis of the FIU to the relevant investigatory authority, supervisory authority

Section 21 - Provision of information to investigatory or supervisory authorities

(1) Where it becomes aware of any information, which-

(a) may be relevant to the functions of any of the supervisory authorities;
and

(b) does not of itself justify a dissemination to any of the investigatory authorities under section 13,

the FIU may, by itself or at the request of the supervisory authorities, subject to subsection (4), pass on the information to the relevant supervisory authority.

(2) Where it becomes aware of any information which may be relevant to an investigation or prosecution being conducted by one of the investigatory authorities, the FIU shall, subject to subsection (4), pass on the information to that investigatory authority.

(3) Where it becomes aware of any information which may be relevant to a possible corruption offence, within the meaning of the Prevention of Corruption Act 2002, the FIU shall, subject to subsection (4), pass on the information to the Commission.

(4) If any information falling within subsections (1), (2) or (3) was provided to the FIU by a body outside Mauritius on terms of confidentiality, the information shall not be passed on as specified in those subsections without the consent of the body by which it was provided.

Section 22 - Reference of information by the supervisory authorities

(1) Notwithstanding any other enactment, where, at any time in the course of the exercise of its functions, any supervisory authority receives, or otherwise becomes aware of, any information suggesting the possibility of a money laundering offence or suspicious transaction, the supervisory authority, shall, forthwith pass on that information to the FIU.

(2) Repealed by [Act No. 34 of 2003]

(3) No liability shall be incurred under any enactment, whether for breach of confidentiality or otherwise, in respect of the disclosure of any information to the FIU pursuant to this section by the supervisory authority or any of its officers or members of its Board.

(4) For the purposes of this subsection, "officer" includes a director, employee, agent or other legal representative.

1.1.2.2 The Bank of Mauritius

The Bank of Mauritius remains committed to enhancing its network of co-operation with other counterpart institutions which have regulatory functions in different parts of the Mauritian economy. On the domestic front, the Bank of Mauritius has entered into seven MoUs with, namely, the Financial Services Commission, the Central Statistics Office, the Financial

Intelligence Unit, the Mauritius Revenue Authority, the Competition Commission of Mauritius, the Registrar of Cooperative Societies and the Independent Commission Against Corruption. The Bank ensures coordination and sharing of information with its counterparts under these MoUs.

In June 2015, the Bank of Mauritius held a tripartite meeting with the FIU and MLROs of banks. This meeting provided an opportunity for the Bank of Mauritius, FIU and Money Laundering Reporting Officers (MLROs) to share their views on how to make the existing system work better. Meetings between the Bank of Mauritius and the FIU are held on a regular basis and provide both institutions with an opportunity to share trends and typologies.

As regards the Bank of Mauritius, as stated above, the Bank has entered into MOUs with other Regulatory Bodies, both on the domestic and international front. The Bank also holds tripartite meetings with the FIU and Money Laundering Reporting Officers of banks.

1.1.2.3 The Financial Services Commission

Effective cooperation and exchange of information as well as a robust working relationship between regulators are key to preserving financial stability. The FSC has signed several Memoranda of Understanding (MoUs) with local, regional and international counterparts aiming at:

- consolidating supervision of cross-border operations of financial institutions;
- defining mechanisms to share information in accordance with international standards; and
- reinforcing collaboration amongst institutions in the fight against crime, Money Laundering and Financing of Terrorism.

The FSC is also committed to adhering to international best practices on transparency and disclosure of information.

1.2 International Cooperation

1.2.1 Financial Intelligence Unit

Part V of the Financial Intelligence and Anti-Money Laundering Act 2002 makes provision for the exchange of information in relation to money laundering and financial intelligence as follows:

Section 20 (FIAMLA) - Membership of international financial intelligence groups and provision of information to overseas financial intelligence units

- (1) The FIU shall be the only body in Mauritius which may seek recognition by any international group of overseas financial intelligence units which exchange financial intelligence information on the basis of reciprocity and mutual agreement.
- (2) Where it becomes a member of any such international group as is referred to in subsection (1), the FIU may exchange information with other members of the group in accordance with the conditions for such exchanges established by the group.
- (3) Without prejudice to subsections (1) and (2), where the FIU becomes aware of any information which may be relevant to the functions of any overseas financial intelligence unit, or comparable body it may, offer to pass

on that information to the overseas financial intelligence unit or comparable body on terms of confidentiality requiring the consent of the FIU prior to the information being passed on to any other person.

(4) Subject to subsection (5), where a request for information is received from an overseas financial intelligence unit or comparable body, the FIU shall pass on any relevant information in its possession to the overseas financial intelligence unit or comparable body, on terms of confidentiality requiring the consent of the FIU prior to the information being passed on to any other person.

(5) Where a request referred to in subsection (4) concerns information which has been provided to the FIU by a supervisory authority, a Ministry or other Government department or statutory body, the information shall not be passed on without the consent of that supervisory authority, Ministry, Government department or statutory body, as the case may be.

1.2.2 Bank of Mauritius

On the international front, the Bank of Mauritius has entered into MOUs on cross border supervision and information sharing with 16 of its foreign counterparts. The MOU sets forth a statement of intent between the Bank of Mauritius and its counterparts to establish a framework for mutual assistance, cooperation and the exchange of information, including on AML/CFT issues, in the fulfilment of the institutions' respective supervisory responsibilities.

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

Please refer to the Annual Reports on the websites of the Financial Intelligence Unit, Financial Services Commission and the Bank of Mauritius.

(b) Observations on the implementation of the article

The reviewing experts noted that Mauritius has demonstrated its ability to cooperate and exchange information at both national and international level.

The FIU has entered into bilateral MoUs with almost all of its AML/CFT partners including with the Enforcement Authority (2013), the Bank of Mauritius (2009), the Mauritius Revenue Authority (2007), the Registrar of Companies (2006) and the Financial Services Commission (2004).

The FIU has also collaborated with the Mauritius National AML Committee on developing the AML/CFT regulatory framework. In this regard, Mauritius indicated during the country visit that the Committee was planning on drafting a new AML/CFT national strategy so as to realign the AML/CFT framework to the 2012 recommendations of the Financial Action Task Force, as well as to help strengthen and harmonize inter-institutional cooperation.

While Mauritius is in compliance with the provision under review, it is nevertheless recommended to continue the expansion of the software GoAML to further institutions in order to enhance inter-agency communication and coordination.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

In August 2006, Mauritius opted for the Disclosure System and a new section 131A was inserted in the Customs Act 1988 in that respect. In July 2009, section 131A of the Customs Act 1988 was amended and Mauritius moved to adopt the declaration system. As per the Authorities, this initiative has been taken to assist the efforts being made at the national and international levels to tackle crime and improve security by cracking down on money laundering, terrorism and criminality.

All travellers, entering or leaving Mauritius with more than Mauritian rupees 500,000 in cash or Bearer Negotiable Instruments, i.e. money instruments in bearer form, bearer travellers' cheques, promissory notes, cheques money orders in bearer form or endorsed without restriction, or its equivalent in any foreign currency must declare the sum to Customs, in order to comply with Section 131A of the Customs Act 1988.

Any person who fails to comply with the provisions of Section 131A of the Customs Act shall commit an offence and on conviction be liable to a fine of up to Mauritian rupees 500,000 and imprisonment of up to three years

131A. Physical cross-border transportation

(1) Any person making a physical cross-border transportation of currency or bearer negotiable instruments of an amount of more than Mauritian rupees 500,000 or such other amount as may be prescribed or its equivalent in any foreign currency shall make a declaration to the proper officer, in such manner as may be prescribed, of the amount of the currency or bearer negotiable instruments in his possession, their origin and intended use.

(1A) (a) Where a person makes a declaration under subsection (1), the proper officer shall, forthwith, forward a copy of the declaration to the FIU.

(b) Where a person does not make a declaration under subsection (1) and the proper officer reasonably suspects that the amount of currency or bearer negotiable instruments in the possession of the person -

(i) is more than the amount referred to in subsection (1);

(ii) may involve money laundering or financing of terrorism, he shall require the person to make a declaration to him, in such manner as may be prescribed, of the amount of the currency or bearer negotiable instruments in his possession, its origin and intended use.

(1B) For the purposes of ascertaining the amount of foreign currency

referred to in subsections (1) and (1A), the rate of exchange applicable shall be determined in accordance with section 7 of the Customs Tariff Act.

(2) Any person making a declaration under subsection (1) or (1A) or refuses to make a declaration when required to do so under subsection (1A)(b) may be questioned by an officer on the particulars of the declaration and in the course of any questioning, the officer may inspect the person's travel documents including passport or laissez-passer and tickets.

(3) Where -

(a) a person refuses to make a declaration when required to do so under subsection (1A)(b); or

(b) a proper officer has reasonable cause to believe that the declaration made by a person under subsection (1) or (1A) is false or misleading in any material particular, the proper officer may detain and search the person in accordance with section 132.

(4) Where a proper officer reasonably suspects that the amount of currency or bearer negotiable instruments declared under subsection (1) or (1A) and detected, if any, pursuant to subsection (3), may involve money laundering or the financing of terrorism, he shall forthwith refer the matter to the Police and, at the same time, pass on the relevant information to the FIU.

(5) Any person who -

(a) fails to make a declaration under subsection (1);

(b) when so required, refuses to make a declaration under subsection (1A);

(c) makes which is false or misleading in any material particular; or

(d) without reasonable excuse, refuses to answer questions by virtue of subsection (2),

shall commit an offence and shall, on conviction, be liable to a fine not exceeding Mauritian rupees 500,000 and to imprisonment for a term not exceeding 3 years.

(6) In this section -“bearer negotiable instruments”-

(a) means monetary instruments in bearer form; and

(b) includes -

(i) bearer traveller's cheques;

(ii) cheques, promissory notes and money orders, that are either in bearer form, endorsed without restriction, made out to a fictitious payee, or otherwise in such form that title thereto passes upon delivery; or

(iii) incomplete instruments, including cheques, promissory notes and money orders, signed, but with the payee's name omitted;

“currency” means banknotes and coins that are in circulation as a medium of exchange;

“financing of terrorism”, in relation to section 131A, has the meaning assigned to it in section 11 of the Prevention of Terrorism Act;

“financing of terrorism” has the meaning assigned to it in section 4 of the Convention for the Suppression of the Financing of Terrorism Act;

“FIU” has the same meaning as in the Financial Intelligence and Anti-Money Laundering Act;

“money laundering”, in relation to section 131A, has the meaning assigned to it in section 3 of the Financial Intelligence and Anti-Money Laundering Act;

“money laundering” means money laundering referred to in section 3 of the Financial Intelligence and Anti-Money Laundering Act;

“person” includes any person in transit in Mauritius;

“physical cross-border transportation” -

(a) means any in-bound or out-bound or in transit physical transportation of currency or bearer negotiable instruments from one country to another country; and

(b) includes –

(i) physical transportation by a natural person, or in that person’s accompanying luggage;

(ii) shipment of currency through containerized cargo; or

(iii) the mailing of currency or bearer negotiable instruments by a natural or legal person.

FIAMLA 2002

Section 5. Limitation of payment in cash

(1) Notwithstanding section 37 of the Bank of Mauritius Act 2004, but subject to subsection (2), any person who makes or accepts any payment in cash in excess of 500,000 rupees or an equivalent amount in foreign currency, or such amount as may be prescribed, shall commit an offence.

(2) Subsection (1) shall not apply to an exempt transaction.

Mauritius Foreign Account Tax Compliance Act (FATCA) Regulations

In view of implementing the US Foreign Account Tax Compliance Act (FATCA) in Mauritius, Mauritius signed a Tax Information Exchange Agreement (TIEA) and a Model 1 Intergovernmental Agreement (IGA) with the US in December 2013. The Mauritius IGA follows a Reciprocal Model 1A approach whereby all Reporting Mauritius Financial Institutions are required to disclose information on reportable accounts substantially owned by US citizens and residents to the Mauritius Revenue Authority (MRA) for onward submission to the US Inland Revenue Service (IRS). The agreements have now been incorporated in the local regulatory framework in regulations made under Section 76 of the Income Tax Act cited as the Agreement for the Exchange of Information Relating to Taxes (United States of America -FATCA Implementation) Regulations 2014 (Mauritius FATCA Regulations).

The MRA has issued Guidance Notes to assist Financial Institutions with their compliance with the Mauritius FATCA Regulations. The Guidance Notes can be downloaded from the following link:

Financial Intelligence Unit and the Mauritius Revenue Authority-Customs:

There is a “Cross-Border Currency or Bearer Negotiable Instruments Declaration form” in a paper format which has been issued by the Customs for persons travelling in or out of the country and carrying cash / bearer negotiable instrument to make Cross-Border Declarations. Once the Customs has received the Cross-Border Declarations forms, all the information contained therein is referred to the Financial Intelligence Unit of Mauritius electronically via the goAML system.

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

Please refer to the website and Annual Reports of the FIU and the FSC for examples.

(b) Observations on the implementation of the article

The reviewing experts noted that Mauritius has measures in place to detect and monitor the movement of cash and other negotiable instruments across its borders.

Mauritius moved from a disclosure to a declaration-based cross-border cash system when it amended section 131A of the Customs Act in 2009, covering all physical cross-border movements and all forms of cash and negotiable instruments.

According to section 5 of the FIAMLA, the current limit is 500,000 Mauritian rupees (equivalent to \$14,500), which is the same as the permissible cash transaction limit in Mauritius.

Failure to comply with the cited provision is a criminal offence, which can be sanctioned with a fine of up to 2 million Mauritian rupees and to penal servitude for a term not exceeding 10 years.

Mauritius is largely in compliance with the provision under review, but in view of further enhancing the implementation of the Convention, it is recommended that it:

- introduce a reporting obligation for cash transactions above, 500,000 Mauritian Rupees; and
- clarify the scope of the provision relating to ‘payment’ (section 2 FIAMLA) to mean the total amount paid and not the individual payments separately.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

Money and Value Transfer Services

Money or value transfer service are fully captured under the provisions of the Banking Laws including the Guidance Notes on AML/CFT, as any other financial institution licensed and regulated by the Bank.

The definition of “Foreign Exchange Dealer” in the Banking Act 2004 has been amended to include money and value transfer services and a definition of “money or value transfer services” has also been included in the definition section of the Banking Act 2004, reproduced hereunder,

“foreign exchange dealer” means anybody corporate licensed as such by the central bank to carry on the business of-

- (a) Buying and selling foreign exchange currency, including spot and forward exchange transactions and wholesale money market dealings; and
- (b) A money- changer (c) Money or value transfer services;

“money and transfer service” means a financial service that accepts cash, cheques, other monetary instruments or other stores of value in one location and pays a corresponding sum in cash or other forms to a beneficiary in another location, by means of a communication, message, transfer or through a clearing network to which the money or value transfer service belongs, and where the transaction performed by such service can involve one or more intermediaries and a third party final payment;

Therefore, any institutions which proposed to engage in money or value transfer services is required to be duly licensed as a foreign exchange dealer by the Bank of Mauritius and will be supervised by the Bank. In other words, the same regime regarding AML/CFT would apply to a foreign exchange dealer which engages in money or value transfer service as it would to a bank.

Guidance Notes on AML/CFT issued by the Bank of Mauritius

2.05 The Guidance Notes are a statement of the minimum standard expected of ALL financial institutions. The Guidance Notes therefore are not intended to provide an exhaustive list of systems and controls to counter money laundering and the financing of terrorism. In complying with statutory requirements and in applying the Guidance Notes, financial institutions should as far as possible adopt an appropriate and intelligent risk based approach and always consider additional measures that could be necessary to prevent its exploitation, and that of its products and services, by persons seeking either to launder money or to finance terrorism. A risk based approach –

- (i) recognises that the money laundering and financing of terrorism threat to a financial institution varies across customers, countries and territories, products and delivery channels;

(ii) allows a financial institution to differentiate between customers in a way that matches its risk;

(iii) while establishing minimum standards, allows a financial institution to apply its own approach to systems and controls, and arrangements in particular circumstances; and

(iv) helps financial institutions produce a more cost effective system

With respect to wire transfer transactions :

WIRE TRANSFER TRANSACTIONS

6.108 Investigations of major money laundering cases over the last few years have shown that criminals make extensive use of electronic payment and message systems. The rapid movement of funds between accounts in different jurisdictions increases the complexity of investigations. In addition, investigations become even more difficult to pursue if the identity of the originator is not clearly shown in an electronic payment message instruction.

6.109 To ensure that wire transfer systems are not used by criminals as a means to break the audit trail, where a financial institution makes a payment on behalf of its customer, accurate and meaningful originator information (name, residential address and any account number or reference of the originator) should be included on all funds transfers and related messages and should remain with the transfer through the payment chain until it reaches its final destination. This information is particularly important for international transfers on behalf of individual customers to ensure that the source of funds can be identified in the event of an investigation in the receiving jurisdiction.

6.110 Where funds transfers are processed as an intermediary, e.g. where financial institution “B” is instructed by financial institution “A” to pay funds to an account held by a beneficiary at financial institution “C”, the originator and beneficiary data provided by financial institution “A” should be preserved and, wherever possible, included in the message generated by financial institution “B”.

6.111 Financial institutions should conduct enhanced scrutiny of, and monitor for suspicious activity, incoming funds transfers which do not contain complete originator information. This will involve examining the transaction in more detail in order to determine whether certain aspects related to the transaction could make it suspicious (origin in a country known to harbour terrorists or terrorist organisations, for example). The lack of complete originator information may be considered as a factor in assessing whether a wire transfer or related transaction is suspicious and to consider, as appropriate, whether they are thus required to be reported to the FIU. In some cases, the beneficiary financial institution should consider

restricting or even terminating its business relationship with financial institutions that fail to meet the above requirements.

Guidelines issued by the Financial Intelligence Unit and the Financial Services Commission

The Code on the Prevention of Money Laundering and Terrorist Financing issued by the Financial Services Commission in 2004 and revised in 2012.

http://www.fscmauritius.org/media/69027/new_fsc_codefinal12.pdf

The Code is a form of 'Guidelines' issued by the FSC pursuant to its functions and powers under sections 6(c) and 7(1) (a) of the FS Act and section 18(1) (a) of the FIAML Act. The Code is intended to assist Licensees to comply with the obligations contained within the FIAML Act.

The Code not only caters for all financial service providers licensed under the FS Act, Insurance Act 2005 and Securities Act 2005, but it is also applicable to the designated non-financial businesses and professions (DNFBPs) licensed by the FSC, namely Management Companies and Corporate Trustees.

Licensees are required to monitor business relationships so that money laundering or terrorist financing may be identified and prevented. This may involve requesting additional customer due diligence information.

Monitoring of customer's activities and transactions would entail periodic reviews of the existing records and ensuring that up-to-date information is held in relation to the business relationship. Periodic reviews of the customer's activity and transactions can also be used as a basis to identify patterns of unusual customer activity or transactions.

Licensees must also pay attention to information or instructions received from customers before or as they are being processed. Where monitoring indicates possible money laundering or financing of terrorist activity and contact with the customer is made without due care, this could unintentionally lead to the customer being tipped off.

The Code takes an account of all relevant international standards, FSAP Recommendations and national commitments which include -

- the Financial Action Task Force's (FATF) Revised Forty Recommendations;
- the Basel Committee's Paper on Customer Due Diligence, (which has been endorsed by the FATF);
- International Organisation of Securities Commission (IOSCO) Principles on Client Identification and Beneficial Ownership for the Securities Industry;
- IAIS' Anti-Money Laundering Guidance Notes for Insurance Supervisors and Insurance Entities;
- the recommendations made by IMF/World Bank Assessors in FSAP 2007 on how certain aspects of the system could be strengthened, using AML/CFT Methodologies of 2004;
- balancing the regulatory burden with the effectiveness of the requirements;
- providing a level playing field to all Licensees and eliminating unnecessary duplication of obligation; and
- aligning with other Codes issued to Financial Institutions i.e. Guidance Notes issued by Bank of Mauritius to ensure one form of language for enforceable measures and for guidance.

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

The Bank of Mauritius ensures during on-site examinations of financial institutions under its purview that the requirements imposed under the Guidance Notes are strictly observed by them. As of now, no sanction has been imposed by the Bank of Mauritius for failure to comply with the above requirements of the Guidance Notes on AML/CFT.

Please refer to the website and Annual Reports of the FIU and the FSC for examples.

(b) Observations on the implementation of the article

Legally binding Guidance notes on AML issued by the Bank of Mauritius, the Financial Intelligence Unit and the Financial Services Commission require financial institutions to identify the originator (including name, address, ID number and account number). This information should be submitted by the originating bank through any intermediary institution until the transfer reaches its final destination.

Moreover, as specified by Section 2.05 of the Bank of Mauritius Guidance Notes on AML, Mauritius applies a risk-based approach to Customer Due Diligence to ensure enhanced scrutiny to transfers of funds that do not contain complete information on the originator.

Mauritius is deemed in compliance with 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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

Mauritius is a founder member of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) and the Bank of Mauritius is a member of the Group of International Finance Centre Supervisors (GIFCS), formerly the Offshore Group of Banking Supervisors (OGBS). The ESAAMLG is an associate member of the FATF and the GIFCS has observer status with the FATF.

The MOU signed by Member States of the ESAAMLG provides in Article I (objectives) that the Member countries agree to:

- a) adopt and implement the 40 Recommendations plus Special Recommendations of the FATF;
- b) apply anti-money laundering measures to all serious crimes;
- c) implement measures to combat the financing of terrorism; and
- d) implement any other measures contained in multilateral agreements and initiatives to which they subscribe for the prevention and control of the laundering of the proceeds of all serious

crimes and the financing of terrorist activities.

The Member States of the ESAAMLG have, following the adoption of the FATF Revised Recommendations in 2012, agreed to adhere to these new International Standards. The ESAAMLG is conducting a second round of mutual evaluations for its members based on the FATF Recommendations (2012), and the Methodology for Assessing Compliance with the FATF Recommendations and the Effectiveness of AML/CFT Systems (2013).

In line with its commitments, Mauritius has taken significant steps in recent years to enhance its AML/CFT framework and implement the recommendations contained in its 2007/08 Mutual Evaluation Report (MER).

a) FATF Type Mutual Evaluation

In the year 2001, a FATF Type mutual evaluation was conducted under the aegis of the Offshore Group of Banking Supervisors (OGBS), now renamed Group of International Financial Centre Supervisors (GIFCS)] of which the Bank of Mauritius is a member.

All the recommendations of the evaluation of the AML/CFT regime of Mauritius have been implemented.

b) Financial Sector Assessment Programme (FSAP)

The FSC voluntarily requested Financial Sector Assessment Programme (FSAP) exercises to be conducted by the International Monetary Fund-World Bank in 2003 and 2007. The main objectives of these exercises were to assess the Mauritian financial sector's strengths, weaknesses and vulnerabilities to macroeconomic shocks, as well as the contribution of the financial services to economic growth.

The AML/CFT framework based on the Forty Recommendations 2003 and the Nine Special Recommendations on Terrorist Financing 2001 of the FATF was also assessed. The FSAP team recognised that significant steps have been taken by Mauritian authorities in recent years to enhance the AML/CFT framework and that the Mauritian authorities are fully committed to fighting Money Laundering and Financing of Terrorism.

The FSC constantly reviews its AML/CFT regulatory framework to meet new standards as set out by other international organisations such as the International Organisation of Securities Commission (IOSCO) and the International Association of Insurance Supervisors (IAIS). The FSC also reviewed its Risk-Based Supervision Framework to ensure compliance of licensees with AML/CFT legislation.

i. Financial Sector Assessment Program Mission 2003

In 2002, the AML/CFT regime in Mauritius was evaluated by the joint IMF/WB Financial Sector Assessment Program mission (FSAP). The mission found the AML/CFT regulatory and supervisory structure to be of a good standing and improving. The FSAP, however, made a number of recommendations to further enhance the existing framework. The government had recourse to Technical Assistance from the World Bank to advise it on those recommendations.

The Anti-Money Laundering (Miscellaneous Provisions) Act

2003 was subsequently passed in Parliament to implement the recommendations of the FSAP. The Act introduced changes in the AML/CFT institutional and regulatory framework. Other administrative recommendations were also implemented.

The regulatory framework in the financial services sector underwent significant review and new laws were enacted to meet international standards and modernize the regulation of financial services in Mauritius. In October 2004, the Government of Mauritius introduced new banking laws, namely the Bank of Mauritius Act 2004 and the Banking Act 2004 in order to amend and consolidate the laws relating to the business of banking and other financial institutions.

ii. Financial Sector Assessment Programme 2007

In September/October 2007 Mauritius underwent a second FSAP assessment of its anti-money laundering and countering the financing of terrorism regime, with the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), of which Mauritius is a founder member, as observer. The Report has been published on both the IMF and ESAAMLG websites.

A National Strategy on AML/CFT was produced which sets out the road map for Mauritius over the next three years to implement the FATF core and key recommendations as defined in the FATF LCC Guidance.

The Role of the Financial Services Commission in Combating Money Laundering and Financing of Terrorism through an effective exchange of information

The Financial Services Commission (FSC) has the power to exchange information with public sector agencies, international organisations, foreign supervisory institutions or law enforcement agencies.

In addition, several Memorandum of Understanding (MOUs) have been signed between the FSC and regulatory bodies (including foreign supervisory bodies) to address the framework for mutual assistance and exchange of information. The main objectives of the MOUs are inter alia to:

- consolidate supervision of cross-border operations of financial institutions;
- define mechanisms to share information in accordance with international standards; and
- reinforce collaboration amongst institutions in the fight against crime, Money Laundering and Financing of Terrorism.

In particular, the FSC signed a Memorandum of Understanding (MOU) with the Financial Intelligence Unit (FIU) which describes the ways in which both institutions will cooperate in preventing Money Laundering and the Financing of Terrorism. The FSC, in compliance with Section 22 of the Financial Intelligence and Anti-Money Laundering Act 2002, forwards any information on the possibility of a money laundering offence or suspicious transaction to the FIU.

In addition, pursuant to the provisions of the Mutual Assistance in Criminal and Related Matters Act 2003, a foreign authority may, in relation to a serious offence, make a request to the Attorney General for assistance in any judicial proceedings carried in their jurisdiction state.

United Nations Security Council measures

As part of its supervisory framework to combat Money Laundering and Financing of Terrorism, the FSC regularly communicates to its licensees updates issued by the United Nations Security Council (UNSC) on the:

- Sanctions list of individuals, entities, groups and undertakings associated with the Taliban in constituting a threat to the peace, stability and security of Afghanistan established

pursuant to Resolution 1988 (2011) (the "1988 List"); and

- Sanctions list of individuals, entities, groups and undertakings associated with the Al Qaida Organisation (the "Al-Qaida Sanctions List") as maintained by the Security Council Committee established pursuant to UN resolutions 1267(1999) and 1989(2011).

Licensees are required to verify whether they maintain any accounts or otherwise hold any fund, other financial assets, economic benefits and economic resources for individuals or entities as reported by the UNSC. Licensees are thus required to take necessary actions and report to the FSC any link found with the reported persons/entities in accordance with the UNSC Resolution United Nations Security Council Resolutions (UNSCRs).

Investors Alerts

The FSC ensures, as part of its surveillance mechanism, that there is proper dissemination of investor alerts and warnings from international bodies such as the International Organisation of Securities Commission (IOSCO) and other regulatory bodies to relevant stakeholders. These investor alerts and warnings typically refer to entities, which are not authorised to provide investment services from the relevant jurisdiction.

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

Participation in AML regional or international networks

- Mauritius is an active member of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), an associate member of FATF and is committed to implementing the FATF recommendations regionally.
- The FSC is an active member of the International Organisation of Securities Commission (IOSCO) through Africa Middle East Regional Committee (AMERC) and the Emerging Market Committee. The FSC also participates in the Committee for Insurance, Securities and Non-Bank Financial Authorities (CISNA) set up under the Finance and Investment Protocol of the Southern African Development Community (SADC).
- The FIU Mauritius contributes to global AML/CFT efforts mainly through its participation in the activities of the Egmont Group of Financial Intelligence Units, to which it became a member on 23 July 2003.

Please refer to the website and Annual Reports of the FIU and the FSC for further examples.

(b) Observations on the implementation of the article

Mauritius is a founding member of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) and the Bank of Mauritius is a member of the Group of International Finance Centre Supervisors (GIFCS), formerly the Offshore Group of Banking Supervisors (OGBS).

The MOU signed by Member States of the ESAAMLG provides that the Member countries agree to adopt and implement the 40 Recommendations plus Special Recommendations of the FATF as well as any other measures contained in multilateral agreements and initiatives to which they subscribe for the prevention and control of the laundering of the proceeds of all serious crimes and the financing of terrorist activities (Article 1)

Mauritius has undergone assessments by the World Bank and the International Monetary Fund

(Financial Sector Assessment Programme). In 2002, such assessment resulted in a positive evaluation of the AML/CFT regulatory and supervisory structure, but the FSAP made a number of recommendations to further enhance the existing framework, for which technical assistance was provided. The Anti-Money Laundering Act was passed in 2003 to implement the FSAP recommendations and Mauritius indicated that the various assessments have in the past all triggered subsequent amendments to the legislative and regulatory AML/CFT frameworks over the last decade.

Mauritius is deemed in compliance with the provision under review.

Paragraph 5 of article 14

5. States Parties shall endeavour to develop and promote global, regional, subregional 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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

Regional Cooperation

Mauritius is committed to sharing its knowledge and skills with emerging FIUs in Africa through mentorship activities and orientation sessions. Over the years, the FIU Mauritius welcomed on its premises delegations from various African countries for either training and assistance, or a familiarization visit. These delegations were from Gambia (2014), Zambia (2013), Uganda (2013), Burkina Faso (2012), Kenya (2014, 2012), the Comoros (2011), Gabon (2011), Ethiopia (2014, 2010, 2007), Ghana (2010), Malawi (2008), Madagascar (2008, 2007), Seychelles (2007), Lesotho (2007), Botswana (2007), Niger (2006), Senegal (2006), Zimbabwe (2005) and Nigeria (2003).

International Cooperation

The FIU Mauritius is actively involved in the outreach activities of the Egmont Group through the sponsorship of new members in the region and beyond. It successfully sponsored the admission of a number of African FIUs in Egmont namely FIU-Malawi (2009), the National Unit for the Processing of Financial Information in Côte d'Ivoire (2010), the National Agency for Financial Investigation of Cameroon (2010), FIU Seychelles (2013) and FIC Namibia (2014).

Moreover, the FIU Mauritius has signed 26 MoUs on the exchange of information with foreign FIUs.

The Financial Services Commission

The Financial Services Commission, Mauritius (the 'FSC') is the integrated regulator for the non-bank financial services sector and global business. Established in 2001, the FSC is mandated under the Financial Services Act 2007 or other relevant legislations, e.g. the Securities Act 2005, the Insurance Act 2005 to license, regulate, monitor and supervise the conduct of business activities in these sectors.

The FSC aims to:

- promote the development, fairness, efficiency and transparency of financial institutions and capital markets in Mauritius;
- suppress crime and malpractices so as to provide protection to members of the public investing in non-banking financial products; and
- ensure the soundness and stability of the financial system in Mauritius.

Meeting International Norms and Standards

One of the FSC's key objectives is to align its policies and practices with international best practices of standard setters for better regulation and supervision of the non-banking financial services sector. Through its membership with international organisations such as IOSCO & International Association of Insurance Supervisors (IAIS), the FSC adheres to norms and standards in order to preserve the good repute of Mauritius in the financial services sector.

FSC's focus in defining international policy is inter alia to:

- ensure adherence to international norms and best practices;
- promote cooperation with both local and foreign regulators for effective supervision and exchange of information;
- reinforce capacity building through cooperation and mutual assistance; and
- combat Money Laundering, Terrorism Financing and tax fraud.

The FSC is a member of:

At International level	<input type="checkbox"/> <input type="checkbox"/> International Organization of Securities Commissions (IOSCO); <input type="checkbox"/> <input type="checkbox"/> International Organisation of Pension Supervisors (IOPS); <input type="checkbox"/> <input type="checkbox"/> International Association of Insurance Supervisors (IAIS); <input type="checkbox"/> <input type="checkbox"/> Regulatory Oversight Committee for the Global Legal Entity Identifier (LEI) System; and <input type="checkbox"/> <input type="checkbox"/> Institut Francophone de la Régulation Financière (IFREFI)
At Regional level	<input type="checkbox"/> <input type="checkbox"/> SADC - Committee for Insurance, Securities and Non-Bank financial Authorities (CISNA) <input type="checkbox"/> <input type="checkbox"/> Africa/Middle East Regional Committee (AMERC) of IOSCO <input type="checkbox"/> <input type="checkbox"/> Financial Stability Board (FSB) Regional Consultative Group for Sub-Saharan Africa

Membership of Mauritius on the Financial Stability Board's Regional Consultative Group for Sub-Saharan

Mauritius is a member of the FSB RCG for Sub-Saharan Africa since its establishment pursuant to the announcement of Financial Stability Board (FSB) in November 2010 to expand and formalise outreach beyond its membership. The FSC Mauritius along with the Bank of Mauritius and the Ministry of Finance and Economic Development represents Mauritius on the FSB RCG for Sub-Saharan Africa. Other members of the RCG are financial authorities from Angola, Botswana,

Central Africa, Ghana, Kenya, Namibia, South Africa, Tanzania and the Bank of West Africa.

International Organisation of Securities Commission - Africa Middle East Regional Committee

The 36th International Organisation of Securities Commissions (IOSCO) Africa/Middle East Regional Committee (AMERC) meeting and conference was hosted by the FSC Mauritius from 25-26 February 2016. The 36th IOSCO AMERC Meeting restricted for AMERC Members was held on 25 February 2016 and regrouped 26 delegates from 15 jurisdictions including the FSC Mauritius. The 36th IOSCO AMERC Conference's theme was on "Market Integration as Panacea to Regional and Global Economic Development". Two panel discussions on "Integration Efforts in the Region: A Scorecard" and on "Pertinent Issues in Capital Markets SME Financing: The Africa and Middle East Perspective" were respectively held.

IOSCO GEMC 2014

The FSC Mauritius hosted the 2014 IOSCO Growth and Emerging Markets (GEM) Committee Annual Meeting and Conference from 23 to 25 April 2014. A Public Conference under the theme of 'Long-Term Financing through Capital Markets' was held on 25th April. The Conference comprised two-panel discussions:

- Access to long-term financing and investments through capital markets; and
- The role of intermediaries in facilitating long-term financing through capital markets.

The Bank of Mauritius also participates in several regional fora on central banking issues, on account of its membership in the Association for African Central Banks (AACB), the Committee of Governors of Central Banks in the Common Market for Eastern and Southern Africa (COMESA), the Committee of Central Bank Governors of the Southern Africa Development Community (SADC), and the Financial Stability Board (FSB) Regional Consultative Group for Sub-Saharan Africa. AML/CFT issues are discussed during these meetings.

The Bank fostered its supervisory cooperation with foreign regulators and as of 30 June 2015, 16 MoUs have been signed with foreign regulators. These MoUs establish a formal basis for cooperation, including an exchange of information, including in AML/CFT matters, assistance in the investigation, the taking of enforcement action and the application of prudential standards. In particular, they aim to:

- (i) promote the safety and soundness of financial institutions in the respective jurisdictions of the Authorities and especially in respect of cross-border entities; and
- (ii) ensure compliance with applicable laws.

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

List of MoUs signed by FIU Mauritius

No.	Jurisdiction Authority
1.	South Africa Financial Intelligence Centre (FIC)
2.	Australia Australian Transaction Reports & Analysis Centre (AUSTRAC)

3.	Principality of Monaco Service d'Information et de Contrôle sur les Circuits Financiers (SICCFIN)
4.	Kingdom of Thailand Anti-Money Laundering Office (AMLO)
5.	Belgium Financial Intelligence Processing Unit (CTIF-CFI)
6.	Canada Financial Transactions and Reports Analysis Centre (FINTRAC)
7.	France Traitement du Renseignement et Action contre les Circuits Financiers Clandestins (TRACFIN)
8.	Cayman Islands Financial Reporting Authority (CAYFIN)
9.	United Kingdom Serious Organized Crime Agency (SOCA)
10.	Netherlands Antilles Meldpunt Ongebruikelijke Transacties Van de Nederlandse Antillen/ FIU Netherlands Antilles
11.	Indonesian Financial Transaction Reports and Analysis Centre
12.	Financial Intelligence Unit - India (FIU-IND)
13.	Nigerian Financial Intelligence Unit (NFIU)
14.	Senegal Cellule Nationale de Traitement des Informations Financières
15.	Unit Perisikan Kewangan, Bank Negara Malaysia (UPWBNM)
16.	Egyptian Money Laundering Combating Unit (EMLCU)
17.	Qatar Financial Information Unit (QFIU)
18.	Luxembourg Financial Intelligence Unit
19.	USA Financial Crimes Enforcement Network (FinCEN)
20.	Financial Intelligence Agency Bermuda
21.	Financial Intelligence Unit Malawi
22.	Seychelles Financial Intelligence Unit
23.	United Kingdom National Crime Agency (NCA)
24.	Japan Financial Intelligence Center (JAFIC)
25.	Poland General Inspector of Financial Information
26.	Zimbabwe Financial Intelligence Unit
27.	Zambia Financial Intelligence Centre

Multilateral Memorandum of Understanding (MMoU)

SN	Institutions/Standard Setting Body	Date of Signature
1	International Association of Insurance Supervisors (IAIS)	23 December 2013
2	International Organization of Securities Commission (IOSCO)	16 May 2012

Regional MoU

SN		Date of Signature
1	International Organization of Securities Commission (IOSCO) Africa Middle East Regional Committee	18 September 2013

Local Authorities

SN	Authorities	Date of Signature
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1	Financial Reporting Council	10 April 2012
2	Statistics Mauritius	09 February 2012

Other African Counterparts

SN	Authorities	Date of Signature
1	Capital Market Development Authority	16 January 2013
2	Securities and Exchange Commission	19 May 2012
3	Non-Bank Financial Institutions Regulatory Authority	19 April 2012
4	Capital Markets Authority	23 February 2012
5	Comissão do Mercado de Capitais (CMC)	29 Sept 2014
6	Financial Services Authority	03 March 2016
7	Financial Services Regulatory Authority	31 March 2016
8	Capital Markets & Securities Authority	16 June 2016

International Authorities

SN	Authorities	Date of Signature
1	Cyprus Securities and Exchange Commission (CySEC)	04 September 2012
2	The National Stock Exchange of India Limited	03 September 2015
3	Dubai Financial Services Authority	01 October 2015

MoUs concerning consultation, cooperation and Exchange of Information related to the supervision of Alternative Investment Fund Managers Directive entities. As at date, FSC Mauritius signed with 25 institutions. Details as follows:

MoUs (relating to the supervision of AIFMD entities) with European Union (EU) Member States Securities Regulators		
Authority	Country	Date of Signature
1. Financial Services and Markets Authority	Belgium	22 July 2013
2. Financial Supervision Commission	Bulgaria	22 July 2013
3. Cyprus Securities and Exchange Commission	Cyprus	22 July 2013
4. Czech National Bank	Czech Republic	22 July 2013
5. Finanstilsynet	Denmark	22 July 2013
6. Estonian Financial Supervision Authority	Estonia	22 July 2013
7. Hellenic Capital Market Commission	Greece	22 July 2013
8. Pénzügyi Szervezetek Állami Felügyelete	Hungary	22 July 2013
9. Central Bank of Ireland	Ireland	22 July 2013
10. Finanšu un kapitāla tirgus komisija	Latvia	22 July 2013
11. Bank of Lithuania	Lithuania	22 July 2013
12. Commission de Surveillance du Secteur Financier	Luxembourg	22 July 2013
13. Malta Financial Services Authority	Malta	22 July 2013
14. Autoriteit Financiële Markten	The Netherlands	22 July 2013

15. Polish Financial Supervision Authority	Poland	22 July 2013
16. Comissão do Mercado de Valores Mobiliários	Portugal	22 July 2013
17. Romanian Financial Supervisory Authority	Romania	22 July 2013
18. Národná banka Slovenska	Slovak Republic	22 July 2013
19. Finansinspektionen	Sweden	22 July 2013
20. Financial Conduct Authority	United Kingdom	22 July 2013
21. Autorité des Marchés Financiers	France	19 September 2014
MoUs (relating to the supervision of AIFMD entities) with European Economic Area (EEA) Securities Regulators		
Authority	Country	Date of Signature
1. Fjármálaeftirlitið	Iceland	22 July 2013
2. Finanzmarktaufsicht	Liechtenstein	22 July 2013
3. Finanstilsynet	Norway	22 July 2013
MoUs (relating to the supervision of AIFMD entities) with Other Securities Regulators		
Authority	Country	Date of Signature
1. Financial Services Commission	Gibraltar	22 July 2014

(b) Observations on the implementation of the article

Mauritius' FIU is actively involved in the outreach activities of the Egmont Group through the sponsorship of new members in the region and has signed 26 MoUs on the exchange of information with foreign FIUs.

The FSC is a member of numerous regional and international organizations and has signed 25 MoUs with counterpart institutions so as to align its policies and practices with international best practices for better regulation and supervision of the non-banking financial services sector.

Mauritius is deemed in compliance with the provision under review.

(c) Challenges, where applicable

- a) Reinforce the existing regulatory framework by amending the Financial Intelligence Anti-Money Regulations to extend AML preventive obligations to Designated Non-Financial Businesses and Professions (DNFBPs).
- b) Align the AML/CFT framework with the 2012 FATF Recommendations.
- c) Achieve operational Independence of the FSC.
- d) Raise Awareness with regard to the prevention of money laundering beyond stakeholders and conduct of short campaigns for the general public

(d) Technical assistance needs

Capacity building in cybercrime forensics

With a view to meet with emerging challenges in cybercrime investigation, the Independent Commission Against Corruption is mandated under the Prevention of Corruption Act 2002 and the Financial Intelligence and Anti-Money Laundering Act 2002 to investigate allegations of money laundering. It is currently in the process of setting up a Cyber Crime laboratory.

Expertise in fighting cybercrime is crucial and the field is gaining prominence with its potential to support efforts in both prevention and enforcement. In this context, technical assistance is being sought for capacity building in the following:

- a) Computer forensics;
- b) Mobile forensics;
- c) Video forensics;
- d) Forensic Accounting;
- e) Networking and Cloud computing.

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.

No such assistance is being provided.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

The Asset Recovery Act, passed by the National Assembly of Mauritius on 5th April 2011, prescribes the procedure to enable the State to recover assets which are proceeds or instrumentalities of crime or terrorist property, where a person has been convicted of an offence or where there has been no prosecution but it can be proved on a balance of probabilities that property represents proceeds or instrumentalities of an unlawful activity. It is applicable to property obtained after the commencement of the Act and has no retrospective effect.

Mauritius' asset recovery system is two-fold, with a conviction-based system which is described

under Part II of the ARA 2011 and a non-conviction based system described under Part IV of the ARA 2011.

The Enforcement Authority was the Office of the Director of Public Prosecutions until the enactment of the Assets Recovery Amendment Act of 2015 which set up the Asset Recovery Investigation Division under the Financial Investigation Unit :

THE ASSET RECOVERY (AMENDMENT) ACT 2015

Section 4 of principal Act amended

Section 4 of the principal Act is amended -

(a) in subsection (2), by deleting the words “Director of Public Prosecutions or any law officer to whom he shall have delegated his powers under this Act in writing” and replacing them by the words “FIU”;

(b) in subsection (3), by deleting the words “of Public Prosecutions”.

The Attorney General is the Central Authority for receiving restraint or confiscation requests from foreign states or an international criminal tribunal, and where relevant transmits them to the Financial Intelligence Unit (FIU) for action.

Restraining orders relate to freezing orders, whereas seizure orders imply confiscation and recovery of the assets. The former is a temporary measure that prevents the disposal of assets by the suspects in such cases. Following conviction, an application is made for the assets’ seizure/ forfeiture.

Arrangements for coordinating seizure and confiscation actions with other countries and developing mechanisms for managing and disposing of confiscated property are catered for under Part VI of the Asset Recovery Act (‘ARA’):

PART VI – INTERNATIONAL CO-OPERATION

53. International co-operation agreements

The Attorney-General or the Enforcement Authority may enter into an agreement with any Ministry, Department, public authority or body outside Mauritius for the collection, use or disclosure of information, including personal information, for the purpose of exchanging or sharing information outside Mauritius or for any other purpose under this Act.

54. Foreign request in connection with civil asset recovery

(1) Where a foreign State requests the Enforcement Authority to obtain the issue of an order against property believed to be proceeds, an instrumentality or terrorist property which is located in Mauritius, the Enforcement Authority may apply to a Judge for a Restriction Order under section 27.

(2) Where a Judge receives an application under subsection (1), he may make an Order under section 30 as if the application were an application in respect of property in Mauritius.

55. Foreign request for enforcement of foreign Restriction or Recovery Order

(1) Notwithstanding any other enactment, where a foreign State requests that necessary measures be taken for the enforcement of a foreign Restriction or Recovery Order, the Enforcement Authority may apply to a Judge or the Court, as the case may be, for registration of the Order.

(2) The Judge shall register the foreign Restriction Order where he is satisfied that, at the time of registration, the Order is in force in the foreign State.

(3) The Court shall register the foreign Recovery Order where it is satisfied that –

(a) at the time of registration, the Order is in force in the foreign State; and

(b) any person who had an interest in the property the subject of the Order had the opportunity to be represented before the court that granted the order in the foreign State.

(4) Where a foreign Order is registered in accordance with this section, a copy of any amendment made to the Order in the foreign State shall be registered in the same way as the order.

(5) Notice of the registration of any foreign Order shall be published in the Gazette and 2 daily newspapers specified by the Court.

(6) Subject to subsection (8), where the foreign Order or an amendment thereof comprises a facsimile copy of a duly authenticated foreign Order, or amendment made to such an Order, the facsimile shall be regarded for the purposes of this Act, as the duly authenticated foreign Order.

(7) Any registration effected on production of a facsimile shall cease to have effect up to the end of the period of 14 days commencing on the date of registration, unless a duly authenticated original of the order is registered by that time.

(8) Where a foreign Order has been registered pursuant to this section, sections 25 and 26 shall apply to the registration.

56. Effect of registration of foreign Order

(1) Subject to subsections (2) and (3), where an Order has been registered under section 55 and the Court is notified that it has been established to the satisfaction of a foreign court that the property constitutes proceeds, an instrumentality or terrorist property, it may order that the property be recovered and be vested in the State until such arrangement is made by the Enforcement Authority with the foreign State for its disposal or transfer.

(2) The Court may make an order under subsection (1) on such conditions as it thinks fit to impose, including any condition as to payment of debts, sale, transfer or disposal of any property.

(3) Any person who claims to have an interest in property subject to an Order registered under section 55 may, within 21 days from the last publication of the registration under section 55(5), apply to the Court for an order under subsection (4).

(4) Where the Court is satisfied that the applicant under subsection (3) acquired the property without knowing, and in circumstances such as not to arouse a reasonable suspicion, that the property was, at the time of acquisition, proceeds or an instrumentality or terrorist property, the Court shall make an order declaring the nature of the interest of the applicant.

(5) The Court shall, on application by the Enforcement Authority, cancel the registration of any foreign Order if it appears to it that the Order has ceased to have effect.

57. Foreign request for the location of tainted property

(1) Where a foreign State requests the Enforcement Authority to assist in locating property believed to be proceeds, an instrumentality or terrorist property, the Enforcement Authority may apply to a Judge for an order that –

(a) any information relevant to –

(i) identifying, locating or quantifying any property; or

(ii) identifying or locating any document necessary for the transfer of any property,

be delivered forthwith to the Enforcement Authority; or

(b) a financial institution forthwith produces to the Enforcement Authority all information obtained by it about any business transaction relating to the

property for such period before or after the date of the order as the Judge may direct.

(2) Notwithstanding section 26 of the Bank of Mauritius Act, section 64 of the Banking Act and section 83 of the Financial Services Act, a Judge may grant an order under subsection (1) on being satisfied that –

(a) the document is material and necessary to the proceedings in the foreign State; and

(b) the law of the foreign State authorises the granting of such an order in circumstances similar to the one relating to the request.

(3) A Judge may, on good cause shown by the Enforcement Authority that a person is failing to comply with, is delaying or is otherwise obstructing an order made in accordance with subsection (1), order a law enforcement agent to enter and search the premises specified in the order and remove any document, material or other thing therein for the purposes of executing such order.

58. Disposal of proceeds of crime

(1) On a request by a foreign State made to him, the Attorney- General shall transfer to it any proceeds, instrumentality or terrorist property recovered in Mauritius in response to a request for the enforcement of a foreign Order.

(2) Unless the foreign State and Mauritius agree otherwise, the Attorney-General may deduct reasonable expenses incurred in the recovery, investigation and judicial proceedings which have led to a transfer referred to in subsection (1).

Regarding the limitations to bank secrecy, the Bank of Mauritius Act provides the following:

26. Confidentiality

(1) Every Director, every officer or employee of the Bank or any person appointed by the Bank pursuant to the banking laws shall -

(a) in the case of a Director or head of department, take an oath of confidentiality in the form set out in the Second Schedule; and

(b) in any other case, make a declaration of confidentiality before the Chairperson of the Board in the form set out in the Third Schedule,

before he begins to perform any duties under the banking laws.

(2) Except -

(a) for the purposes of -

(i) the performance of his duties or the exercise of his functions under the banking laws; or

(ii) meeting the requirements of an agreement or understanding reached by the Bank with any other relevant supervisory body; or

(b) when lawfully required to do so -

(i) by an order of a Judge in Chambers or any court of law; or

(ii) under any enactment,

no person referred to in subsection (1) shall, during and after his relationship with the Bank, disclose directly or indirectly to any person any information relating to the affairs of the Bank, of any other bank or financial institution or of any of its customers, which he has acquired in the performance of his duties or the exercise of his functions.

Any person who contravenes this section shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.

(4) Nothing in this section shall preclude -

(a) the exchange or disclosure of any information, under conditions of confidentiality, between the Bank and any public sector agency or law enforcement agency, where the Bank is satisfied that the public sector agency or law enforcement agency has the capacity to protect the confidentiality of the information imparted, or between the Bank and any other foreign regulatory agency performing functions similar to those of the Bank under this Act, pursuant to any existing or future treaty, or agreement or memorandum of understanding entered into by the Bank or the State of Mauritius;

(aa) the disclosure by the Bank to the Financial Services Commission established under the Financial Services Act of such information as may be required by the Commission for the purposes of assisting it in the discharge of its functions;

(b) the disclosure of any information pursuant to an order made by the Judge in Chambers under section 6 of the Mutual Assistance in Criminal and Related Matters Act 2003;

(c) the disclosure of any information to the Financial Intelligence Unit pursuant to section 22 of the Financial Intelligence and Anti-Money Laundering Act 2002; or

- (d) the disclosure of any information or data by the Bank to Statistics Mauritius to enable the Director of Statistics to discharge, or assist him in discharging, any of his functions under the Statistics Act.

The following national provisions refer to Mauritius' ability to cooperate both formally and informally:

The Mutual Assistance in Criminal and Related Matters Act provides the framework for mutual assistance requests:

3. Application of Act

(1) This Act shall apply to—

- (a) any foreign State, subject to any condition, variation or modification in any existing or future agreement between Mauritius and that State; and
- (b) any international criminal tribunal.

(2) This Act shall apply to requests for assistance in relation to serious offences committed before the coming into operation of this Act.

(3) Nothing in this Act shall preclude the making and granting of an application

in relation to a criminal matter under the Letters of Request Rules 1985.

(4) Nothing in this Act shall prevent informal assistance and continued informal assistance between Mauritius and any other State.

The Financial Intelligence and Anti-Money Laundering Act:

PART V - PROVISION AND EXCHANGE OF INFORMATION IN RELATION TO MONEY LAUNDERING AND FINANCIAL INTELLIGENCE INFORMATION

20. Membership of international financial intelligence groups and provision of information to overseas financial intelligence units

(1) The FIU shall be the only body in Mauritius which may seek recognition by any international group of overseas financial intelligence units which exchange financial intelligence information on the basis of reciprocity and mutual agreement.

(2) Where it becomes a member of any such international group as is referred to in subsection (1), the FIU may exchange information with other members of the group in accordance with the

conditions for such exchanges established by the group.

(3) Without prejudice to subsections (1) and (2), where the FIU becomes aware of any information which may be relevant to the functions of any overseas financial intelligence unit, or comparable body it may, offer to pass on that information to the overseas financial intelligence unit or comparable body on terms of confidentiality requiring the consent of the FIU prior to the information being passed on to any other person.

(4) Subject to subsection (5), where a request for information is received from an overseas financial intelligence unit or comparable body, the FIU shall pass on any relevant information in its possession to the overseas financial intelligence unit or comparable body, on terms of confidentiality requiring the consent of the FIU prior to the information being passed on to any other person.

(5) Where a request referred to in subsection (4) concerns information which has been provided to the FIU by a supervisory authority, a Ministry or other Government department or statutory body, the information shall not be passed on without the consent of that supervisory authority, Ministry, Government department or statutory body, as the case may be.

The Prevention of Corruption Act (2002):

PART IX – MISCELLANEOUS

81. Confidentiality

...

(5) For the purpose of an investigation in respect of an offence committed in Mauritius under this Act and the Financial Intelligence and Anti-Money Laundering Act 2002, the Director-General may, with the express written concurrence of the Director of Public Prosecutions, impart to an agency in Mauritius or abroad, such information, other than the source of the information, as may appear to him to be necessary to assist an investigation into money laundering or any other offence.

...

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

Financial Intelligence Unit

Year	No of cases referred	No of Restraining Order	No of Restriction Order
2012	58	10	
2013	125	41	4
2014	120	11	
2015	121	13	
2016(as per master)	72	24 + 15 (extension)	1 + 1 Extension
2017	92 (as at arid 9/02/17)	6 + 5 (extension) as at 27/02/17	

(b) Observations on the implementation of the article

The Asset Recovery Act 2011 created a comprehensive asset recovery framework applying to offences under the laws of Mauritius that are punishable by a maximum term of imprisonment of no less than 12 months as well as to any offence committed in a foreign State which, if committed in Mauritius, would constitute an offence.

The ARA provides for both conviction-based as well as non-conviction-based confiscation, including through the enforcement of a foreign court order. The FIU acts as the enforcement authority since the ARA Amendment of 2015 (sect. 4).

Mauritius has cited further provisions in the Mutual Assistance in Criminal and Related Matters Act, the Financial Intelligence and Anti-Money Laundering Act, and the Prevention of Corruption Act that allow for formal and informal cooperation and exchange of information with other national or international authorities.

The country is still in the process of completing its first few asset recovery cases at the international level. Although bank secrecy is not an obstacle to any asset recovery requests (article 57 of the Asset Recovery Act and Section 26 of the Bank of Mauritius Act), Mauritius indicated that owing to human rights considerations the courts generally erred on the side of restraint when agreeing to access banking information. The reviewing experts, therefore, noted that a bank account register would ensure easier access to information for investigative agencies.

Mauritius requires that supranational standards be domesticated through a legislative process, which has not been done for the Convention to date. In view of the plethora of new laws and the revision of others, Mauritius was urged to ensure that this new body of legislation be coordinated and that the country consult among the relevant national institutions, including through the new anticipated AML/CFT national strategy and road map. In this regard, the reviewing experts noted that the Asset Declaration Act, currently being drafted, would also help develop and implement a transparent and comprehensive policy for asset recovery.

Mauritius is deemed in compliance with the provision under review.

(c) Technical assistance needs

Capacity-building

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.

No such assistance is being provided.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

Section 17(a) of the FIAMLA requires every bank, financial institution, cash dealer or member of the relevant profession or occupation to verify, in such manner as may be prescribed, the true identity of all customers and other persons with whom they conduct transactions:

17. Other measures to combat money laundering

Without prejudice to section 3(2), every bank, financial institution, cash dealer or member of a relevant profession or occupation shall -

- (a) verify, in such manner as may be prescribed, the true identity of all customers and other persons with whom they conduct transactions;
- (b) keep such records, registers and documents as may be required under this Act or by regulations;
- (c) upon a Court order, make available such records, registers and documents as may be required by the order; and
- (d) put in place appropriate screening procedures to ensure high standards when recruiting employees.

Regulation 4(1) of the Financial Intelligence and Anti-Money Laundering Regulations (FIAMLR) 2003 provides that:

Subject to the exceptions in regulation 5, every relevant person shall, in the circumstances set out in paragraph (2), establish and verify:

- (a) the identity and the current permanent address of an applicant for business; and
- (b) the nature of the applicant's business, his financial status and the capacity in which he is entering into the business relationship with the relevant person.

Paragraphs (7) to (10) of regulation 4 of the FIAMLR cast a duty on financial institutions to take reasonable measures to determine whether applicants for business are acting on behalf of a third party. If that is the case, institutions are required to undertake due diligence on third parties. The Mauritian authorities consider that these provisions apply to beneficial owners :

(7) A relevant person shall, at the time of establishing a business relationship, take reasonable measures to determine whether the applicant for business is acting on behalf of a third party.

(8) (a) Subject to subparagraph (b), a relevant person who determines that the applicant for business is acting on behalf of a third party shall keep a record that sets out --

- (i) where the third party is a natural person, the identity of the third party;
- (ii) where the third party is a body corporate or unincorporate, proof of identity as specified in paragraph (5); and
- (iii) the relationship between the third party and the applicant for business.

(b) (i) Subparagraph (a) shall not apply to an omnibus account which is held by a relevant person.

(ii) Every relevant person shall comply with any code or guidelines issued by its supervisory authority in respect of omnibus accounts.

(9) Where a relevant person is not able to determine that the applicant for business is acting for a third party, he shall

- (a) make a record of the grounds for suspecting that the applicant for business is so acting; and
- (b) make a suspicious transaction report to the Financial Intelligence Unit.

(10) In determining what constitutes 'reasonable measures' for the purpose of paragraph (7), all the circumstances of the case shall be taken into account, and regard shall be had to any guideline or code applicable to the relevant person and, in the absence of any guideline or code, to best practice which, for the time being, is followed in the relevant field of business and which is applicable to those circumstances.

Regulation 9 of the FIAMLR 2003 requires enhanced due diligence procedures to be applied for persons and businesses carrying high risk:

9. Every relevant person shall implement internal controls and other procedures to combat money laundering and financing of terrorism, which shall include -

(a) programmes for assessing risk relating to money laundering and financing of terrorism;

(b) the formulation of a control policy that will cover issues of timing, degree of control, areas to be controlled, responsibilities and follow-up;

(c) monitoring programmes in relation to complex, unusual or large transactions;

(d) enhanced due diligence procedures with respect to persons and business relations and transactions carrying high risk and with persons established in jurisdictions that do not have adequate systems in place against money laundering and financing of terrorism;

(e) providing employees, including the Money Laundering Reporting Officer, from time to time with training in the recognition and handling of suspicious transactions; and

(f) making employees aware of the procedures under these regulations, the Act, Codes and Guidelines and any other relevant policies that are adopted by the relevant person;

(g) establishing and maintaining a manual of compliance procedures in relation to anti-money laundering.

The Banking Act (2004) provides the following sanctions and restrictions for non-compliance:

11. Revocation and surrender of banking licence

(1) Subject to the other provisions of this section, the central bank may revoke a banking licence issued under this Act where the bank -

(a) fails to commence business within a period of 12 months from the date the licence is issued;

(b) is carrying on business in a manner which is contrary or detrimental to the interests of its depositors or the public;

(c) has insufficient assets to cover its liabilities to its depositors or the public;

(d) fails to comply with any directive or instruction issued by the central bank under the banking laws;

(e) contravenes any provision of the banking laws;

(f) has been convicted by a court in Mauritius, a court of the Commonwealth or a court of such other countries as may be prescribed, of an offence under any enactment relating to anti-money laundering or prevention of terrorism or the use, laundering in any manner, of proceeds or funding of terrorist activities or other illegal activities or is the affiliate or subsidiary or parent company of a financial institution which has so been convicted, provided the conviction is a final conviction;

(g) ceases to carry on banking business;

(h) goes into receivership or liquidation, is wound up or otherwise dissolved; or

(i) in the case of a branch of a bank incorporated abroad, such bank has lost its banking licence in the jurisdiction where its head office is located.

(2) Subject to subsection (3), where the central bank decides to revoke a banking licence, it shall serve on the bank a notice of its decision to do so, specifying a date, which shall be not less than 30 days of the date of the notice, on which the revocation shall take effect.

(3) The central bank may, where subsection (1)(h) applies, revoke the banking licence forthwith without being required to serve the notice under subsection (2).

(4) The bank may, within 14 days of service of a notice under subsection (2), make representations to the central bank.

(5) The central bank shall, after considering any representations made under subsection (4), take a final decision on the revocation and shall notify the bank in writing of its decision.

(6) Where the banking licence of a company is revoked, the banking laws shall continue to apply to the banking business of that company, to such extent as the central bank may direct.

(7) A bank may, with the prior permission of the central bank and subject to such conditions as may be specified by the central bank, surrender its licence at any time.

(8) The central bank may, before or after the revocation or surrender of a banking licence, make such inquiry and give such directions as it thinks fit, so as to ensure that the interests of depositors and of the public are preserved.

(9) Where a banking licence is revoked or surrendered under this section, the central bank shall give public notice thereof in the Gazette and in at least

3 daily newspapers in wide circulation in Mauritius.

The Bank of Mauritius has issued Guidance Notes on Anti-Money Laundering and Combating the Financing of Terrorism, which require banks and other financial institutions to put in place, inter alia, (i) internal systems and controls, (ii) KYC and Due Diligence Procedures, which include identifying the ultimate beneficial owners of companies/partnerships/trusts etc., (iii) on-going monitoring of account, (iv) enhanced due diligence for higher risk customers and countries, (v) record-keeping requirements, (vi) training of staff, (vii) reporting of suspicious transaction reports to the FIU. More information on this instrument is provided in the response for article 52 (2) (a)

Overview of the Know-Your-Customer and Customer Due Diligence system in Mauritius

The KYC Policy in Mauritius is backed by laws and guidelines, namely:

The Banking Act 2004;

The Financial Intelligence and Anti-Money Laundering Act (FIAMLA) of 2002;

The Financial Intelligence and Anti-Money Laundering Regulations (FIAMLR) of 2003; and

The Bank of Mauritius Guidance Notes on Anti-Money Laundering and Combating the Financing of Terrorism (see response provided under Article 52 (2) (a))

Please also refer to Section 1.3.2 on Customer Due Diligence under Article 14 paragraph 1(a).

KYC is one of the required processes imposed on banking and financial institutions and certain types of reporting entities under the anti-money laundering law (Financial Intelligence and Anti-Money Laundering Act 2002). Banking and financial institutions are required to comply with both the KYC process under AML law and the criteria issued by the supervising regulator.

The KYC system may be summarised as follows: The essential elements of KYC standards, as provided in the guidelines, starts from the financial institutions' risk management and control procedures and include customer acceptance policy, customer identification, ongoing monitoring of accounts and transactions and risk management.

Risk management requires the identification and analysis of ML/TF risks present within the financial institution and the design and effective implementation of policies and procedures that are commensurate with the identified risks. Accordingly, a financial institution should :

(i) develop a thorough understanding of the inherent ML/TF risks present in its customer base, products, delivery channels and services offered and the jurisdictions within which it or its customers do business; and

(ii) and implement its policies and procedures for customer acceptance, due diligence and ongoing monitoring to adequately control those identified inherent risk.

In addition to assessing the ML/TF risks presented by an individual customer, financial institutions should identify and assess ML/TF risks on an enterprise wide level. The scale and scope of the enterprise-wide ML/TF risk assessment should be commensurate with the nature and complexity of the financial institution's business.

In assessing its overall ML/TF risks, financial institutions should make their own determination as to the risk, weights to be given to the individual factor or combination of factors.

The nature and extent of AML/CFT risk management systems and controls implemented should be

commensurate with the ML/TF risks identified via the enterprise-wide ML/TF risk assessment, which should also serve to guide the allocation of AML/CFT resources within the institution.

Financial institutions should assess the effectiveness of its risk mitigation procedures and controls by monitoring the following:

- the ability to identify changes in a customer profile (e.g. Politically Exposed Persons status) and transactional behaviour observed in the course of its business;
- the potential for abuse of new business initiatives, products, practices and services for ML/TF purposes;
- the compliance arrangements (for e.g. through its internal audit or quality assurance processes or external review);
- the balance between the use of technology-based or automated solutions with that of manual or people-based processes, for AML/CFT risk management purposes;
- the coordination between AML/CFT compliance and other functions of the financial institution;
- the adequacy of training provided to employees and officers and awareness of the employees and officers on AML/CFT matters;
- the process of management reporting and escalation of pertinent AML/CFT issues to the financial institution's senior management;
- the coordination between the financial institution and regulatory or law enforcement agencies; and
- the performance of third parties relied upon by the financial institution to carry out CDD measures.

In order to keep its enterprise-wide risk assessments up-to-date, financial institutions must review its risk assessment at least once every two years or when the material trigger events occur, whichever is earlier. Financial institutions must moreover ensure that required documentation is kept on record and made available to the Bank upon request. Since August 2016, money-changers are required to report directly and in-person to the Bank of Mauritius on all their transactions.

(b) Observations on the implementation of the article

Mauritius has instituted measures requiring the financial institutions within its jurisdiction to verify the identity of costumers and determine the identity of beneficial owners of funds deposited into high-value accounts (Section 17 of the Financial Intelligence and Anti-Money Laundering Act and Section 4 (1) and 7 to 10 of the Financial Intelligence and Anti-Money Laundering Regulations 2003).

The Bank of Mauritius and the FSC require financial institutions to conduct AML/CFT risk assessments. Regulation 9 of the FIAMLR 2003 requires enhanced due diligence procedures to be applied for persons and businesses carrying high risk.

Concerning the requirement that financial institutions conduct enhanced scrutiny of accounts sought or maintained by or on behalf of individuals who are, or have been, entrusted with prominent public functions, the Bank of Mauritius has issued Guidance Notes on Anti-Money Laundering and Combating the Financing of Terrorism, which include measures on politically exposed persons. These are described in further detail under Article 52 (2) (a).

Mauritius moreover outlined its Customer Due Diligence system, and all banks and financial institutions are required to keep "know your customer" information, but there is no centralized register or database. However, Mauritius reported that since 2016 money-changers are required to

report directly and in-person to the Bank of Mauritius on all their transactions and sanctions are foreseen by Information the Banking Act (2004, sects. 11 et seq.).

Mauritius is deemed largely in compliance with the provision under review. In view of further enhancing the compliance with the Convention, it is recommended to establish and ensure appropriate access to a bank account register with ultimate beneficial ownership information, which is at present under consideration, within one of the existing anti-money laundering bodies.

(c) Successes and good practices

The Setting up of direct live reporting of money changers to address risks identified by Bank of Mauritius' risk assessment of banking sector is a good practice.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

Guidelines and Guidance Note issued by the FIU

Guidelines on the measures for the prevention of ML/TF

- Guidelines for Accountants, Auditors and member firm
- Guidelines for Law Practitioners (Barristers, Attorneys, Notaries)
- Guidelines for Law Firms (Law firm, foreign law firm, joint law venture, foreign lawyer)
- Guidelines for Gambling Business
- Guidelines for Dealer under the Jewellery Act
- Guidelines for Agent in Land and/or Building or Estate Agency /Land Promoter and Property Developer

Guidance Note

- Suspicious Transaction Report - Guidance Note 3 (2014)

The Guidance Notes on Anti-Money Laundering and Combating the Financing of Terrorism issued by the Bank of Mauritius provide for account opening Customer Due Diligence requirements for

institutions and provide special guidance for higher risk entities such as foreign companies, partnerships, unincorporated businesses, clubs and charities, trusts, foundation, correspondent banking among others.

These Guidance Notes on AML/CFT encompass the principles set out in the FATF Recommendations for combating money laundering and terrorist financing issued by the Financial Action Task Force and outline the broad parameters within which financial institutions should operate in order to ward off money laundering and terrorist financing risks.

Section 6 of the Guidance Notes on AML/CFT deals specifically with Identification Procedures required to be put in place by institutions falling under the purview of the Bank of Mauritius. Amongst others, the Guidance Notes require a financial institution to establish to its satisfaction that it is dealing with a real person or organisation, and verify the identity of the person or organisation accordingly. If funds that are to be deposited or transferred are being supplied on behalf of a third party, then the identity of the third party should be established and verified. In case a financial institution is not able to determine whether the applicant for business is acting for a third party, it should make a record of the grounds for suspecting that the applicant for business is so acting and make a Suspicious Transaction Report to the Financial Intelligence Unit. Financial institutions should also require customers to complete a written declaration of the identity and details of natural person(s) who are the ultimate beneficial owner(s) of the business relationship or transaction as a first step in meeting their beneficial ownership customer due diligence requirements. Requiring a written declaration of beneficial ownership by the contracting customer is an important first step in the financial institution's effort to identify and verify the identity of the beneficial owner:

6.26 Financial institutions should establish to its satisfaction that it is dealing with a real person or organisation, and verify the identity of the person or organisation accordingly. If funds that are to be deposited or transferred are being supplied on behalf of a third party, then the identity of the third party should be established and verified. In case a financial institution is not able to determine whether the applicant for business is acting for a third party, it should make a record of the grounds for suspecting that the applicant for business is so acting and make a Suspicious Transaction Report to the Financial Intelligence Unit. This paragraph, however, does not apply to "Client's Accounts opened by Professional Intermediaries" which are dealt with in paragraphs 6.81 to 6.82 of these Guidance Notes.

6.26a. Financial institutions should also require customers to complete a written declaration of the identity and details of natural person(s) who are the ultimate beneficial owner(s) of the business relationship or transaction as a first step in meeting their beneficial ownership customer due diligence requirements. Requiring a written declaration of beneficial ownership by the contracting customer is an important first step in the financial institution's effort to identify and verify the identity of the beneficial owner. The FATF defines 'beneficial owner' as the natural person(s) who ultimately owns or controls a customer and/or the natural person on whose behalf a transaction is being conducted. It also includes those persons who exercise ultimate effective control over a legal person or arrangement.

6.27 Financial institutions need to obtain all information necessary to establish to their full satisfaction the identity of the applicant for business and the purpose and nature of the business relationship or transaction. They should cross check information by accessing available public databases such as telephone directories and electoral registers and private databases such as Credit Information Bureaux, both at the local and international levels and keep on their files full information on ultimate beneficial owners in case they are not the same persons as the applicant for business, as well as persons acting on their behalf, and accordingly take reasonable measures to verify the identity of the beneficial owner using relevant information or data obtained from a reliable source such that the financial institution is satisfied that it knows who the beneficial owner is.

Financial institutions should pay special attention to all complex, unusual large transactions or unusual patterns of transactions that have no apparent or visible economic or lawful purpose and should examine as far as possible the background and purpose of such transactions and set their findings in writing.

Regulation 9(d) of the Financial Intelligence and Anti-Money Laundering Regulations 2003 require financial institutions to implement due diligence procedures with respect to persons and business relations and transactions carrying high risk and with persons established in jurisdictions that do not have adequate systems in place against money laundering and the financing of terrorism.

Financial institutions are, accordingly, required under the Guidance Notes on AML/CFT to develop clear customer acceptance policies and procedures, including a description of the types of customer that are likely to pose a higher than the average risk to a financial institution. In preparing such policies, factors such as the customer's background, nature of business or social engagement, country of origin with a view to determining whether those countries have adequate systems in place against money laundering and the financing of terrorism, public or high-profile position and other risk indicators must be taken into consideration by the financial institution. The customer acceptance policies and procedures are required to be graduated and require more extensive due diligence for higher-risk customers, such as politically exposed persons where decisions to enter into such business relationships should be taken with the concurrence of senior management.

The exercise must, however, be calibrated to ensure that the customer acceptance policy does not result in a denial of access by the general public to legitimate banking, deposit-taking and cash dealer services.

Specific Customer Due Diligence requirements are also prescribed in the Guidance Notes on AML/CFT with respect to Politically Exposed Persons, who may be local or foreign and are individuals who are or have been entrusted with prominent public functions, including heads of state or of government, senior politicians, senior government, judicial or military officials, senior executives of publicly owned corporations, important political party officials, their family members and their close associates.

Financial institutions are required under the Guidance Notes to gather sufficient information from a new customer, including information on the beneficial owner, check publicly available information or access commercial electronic databases, in order to establish whether or not the customer or the beneficial owner is a PEP. Financial institutions should also take reasonable measures to establish the source of wealth and the source of funds of the customer and beneficial owners identified as PEPs.

Financial institutions must put in place appropriate risk management systems to determine whether a potential customer, a customer or the beneficial owner is a PEP. It can reduce risk by conducting detailed due diligence at the outset of the relationship including requiring a declaration of beneficial ownership and enhanced ongoing monitoring where a business relationship has been established with a PEP.

In particular detailed due diligence should include:

- Close scrutiny of any complex structures (for example, involving companies, trusts and multiple jurisdictions) so as to establish that there is a clear and legitimate reason for using such structures bearing in mind that most legitimate political figures would expect their personal affairs to be undertaken in a more than usually open manner rather than the reverse.
- Every effort to establish the source of wealth (including the economic activity that created the wealth) as well as the source of funds involved in the relationship - again establishing that these are legitimate, both at the outset of the relationship and on an ongoing basis.
- The development of a profile of expected activity on the business relationship so as to provide a basis for future monitoring. The profile should be regularly reviewed and updated.
- An approval at senior management or board level of the decision to commence the business relationship and to continue the business relationship where the customer has been accepted and the customer or beneficial owner is subsequently found to be or subsequently becomes a PEP.
- Regular review by senior management using a risk-based approach, at least yearly, with the results of the review duly documented. Over the course of a business relationship with a PEP, ongoing monitoring procedures may reveal changes to the profile and activity. The PEP may have been promoted or elected to a more senior position, engaged in litigation, or made transactions deviated from the norm. Considered separately, the activities, transactions or profile changes may not be sufficient to raise “red flags.” Implementing a periodic review of PEP customers on a risk-based approach, and at least yearly, would help to overcome the approach in which decisions are made transaction-by-transaction, activity-by-activity which would enhance the oversight of the PEPs customer relationships by senior management.
- Close scrutiny of any unusual features, such as very large transactions, particular demands for secrecy, the use of cash or bearer bonds or other instruments which break an audit trail, the use of small and unknown financial institutions in secrecy jurisdictions and regular transactions involving sums just below a typical reporting amount.

The Guidance Notes on AML/CFT define politically exposed persons in Section 6.100 et seq. :

POLITICALLY EXPOSED PERSONS

6.100 Business relationships with individuals holding important public positions and with persons or entities clearly related to them may expose a financial institution to significant reputational and/or legal risks. Such politically exposed persons (“PEPs”) be it local or foreign, are individuals who are or have been entrusted with prominent public functions, including heads of state or of government, senior politicians, senior government, judicial or military officials, senior executives of publicly owned corporations, important political party officials, their family members and their close associates. In the case of entities relating to local PEPs, these would comprise entities that are 20 per cent or more owned or controlled by those local PEPs. The possibility exists that such persons may abuse their public powers for their own illicit enrichment through the receipt of bribes, embezzlement, etc. The measures applicable to a PEP are also

applicable to family members or persons known to be close associates of PEPs as well as persons who have been entrusted with a prominent function by an international organisation.

6.100A A list of PEPs is given at Appendix H. Family members of PEPs are individuals who are related to a PEP either directly (consanguinity) or through marriage or similar (civil) forms of partnership and shall comprise their spouses, any partner considered by national law as being equivalent to a spouse and their children, the children and their spouses, or persons considered to be equivalent to a spouse, the parents of a PEP. Close associates are individuals who are closely connected to a PEP, either socially or professionally and include (i) natural persons who are known to have joint beneficial ownership of legal entities or legal arrangements, or any other close business relations with a PEP; and (ii) natural persons who have sole beneficial ownership of a legal entity or legal arrangement, which is known to have been set up for the de facto benefit of a PEP. International organisation PEPs are persons who are or have been entrusted with a prominent function by an international organisation and refers to members of senior management or individuals who have been entrusted with equivalent functions, i.e. directors, deputy directors and members of the board or equivalent functions.

6.101 Accepting and managing funds from local or foreign corrupt PEPs will severely damage the financial institution's own reputation and can undermine public confidence in the ethical standards of an entire financial centre, since such cases usually receive extensive media attention and strong political reaction, even if the illegal origin of the assets is often difficult to prove. Under certain circumstances, the financial institution and/or their officers and employees themselves can be exposed to charges of money laundering, if they know or should have known that the funds were destined for the financing of terrorism or stemmed from corruption or other crimes.

6.102 In Mauritius corruption is a predicate offence for money laundering and all the relevant anti-money laundering laws and regulations apply (e.g. reporting of suspicious transactions, prohibition on informing the customer). There is a compelling need for a financial institution considering a relationship with a person, be it local or foreign, whom it considers to be a PEP to identify that person fully, as well as people and companies that are clearly related to him/her.

6.103 Financial institutions should gather sufficient information from a new customer, including information on the beneficial owner, check publicly available information or access commercial electronic databases, in order to establish whether or not the customer or the beneficial owner is a PEP. Financial institutions should also take reasonable measures to establish the source of wealth and the source of funds of the customer and beneficial owners identified as PEPs. Financial institutions are encouraged to consider the ongoing PEP status of their customers on a case-by-case basis

using a risk-based approach. If the risk is low, financial institutions may consider declassifying the relationship, but only after careful consideration of continuing anti-money laundering risks and approval by senior management.

6.104 Financial institutions should put in place appropriate risk management systems to determine whether a potential customer, a customer or the beneficial owner is a PEP. It can reduce risk by conducting detailed due diligence at the out-set of the relationship including requiring a declaration of beneficial ownership and enhanced ongoing monitoring where a business relationship has been established with a PEP.

6.105 All financial institutions should assess which countries, with which they have financial relationships, are most vulnerable to corruption. One source of information is the Transparency International Corruption Perceptions Index at www.transparency.org. Financial institutions which are part of an international group might also use the group network as another source of information.

6.106 Where financial institutions do have business in countries vulnerable to corruption, they should establish who are the senior political figures in that country and, should seek to determine whether or not their customer has any connections with such individuals (for example they are immediate family or close associates). Financial institutions should note the risk that individuals may acquire such connections after the business relationship has been established.

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

The Bank of Mauritius ensures during the on-site examination that the requirements imposed under the Guidance Notes on AML/CFT are strictly adhered to by the financial institutions under its purview.

During the course of regular and/or special onsite examinations of financial institutions falling under the purview of the Bank of Mauritius, an assessment is usually made on whether financial institutions comply with section 6.26a of the Guidance Notes on AML/CFT, based on a sample basis.

Following an on-site inspection, a management report is prepared showing deficiencies found during the course of on-site supervision of banks. Banks and other institutions under the purview of the Bank are required to submit their views thereon and to take remedial action with regard to those deficiencies. The Bank may also take such action as it deems necessary as a result of those inspections.

In the event of non-compliance, recommendations are made to the financial institutions to ensure that it has complied with the requirements of the Bank's Guidance Notes on AML/CFT and that appropriate documents are secured from customers and kept on record. The Bank of Mauritius may also take regulatory action against the financial institution depending on the gravity of the case.

Please refer to the website and Annual Reports of the FIU, Bank of Mauritius and the Financial Services Commission for further examples.

Examinations conducted under section 42 of the Banking Act 2004 are as shown below for the period 2012 up to March 2016

Year	banks	NBDTIs	MC	FED
2012	12	3	5	2
2013	7	5	5	4
2014	12	3	5	--
2015	8	4	4	4
2016	3	1	1	--
(up to March)				

Special Examinations conducted under Section 43 of the Banking Act 2004 (AML/CFT)

Year	Banks	NBDTI	FX	MC	Other
2012	19	1	1		
2013	11		1		1
2014	6				
2015	4				
2016 (until March 2016)	5				

Special Examinations conducted (ALL)

Year	Banks	NBDTI	FX	MC	Other
2012	35	1	1	1	

2013	18		4		1
2014	12				
2015	4				
2016 (up to March 2016)	6				

List of licences revoked	
Banks	Date Revoked
Bank of Credit and Commerce International S.A	Sep-91
Mauritius Co-operative Central Bank Ltd	Apr-96
Union International Bank Ltd	03-Aug-96
Delphis Bank Ltd	08-Mar-02
Bramer Banking Corporation Ltd	02-Apr-15
Money Changers	Date Revoked
Grand Bay Helipad Co. Ltd	10-Sep-05
White Sand Finance Ltd	30-Nov-09
Change Partners Ltd	30-Nov-09
ABANYB Ltd	30-Nov-09
Gowtam Jootun Lotus Ltd	23-Sep-11
Easy Change (Mauritius) Co Ltd	19-Feb-16

Statistics on fines imposed on financial intuitions

27 cases as of now and more are being processed. More recently, the licence of a money changer was suspended and only reinstated when the money changer had made good the deficiencies noted during the regular on-site examination and after payment of the fine imposed by the Bank of Mauritius.

(b) Observations on the implementation of the article

Mauritius has issued guidelines and guidance notes regarding the types of the natural or legal person to whose accounts financial institutions within its jurisdiction are expected to apply enhanced scrutiny.

The legally binding Guidance Notes on Anti-Money Laundering and Combating the Financing of Terrorism issued by the Bank of Mauritius require financial institutions to gather sufficient information in order to establish whether the customer is a politically exposed person and whether the beneficial owner could be a politically exposed person.

These Guidance notes outline the definition of a PEP, who may be local or foreign, and establish that the list of such persons must be reviewed at least yearly by senior management (sect. 6.100 et seq.).

Mauritius is deemed in compliance with the provision under review.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

The FIU Mauritius exchanges information with its foreign counterparts both spontaneously and upon request. Where necessary and subject to prior authorization by the requested FIU, the FIU Mauritius may disseminate, on the basis of confidentiality, information to domestic regulators. However, it is the role of the regulators to notify their licensees of the identity of particular natural or legal persons to whose accounts such institutions will be expected to apply enhanced scrutiny.

It is the practice for the Bank of Mauritius, as the regulator, to take certain preventive measures which are within the statutory parameters of the Bank to prevent that the banking system is being abused by money launderers and terrorist perpetrators. In this respect, the Bank has provided all financial institutions falling under its purview with the list of persons and entities identified as terrorist by the United Nations Security Council, the African Union, and other relevant lists of sanctioned individuals or entities which are disseminated to it. The Bank has requested financial institutions under its purview to inform the Bank whether the persons and entities mentioned in those lists hold any account with them and to seek the approval of the Bank before executing any request for transactions in respect of those persons and entities.

Furthermore, the Bank of Mauritius also provides financial institutions with the list of jurisdictions identified by the FATF as having strategic deficiencies and those jurisdictions subject to a FATF call on its members and other jurisdictions to apply counter-measures to protect the international financial system from the on-going and substantial ML/TF risks emanating from those jurisdictions and require financial institutions to stand guided by the FATF Recommendations.

The role of the other AML/CFT national regulators other than the Central Bank are as follows:

Financial Sector (other than the Bank of Mauritius)

Financial Services Commission (FSC) – The FSC is the AML/CFT supervisor for the non-bank financial services sector and global business.

DNFBP Sector

Mauritius Institute of Professional Accountants (MIPA) - The MIPA is the AML/CFT regulator for professional accountants, public accountants and member firms under the Financial Reporting Act.

Financial Reporting Council (FRC) – The FRC is the AML/CFT regulator for licensed auditors under the Financial Reporting Act.

Attorney General – The Attorney General is the AML/CFT regulator for law firms, foreign law firms, joint law ventures, foreign lawyers under the Law Practitioners Act.

Bar Council – The Bar Council is the AML/CFT regulator for barristers.

Mauritius Law Society Council – The Mauritius Law Society Council is the AML/CFT regulator for attorneys.

Chamber of Notaries – The Chamber of Notaries is the AML/CFT regulator for notaries.

Gambling Regulatory Authority (GRA) – The GRA is the AML/CFT regulator for persons licensed to operate a casino, gaming house, gaming machine, totalisator, bookmaker and interactive gambling under the Gambling Regulatory Authority Act.

FIU – The FIU is the AML/CFT regulator for dealers under the Jewellery Act, agents in Land and/or building or estate agencies, land promoters and property developers under the Local Government Act.

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

Please refer to the website and Annual Reports of the FIU, Bank of Mauritius and the Financial Services Commission for further examples.

(b) Observations on the implementation of the article

The FIU Mauritius exchanges information with its foreign counterparts both spontaneously and upon request. Mauritius also indicated the FIU Mauritius may disseminate information to domestic regulators on the basis of confidentiality and subject to prior authorization by the requested FIU.

Mauritius further noted that the Bank of Mauritius provides all financial institutions falling under its purview with the list of persons and entities identified as terrorist by the United Nations Security Council, the African Union and other relevant lists of sanctioned individuals or entities which are disseminated to it, as well as the list of jurisdictions identified by the FATF as having strategic deficiencies.

Mauritius is deemed in compliance with the provision under review.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

Section 17(b) of the Financial Intelligence and Anti-Money Laundering Act 2002 (FIAMLA) requires every bank, financial institution, cash dealer or member of a relevant profession or occupation to keep such records, registers and documents as may be required under this Act or by regulations.

Section 19 sanctions this obligation:

19. Offences relating to obligation to report and keep records and to disclosure of information prejudicial to a request

(1) Any bank, financial institution, cash dealer or any director or employee thereof or member of a relevant profession or occupation who, knowingly or without reasonable excuse -

(a) fails to-

(i) supply any information requested by the FIU under section 13(2) or 13(3) within the date specified in the request;

(ii) make a report under section 14; or

(iii) verify, identify or keep records, registers or documents, as required under section 17;

(b) destroys or removes any record, register or document which is required under this Act or any regulations;

(c) warns or informs the owner of any funds of any report required to be made in respect of any transaction, or of any action taken or required to be taken in respect of any transaction, related to such funds; or

(d) facilitates or permits the performance under a false identity of any transaction falling within this Part,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.

(2) Any person who -

(a) falsifies, conceals, destroys or otherwise disposes of or causes or permits the falsification, concealment, destruction or disposal of any information, document or material which is or is likely to be relevant to a request under the Mutual Assistance in Criminal and Related Matters Act 2003; or

(b) knowing or suspecting that an investigation into a money laundering offence has been or is about to be conducted, divulges that fact or other information to another person whereby the making or execution of a request under the Mutual Assistance in Criminal and Related Matters Act 2003 is likely to be prejudiced,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees and to imprisonment for a term not exceeding 5 years.

Regulation 8 of the Financial Intelligence and Anti-Money Laundering Regulations (FIAMLR) provides as follows:

8. (1) For the purposes of section 17 (b) of the Act, every relevant person shall keep -

(a) records of customer identification, for not less than 5 years after the closure of the account or cessation of business relationship with the customer concerned;

(b) records of transactions carried out for customers, for not less than 5 years after completion of the transactions concerned;

- (c) records of all reports made to and by the Money Laundering Reporting Officer, for not less than 5 years after the date on which the report is made; and
 - (d) records of any money laundering training delivered to employees.
- (2) Notwithstanding paragraph (1), any guideline or code applicable to a relevant person may provide for a longer period for the keeping of records.

Furthermore, Section 33 of the Banking Act imposes a record-keeping requirement of 7 years on financial institutions falling under the purview of the Bank of Mauritius:

PART V - FINANCIAL STATEMENTS, AUDIT AND SUPERVISION

33. Records

- (1) Every financial institution shall, for the purposes of the banking laws, keep in relation to its activities, a full and true written record of every transaction it conducts.
- (2) The records under subsection (1) shall include -
- (a) accounting records exhibiting clearly and correctly the state of its business affairs, explaining its transactions and financial position so as to enable the central bank to determine whether the financial institution has complied with all the provisions of the banking laws;
 - (b) the financial statements;
 - (c) account files of every customer, business correspondences exchanged with every customer and records showing, for every customer, at least on a daily basis, particulars of its transactions with or for the account of that customer, and the balance owing to or by that customer;
 - (d) proper credit documentation; and
 - (e) such other records as the central bank may determine.
- (3) Every record under this section shall be kept -
- (a) in written form or kept on microfilm, magnetic tape, optical disk, or any other form of mechanical or electronic data storage and retrieval mechanism as the central bank may agree to;
 - (b) for a period of at least 7 years after the completion of the transaction to which it relates;

(c) at the principal office of the financial institution, or at such other place as may be approved by the central bank; and

(d) for identification purposes, in chronological order or sequential order, as appropriate, in batches of convenient size.

The Bank of Mauritius has accordingly, in the Guidance Notes on AML/CFT required financial institutions falling under its purview aligned the record-keeping requirements for AML/CFT purposes to those imposed under section 33 of the Banking Act, i.e. 7 years, in line with the provisions of Regulations 8(2) of the FIAMLRL. Institutions falling under the purview of the Bank of Mauritius are accordingly bound to keep records for a period of 7 years.

Concerning the retention periods of documents, the Financial Intelligence and Anti-Money Laundering Regulations covers banks, financial institutions and cash dealers, while the Banking Act applies to all financial institutions licensed by the Bank of Mauritius (BoM). For BoM licenses, the retention period of documents is therefore 7 years, and the 5-year period applies for all others.

Section 7 of the Guidance Notes on AML/CFT issued by the Bank provides specific guidance on record-keeping requirements and inter alia requires financial institutions under its purview to retain the following documents for a period of not less than 7 years after the completion of the transaction to which it relates, closure of the account or cessation of the business relationship with the customer concerned:

(a) All documentation required to verify the identity of the customers and of beneficial owners in accordance with the Guidance Notes.

(b) Where a third party has been relied upon the identification documents of the third party.

(c) Transaction records in whatever form they are used

(d) Transaction records, in whatever form they are used, e.g. credit/debit slips, cheques etc. need to be maintained in such a manner to enable investigating authorities to compile a satisfactory audit trail for suspected laundered and terrorist money and establish a financial profile of any suspect account and should include the following :-

(i) the volume of funds flowing through the account

(ii) the source of the funds, including full remitter details

(iii) the form in which the funds were offered or withdrawn i.e. cash, cheques, etc.

(iv) the identity of the person undertaking the transaction and of the beneficiary

- (v) counterparty details
- (vi) the destination of the funds
- (vii) the form of instruction and authority (viii) the date of the transaction.
- (ix) the type and identifying number of any account involved in the transaction.
- (e) Reports made to and by the MLRO as well as any findings relating to the background and purpose of complex, unusual or suspicious transactions
- (f) Records Relating to Ongoing Investigations should be retained until it is confirmed by the authorities that the case has been closed.
- (g) Records of electronic payments and messages

Where a report of a suspicious transaction is made under section 14 of the FIAML Act, the Director of the FIU can, by written notice, not later than 15 days before the end of the 7th year following the completion of the transaction to which the suspicious transaction report relates, require the financial institution to keep the records in respect of that suspicious transaction for such period as may be specified in the notice.

The FIAMLA being an act of parliament, the 7-year period cannot be extended by notice of the FIU.

The FIU is empowered under the FIAMLA to require the financial institution to keep the records in respect of a suspicious transaction for such period as may be specified in the notice in order to ensure that these records are available during the enquiry and prosecution stages of the AML/CFT offence.

During the course of regular and/or special onsite examinations of financial institutions falling under the purview of the Bank of Mauritius, an assessment is usually made on whether financial institutions comply with the provisions of the Guidance Notes on AML/CFT, based on a sample basis.

The Bank of Mauritius ensures during on-site examination of banks, non-bank deposit-taking institutions and cash dealers that these institutions are complying with the record-keeping requirements of 7 years imposed under the Banking Laws. Non-compliance with the legal requirement entails sanctions.

Following an on-site inspection, a management report is prepared showing deficiencies found during the course of on-site supervision of banks. Banks are required to submit their views thereon and to take remedial action with regard to those deficiencies. The Bank may also take such action as it deems necessary as a result of those inspections.

The Bank of Mauritius may also take regulatory action against the financial institution depending on the gravity of the case. As of now, no monetary fine has been imposed for failure to maintain records or non-compliance with record-keeping requirements as no such deficiency have been

found by the Bank.

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

The Bank of Mauritius ensures during the on-site examination that the requirements imposed under the Guidance Notes on AML/CFT are strictly adhered to by the financial institutions under its purview.

Please refer to the website and Annual Reports of the FIU, Bank of Mauritius and the Financial Services Commission for further examples.

(b) Observations on the implementation of the article

Mauritius has instituted legislative provisions to ensure that its financial institutions maintain adequate records, over an appropriate period of time, of accounts and transactions.

The Financial Intelligence and Anti-Money Laundering Act 2002 (FIAMLA), Regulation 8 of the Financial Intelligence and Anti-Money Laundering Regulations and the Bank of Mauritius Guidance Notes on AML/CFT contain provisions prescribing the keeping of records, including sanctions for non-compliance (Section 19 of the FIAMLA 2002). Section 33 of the Banking Act sets a seven-year minimum threshold for the keeping of files and records.

Records are not kept centrally, but within each institution and some institutions have decided to preserve their records for a longer period of time.

On-site inspections may inspect whether the seven-year minimum is respected, with non-compliance being sanctioned. However, Mauritius specified that at the time of the country visit, no sanction had been imposed non-compliance with record-keeping requirements as no such deficiency had yet been found by the Bank.

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

The Banking Act imposes strict licensing procedures

Applicants willing to carry on banking business, Islamic banking business, private banking business

or investment banking in Mauritius are required to obtain a banking license from the Bank of Mauritius, which may be granted if the licensing criteria are met and subject to such conditions as the Bank of Mauritius may impose.

Generally, the Bank of Mauritius only considers applications for banking licenses from reputable international banks incorporated abroad and which are subject to consolidated supervision by competent foreign regulatory authorities.

Since 1 June 2007, a non-bank deposit-taking institution is subject to the same prudential regulation as a bank and any guidelines and instructions issued thereunder and the existing terms and conditions of non-bank deposit-taking institutions shall stand amended to that effect.

A foreign exchange dealer is permitted to conduct the business of buying and selling of foreign currency, including spot and forward foreign exchange transactions, wholesale money market dealings and the business of a money changer and/or money or value transfer services.

A money changer is licensed to carry on solely the business of buying and selling foreign currency notes, coins and travellers cheques, the replacement of lost or stolen travellers cheques and encashment under credit cards.

All institutions under the purview of the Bank of Mauritius are subject to off-site surveillance and on-site examinations carried out by the Bank of Mauritius.

All financial institutions, including subsidiaries and branches of foreign banks, licensed and regulated by the Bank of Mauritius are required to comply with the Banking Act 2004 and guidelines issued by the Bank of Mauritius under the Banking laws.

Customer due diligence

Section 17 of the FIAML Act requires Licensees to verify the true identity of all customers and other persons with whom they conduct transactions. Licensees must establish and verify the identity and the current address of the applicant for business as well as the nature of the applicant's business, his financial status, and the capacity in which he is entering into the business relationship with the Licensee.

Regulation 3 of the FIAML Regulations 2003 prohibits financial institutions from opening anonymous or fictitious accounts. In this context, Licensees should not set up and maintain anonymous accounts or accounts which the Licensee knows or has reasonable cause to suspect, are in fictitious names.

Licensees must therefore undertake CDD measures and be satisfied with the results obtained:

- Prior to establishing any business relationship with an applicant for business and carrying out any business transaction for or on behalf of the applicant for business;
- In cases of one-off transactions or a series of occasional transactions⁵ where the total amount of the transactions which is payable by or to the applicant for business is above 350,000 rupees or an equivalent amount in foreign currency; or
- Whenever there is a suspicion of money laundering or terrorist financing at any point in time since the inception till the termination of the business relationship.

Customer Due Diligence measures that should be taken by Licensees include:

- Identifying and verifying the identity of the applicant for business using reliable, independent source documents, data or information;

- Identifying and verifying the identity of the beneficial owner⁶ such that the Licensee is satisfied that he knows who the beneficial owner is;
- Obtaining information on the purpose and intended nature of the business relationship; and
- Conducting ongoing due diligence on the business relationship and scrutiny of transactions throughout the course of the business relationship to ensure that the transactions in which the customer is engaged are consistent with the Licensee's knowledge of the customer and his business and risk profile (including the source of funds).

Licensees must ensure that all documents, data or information collected under the CDD process are kept relevant and up-to-date by undertaking reviews of existing records, particularly for higher risk categories of customers or business relationships.

If Licensees form a suspicion that transactions relate to money laundering or terrorist financing, they should take into account the risk of tipping off when performing the customer due diligence process. If the Licensee reasonably believes that performing the CDD process will tip-off the customer or potential customer, it may choose not to pursue that process and should file Suspicious Transaction Report ('STR') to the FIU as per section 6.5 of the Code. Licensees should ensure that their employees are aware of and sensitive to these issues when conducting CDD.

Mobile Banking

Mobile banking and mobile payment systems in Mauritius is regulated by the Bank of Mauritius. Guidelines on Mobile Banking were issued in May 2015 under section 50 of the Bank of Mauritius Act 2004 and pursuant to Section 100 of the Banking Act 2004, whereby the Bank may issue instructions or guidelines or improve requirements or impose requirements on or relating to the operation and activities of standards to be maintained by the banks and other financial institutions.

The guideline applies to bank-based and non-bank-based mobile banking and mobile payment service providers. The approval of the Bank is required prior to conducting either the bank-led mobile banking and mobile payment model or the non-bank-led mobile payment model.

Link to Guideline on Mobile Banking and Mobile Payment Systems -

<https://www.bom.mu/financial-stability/supervision/guidelines/guideline-mobile-banking-and-mobile-payment-systems>

Regulation 3 of the Financial Intelligence and Anti-Money Laundering Regulations 2003, GN 79/2003:

- (1) No person shall, in the course of his conduct of business as a relevant person, open an anonymous or fictitious account.
- (2) No bank or financial institution shall allow any person with whom it forms a business relationship, to conduct any transaction with the bank or the financial institution, by means of a reference account unless the bank or the financial institution has duly verified the identity of the applicant for business in accordance with these regulations.

In the 2007/08 Mutual Evaluation process, Mauritius was rated fully compliant on the corresponding FATF Recommendation on Shell Bank [Old FATF Recommendation 18].

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

Where it is reported to the Bank that any person is engaging in banking business, deposit-taking business or cash dealer business without a licence, the Bank will conduct an examination in the matter and refer the matter to the police which is mandated to conduct further investigation in the matter and ultimately prosecute, where appropriate.

The Bank also issue public notices to caution the public against any person conducting any such activity without a licence from the Bank or claiming to be licenced by the Bank.

Copies of such communiqués are available from the Bank's website, at the following links, amongst others:

<https://www.bom.mu/media/media-releases/unauthorised-banking-activities-commercial-exchange-bank>

<https://www.bom.mu/media/scam-alerts> ;

https://www.bom.mu/sites/default/files/Communique_20130415.pdf ,

https://www.bom.mu/sites/default/files/Communique_20130319.pdf

https://www.bom.mu/sites/default/files/communique_20130225.pdf

(b) Observations on the implementation of the article

Mauritius has adopted legislation to prevent the establishment of banks that have no physical presence and that are not affiliated with a regulated financial group.

The Bank of Mauritius Act and the Banking Act prohibit the establishment of shell banks.

Moreover, Financial institutions are not allowed to enter into business relations with foreign institutions that accept the use of their accounts by such banks (Section 6.92 of the Bank of Mauritius Guidance Notes on AML/CFT).

Mauritius is in compliance with the provision under review.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

Members of the National Assembly and employees of a number of statutory bodies are required to submit periodic asset declarations. In cases where this statement would reveal assets disproportionate to their income, and if there was evidence of acts of corruption, this would be

sufficient suspicion to initiate an investigation. All additional money obtained by the suspect is potentially a product of crime and therefore would be subject to forfeiture as a result of a conviction of corruption and/or money laundering.

Officers of the Independent Commission against Corruption (see Section 25 of the Prevention of Corruption Act) and the Financial Intelligence Unit (see Section 31 of the Financial Intelligence and Anti-Money Laundering Act 2002) (quoted below), are required to declare their assets, both at the beginning of their function and at the end of their duties. In addition, the FIU Director, its staff and members of the FIU Board must file a yearly declaration of their assets and liabilities with the ICAC.

The Declaration of Assets Act 1991, for example, establishes an obligation for members of the National Assembly to submit to the Independent Commission against Corruption a declaration of their assets within 30 days after the first sitting of the National Assembly and after their post remained vacant:

3. Declaration of assets and liabilities

(1) Every Member of the National Assembly or the Rodrigues Regional Assembly shall, not later than 30 days-

(a) after the first sitting of the National Assembly or the Rodrigues Regional Assembly following a dissolution of Parliament or the Rodrigues Regional Assembly or after being elected to the Assembly or the Rodrigues Regional Assembly following a by-election, as the case may be;

(b) after the seat becomes vacant in accordance with section 35 of the Constitution or section 19 of the Rodrigues Regional Assembly Act, deposit with the Clerk Commission a declaration of assets and liabilities in relation to himself, his spouse and minor children and grand- children and, subject to subsection 3, children of age.

(2) Where a person is appointed a Minister or a Commissioner he shall not later than 15 days after-

(a) being appointed a Minister or a Commissioner;

(b) his office becomes vacant in accordance with section 60 of the Constitution or section 37 of the Rodrigues Regional Assembly Act 20012, deposit with the Clerk Commission a declaration of assets and liabilities in relation to himself, his spouse and minor children and grand children and, subject to subsection 3, children of age.

(3) The declaration shall, in relation to children of age, specify any property sold, transferred or donated to each one of them in any form or manner whatsoever including income or benefits from any account, partnership or trust.

(4) Every person who makes a declaration of his assets and liabilities shall specify the nature of his interests in the assets including any joint ownership, and the nature of his liabilities regarding those assets, including any joint liability.

(5) Where the assets declared are in relation to shares or any interest in a partnership, société or company, the person who makes the declaration shall also declare the assets and liabilities of the partnership, société or company or, where this is impracticable, the market value of his shares or interest.

(6) A declaration under this section shall be made by way of an affidavit, in the form specified in the Schedule, sworn before the Supreme

Court or in the case of a Commissioner, before the Magistrate of Rodrigues.
(7) The Clerk of the Rodrigues Regional Assembly shall transmit to the Clerk of the National

The Act also requires a renewed declaration of assets when the assets and liabilities increase or decrease by at least Rs 100,000:

4. Amendment of declaration

Where, subsequent to a declaration made under section 3, the state of the assets and liabilities is so altered as to be reduced or increased in value by a minimum of 100,000 rupees, the declarant shall make a fresh declaration.

It should also be noted that Section 84 of the Prevention of Corruption Act establishes that the prosecution may be based on evidence of unexplained wealth can be accepted as evidence to corroborate other evidence in connection with offences under the Act:

84. Possession of unexplained wealth

(1) The Commission may—

(a) order any public official or any person suspected of having committed a corruption offence to make a statement under oath of all his assets and liabilities and of those of his relatives and associates;

(b) investigate whether any public official or any person suspected of having committed a corruption offence—

(i) has a standard of living which is commensurate with his emoluments or other income;

(ii) owns, or is in control of, property to an extent which is disproportionate to his emoluments or other income; or

(iii) is able to give a satisfactory account as to how he came into ownership, possession, custody or control of any property.

(2) Where, in proceedings for an offence under this Act, it is established that the accused—

(a) was maintaining a standard of living which was not commensurate with his emoluments or other income;

(b) was in control of property to an extent which is disproportionate to his emoluments or other income;

(c) held property for which he, his relative or associate, is unable to give a satisfactory account as to how he came into its ownership, possession, custody or control, that evidence shall be admissible to corroborate other evidence relating to the commission of the offence.

Prevention of Corruption Act 2002

25. Disclosure of assets and liabilities

A member of the Board or an officer shall -

(a) not later than 30 days after the date of his appointment;

(b) not later than 30 June in every year until he ceases to be a member of the Board; and

(c) upon the termination of his appointment,

deposit with the Parliamentary Committee a declaration of his assets and liabilities in relation to himself, his spouse, children and grandchildren in the form specified in the First Schedule.

Financial Intelligence and Anti-Money Laundering Act 2002

31. Declaration of assets

(1) The Director, every officer of the FIU, and the Chairperson and every member of the Board shall file with the Commission, not later than 30 days from his appointment, a declaration of his assets and liabilities in the form set out in the Third Schedule.

(2) Every person referred to in subsection (1) shall make a fresh declaration of his assets and liabilities, every year, and also on the expiry of his employment or termination of his employment on any ground.

(3) No declaration of assets filed under subsection (1) or subsection (2) shall be disclosed to any person except with the consent of the Director or officer concerned or, on reasonable grounds being shown, by order of a Judge.

Mauritius Revenue Authority Act 2004

14. Declaration of assets

(1) Every person shall, at the time of making an application to be recruited by the Authority, or within one month preceding his transfer to the Authority, as the case may be, lodge -

(a) in the case of the Director-General, with the Chairperson, a declaration of assets by way of an affidavit in the form specified in the Second Schedule;

(b) in the case of an officer, with the Director-General, a declaration of assets by way of an affidavit in the form specified in the Second Schedule; or

(c) in the case of any other employee, with the Director-General, a declaration of assets in the form specified in the Third Schedule,

in relation to himself, his spouse, his minor children and grand-children, and subject to subsection (2), children of age.

(2) The declaration shall, in relation to children of age, specify any property sold, transferred or donated to each one of them in any form or manner whatsoever including income or benefits from any account, partnership or trust.

(3) Every officer referred to in subsection (1) shall make a fresh declaration of assets by means of an affidavit or declaration, as the case may

be, every 3 years, and also on the expiry or termination of his employment on any ground.

(4) Notwithstanding subsection (3), the Director-General may, where he has reason to believe that an officer has made a false declaration, or has concealed the existence of an asset which he has to declare, or has otherwise omitted to make such a declaration, require an officer to make a declaration of assets at any time.

(5) The Head of the Internal Affairs Division, or any officer deputed by him, may, for the purposes of verifying any declaration of assets lodged under this section, require from the person making the declaration for any document or for any oral or written information.

(6) The powers exercisable by the Head of the Internal Affairs Division shall, in relation to a requirement under subsection (5) in respect of himself, be exercised by the Director-General.

Central Bank - Disclosure Requirements

The Governor and Deputy Governors of the Bank of Mauritius are required under section 15 of the Bank of Mauritius Act to deposit with the Minister of Finance a declaration of assets, in the form specified in the First Schedule to the Act, within 30 days of his appointment, in respect of himself, his spouse, his minor children and grandchildren and in relation to children of age, specifying any property sold, transferred or donated to each one of them in any form or manner whatsoever, including income or benefits from any account, partnership or trust.

The Governor and Deputy Governors are required to make a fresh declaration of assets by means of an affidavit every 2 years and at the expiry or termination of his employment on any ground.

Information derived from financial disclosures can be shared with another country on request, if pursuant to a formal request for mutual legal assistance, upon satisfaction of the court.

In addition, MRA scrutinizes filings internally.

(b) Observations on the implementation of the article

Mauritius' system of declaration of assets covers a wide category of officials of specific institutions in addition to the members of the national assembly, but excluding the managers and accountants of public enterprises and the members of the commissions of the public markets.

Moreover, Mauritius has not specified the sanctions for non-declaration of assets and the process of monitoring and verifying these declarations.

The reviewing experts, therefore, concluded that the country is not in full compliance with the provision under review. In order to further enhance the implementation of the Convention, and, as already identified under paragraph 5 of Article 8, it is recommended that Mauritius consider strengthening the asset declaration system for public officials, including through the adoption of the envisaged public service law and introducing an effective verification system.

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

Mauritius indicated that it had not implemented the provision under review and included the following information to this end.

Incoming and outgoing financial transactions are well regulated in Mauritius. There is no such provision to require appropriate public officials having an interest in or a 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.

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

Please refer to the website of the Bank of Mauritius.

(b) Observations on the implementation of the article

As noted for Article 8, the reviewing experts concluded that Mauritius has a limited asset declaration system in place that does not oblige officials concerned to disclose their financial interests outside of the country.

The country is therefore not in compliance with the provision under review, and, as indicated for the provision of Article 8 (5), Mauritius is recommended to amend its asset declaration system to also include information regarding foreign-based assets, signatures and other values.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

Theoretically, it should be possible for another State Party to initiate a civil action in Mauritius' courts to establish title to or ownership of property acquired through the commission of an offence established in accordance with the UNCAC: In their definition of "person", the Civil Code and the Supreme Court Rules do not distinguish foreign States from other persons filing suit. However, such a case has not been initiated in Mauritius to date.

Asset Recovery Act 2011

58. Disposal of proceeds of crime

(1) On a request by a foreign State made to him, the Attorney-General shall transfer to it any proceeds, instrumentality or terrorist property recovered in Mauritius in response to a request for the enforcement of a foreign Order.

(2) Unless the foreign State and Mauritius agree otherwise, the Attorney-General may deduct reasonable expenses incurred in the recovery, investigation and judicial proceedings which have led to a transfer referred to in subsection (1).

61. Proceedings in foreign territory

The Attorney-General may initiate legal proceedings in a court of a foreign State, subject to the provisions and requirements of the national law of the foreign State, in order to establish title to, or ownership of, property acquired through the commission of an offence which is also an offence in accordance with Part III of the United Nations Convention against Corruption, and to seek recovery of that property.

The Recovered Assets Fund is established under section 6 of the Assets Recovery Act:

Assets Recovery Act – Fund. 263

6. Recovered Assets Fund

There is established for the purposes of this Act, under section 9 of the Finance and Audit Act, a Fund to be known as the Recovered Assets Fund.

7. Receipts and disbursements

(1) There shall be credited to the Fund—

(a) all moneys derived from the enforcement of a Recovery Order or a Confiscation Order or from the proceeds of sale of property which is the subject of an Order under Part III or Part IV;

(b) any sums allocated to the Fund by parliamentary appropriation;

(c) any voluntary payment, grant or donation made by any person for the purposes of the Fund; and

(d) any income derived from the investment of any amount standing to the credit of the Fund.

(2) The Enforcement Authority may authorise payments out of the Fund to—

(a) compensate victims who suffered losses as a result of an unlawful

activity;

(b) satisfy a Compensation Order;

(c) transfer recovered property to a foreign State or share it pursuant to any treaty or arrangement;

(d) pay expenses relating to the recovery, management or disposition of property under this Act, including mortgages and liens against relevant property, and the fees of receivers, Trustees or Asset Managers or other professionals providing assistance;

(e) pay third parties for interests in property as appropriate;

(f) pay the costs associated with the administration of the Fund, including the costs of external audit; and (g) fund such training or other capacity-building activity as may be required by the Enforcement Authority for the purposes of this Act.

8. Annual report

The Attorney-General shall, from information which shall be supplied to him by the Enforcement Authority not later than 30 days after the end of the financial year, table a report in the Assembly, not later than the first sitting day after the expiry of 90 days from the end of every financial year, detailing—

(a) the amounts credited to the Fund;

(b) the investments made with the amounts credited to the Fund; and

(c) the payments made from the Fund, including the specific purpose for which each payment was made and to whom it was made.

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

There has been one asset recovery case in which UK authorities initiated a civil action in Mauritius. The case involved money laundered in Mauritius based on an underlying offence committed in the UK.

Anderson Ross Case

The Independent Commission against Corruption initiated an enquiry following dissemination reports received from the following request made by its UK counterpart, the SOCA (Serious Organised Crime Agency).

According to the SOCA, a UK resident was granted a loan of GBP 3,591,231.50 by a UK financial institution for the purchase of a residential property. It was suspected that the money was the proceeds of a fraudulent mortgage with the assistance of a mortgage advisor. On the instruction of a person, the money was subsequently transferred to the Barclays Bank account, in Mauritius, held in the name of a company incorporated in Mauritius.

Subsequently, for one of the transactions that followed, the FIU received an STR from the Barclays Bank alleging that a sum amounting to GBP 3,591,231.50 was wired into the account of the company and it was suspected that the huge transfer of funds did not commensurate with the customer's declared turnover.

The FIU report also highlighted that Mr. X obtained a sum of money in USD from Anderson Ross Consulting Ltd for Project Funding. Another company in Mauritius acquired a plot of land in Mauritius, represented by Mr. X for an amount of Rs 39 million.

The funds wired to the account of DOS Investments Ltd were then transferred to the accounts held by companies and individuals, both locally and abroad.

The legal basis upon which the prosecution was carried out is sections 27 (Restriction order) and 35 (Recovery order) of the Asset Recovery Act:

PART IV – CIVIL ASSET RECOVERY

Sub-Part A – Restriction Order 27.

Restriction Order (1)

(a) Where property is reasonably believed by the Enforcement Authority to be recoverable under Sub-Part B of this Part and to be proceeds or an instrumentality or terrorist property, it may apply to a Judge for a Restriction Order in respect of that property.

(b) It shall be sufficient for the purposes of paragraph (a) for the Enforcement Authority to show that the property is proceeds or an instrumentality or terrorist property, without having to show that the property was derived directly or indirectly from a particular offence or that any person has been charged in relation to such an offence.

(c) The Enforcement Authority may make an application under paragraph (a) even where the act which is the subject of the application was committed by a person who is deceased at the time of the application.

(d) Where the Enforcement Authority is of opinion that, for any reason, it is necessary to appoint an Asset Manager in respect of the property, it shall state the reason in its application and nominate a suitably qualified person for appointment.

(2) The Judge shall, where he is satisfied that there are reasonable grounds to believe that the property referred to in the application is proceeds or an instrumentality or terrorist property, make a Restriction Order which may—

(a) authorise, require or secure the delivery up, seizure, detention or custody of the property; or

(b) appoint an Asset Manager who shall be authorised or required to take—

(i) custody and control of the property and to manage or otherwise deal with it as the Judge may direct; or

(ii) steps which the Judge considers appropriate to secure the detention, custody or preservation of the property or for any other purpose.

(3) The Judge may make a Restriction Order where a person is not in Mauritius or was acquitted of the offence, the charge was withdrawn before a verdict was returned or the proceedings were stayed.

(3A) Notwithstanding subsections (1) and (2), the Enforcement Authority may apply to the Judge for an order that, instead of appointing an Asset Manager, the person in whose possession the property is found shall exercise the powers referred to in subsection (2)(b).

(3B) Section 14 shall apply to a Restriction Order, with necessary modifications, as it applies to a Restraining Order.

(4) (a) In order to prevent property subject of a Restriction Order from being disposed of or removed contrary to the Order, a law enforcement agent may seize the property where he has reasonable grounds to suspect that the property will be disposed of or removed.

(b) Any property seized pursuant to paragraph (a) shall be dealt with in accordance with the directions of a Judge.

(5) (a) Where a Judge makes a Restriction Order, the Enforcement Authority shall, within 21 days of the making of the Order or such longer period as the Judge may direct, give notice of the Order to every person known to the Enforcement Authority to have an interest in property which is subject of the Order and such other persons as the Judge may direct.

(b) Where a person who is the owner of the property is unknown or cannot be found, the Judge shall cause to be published a notice of the Order in 2 daily newspapers of wide circulation as soon as practicable after the Order is made.

35. Recovery Order

(1) The Court shall, subject to subsection (2) and section 37, make a Recovery Order where it finds that the property concerned is proceeds, an instrumentality or terrorist property.

(2) The Court shall not make a Recovery Order of property or transfer the proceeds from the sale of the property to the State unless it is satisfied that it is in the interests of justice to do so and until such notice as the Court may direct has been given to any person in whose possession the property is found or who may have interest in the property or claim ownership of the property, to show cause why the property should not be recovered.

(3) The Court may make an Order under this section where a person is not in Mauritius or was acquitted of the offence, the charge was withdrawn before a verdict was returned or the proceedings were stayed.

(4) The Court making a Recovery Order shall cause to be published a notice of the Order in 2 daily newspapers of wide circulation as soon as practicable after the Order is made.

(5) A Recovery Order shall not take effect—

(a) before the period allowed for an application under section 36, or an appeal under section 39, has expired; or

(b) before such an application or appeal has been disposed of.

(b) Observations on the implementation of the article

Mauritius has legislative provisions allowing for the recovery of assets by foreign States. The example of a case concerning money laundered in Mauritius based on an underlying offence committed in the UK was provided.

The experts therefore concluded that while there was nothing in Mauritius' legislation preventing another State from initiating civil proceedings in Mauritius, this has never happened, and it was unclear how it would be handled by a court from a legal perspective. In view of further enhancing the implementation of the Convention, it is recommended that Mauritius clarify the current legal uncertainty regarding whether States are allowed to be a civil party to an asset recovery case and directly apply to the courts in Mauritius.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

Section 7 (2) (c) Asset Recovery Act concerning compensation of victims could be used to order payment of damages to another State:

(2) The Enforcement Authority may authorise payments out of the Fund to -

(a) compensate victims who suffered losses as a result of an unlawful activity;

(b) satisfy a Compensation Order;

- (c) transfer recovered property to a foreign State or share it pursuant to any treaty or arrangement;
- (d) pay expenses relating to the recovery, management or disposition of property under this Act, including mortgages and liens against relevant property, and the fees of receivers, Trustees or Asset Managers or other professionals providing assistance;
- (e) pay third parties for interests in property as appropriate; and
- (f) pay the costs associated with the administration of the Fund, including the costs of external audit.

Section 6. Recovered Assets Fund (ARA 2012)

There is established, for the purposes of this Act, under section 9 of the Finance and Audit Act, a Fund to be known as the Recovered Assets Fund.

7. Receipts and disbursements

(1) There shall be credited to the Fund –

- (a) all moneys derived from the enforcement of a Recovery Order or a Confiscation Order or from the proceeds of sale of property which is the subject of an Order under Part III or Part IV;
- (b) any sums allocated to the Fund by parliamentary appropriation;
- (c) any voluntary payment, grant or donation made by any person for the purposes of the Fund; and
- (d) any income derived from the investment of any amount standing to the credit of the Fund.

(2) The Director may authorise payments out of the Fund to –

- (a) compensate victims who suffered losses as a result of an unlawful activity;
- (b) satisfy a Compensation Order;
- (c) transfer recovered property to a foreign State or share it pursuant to any treaty or arrangement;
- (d) pay expenses relating to the recovery, management or disposition of property under this Act, including mortgages and liens against relevant property, and the fees of receivers,

Trustees or Asset Managers or other professionals providing assistance;

(e) pay third parties for interests in property as appropriate; and

(f) pay the costs associated with the administration of the Fund, including the costs of external audit;

(g) fund such training or other capacity-building activity as may be required by the Enforcement Authority for the purposes of this Act.

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

There have been no cases involving payment of compensation to foreign States.

(b) Observations on the implementation of the article

The reviewing experts noted that Section 7 (2) (c) Asset Recovery Act concerning compensation of victims and Section 6 on the Recovered Assets Funds could be used as a legal basis to order compensation or damages to another State Party.

The country is therefore in compliance with the provision under review, but Mauritius is recommended to monitor the application of the Recovered Assets Fund in order to ensure that States that are victims are duly compensated.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

Sections 13 and 14, Asset Recovery Act

13. Exclusion of property from Order

Any person who has an interest in any property that is subject of a Restraining Order may apply to a Judge to exclude his interest from the Order, and the Judge shall grant the application where he is satisfied that -

- (a) the property is not proceeds or an instrumentality or terrorist property;
- (b) the applicant was not in any way involved in the commission of the offence in relation to which the Order was made;
- (c) where the applicant acquired the interest before the commission of the offence, he did not know that any person would use, or intended to use, the property in or in connection with the commission of the offence; or
- (d) where the applicant acquired the interest at the time of or after the commission of the offence, the interest was acquired in circumstances which would not arouse a reasonable suspicion that the property was proceeds, an instrumentality or terrorist property.

14. Registration of Order

- (1) Where a Restraining Order applies to property of a particular kind and an enactment provides for the registration of title to, or charges over, property of that kind, the Registrar-General shall, on application by the Enforcement Authority, record on the register kept pursuant to that enactment the particulars of the Order.
- (2) Where those particulars are so recorded, a person who subsequently deals with the property shall, for the purposes of section 10(2), be deemed to have notice of the Order at the time of the dealing.
- (3) Where those particulars are so recorded, a Judge may, on the application of the Enforcement Authority, direct that the property shall not, without the consent of a Judge -
 - (a) be mortgaged or otherwise burdened;
 - (b) be attached or sold in execution;
 - (c) vest in the liquidator where the estate of the owner of the property is sequestrated; or
 - (d) form part of the assets of a body corporate where that body is the owner of the immovable property and it is wound up.
- (4) Where the Restraining Order is revoked or varied pursuant to section 12(1)(a) or (b), the Registrar-General shall cancel or, as the case may be, amend the particulars recorded in his register in accordance with such order as the Judge may make.

Interpretation and General Clauses Act, 1974

“person” and words applied to a person or individual shall apply to and include a group of persons, whether corporate or unincorporate;

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

There have been no cases.

(b) Observations on the implementation of the article

Mauritius cited Sections 13 and 14 of the Asset Recovery Act as a legal basis permitting its courts to recognize another State Party’s claim as a legitimate owner of the property.

Moreover, the Interpretation and General Clauses Act of 1974 has a wide definition of person, as “any person or individual shall apply to and include a group of persons, whether corporate or unincorporated”.

The reviewing experts, therefore, concluded that there is nothing in the legislation of Mauritius to prevent a foreign State or entity from making a claim as a legitimate owner of the property during the confiscation process.

Mauritius is deemed in compliance with 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.

Capacity Building of officers

(d) Technical assistance needs

Capacity-building: Training of officers to enhance investigative capacity and the use of international tools.

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.

No such technical assistance is being provided

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

Asset Recovery Act 2011

55. Foreign request for enforcement of foreign Restriction or Recovery Order

(1) Notwithstanding any other enactment, where a foreign State requests that necessary measures be taken for the enforcement of a foreign Restriction or Recovery Order, the Enforcement Authority may apply to a Judge or the Court, as the case may be, for registration of the Order.

(2) The Judge shall register the foreign Restriction Order where he is satisfied that, at the time of registration, the Order is in force in the foreign State.

(3) The Court shall register the foreign Recovery Order where it is satisfied that -

(a) at the time of registration, the Order is in force in the foreign State; and

(b) any person who had an interest in the property the subject of the Order had the opportunity to be represented before the court that granted the order in the foreign State.

(4) Where a foreign Order is registered in accordance with this section, a copy of any amendment made to the Order in the foreign State shall be registered in the same way as the order.

(5) Notice of the registration of any foreign Order shall be published in the Gazette and 2 daily newspapers specified by the Court.

(6) Subject to subsection (8), where the foreign Order or an amendment thereof comprises a facsimile copy of a duly authenticated foreign Order, or amendment made to such an

Order, the facsimile shall be regarded for the purposes of this Act, as the duly authenticated foreign Order.

(7) Any registration effected on production of a facsimile shall cease to have effect up to the end of the period of 14 days commencing on the date of registration, unless a duly authenticated original of the order is registered by that time.

(8) Where a foreign Order has been registered pursuant to this section, sections 25 and 26 shall apply to the registration.

56. Effect of registration of foreign Order

(1) Subject to subsections (2) and (3), where an Order has been registered under section 55 and the Court is notified that it has been established to the satisfaction of a foreign court that the property constitutes proceeds, an instrumentality or terrorist property, it may order that the property be recovered and be vested in the State until such arrangement is made by the Enforcement Authority with the foreign State for its disposal or transfer.

(2) The Court may make an order under subsection (1) on such conditions as it thinks fit to impose, including any condition as to payment of debts, sale, transfer or disposal of any property.

(3) Any person who claims to have an interest in property subject to an Order registered under section 55 may, within 21 days from the last publication of the registration under section 55(5), apply to the Court for an order under subsection (4).

(4) Where the Court is satisfied that the applicant under subsection (3) acquired the property without knowing, and in circumstances such as not to arouse a reasonable suspicion, that the property was, at the time of acquisition, proceeds or an instrumentality or terrorist property, the Court shall make an order declaring the nature of the interest of the applicant.

(5) The Court shall, on application by the Enforcement Authority, cancel the registration of any foreign Order if it appears to it that the Order has ceased to have effect.

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

There have been no cases of giving effect to an order of confiscation of property issued by a foreign court for civil recovery.

There has been one request for asset recovery based on a mutual legal assistance request received., but there has been no registration of foreign order.

(b) Observations on the implementation of the article

Mauritius cited Sections 55 and 56 of the Asset Recovery Act 2011 permitting the enforcement of foreign Restriction or Recovery Orders.

Mauritius is deemed in compliance with the provision under review.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

Asset Recovery Act 2011

“proceeds” means any property or economic advantage, wherever situated, derived from or obtained, directly or indirectly, through or in connection with the commission of an offence;

“instrumentality” means any property used or intended to be used in any manner to commit an offence;

54. Foreign request in connection with civil asset recovery

(1) Where a foreign State requests the Enforcement Authority to obtain the issue of an order against property believed to be proceeds, an instrumentality or terrorist property which is located in Mauritius, the Enforcement Authority may apply to a Judge for a Restriction Order under section 27.

(2) Where a Judge receives an application under subsection (1), he may make an Order under section 30 as if

the application were an application in respect of property in Mauritius.

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

Mauritius reported that at the time of the country visit, there had been no cases on the civil side and with one request for asset recovery based on a mutual legal assistance request received.

On the 17th August 2015, a letter from C. BENNETT CPS Proceeds of Crime, Rose Court, London, United Kingdom, was sent to the Attorney-General's Office in Mauritius, requesting for assistance, pursuant to the Mutual Assistance in Relation to Criminal and Related Matters Act 2003, in respect of one Mr Johannes Franciscus FRANKEN, a Dutch National, born on the 21st December 1964 and residing at Oakfields, Fockbury Road, Brooms Grove, B61, 9AW, United Kingdom.

The said Mr Johannes Franciscus FRANKEN had previously, on the 12th May 2015, pleaded guilty to the offences charged before the Oxford Crown Court, in the United Kingdom under the Fraud Act 2006.

On the 16th June 2015, the said Mr. Johannes Franciscus FRANKEN was sentenced by the Oxford Crown Court to a total of five years and four months imprisonment.

An investigation carried out by the Asset Recovery Investigation Division revealed that the accused holds a bank account in Mauritius suspected to be proceeds of crime. It was restricted pending the recovery of the money.

International Multi-Agency Operation: The Case of James Mulvey

The case was initiated at the FIU in July 2015 following a meeting between the Director of the FIU Mauritius and a representative from the National Crime Agency (NCA) of the UK. This operation involved two years of intelligence gathering in several jurisdictions.

Coordinated multi-agency approach on 28 March 2017

The following simultaneous coordinated operations were conducted on 28 March 2017 in Mauritius, UK and Lithuania:

- the search of premises of a Trust and Company Service Provider (TCSP) and the freezing of bank accounts in Mauritius;
- several searches and arrests in the UK; and
- the search and arrest of James Mulvey, the leader of the drug trafficking network, in Lithuania.

(b) Observations on the implementation of the article

Mauritius cited section 54 of the Asset Recovery Act 2011 concerning foreign requests in connection with civil asset recovery.

Mauritius also provided two examples of cases involving the freezing of property of foreign origin. However, it is not clear from the information provided whether the assets were ultimately confiscated by adjudication.

Mauritius is deemed in compliance with the provision under 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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

Sections 54 and 55-56, Asset Recovery Act (cited above).

Part IV concerning Civil Asset Recovery of the Asset Recovery Act deals with non-conviction based confiscation proceedings and its related provisional measures. Non-conviction based asset forfeiture, also commonly referred to as “civil forfeiture”, is an action ‘in rem’ not ‘in personam’, i.e. an action against the asset itself and not the individual. The only requirement is to prove that the property constitutes the proceeds or instrumentality.

PART IV – CIVIL ASSET RECOVERY

Sub-Part A – Restriction Order 27.

Restriction Order (1)

(a) Where property is reasonably believed by the Enforcement Authority to be recoverable under Sub-Part B of this Part and to be proceeds or an instrumentality or terrorist property, it may apply to a Judge for a Restriction Order in respect of that property.

(b) It shall be sufficient for the purposes of paragraph (a) for the Enforcement Authority to show that the property is proceeds or an instrumentality or terrorist property, without having to show that the property was derived directly or

indirectly from a particular offence or that any person has been charged in relation to such an offence.

(c) The Enforcement Authority may make an application under paragraph (a) even where the act which is the subject of the application was committed by a person who is deceased at the time of the application.

(d) Where the Enforcement Authority is of opinion that, for any reason, it is necessary to appoint an Asset Manager in respect of the property, it shall state the reason in its application and nominate a suitably qualified person for appointment.

(2) The Judge shall, where he is satisfied that there are reasonable grounds to believe that the property referred to in the application is proceeds or an instrumentality or terrorist property, make a Restriction Order which may—

(a) authorise, require or secure the delivery up, seizure, detention or custody of the property; or

(b) appoint an Asset Manager who shall be authorised or required to take—

(i) custody and control of the property and to manage or otherwise deal with it as the Judge may direct; or

(ii) steps which the Judge considers appropriate to secure the detention, custody or preservation of the property or for any other purpose.

(3) The Judge may make a Restriction Order where a person is not in Mauritius or was acquitted of the offence, the charge was withdrawn before a verdict was returned or the proceedings were stayed.

(3A) Notwithstanding subsections (1) and (2), the Enforcement Authority may apply to the Judge for an order that, instead of appointing an Asset Manager, the person in whose possession the property is found shall exercise the powers referred to in subsection (2)(b).

(3B) Section 14 shall apply to a Restriction Order, with necessary modifications, as it applies to a Restraining Order.

(4) (a) In order to prevent property subject of a Restriction Order from being disposed of or removed contrary to the Order, a law enforcement agent may seize the property where he has reasonable grounds to suspect that the property will be disposed of or removed.

(b) Any property seized pursuant to paragraph (a) shall be dealt with in accordance with the directions of a Judge.

(5) (a) Where a Judge makes a Restriction Order, the Enforcement Authority shall, within 21 days of the making of the Order or such longer period as the Judge may direct, give notice of the Order to every person known to the Enforcement Authority to have an interest in property which is subject of the Order and such other persons as the Judge may direct.

(b) Where a person who is the owner of the property is unknown or cannot be found, the Judge shall cause to be published a notice of the Order in 2 daily newspapers of wide circulation as soon as practicable after the Order is made.

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

There have been no cases on the civil side.

There have been some cases of asset tracing based on incoming MLA requests.

(b) Observations on the implementation of the article

Mauritius cited Part IV of the Asset Recovery Act which allows for non-conviction-based confiscation. The country indicated that the only requirement for such confiscation, also known as civil forfeiture, is that it be proved that the property constitutes the proceeds or instrumentality of a crime. Whereas conviction-based recovery is *in person*, non-conviction-based recovery is *in rem*.

Mauritius is deemed in compliance with the provision under review.

(c) Successes and good practices

It is a good practice that Mauritius allows for non-conviction-based confiscation, also based on foreign orders and requests.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

Section 54 of the Asset Recovery Act (cited above).

54. Foreign request in connection with civil asset recovery

(1) Where a foreign State requests the Enforcement Authority to obtain the issue of an order against property believed to be proceeds, an instrumentality or terrorist property which is located in Mauritius, the Enforcement Authority may apply to a Judge for a Restriction Order under section 27.

(2) Where a Judge receives an application under subsection (1), he may make an Order under section 30 as if the application were an application in respect of property in Mauritius.

Sections 5(1) & (3) of the Mutual Assistance in Criminal and Related Matters Act

Section 5 (1) A foreign State may, in relation to a serious offence, and an international criminal tribunal may, in relation to an international criminal tribunal offence, make a request for assistance to the Central Authority in any proceedings commenced in the foreign State or before the international criminal tribunal, as the case may be.

...

(3) The Central Authority may, in respect of a request under subsection (1) from an international criminal tribunal, grant the request, in whole or in part, on such terms and conditions as it thinks fit.

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

There have been no cases on the civil side.

There have been some cases of asset tracing based on incoming MLA requests

(b) Observations on the implementation of the article

Mauritius cited Section 54 of the Asset Recovery Act and Sections 5(1) & (3) of the Mutual Assistance in Criminal and Related Matters Act as a basis for giving effect to search and seizing orders.

Mauritius is deemed in compliance with the provision under review.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

Mutual Assistance in Criminal and Related Matters Act 2003

11. Foreign request for restraining order

(1) Where-

(a) a foreign State or an international criminal tribunal requests the Central Authority to obtain the issue of a restraining order against the proceeds of crime which are believed to be located in Mauritius; and

(b) proceedings relating to the proceeds of crime have commenced in the foreign State, or before the international criminal tribunal, and there are reasonable grounds to believe that the proceeds of the crime are located in Mauritius, the Central Authority may apply to a Judge in Chambers for a restraining order under this section.

(2) Where, upon an application made under subsection (1), the Judge in Chambers is satisfied that the proceeds of crime are located in Mauritius, he may make a restraining order in respect of the proceeds of the crime, on such conditions as he may deem fit to impose, including any condition as to payment of debts, sale, transfer or disposal of any property.

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

There have been no cases on the civil side.

There have been some cases of asset tracing based on incoming MLA requests.

(b) Observations on the implementation of the article

Mauritius cited Section 11 of the Mutual Assistance in Criminal and Related Matters Act as a basis for giving effect to search and seizing requests by foreign states.

Mauritius is deemed in compliance with the provision under review.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

Section 11, Asset Recovery Act 2011

11. Powers of Trustee

- (1) Subject to subsection (2), a Trustee may do anything which he considers reasonably necessary or appropriate to preserve or protect the property to which the Restraining Order applies and its value, and may, in particular -
 - (a) become a party to any civil proceedings that affect the property;
 - (b) ensure that the property is insured;
 - (c) realise or otherwise deal with the property if it is perishable, subject to wasting or other forms of loss, its value is volatile or the cost of its storage or maintenance is likely to exceed its value;
 - (d) with a Judge's approval, incur any necessary capital expenditure in respect of the property;
 - (e) where the property consists of a trade or business -
 - (i) employ persons in the business or terminate their employment;

- (ii) do any other thing that is necessary or convenient for carrying on the trade or business on a sound commercial basis; and
 - (iii) with the Judge's approval, sell, liquidate or wind up the trade or business if it is not a viable, going concern or it is otherwise commercially advantageous to do so; or
 - (f) where the property includes shares in a company, exercise rights attaching to the shares as if he was the registered holder of the shares.
- (2) A Trustee shall not exercise the power set out in subsection (1)(c) without a Judge's approval unless -
- (a) every person known by the Trustee to have an interest in the property consents to the realisation or other dealing with the property;
 - (b) the delay involved in obtaining approval is likely to result in a significant diminution in the value of the property; or
 - (c) the cost of obtaining approval would, in the opinion of the Trustee, be disproportionate to the value of the property concerned.

Concerning civil based recovery, Section 28 Asset Recovery Act 2011 provides:

28. Powers of Asset Manager

- (1) An Asset Manager may do anything which he considers reasonably necessary or appropriate to preserve the property to which the Restriction Order applies and its value, and may, in particular -
- (a) realise or otherwise deal with the property if it is perishable subject to wasting or other form of loss, its value is volatile or the cost of its storage or maintenance is likely to exceed its value;
 - (b) where the property comprises assets of a trade or business -
 - (i) carry on, or arrange for another to carry on, the trade or business;
 - (ii) employ person in the trade or business or terminate their employment; and
 - (iii) with a Judge's approval, sell, liquidate or wind up the trade or business if it is not a viable or going concern or it is otherwise commercially advantageous to do so;

- (c) with a Judge's approval, incur any necessary capital expenditure in respect of the property;
- (d) where the property includes shares in a company exercise rights attaching to the shares as if he were the registered holder of the shares;
- (e) ensure that the property is insured; or
- (f) become a party to any civil proceedings that affect the property.

(2) A Judge may make such order relating to the fees and expenditure of an Asset Manager as he thinks fit, including an order for the payment of the fees and expenditure -

- (a) where a Recovery Order is made, from the forfeited property; or
- (b) where no Recovery Order is made, by the State.

(3) A Restriction Order may, subject to subsection (4), make such provision as the Judge thinks fit for -

- (a) reasonable living expenses of a person holding an interest in property subject of a Restriction Order; and
- (b) reasonable legal expenses of such a person in connection with any proceedings instituted against him under this Act or any related criminal proceedings.

(4) The Judge shall not make provision for any expenses under subsection (3) unless he is satisfied that the person cannot meet the expenses concerned out of his property which is not the subject of the Restriction Order and he determines that it is in the interests of justice to do so.

Section 27 [(as amended by the 2012 Amendment Act)] (applicable by virtue of Section 54(1)):
27. Restriction Order

(1)

(a) Where specified property is reasonably believed by the Enforcement Authority to be recoverable under Sub-Part B of this Part and to be proceeds or an instrumentality or terrorist property, it may apply to a Judge for a Restriction Order in respect of that property.

(b) It shall be sufficient for the purposes of paragraph (a) for the Enforcement Authority to show that the property is proceeds or an instrumentality or terrorist property, without having to show that the property was derived directly or

indirectly from a particular offence or that any person has been charged in relation to such an offence.

(c) The Enforcement Authority may make an application under paragraph (a) even where the act which is the subject of the application was committed by a person who is deceased at the time of the application.

(d) Where the Enforcement Authority is of opinion that, for any reason, it is necessary to appoint an Asset Manager in respect of the property, it shall state the reason in its application and nominate a suitably qualified person for appointment.

(2) The Judge shall, where he is satisfied that there are reasonable grounds to believe that the property referred to in the application is proceeds or an instrumentality or terrorist property, make a Restriction Order which may -

(a) authorise, require or secure the delivery up, seizure, detention or custody of the property; or

(b) appoint an Asset Manager who shall be authorised or required to take -

(i) custody and control of the property and to manage or otherwise deal with it as the Judge may direct; or

(ii) steps which the Judge considers appropriate to secure the detention, custody or preservation of the property or for any other purpose.

(3) The Judge may make a Restriction Order where a person is not in Mauritius or was acquitted of the offence, the charge was withdrawn before a verdict was returned or the proceedings were stayed.

(3A) Notwithstanding subsections (1) and (2), the Enforcement Authority may apply to the Judge for an order that, instead of appointing an Asset Manager, the person in whose possession the property is found shall exercise the powers referred to in subsection (2)(b).

(3B) Section 14 shall apply to a Restriction Order, with necessary modifications, as it applies to a Restraining Order.

(4)

(a) In order to prevent property subject of a Restriction Order from being disposed of or removed contrary to the Order, a law enforcement agent may seize the property where he has reasonable grounds to suspect that the property will be disposed of or removed.

(b) Any property seized pursuant to paragraph (a) shall be dealt with in accordance with the directions of a Judge.

(5)

(a) Where a Judge makes a Restriction Order, the Enforcement Authority shall, within 21 days of the making of the Order or such longer period as the Judge may direct, give notice of the Order to every person known to the Enforcement Authority to have an interest in property which is subject of the Order and such other persons as the Judge may direct.

(b) Where a person who is the owner of the property is unknown or cannot be found, the Judge shall cause to be published a notice of the Order in 2 daily newspapers of wide circulation as soon as practicable after the Order is made.

Section 56(2)

56. Effect of registration of foreign Order

...

(2) The Court may make an order under subsection (1) on such conditions as it thinks fit to impose, including any condition as to payment of debts, sale, transfer or disposal of any property.

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

The MLA Act contains measures on asset preservation, but there has been no experience in this regard based on mutual legal assistance.

(b) Observations on the implementation of the article

Mauritius cited Section 11 and 28 of the Asset Recovery Act, as well as Section 27 as amended by the 2012 Amendment Act to permit its authorities to preserve property for confiscation on the basis of a foreign arrest or criminal charge related to the acquisition of such property.

Mauritius is deemed in compliance with the provision under review.

(c) Technical assistance needs

Capacity-building

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.

No.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

Asset Recovery Act 2011

54. Foreign request in connection with civil asset recovery

(1) Where a foreign State requests the Enforcement Authority to obtain the issue of an order against property believed to be proceeds, an instrumentality or terrorist property which is located in Mauritius, the Enforcement Authority may apply to a Judge for a Restriction Order under section 27.

(2) Where a Judge receives an application under subsection (1), he may make an Order under section 30 as if the application were an application in respect of property in Mauritius.

Mutual Assistance in Criminal and Related Matters Act 2003:

“foreign confiscation order” means an order made by -

(a) a Court in a foreign State in relation to a serious offence; or

(b) an international criminal tribunal in relation to an international criminal tribunal offence, for the purpose of a

confiscation of property in connection with that offence, or of the recovery of the proceeds of that offence;

“Serious offence” under section 2 of the Mutual Assistance in Criminal and Related Matters Act 2003:

(a) means –

(i) an offence against a law of Mauritius, for which the maximum penalty is imprisonment or other deprivation of liberty for a period of not less than 12 months; or

(ii) an offence against a law of a foreign State for which the maximum penalty is imprisonment or other deprivation of liberty for a period of not less than 12 months;

(b) includes an international criminal tribunal offence.

12. Foreign request for enforcement of foreign restraining order or confiscation

(1) Notwithstanding any other enactment, where a foreign State, or an international criminal tribunal, requests that necessary measures be taken for the enforcement of-

(a) a foreign restraining order; or

(b) a foreign confiscation order,

the Central Authority may apply to the Supreme Court for registration of the order.

(2) The Supreme Court shall register the foreign restraining order where it is satisfied that, at the time of registration, the order is in force in the foreign State or before the international criminal tribunal.

(3) The Supreme Court shall register the foreign confiscation order where it is satisfied that -

(a) at the time of registration, the order is in force in the foreign State, or before the international criminal tribunal; and

(b) in the case of a person who did not appear in the proceedings in the foreign State, or before the international criminal tribunal -

(i) the person was given notice of the proceedings in sufficient time to enable him to defend himself; or

(ii) the person had absconded, or died before such notice could be given.

(4) For the purposes of subsections (2) and (3), a statement contained in the foreign request to the effect that -

(a) the foreign restraining or confiscation order is in force in the foreign State, or before the international criminal tribunal; or

(b) the person who is the subject of the order was given notice of the proceedings in sufficient time to enable him to defend himself, or had absconded, or died before such notice could be given,

shall be prima facie evidence of the fact, without proof of the signature or official character of the person appearing to have signed the foreign request.

(5) Where a foreign restraining order or foreign confiscation order is registered in accordance with this section, a copy of any amendment made to the order in the foreign State, or before the international criminal tribunal, shall be registered in the same way as the order.

(6) Notice of the registration of any foreign confiscation order or foreign restraining order, shall be published in the Gazette and 2 daily newspapers, one of which shall be specified by the Supreme Court.

(7) Subject to subsection (9), where the foreign restraining order, or foreign confiscation order, comprises a facsimile copy of a duly authenticated foreign order, or amendment made to such an order, the facsimile shall be regarded for the purposes of this Act, as the duly authenticated foreign order.

(8) Any registration effected upon production of a facsimile shall cease to have effect up to the end of the period of 14 days commencing on the date of registration, unless a duly authenticated original of the order is registered by that time.

(9) Where a foreign restraining order, or foreign confiscation order, has been registered pursuant to this section, section 13 shall apply to such registration.

(10) A foreign restraining order shall stay in force until the determination of the proceedings in the foreign State, or by the international criminal tribunal.

13. Effect of registration of foreign confiscation order or foreign restraining order

(1) Subject to subsections (2) and (3), where an order has been registered under section 12 and the Supreme Court is notified that it has been established to the satisfaction of a

foreign court or international tribunal that the property or any part thereof constitutes the proceeds of crime of a serious offence or of an international tribunal offence, order that the property be confiscated and be vested in the State until such arrangement is made under section 19 by the Central Authority with the foreign State.

(2) The Court may make an order under subsection (1) on such conditions as it may deem fit to impose, including any condition as to payment of debts, sale, transfer or disposal of any property.

(3) Any person who claims to have an interest in property subject to an order registered under section 12 shall, within 21 days from the last publication of the registration under section 12, apply to the Court for an order under subsection (4).

(4) Where the Court is satisfied that the applicant under subsection (3) -

(a) was not in any way involved in the commission of the offence in respect of which the confiscation or restraining order was sought; and

(b) acquired the property without knowing, and in circumstances such as not to arouse a reasonable suspicion, that the property was, at the time of acquisition tainted property,

the Court shall make an order declaring the nature of the interest of the applicant.

14. Cancellation of registration of foreign restraining order or foreign confiscation order

The Supreme Court shall, on application by the Central Authority, cancel the registration of -

(a) a foreign restraining order, if it appears to him that the order has ceased to have effect;

(b) a foreign confiscation order, if it appears to him that the order has been satisfied, or has ceased to have effect.

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

In the same case referred to under article 53 above involving a direct civil action by UK authorities, the UK also sent a request for mutual legal assistance to obtain evidence and for asset tracing in Mauritius.

(b) Observations on the implementation of the article

Mauritius cited Section 54 of the Asset Recovery Act as well as Article 12 of the Mutual Assistance in Criminal and Related Matters Act as a legal basis permitting its authorities to give effect to requests for confiscation by requesting States.

Mauritius indicated during the country visit that in practice, and with a view to speeding up the process, the authorities of Mauritius could initiate a domestic procedure instead and/or in parallel, using the incoming request as evidence and attaching it to an affidavit. Such a process can be carried out and assets confiscated, frozen or seized within 24 hours.

Mauritius is deemed in compliance with the provision under review.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

Asset Recovery Act 2011

57. Foreign request for the location of tainted property

(1) Where a foreign State requests the Enforcement Authority to assist in locating property believed to be proceeds, an instrumentality or terrorist property, the Enforcement Authority may apply to a Judge for an order that

-

(a) any information relevant to -

(i) identifying, locating or quantifying any property; or

(ii) identifying or locating any document necessary for the transfer of any property,

be delivered forthwith to the Enforcement Authority; or

(b) a financial institution forthwith produces to the Enforcement Authority all information obtained by it about any business transaction relating to the property for such period before or after the date of the order as the Judge may direct.

(2) Notwithstanding section 26 of the Bank of Mauritius Act, section 64 of the Banking Act and section 83 of the Financial Services Act, a Judge may grant an order under subsection (1) on being satisfied that -

- (a) the document is material and necessary to the proceedings in the foreign State; and
- (b) the law of the foreign State authorises the granting of such an order in circumstances similar to the one relating to the request.

(3) A Judge may, on good cause shown by the Enforcement Authority that a person is failing to comply with, is delaying or is otherwise obstructing an order made in accordance with subsection (1), order a law enforcement agent to enter and search the premises specified in the order and remove any document, material or other thing therein for the purposes of executing such order.

Mutual Assistance in Criminal and Related Matters Act 2003

11. Foreign request for restraining order

(1) Where-

- (a) a foreign State or an international criminal tribunal requests the Central Authority to obtain the issue of a restraining order against the proceeds of crime which are believed to be located in Mauritius; and
- (b) proceedings relating to the proceeds of crime have commenced in the foreign State, or before the international criminal tribunal, and there are reasonable grounds to believe that the proceeds of the crime are located in Mauritius, the Central Authority may apply to a Judge in Chambers for a restraining order under this section.

(2) Where, upon an application made under subsection (1), the Judge in Chambers is satisfied that the proceeds of crime are located in Mauritius, he may make a restraining order in respect of the proceeds of the crime, on such conditions as he may deem fit to impose, including any condition as to payment of debts, sale, transfer or disposal of any property.

15. Foreign request for the location of the proceeds of crime

(1) Where-

(a) a foreign State requests the Central Authority to assist in locating property believed to be the proceeds of a serious crime committed in that State; or

(b) an international criminal tribunal requests the Central Authority to assist in locating property believed to be the proceeds of an international criminal tribunal offence, the Central Authority may apply to a Judge in Chambers for an order -

(i) that any information relevant to -

(A) identifying, locating or quantifying any property; or

(B) identifying or locating any document necessary for the transfer of any property,

belonging to, or in the possession or under the control of that person be delivered forthwith to the Central Authority; or

(ii) that a bank or financial institution forthwith produces to the Central Authority all information obtained by it about any business transaction relating to the property for such period before or after the date of the order as the Judge may direct.

Notwithstanding section 26 of the Bank of Mauritius Act 2004, section 64 of the Banking Act 2004, section 33 of the Financial Services Development Act 2001 and section 6(7) and (8), a Judge in Chambers may grant an order under subsection (1) on being satisfied that -

(a) the document is material and necessary to the proceedings in the foreign state or before the international criminal tribunal; and

(b) the law of the foreign State authorises the granting of such an order in circumstances similar to the one relating to the request.

16. Enforcement of request for the location of the proceeds of crime

A Judge in Chambers may, on good cause shown by the Central Authority that a person is failing to comply with, is delaying or is otherwise obstructing an order made in accordance with section 15, order the Central Authority, or an officer authorised by the Central Authority, to enter and search the premises specified in the order and remove any document, material or other thing therein for the purposes of executing such order.

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

There has been no experience in the application of these measures.

(b) Observations on the implementation of the article

Mauritius cited Section 57 of the Asset Recovery Act and Section 11 of the Mutual Assistance in Criminal and Related Matters Act as a legal basis permitting its authorities to take measures to identify, trace and freeze or seize property following a request by another state.

Mauritius is deemed in compliance with the provision under review.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

Mutual Assistance in Criminal and Related Matters Act 2003
Part II Requests

4. Request from Mauritius

(1) The Central Authority may make a request on behalf of Mauritius to the competent authority of a foreign State, or to an international criminal tribunal, for mutual assistance in

any proceedings commenced in Mauritius in relation to a serious offence.

(2) A request under subsection (1) may require the foreign State or, as the case may be, the international criminal tribunal, to provide such assistance as may be specified in the request and, in particular to—

(a) have evidence taken, a statement or information taken, or documents or other articles produced;

(b) have evidence taken by means of technology that permits the virtual presence of the person in Mauritius;

(c) obtain and execute a search warrant, or other lawful instrument, authorising a search for things believed to be located in the foreign State, which may be relevant to the proceedings, and if found, seize them;

(d) locate or restrain any property reasonably believed to be the proceeds of a serious offence and located in the foreign State;

(e) confiscate any property reasonably believed to be located in the foreign State, which is the subject of a confiscation order made by a Court in Mauritius and transmit such property or, any proceeds realised therefrom, to Mauritius;

(f) take measures for the freezing or confiscation of proceeds of a serious offence;

(g) permit the presence of an authorised person during the execution of any request made under this section;

(h) effect service of documents;

(i) examine any person with his consent, any object or any site;

(j) locate and identify persons;

(k) facilitate the appearance of witnesses or the attendance of persons in proceedings, subject to such practical and financial arrangements as may be agreed upon;

(l) transfer in custody to Mauritius a person detained in the foreign State, or by the international criminal tribunal, who consents to give evidence or to assist Mauritius in the proceedings; and

(m) transmit to Mauritius any evidence, statement, report, information, whether in original or a certified copy, document, article, thing or property referred to in this subsection.

(3) A request under subsection (1) shall be in writing and shall—

- (a) give the name of the requesting authority;
- (b) give the name of the authority conducting the proceedings to which the request relates;
- (c) give a description of the nature of the proceedings and a statement setting out a summary of the relevant facts and laws;
- (d) explain the purpose of the request and the nature of the assistance being sought;
- (e) give details of any procedure which is required to be followed to comply with the laws of Mauritius;
- (f) where appropriate, include a statement setting out any wish as to confidentiality of the request and the reasons for that wish;
- (g) indicate any time limit within which compliance with the request is desired, stating reasons;
- (h) indicate the name and address of the person to be served, where necessary;
- (i) give any other information that may assist in giving effect to the request;
- (j) be supplemented with such other procedures, formalities, and information as may be required by the foreign State to give effect to the request; and
- (k) where necessary, be accompanied by a translation into the official language of the foreign State.

5. Request to Mauritius

(1) A foreign State may, in relation to a serious offence, and an international criminal tribunal may, in relation to an international criminal tribunal offence, make a request for assistance to the Central Authority in any proceedings commenced in the foreign State or before the international criminal tribunal, as the case may be.

(2) The Central Authority may, in respect of a request under subsection

(1) from a foreign State—

(a) promptly grant the request, in whole or in part, on such terms and conditions as it thinks fit or refer the matter to the appropriate authority for prompt execution of the request, in which case the Central Authority may represent the foreign State in proceedings entered to give effect to the request;

(b) refuse the request, in whole or in part, on the ground—

- (i) that compliance with the request would be contrary to the Constitution;
 - (ii) of prejudice to the sovereignty, international relations, security, public order, or other public interest of Mauritius;
 - (iii) of reasonable belief that the request for assistance has been made for the purpose of prosecuting a person on account of that person's race, sex, religion, nationality, ethnic origin or political opinions, or that a person's position may be prejudiced for any of those reasons;
 - (iv) of absence of dual criminality, where granting the request would require a Court in Mauritius to make an order in respect of any person or property in respect of conduct which does not constitute an offence, nor gives rise to a confiscation or restraining order, in Mauritius;
 - (v) that the request relates to an offence under military law, or a law relating to military obligations, which would not be an offence under ordinary criminal law;
 - (vi) that the request relates to a political offence or an offence of a political character;
 - (vii) that the request relates to an offence, the prosecution of which, in the foreign State, would be incompatible with laws of Mauritius on double jeopardy;
 - (viii) that the request requires Mauritius to carry out measures that are inconsistent with its laws and practice, or that cannot be taken in respect of criminal matters arising in Mauritius; or
 - (c) after consulting with the competent authority of the foreign State, postpone granting the request in whole or in part, on the ground that granting the request immediately would be likely to prejudice the conduct of proceedings in Mauritius.
- (3) The Central Authority may, in respect of a request under subsection
- (1) from an international criminal tribunal, grant the request, in whole or in part, on such terms and conditions as it thinks fit.
- (4) A request under subsection (1)—
- (a) may relate to any matter referred to in section 4 (2); and
 - (b) shall contain such appropriate particulars as are referred to in section 4 (3).

(5) A request shall not be invalidated for the purpose of this Act or any legal proceedings by virtue of any failure to comply with section 4 (3), where the Central Authority is satisfied that there is sufficient compliance to enable him to execute the request.

(6) Where the Central Authority refuses a request, either in whole or in part, he shall so inform the foreign State or the international criminal tribunal.

(7) For the purpose of a request referred to in subsection (4), any reference in section 4 (2) or (3) to a foreign State or to Mauritius shall be construed as a reference to Mauritius or the foreign State, as the case may be.

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

For incoming requests, the central authority encourages informal contact and informal sharing of requests in advance of submission to ensure that these can be acted upon.

(b) Observations on the implementation of the article

Mauritius cited Sections 4 and 5 of the Mutual Assistance in Criminal and Related Matters Act as establishing the requirements for MLA requests as well as grounds for refusal. The reviewing experts noted the country's efforts in encouraging the requests to be shared ahead of time to facilitate the processing of the request.

Mauritius is deemed in compliance with the provision under review.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

The Asset Recovery Act 2011 and the Mutual Assistance in Criminal and Related Matters Act provide the necessary measures to deal with such instances.

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

There has been no experience in the application of these measures.

(b) Observations on the implementation of the article

The reviewing experts noted that the Asset Recovery Act and the Mutual Assistance in Criminal and Related Matters Act provide the necessary framework for the purpose of mutual legal assistance.

Mauritius is deemed in compliance with the provision under review.

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

Mauritius is encouraged to furnish copies of its legislation to the Secretary-General, as described above.

(b) Observations on the implementation of the article

Mauritius has furnished copies of its legislation to the Secretary-General by virtue of the Implementation Review Mechanism and is therefore deemed in compliance with the provision under review.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

A treaty basis is not required for cooperation for purposes of asset recovery. As noted in Mauritius' country review report for chapter IV under the related article 46(17):

“In absence of a treaty or convention for Mutual Legal Assistance and service of legal documents,

requests can be made to Mauritius on the basis of reciprocity. For instance, with regard to France, requests are made on the basis of “*courtoisie internationale*”. Moreover, Mauritius is often requested that the evidence be taken in accordance with a set procedure or in a certain format/ for it to be receivable in evidence in the requesting state (e.g. affidavit evidence/evidence be taken before a judicial authority etc).”

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

There have been incoming and outgoing MLA requests (not for asset recovery) on the basis of the UNCAC, which related to prosecutions that are still pending.

(b) Observations on the implementation of the article

Mauritius indicated that Mauritius does not require a treaty basis for the purpose of mutual legal assistance or asset recovery and that it does consider the UNCAC as a legal basis for such assistance.

The country is therefore in compliance with the provision under review, but in view of being a dualist country, Mauritius is recommended to ensure that the Convention can be used as a legal basis in international cooperation in general and in asset recovery cases in particular.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

Mutual Assistance in Criminal and Related Matters Act 2003:

There is no de minimis ground for refusal - Sections 5(1)-(3) and 5 (5):

5. Request to Mauritius

- (1) A foreign State may, in relation to a serious offence, and an international criminal tribunal may, in relation to an international criminal tribunal offence, make a request for assistance to the Central Authority in any proceedings commenced in the foreign State or before the international criminal tribunal, as the case may be.
- (2) The Central Authority may, in respect of a request under subsection (1) from a foreign State -
 - (a) promptly grant the request, in whole or in part, on such terms and conditions as it thinks fit or refer the matter to the appropriate authority for prompt execution of the

request, in which case the Central Authority may represent the foreign State in proceedings entered to give effect to the request;

(b) refuse the request, in whole or in part, on the ground -

(i) that compliance with the request would be contrary to the Constitution;

(ii) of prejudice to the sovereignty, international relations, security, public order, or other public interest of Mauritius;

(iii) of reasonable belief that the request for assistance has been made for the purpose of prosecuting a person on account of that person's race, sex, religion, nationality, ethnic origin or political opinions, or that a person's position may be prejudiced for any of those reasons;

(iv) of absence of dual criminality, where granting the request would require a court in Mauritius to make an order in respect of any person or property in respect of conduct which does not constitute an offence, nor gives rise to a confiscation or restraining order, in Mauritius;

(v) that the request relates to an offence under military law, or a law relating to military obligations, which would not be an offence under ordinary criminal law;

(vi) that the request relates to a political offence or an offence of a political character;

(vii) that the request relates to an offence, the prosecution of which, in the foreign State, would be incompatible with laws of Mauritius on double jeopardy;

(viii) that the request requires Mauritius to carry out measures that are inconsistent with its laws and practice, or that cannot be taken in respect of criminal matters arising in Mauritius; or

(c) after consulting with the competent authority of the foreign State, postpone granting the request in whole or in part, on the ground that granting the request immediately would be likely to prejudice the conduct of proceedings in Mauritius.

(3) The Central Authority may, in respect of a request under subsection (1) from an international criminal tribunal, grant the request, in whole or in part, on such terms and conditions as it thinks fit.

...

(5) A request shall not be invalidated for the purpose of this Act or any legal proceedings by virtue of any failure to comply with section 4 (3), where the Central Authority is satisfied that there is sufficient compliance to enable him to execute the request.

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

Mauritius has not refused any mutual legal assistance requests. However, there have been portions of requests that the central authority could not execute, for example requesting telecommunications data, the disclosure of which is specifically precluded by domestic law except on approval of the Commissioner of Telecommunications. No requests related to asset recovery have been refused by Mauritius to date.

(b) Observations on the implementation of the article

Mauritius cited Section 5 of the Mutual Assistance in Criminal and Related Matters Act 2003, which establishes that there is no de minimis ground for refusal. Mauritius specified that it has not refused any mutual legal assistance requests, but that parts of requests involving access to telecommunications data have been refused in view of privacy protections.

The reviewing experts, therefore, noted that Mauritius has implemented the provision under review while respecting human rights.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

Mauritius gives the requesting State Party an opportunity to present its reasons in favour of continuing a provisional measure. As noted in Mauritius' country review report for chapter IV under the related article 46(26), dealing with a refusal of assistance:

“Standard practice is to issue a letter of refusal as a matter of last resort. We always write to requesting State identifying potential grounds for refusal and then request them to make a fresh or supplementary request. In case the requesting State does not accede to it, only then that a refusal letter is issued. The letters are sent to the Central Authority of the requesting State as well as to their diplomatic mission present in Mauritius. And in any event there are regular meetings with the diplomatic representatives of foreign requesting state where these issues are dealt with, both formally and informally.”

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

A number of incoming requests for financial records have not included the necessary bank account details, and therefore the authorities in Mauritius could not apply for a relevant court order. The central authority consequently advised the requesting State to proceed in a 2-step process and to amend the request.

(b) Observations on the implementation of the article

Mauritius indicated that it gives the requesting State Party an opportunity to present its reasons in favour of continuing a provisional measure and referred to its response provided in the cycle I review of Chapter IV.

Mauritius is deemed in compliance with the provision under review.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

Asset Recovery Act 2011

Section 27(5) (applicable by virtue of Section 54(1)):

(5)

(a) Where a Judge makes a Restriction Order, the Enforcement Authority shall, within 21 days of the making of the Order or such longer period as the Judge may direct, give notice of the Order to every person known to the Enforcement Authority to have an interest in property which is subject of the Order and such other persons as the Judge may direct.

(b) Where a person who is the owner of the property is unknown or cannot be found, the Judge shall cause to be published a notice of the Order in 2 daily newspapers of wide circulation as soon as practicable after the Order is made.

55. Foreign request for enforcement of foreign Restriction or Recovery Order

(1) Notwithstanding any other enactment, where a foreign State requests that necessary measures be taken for the enforcement of a foreign Restriction or Recovery Order,

the Enforcement Authority may apply to a Judge or the Court, as the case may be, for registration of the Order.

(2) The Judge shall register the foreign Restriction Order where he is satisfied that, at the time of registration, the Order is in force in the foreign State.

(3) The Court shall register the foreign Recovery Order where it is satisfied that -

(a) at the time of registration, the Order is in force in the foreign State; and

(b) any person who had an interest in the property the subject of the Order had the opportunity to be represented before the court that granted the order in the foreign State.

...

Section 56

...

(3) Any person who claims to have an interest in property subject to an Order registered under section 55 may, within 21 days from the last publication of the registration under section 55(5), apply to the Court for an order under subsection (4).

(4) Where the Court is satisfied that the applicant under subsection (3) acquired the property without knowing, and in circumstances such as not to arouse a reasonable suspicion, that the property was, at the time of acquisition, proceeds or an instrumentality or terrorist property, the Court shall make an order declaring the nature of the interest of the applicant.

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

There has been no experience in the application of these measures.

(b) Observations on the implementation of the article

Mauritius cited Section 27(5), 55 and 56 of the Asset Recovery Act as provisions ensuring that the rights of *bona fide* third parties not be prejudiced in asset recovery cases.

Mauritius is deemed in compliance with the provision under review.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

Mutual Assistance in Criminal and Related Matters Act 2003:

3. Application of Act

...

(4) Nothing in this Act shall prevent informal assistance and continued informal assistance between Mauritius and any other State.

Section 20(3), Financial Intelligence and Anti-Money Laundering Act

(3) Without prejudice to subsections (1) and (2), where the FIU becomes aware of any information which may be relevant to the functions of any overseas financial intelligence unit or comparable body, it may offer to pass on that information to the overseas financial intelligence unit or comparable body on terms of confidentiality requiring the consent of the FIU prior to the information being passed on to any other person.

Section 81(5), Prevention of Corruption Act 2002

(5) For the purpose of an investigation in respect of an offence committed in Mauritius under this Act and the Financial Intelligence and Anti-Money Laundering Act 2002, the Director-General may, with the express written concurrence of the Director of Public Prosecutions, impart to an agency in Mauritius or abroad, such information, other than the source of the information, as may appear to him to

be necessary to assist an investigation into money laundering or any other offence.

Asset Recovery Act 2011

59. Domestic co-operation agreement [(as amended by the 2012 Amendment Act)]

(1) The Enforcement Authority may enter into an agreement with any Ministry, Department, public authority or body in Mauritius for the collection, use or disclosure of information, including personal information, for the purpose of exchanging or sharing information within or outside Mauritius or for any other purpose under this Act.

(2) The Enforcement Authority may notify a public body in writing of the start of an Investigation with a view to mutual co-operation and sharing of information.

(3) Notwithstanding any other enactment, every public body shall, following a notification under subsection (2), provide the Enforcement Authority with such information as it may require for the exercise of its functions and powers under this Act.

(4) In this section, “public body” means the Commissioner of Police, the Financial Intelligence Unit, the Financial Services Commission, the Independent Commission Against Corruption, the Mauritius Revenue Authority, the Registrar of Companies and such other public body as may be prescribed.

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

Informal information sharing happens mostly in drug-related cases and through INTERPOL.

ICAC has shared financial crimes information spontaneously with Madagascar in a corruption case, as well as with South African authorities in a case of money laundered in Mauritius involving an underlying corruption offence in South Africa. Information was also spontaneously shared with Indian authorities in a case involving money-laundering in Mauritius.

Mauritius can exchange information spontaneously through informal networks like the Asset Recovery Inter-Agency Network Southern Africa (ARINSA), as nothing in the domestic legislation precludes such cooperation.

(b) Observations on the implementation of the article

Mauritius cited Article 3 of the Mutual Assistance in Criminal and Related Matters Act, Section 20(3) of the Financial Intelligence and Anti-Money Laundering Act, Section 81(5) of the Prevention of Corruption Act 2002 and Section 59 of the Asset Recovery Act 2011 as the relevant national

provisions allowing for informal information sharing with other States.

Moreover, Mauritius specified that it communicates on a near daily basis with other States and shares information freely even in the absence of a treaty, including through the Egmont Group or the International Criminal Police Organization (INTERPOL).

Mauritius is deemed in compliance with the provision under review.

Article 57. Return and disposal of assets

Paragraph 1 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.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

Asset Recovery Act 2011

Section 17(2) – Application for Order

Except with the leave of the Court, the Enforcement Authority shall make an application under subsection (1) within 6 months of the date on which a person was convicted of the offence.

19. Confiscation Order

(1) Where the Enforcement Authority makes an application under section 17, and the Court is satisfied that the defendant has benefited from an offence or any other unlawful activity which the Court finds to be sufficiently related to that offence, it shall, subject to section 21, make a Confiscation Order, ordering him to pay to the State, within such time as it may determine, an amount equal to the value of his benefit.

(2) The Court shall assess the value of the benefit which the defendant has derived in accordance with sections 20 and 21.

(3) Where the Court makes a Confiscation Order—

(a) the Order shall not, except with the leave of the Court and in accordance with any directions of the Court, be enforced before the relevant appeal date; and

(b) if, after the relevant appeal date, the Order has not been set aside or discharged, the Order may be enforced and any amount recovered applied in accordance with this Sub-Part and any directions given by the Court.

(4) In subsection (3), “relevant appeal date” means—

(a) the date on which the period prescribed for the lodging of an appeal against the defendant’s conviction before a trial court, or for the lodging of an appeal against the making of a Confiscation Order, expires without an appeal having been lodged, whichever is the later; or

(b) where an appeal against the defendant’s conviction before the trial court or against the making of a Confiscation Order is lodged, the date on which the appeal lapses in accordance with the law or is finally determined, whichever is the later.

20. Determination of value of benefit

(1) For the purposes of this Sub-Part, the value of the benefit derived or likely to be derived by a defendant may include—

(a) any money received by the defendant, or by another person at the request or by the direction of the defendant;

(aa) the value of any dangerous drug found in the possession of the defendant or of another person on behalf of the defendant;

(b) the value of any property that was derived or realised, directly or indirectly, by the defendant or by another person at the request or by the direction of the defendant;

(c) the value of any service or financial advantage provided for the defendant or another person, at the request or by the direction of the defendant; or

(d) unless the Court is satisfied that the increase was due to causes unrelated to the commission of the offence, any increase in the total value of property in which the defendant has an interest in the period beginning immediately before the commission of the offence and ending at some time after the commission of the offence.

(2) In calculating the value of the benefit—

(a) any expenditure of the defendant in connection with the commission of the offence shall be disregarded; and

(b) the Court shall make any adjustment necessary to prevent a benefit from being counted more than once.

(3) For the purposes of subsection (1) (d), where an offence is committed between 2 dates, the period begins immediately

before the earlier of the 2 dates and ends at some time after the later of the 2 dates.

(4) Where the benefit derived or likely to be derived by a defendant was in the form of property, including dangerous drugs or some other form of unlawfully obtained property, the Court may, in determining the value of that property, have regard to evidence given by a law enforcement agent or such other person whom the Court considers has expert knowledge of the value of that kind of property.

(5) The Court may, for the purposes of determining whether there was a benefit and the value of the benefit, treat any acceptance by the defendant of the averments set out in the statement referred to in section 17 (1) (b) as conclusive of the matters to which it relates.

(6) The Court may treat a defendant's failure to respond to the statement or to indicate the facts upon which he will rely as an acceptance of every averment in the statement other than—

(a) an averment regarding whether he complied with the requirement; and

(b) an averment that he has benefited from the offence or that he obtained any property or advantage as a result of or in connection with the commission of the offence.

21. Amount recoverable

(1) The amount to be recovered under a Confiscation Order shall be the amount specified in the Order or, if a certificate is issued pursuant to subsection (4), such lesser amount as may be specified in the certificate.

(2) An application for a certificate referred to in subsection (4) may be made by the defendant to the Court.

(3) An application pursuant to subsection (2)—

(a) shall not be made more than 30 days after the date on which the application for a Confiscation Order was made;

(b) shall be supported by an affidavit of the defendant and of any other person on whose evidence the defendant proposes to rely; and

(c) shall be served on the Enforcement Authority, together with any supporting affidavit.

(4) The Court shall grant a certificate pursuant to this section where, having regard to written or oral testimony, it is satisfied that—

(a) it has been provided with an accurate assessment of the total value of the financial resources held by the defendant, irrespective of whether they are subject to any other Order under this Act; and

(b) the total value of the financial resources held by the defendant is less than the amount ordered to be paid under the Confiscation Order.

(5) Where a certificate is granted pursuant to subsection (4), it shall specify a monetary amount equal to the total value of the financial resources held by the defendant.

(6) The Court may, on the application of the Enforcement Authority within 2 years after the grant of the certificate, vary or revoke it or issue a Confiscation Order in a new amount, where—

(a) it is made aware of facts that would have led it to a different conclusion regarding the granting of a certificate or the amount specified in a certificate; or

(b) the defendant acquires possession of additional assets which, had they been available at the date of the certificate, would have resulted in the certificate not being granted or being granted for a higher amount.

Sections 25, 26 (applicable by virtue of Section 55(8)).

25. Realisation of property

(1) Where a Confiscation Order is made and the Order is not subject to appeal, nor discharged, the Court may, on an application by the Enforcement Authority, exercise the powers conferred on it by this section.

(2) The Court may appoint a Trustee to take possession and control of and realise -

(a) property in which the defendant has an interest which he acquired before or after the making of the Confiscation Order; or

(b) property protected by a Restraining Order; or

(c) specified items of property in which the defendant has an interest.

(3) Where a Trustee has already been appointed pursuant to section 10 to take possession or control of property in which the defendant has an interest, any order made pursuant to subsection (2) shall be made in respect of that Trustee.

(4) The Court may make such further order to assist the Trustee in the discharge of his duties as the Court considers is reasonably necessary.

26. Application of monetary sums

(1) Monetary sums in the hands of a Trustee from his receipt of the property of the defendant or from the realisation of any property under section 25 shall, after any such payments as the Court may direct are made out of those sums, be paid to the Official Receiver and applied on the defendant's behalf towards the satisfaction of the Confiscation Order in the manner provided by subsection (3).

(2) If, after full payment of the amount payable under the Confiscation Order, any sums referred to in subsection (1) remain in the hands of a Trustee, the Trustee shall distribute those sums among such of those persons who held property which has been realised under this Sub-Part and in such proportions as the Court directs, after giving a reasonable opportunity for those persons to make representations to the Court.

(3) Sums received by the Official Receiver in payment of amounts due under a Confiscation Order shall be applied as follows -

- (a) if received from a Trustee under subsection (1), they shall first be applied in payment of the Trustee's remuneration and expenses; and
- (b) the balance shall be transferred to the Fund.

60. Compensation Order

(1) The Court may, on application to it, make a Compensation Order where, in its opinion, it would be in the interests of justice, to do so and -

- (a) a Restriction Order had been made; or
- (b) an application for a Recovery Order was not granted and the Restriction Order was revoked; and
- (c) the applicant suffered a loss as a result of the operation of the Restriction Order.

(2) The Court may, if it is of opinion that to do so would be in the interests of justice, make a Compensation Order on application by a person where -

- (a) a Recovery Order relating to an instrumentality was made that affects property in which the person had an interest before the making of the Order; or
 - (b) in the opinion of the Court, the value of the person's recovered interest in the property is disproportionate to its value to the offence in question; and
 - (c) the person suffered a loss as a result of the operation of the Recovery Order.
- (3) The Court may make a Compensation Order on application made to it where -
- (a) a Restraining Order was made;
 - (b) an application for a Confiscation Order was not granted or was withdrawn and the Restraining Order was revoked, or an application for such a Confiscation Order was never made because the defendant was acquitted; or
 - (c) there was a serious default consisting of gross negligence or intentional misconduct on the part of a person involved in an Investigation or prosecution and the Investigation would not have continued or the proceedings would not have started or continued, had the default not occurred; and
 - (d) the person suffered a loss as a result of the operation of the Restraining Order or the default.
- (4) The amount of compensation to be paid under this section shall be the amount which the Court thinks reasonable, having regard to the loss suffered and any other relevant circumstances.
- (5) An application under this section shall be made no later than 6 months after the date of the Restraining or Restriction Order or of the default and notice of the application shall be given to the Enforcement Authority.

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

There has been no experience in the application of these measures.

(b) Observations on the implementation of the article

Mauritius cited sections 19–21 and section 60 of the Asset Recovery Act as allowing for the confiscated property to be disposed of, including by a return to its legitimate owners. The

confiscated assets are sold so as to retain their monetary value, with the funds deposited into a separate account until final adjudication.

Sections 25 and 26 of the Asset Recovery Act also stipulate that the court can appoint a trustee to estimate the value of the benefit derived by the crime and confiscate, seize or freeze assets to an equivalent amount.

Mauritius is deemed in compliance with the provision under review.

Paragraph 2 of article 57

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

Asset Recovery Act

54. Foreign request in connection with civil asset recovery

(1) Where a foreign State requests the Enforcement Authority to obtain the issue of an order against property believed to be proceeds, an instrumentality or terrorist property which is located in Mauritius, the Enforcement Authority may apply to a Judge for a Restriction Order under section 27.

(2) Where a Judge receives an application under subsection (1), he may make an Order under section 30 as if the application were an application in respect of property in Mauritius.

58. Disposal of proceeds of crime

(1) On a request by a foreign State made to him, the Attorney-General shall transfer to it any proceeds, instrumentality or terrorist property recovered in Mauritius in response to a request for the enforcement of a foreign Order.

(2) Unless the foreign State and Mauritius agree otherwise, the Attorney-General may deduct reasonable expenses incurred in the recovery, Investigation and judicial proceedings which have led to a transfer referred to in subsection (1).

Mutual Assistance in Criminal and Related Matters Act 2003

13. Effect of registration of foreign confiscation order or foreign restraining order

(1) Subject to subsections (2) and (3), where an order has been registered under section 12 and the Supreme Court is notified that it has been established to the satisfaction of a foreign Court or international criminal tribunal that the property or any part thereof constitutes the proceeds of crime of a serious offence or of an international criminal tribunal offence, order that the property be confiscated and be vested in the State until such arrangement is made under section 19 by the Central Authority with the foreign State.

(2) The Court may make an order under subsection (1) on such conditions as it may deem fit to impose, including any condition as to payment of debts, sale, transfer or disposal of any property.

(3) Any person who claims to have an interest in property subject to an order registered under section 12 shall, within 21 days from the last publication of the registration under section 12, apply to the Court for an order under subsection (4).

(4) Where the Court is satisfied that the applicant under subsection (3)—

(a) was not in any way involved in the commission of the offence in respect of which the confiscation or restraining order was sought; and

(b) acquired the property without knowing, and in circumstances such as not to arouse a reasonable suspicion, that the property was, at the time of acquisition, tainted property, the Court shall make an order declaring the nature of the interest of the applicant.

19. Sharing confiscated property with foreign States

(1) The Central Authority may enter into such arrangement as he thinks fit with the competent authorities of a foreign State for the reciprocal sharing with that State of such part of any property realised -

(a) in the foreign State, as a result of action taken by him pursuant to section 4; or

(b) in Mauritius, as a result of action taken by him pursuant to section 5.

(2) Where the Minister to whom the subject of finance is assigned considers it appropriate, either because an international arrangement so requires or permits or in the

public interest, he may order that the whole or any part of any property confiscated under this Act, or the value thereof, be returned or remitted to the foreign State or the international criminal tribunal.

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

There has been no experience in the application of these measures.

(b) Observations on the implementation of the article

Mauritius cited Sections 54 and 58 of the Asset Recovery Act as well as Section 13 and 19 of the Mutual Assistance in Criminal and Related Matters Act 2003 as the relevant legislative provisions enabling its authorities to return confiscated property on the request made by another State Party.

At the request of any foreign State for the enforcement of a foreign order received through a mutual legal assistance request, section 58 of ARA stipulates that the Attorney General shall transfer any ill-gotten assets, pending which, the confiscated property remains vested in the State of Mauritius (ARA, sect. 54).

Additionally, Section 54 of the Asset Recovery Act read with Section 13 of the Mutual Assistance in Criminal and Related Matters Act also allow for civil asset recovery.

Mauritius is deemed in compliance with the provision under review.

Subparagraph 3 (a) 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;

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

The legal basis of this response is section 13 of the Mutual Assistance in Criminal and Related Matters Act:

13. Effect of registration of foreign confiscation order or foreign restraining order

(1) Subject to subsections (2) and (3), where an order has been registered under section 12 and the Supreme Court is notified that it has been established to the satisfaction of a foreign Court or international criminal tribunal that the property or any part thereof constitutes the proceeds of crime of a serious offence or of an international criminal tribunal offence, order that the property be confiscated and be vested in the State until such arrangement is made under section 19 by the Central Authority with the foreign State.

(2) The Court may make an order under subsection (1) on such conditions as it may deem fit to impose, including any condition as to payment of debts, sale, transfer or disposal of any property.

(3) Any person who claims to have an interest in property subject to an order registered under section 12 shall, within 21 days from the last publication of the registration under section 12, apply to the Court for an order under subsection (4).

(4) Where the Court is satisfied that the applicant under subsection (3)—

(a) was not in any way involved in the commission of the offence in respect of which the confiscation or restraining order was sought; and

(b) acquired the property without knowing, and in circumstances such as not to arouse a reasonable suspicion, that the property was, at the time of acquisition, tainted property, the Court shall make an order declaring the nature of the interest of the applicant.

Where an order has been registered and the Supreme Court is notified that it has been established to the satisfaction of a foreign Court or international criminal tribunal that the property or any part thereof constitutes the proceeds of crime of a serious offence or of an international criminal tribunal offence, the Supreme Court shall order that the property be confiscated and be vested in the State until such arrangement is made under by the Central Authority with the foreign State.

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

There has been no experience in the application of these measures.

(b) Observations on the implementation of the article

Mauritius cited Section 13 of the Mutual Assistance in Criminal And Related Matters Act as the relevant provision providing the return of confiscated property to the requesting State for embezzlement of public funds or the laundering of embezzled public funds.

Mauritius is deemed in compliance with the provision under review.

Subparagraph 3 (b) 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:

...

(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;

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

Asset Recovery Act

58. Disposal of proceeds of crime

(1) On a request by a foreign State made to him, the Attorney-General shall transfer to it any proceeds, instrumentality or terrorist property recovered in Mauritius in response to a request for the enforcement of a foreign Order.

(2) Unless the foreign State and Mauritius agree otherwise, the Attorney-General may deduct reasonable expenses incurred in the recovery, investigation and judicial proceedings which have led to a transfer referred to in subsection (1).

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

There has been no experience in the application of these measures.

(b) Observations on the implementation of the article

Section 58 of the Asset Recovery Act allows for the return of confiscated property to the requesting State Party.

Mauritius is deemed in compliance with the provision under review.

Subparagraph 3 (c) 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:

...

(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

Mauritius indicated that it had partially implemented the provision under review and included the following information to this end.

Asset Recovery Act

6. Recovered Assets Fund

There is established for the purposes of this Act, under section 9 of the Finance and Audit Act, a Fund to be known as the Recovered Assets Fund.

The property is returned to the foreign state not to the legitimate owners according to section 58 of Asset Recovery Act:

58. Disposal of proceeds of crime

(1) On a request by a foreign State made to him, the Attorney-General shall transfer to it any proceeds, instrumentality or terrorist property recovered in Mauritius in response to a request for the enforcement of a foreign Order.

(2) Unless the foreign State and Mauritius agree otherwise, the Attorney-General may deduct reasonable expenses incurred in the recovery, Investigation and judicial proceedings which have led to a transfer referred to in subsection (1).

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

There has been no experience in the application of these measures.

(b) Observations on the implementation of the article

According to Section 58 of the Asset Recovery Act, the proceeds recovered in Mauritius in response to a request for the enforcement of a foreign Order are transferred to the requesting State.

However, Mauritius also indicated that confiscated assets may be sold in order to retain their monetary value, with the funds deposited into a separate account until final adjudication. Once the case has been adjudicated, 80 per cent of the recovered assets fall to the State of Mauritius, to be deposited into a recovered assets fund for compensating victims (Section 6 of the Asset Recovery

Act).

Mauritius is in compliance with the provision under review.

However, as indicated for Article 53 (b), Mauritius is recommended to monitor the application of the Recovered Assets Fund in order to ensure that States that are victims are duly compensated.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

Asset Recovery Act 2011

58. Disposal of proceeds of crime

...

(2) Unless the foreign State and Mauritius agree otherwise, the Attorney-General may deduct reasonable expenses incurred in the recovery, Investigation and judicial proceedings which have led to a transfer referred to in subsection (1).

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

There have been no cases related to asset recovery.

(b) Observations on the implementation of the article

Mauritius cited Section 58 (2) of the Asset Recovery Act, which establishes that the Attorney-General may deduct reasonable expenses incurred in the recovery, Investigation and judicial proceedings which have led to the transfer in question.

Mauritius is deemed in compliance 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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

There are reciprocal arrangements with Reunion, Mauritius, Seychelles, Comoros and Madagascar. Mauritius follows the Harare Scheme for mutual legal assistance among Commonwealth countries. There is one bilateral MLA treaty in place with India.

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

There has been no experience in the application of these measures.

(b) Observations on the implementation of the article

Mauritius indicated that it had concluded a Mutual Legal Assistance treaty with India as well as reciprocal agreements with Reunion, Mauritius, Seychelles, Comoros and Madagascar.

Mauritius is deemed in compliance with the provision under review.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

1.0 Establishment and Functions of the FIU

The Republic of Mauritius has established its Financial Intelligence Unit under section 9 of the Financial Intelligence and Anti Money Laundering Act in August 2002. It is the central Mauritian agency for the request, receipt, analysis and dissemination of financial information regarding suspected proceeds of crime and alleged money laundering offences as well as the financing of any activities or transactions related to terrorism to relevant authorities.

The FIU is a member of the National Committee on AML/CFT. It is also a member of ESAAMLG and the Egmont Group of FIUs.

The FIU was rated 'largely compliant' in the 2007/08 Mutual Evaluation assessment of Mauritius. According to the assessors, the FIU's operational processes, including analysis, are professional.

The FIU is able to consult with the necessary authorities, seek assistance in performing its functions, and has access to a wide range of external data sources, including law enforcement.

Financial Intelligence and Anti-Money Laundering Act 2002, in particular, Sections 9-11:

PART III - THE FINANCIAL INTELLIGENCE UNIT

9. Establishment of the FIU

- (1) There is established for the purposes of this Act a Financial Intelligence Unit which shall have all the powers necessary to administer, and exercise its functions under, this Act.
- (2) The head of the FIU shall be the Director who shall be a person of high repute with substantial experience in the financial services industry or law enforcement and experience in management and accounting and appointed by the President on the recommendation of the Prime Minister made in consultation with the Leader of the Opposition, on such terms and conditions as may be determined by the Prime Minister.
- (3) The Director shall be responsible for the administration and management of the FIU and shall be assisted by such persons as may be appointed by the Director to assist him.
- (4) In the discharge of his functions and the exercise of his powers under this Act, the Director shall act without fear or favour and, subject to section 12, shall not be subject to the direction or control of any other person or authority other than, in matters of discipline, the President acting on the advice of the Prime Minister.

10. Functions of the FIU

- (1) The FIU shall be the central agency in Mauritius responsible for receiving, requesting, analysing and disseminating to the investigatory and supervisory authorities disclosures of information -
 - (a) concerning suspected proceeds of crime and alleged money laundering offences;
 - (b) required by or under any enactment in order to counter money laundering; or
 - (c) concerning the financing of any activities or transactions related to terrorism .

Amended by [Act No. 34 of 2003]

- (2) For the purposes of subsection (1), the FIU shall -
 - (a) collect, process, analyse and interpret all information disclosed to it and obtained by it under the relevant enactments;
 - (b) inform, advise and co-operate with the investigatory and supervisory authorities;

- (ba) issue guidelines to members of a relevant profession or occupation on measures to combat money laundering or financing of terrorism that are in force in jurisdictions having standards comparable to Mauritius;
- (c) issue guidelines to banks, financial institutions, cash dealers and members of a relevant profession or occupation on the manner in which-
 - (i) a report under section 14 shall be made; and
 - (ii) additional information may be supplied to the FIU, on a suspicious transaction, pursuant to a request made under section 13(2) or (3);
- (d) & (e) - Deleted by [Act No. 34 of 2003]
- (f) exchange information with overseas financial intelligence units and comparable Bodies;
- (g) undertake, and assist in, research projects in order to identify the causes of money laundering and terrorist financing and its consequences;
- (h) perform such other functions as are conferred on it under the Asset Recovery Act.

11. Exercise of functions of the FIU

- (1) The functions of the FIU shall be exercised by the Director or such of the persons appointed under section 9(3) as the Director may determine.
- (2) In furtherance of the functions of the FIU, the Director shall consult with and seek such assistance from such persons in Mauritius concerned with combating money laundering, including law officers, the Police and other Government agencies and persons representing banks, financial institutions, cash dealers and members of the relevant professions or occupations, as the FIU considers desirable.

1.1 FIU Model

The FIU Mauritius is a hybrid style FIU. It combines both elements of administrative and law enforcement FIUs. Pursuant to legislative amendments in 2016, the FIU Mauritius also performs the functions of the Enforcement Authority (established under the Asset Recovery Act 2011).

Following the enactment of the Asset Recovery Amendment Act of 2015, the Asset Recovery Investigation Division (ARID) has become the Enforcement Authority with respect to Asset Recovery and acts under the aegis of the Financial Intelligence Unit (see response provided under article 14).

1.2 Awareness-raising



To obtain compliance with the AML/CFT reporting obligations, there needs to be in place a set of measures intended to foster improvements in the flow and quality of reports without resort to sanctions, such as awareness raising and training. Since its creation, the FIU understood this need and ensured, despite its limited resources and the fact that AML/CFT training is not one of its core functions, that not only reporting institutions but also the public in general and its local partners be sensitized on AML/CFT issues.

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

Please refer to the information provided for Article 14 Paragraph 5 (3) for

- a) the five MOUs signed between the FIU with related institutions in Mauritius.
- b) The 26 MOUs signed by the FIU Mauritius with foreign FIUs

Extract from FIU's 2014 Annual Report

	2014	2013	2012
Number of Case Originators	305	578	378
- Number of STRs	173	354	226
<i>Banks</i>	128	313	193
<i>Management Companies (Offshore)</i>	37	25	19
<i>Cash Dealers</i>	6	15	11
<i>Others</i>	2	1	3
- Number of Non-STR Disclosures	132	224	152
<i>Supervisory Bodies</i>	10	22	2
<i>Investigatory Bodies</i>	63	79	80
<i>Foreign FIUs (Spontaneous Disclosures)</i>	8	66	41
<i>Others</i>	51	57	29
			
Total Number of Dissemination Reports	376	490	205
- Number of Dissemination Reports in 2014			
<i>Investigatory Bodies</i>	115	209	95
<i>Supervisory Bodies</i>	43	166	12
<i>Others</i>	44	66	37
- Number of Dissemination Reports relating to cases prior to 2014	174	49	61
			
Information Exchange			
- Number of Requests received from Overseas FIUs	44	66	41
- Number of Requests sent to Overseas FIUs	189	199	79

Link:

[http://www.fiumauritius.org/English/Publications/Documents/ANNUAL%20REPORT%20FIU%20DIGITAL%20\(23.03.16\).pdf](http://www.fiumauritius.org/English/Publications/Documents/ANNUAL%20REPORT%20FIU%20DIGITAL%20(23.03.16).pdf)

List of previous seminars and workshops organised by the FIU

- | | |
|---------------------|--|
| 4 March 2016 | Workshop to enhance domestic cooperation among AML/CFT authorities organised by the FIU Mauritius and the COMESA |
|---------------------|--|

3 March 2016	Workshop to sensitise Non-Banking Reporting Entities on their obligations under the Financial Intelligence and Anti-Money Laundering Act (2002) organised by the FIU Mauritius and the COMESA
12 April and 15 November 2013	goAML training to Bank Representatives.
28 June 2012	National Seminar on “Combating Money Laundering: New Developments and Perspectives”
13 August 2009	Workshop on “Strengthening Operational Relationships with Banks”
18 April 2006	National Seminar on “Working Together to Fight Money Laundering and Terrorist Financing”
March 2005	Workshop for Bankers on “Suspicious Transactions Reporting Mechanism and Trends and Patterns based on Suspicious Transactions Reports”
26 February 2005	Presentation on AML/CFT at the Compliance Workshop of the Civil Service Mutual Aid Association
3-4 February 2005	Presentation on “AML/CFT Framework and Strategy of Mauritius” at a workshop organised by the FSPA
September 2004	National Seminar and Workshop organised by the FIU on “Addressing the Risks of Money Laundering and Terrorist Financing” and “Meeting the Expectation Gap”
May 2004	Presentation at the ESAAMLG Strategy Workshop held in Mauritius on “AML/CFT Strategy Paper”
19 May 2004	Presentation to Officials of Horwath Mauritius & Direct Plus on “AML/CFT: Reporting Culture!”
8 April 2004	Presentation to Officials of KPMG on “AML/CFT Strategy and the Role of the FIU” and “Brief Overview of FIAMLA”
January 2004	Training organised jointly by the FIU and the Bar Council to barristers on “Nouvelles Responsabilités de la Profession du Droit dans la Lutte Contre le Blanchiment”
21 November 2003	Presentation to members of the Mauritius Bankers Association Committee on Fraud and Intelligence and senior bankers on “Role and Workings of The FIU”
11 October 2003	Presentation at the ACCA’s Continuous Professional Development for Accountants’ Conference held in Mauritius on “AML/CFT Framework and the Role of the FIU”
6-8 October 2003	Workshop on “Basic Analysis and Money Laundering Investigative Training” jointly with FinCEN
17 September 2003	Presentation to Senior Officials of SICOM on “AML/CFT Framework and the Role of the FIU”
8 September 2003	Presentation in the conference organised by the Ministry of Economic Development, Financial Services and Corporate Affairs on “The Implementation of FSAP’s Recommendations in Respect of AML/CFT”
26 August 2003	Presentation to ESAAMLG, “Mauritius AML/CFT Developments in 2002-2003”

28 May 2003

National Seminar on “Combating Money Laundering and Terrorist Financing” with the support of the FSPA

13 & 27 March 2003

Training to Senior Officials of the Customs and Police on “Role and Function of the FIU” on respectively

(b) Observations on the implementation of the article

Mauritius has established an FIU that is responsible for receiving, analysing and disseminating to the competent authorities reports of suspicious financial transactions (Section 9 of the Financial Intelligence and Anti Money Laundering Act). Its mandate also includes international cooperation for the purpose of asset recovery as well as the regular and informal sharing of information.

Following the enactment of the Asset Recovery Amendment Act of 2015, the Asset Recovery Investigation Division has become the Enforcement Authority with respect to Asset Recovery. It acts under the aegis of the Financial Intelligence Unit and has both administrative and investigative powers.

The FIU is a member of the National Committee on AML/CFT, the Eastern and Southern Africa Anti-Money Laundering Group as well as the Egmont Group.

Mauritius provided statistics on suspicious transaction reports submitted to it, dissemination reports shared, as well as the number of information exchange requests submitted and received.

Mauritius is deemed largely in compliance with the provision under review.

However, in view of enhancing the implementation of the Convention, and as indicated under sub-paragraph (b) of Article 53, it is recommended that Mauritius monitor the application of the Recovered Assets Fund in order to ensure that States that are victims are duly compensated.

Moreover, as indicated in relation to Article 14, it is recommended that Mauritius ensure the finalization and adoption of the AML/CFT National Strategy and Roadmap in order to establish a clear delineation of responsibilities amongst complimentary competencies and avoid overlap and enhance inter-institutional cooperation.

(d) Challenges, where applicable

Following the mutual evaluation review based on the FAFT 2012 recommendations, appropriate measures will be taken accordingly and the AML/CFT framework will be realigned.

(e) Technical assistance needs

Capacity-building for the Asset Recovery Investigation Division :

- Financial investigations
- Asset recovery investigations

- Organization and analysis of large data volumes through data mining
- Money-laundering and confiscation relating to virtual currencies

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.

No.

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

Mauritius indicated that it had implemented the provision under review and included the following information to this end.

Reciprocal arrangements have been concluded with Reunion, Mauritius, Seychelles, Comoros and Madagascar.

Mauritius follows the Harare Scheme for mutual legal assistance among Commonwealth countries. There is one bilateral MLA treaty in place with India.

Mauritius is a member of the Asset Recovery Inter-Agency Network of Southern Africa (ARINSA).

(b) Observations on the implementation of the article

Mauritius has concluded a relatively large number of bilateral and multilateral agreements on international cooperation in general, and also participates in the Asset Recovery Inter-Agency Network for Southern Africa (ARINSA).

Mauritius is deemed in compliance with the provision under review.

(c) Technical assistance needs

Legislative assistance for the Attorney General's Chambers - possible technical assistance in drafting MLA requests on the basis of information provided by the FIU domestic investigating authorities for intelligence purposes

Institution-building for the ICAC – technical assistance for conducting financial investigations to identify potential offences committed in other States, and the use of informal networking channels to obtain information from other countries.

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.

The above assistance has not yet been provided to Mauritius.

B. Other information

Article B. Other information

Other information

Please provide any other information you believe is important for the Conference of the States Parties to the United Nations Convention against Corruption to consider at this stage regarding aspects of, or difficulties in, implementing the Convention other than those mentioned above.

Please provide any other information you believe is important for the Conference of the States Parties to the United Nations Convention against Corruption to consider at this stage regarding aspects of or difficulties in implementing the Convention other than those mentioned above

It should have an in-built flexibility to cater for:

- (a) drafting of proposed legislations to be reviewed by appropriate committees for identifying loopholes and areas prone to corruption, money laundering and other malpractices; and
- (b) specific context of states; for e.g., small island developing states.