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Implementation of chapter II (Preventive measures) of the United Nations Convention against Corruption

Thematic report prepared by the Secretariat

Summary

The present report contains information on the prevalent successes, good practices, challenges and observations identified in the second cycle of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption, with a focus on the implementation of chapter II (Preventive measures) of the Convention.

* [CAC/COSP/IRG/2021/1](#).



I. Introduction, scope and structure

1. In accordance with paragraphs 35 and 44 of the terms of reference of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption, the present thematic report has been prepared in order to compile the most common and relevant information on successes, good practices, challenges and observations contained in the completed executive summaries and country review reports.
2. The present report contains information on the implementation of chapter II (Preventive measures) of the Convention by States parties under review in the second cycle of the Implementation Review Mechanism. It is based on information provided in the finalized executive summaries and country review reports of 50 reviews that had been completed at the time of drafting. The report focuses on existing trends in and examples of implementation, and includes tables, text boxes and figures on the most prevalent challenges and good practices. The trends identified in the present report are largely consistent with those identified in the previous thematic reports. Regional differences have been reflected as appropriate.¹
3. The structure of the present report follows that of the executive summaries by clustering closely linked articles and topics. Related information, such as on measures to prevent and detect transfers of proceeds of crime, can be found in the thematic report on the implementation of chapter V ([CAC/COSP/IRG/2020/6](#)).

II. General observations on challenges and good practices in the implementation of chapter II of the United Nations Convention against Corruption

4. The figures and tables below represent data from 50 country reviews and provide an analytical overview of the common challenges and good practices in the implementation of chapter II of the Convention.²

¹ The present report builds on 19 completed reviews for the Group of African States, 13 for the Group of Asia-Pacific States, 9 for the Group of Western European and other States, 5 for the Group of Latin American and Caribbean States and 4 for the Group of Eastern European States. Thus, the number of recommendations and good practices identified may not be as representative for some regional groups as it is for others.

² Data used in the preparation of the present report are based on country reviews finalized as at 24 February 2021.

Figure I
Challenges identified in the implementation of chapter II of the Convention

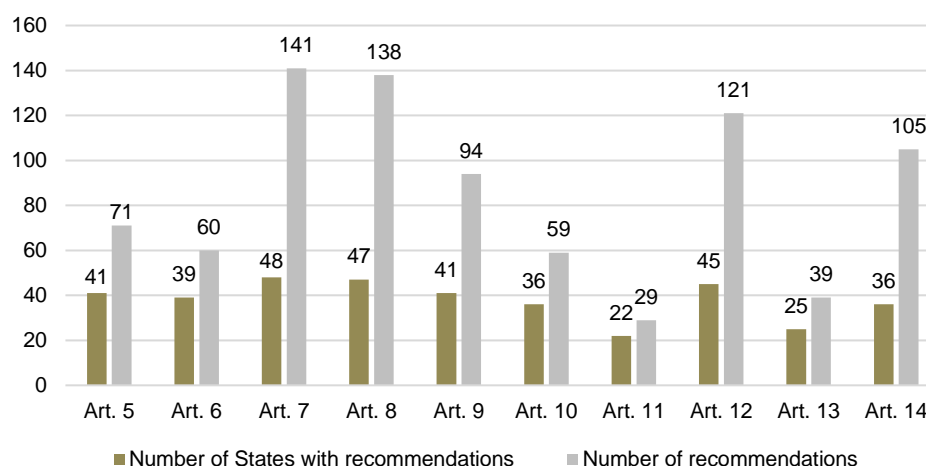


Table 1
Most prevalent challenges in the implementation of chapter II of the Convention

Article of the Convention	Number of States with recommendations	Number of recommendations issued	Most prevalent challenges in implementation (in order of article of the Convention)
Article 5	41	71	Weak coordination and implementation of anti-corruption policies, including lack of indicators to measure progress, lack of timelines and lack of accountability structures; national anti-corruption policies that are limited in scope, coherence and effectiveness; lack of corruption prevention measures; and insufficient inclusion of stakeholders in determining the implementation and revision of anti-corruption strategies
Article 6	39	60	Lack of designated preventive anti-corruption bodies and insufficient resource allocation for such bodies; inadequate legal and operational independence of anti-corruption bodies with preventive functions; lack of adequate training for staff; and poor coordination among various anti-corruption bodies, including lack of concrete mechanisms to facilitate such coordination
Article 7	48	141	Inadequate procedures for the selection, training and rotation of individuals for public positions considered especially vulnerable to corruption; insufficient transparency in the recruitment of public officials; inadequate criteria concerning candidatures for and election to public office; lack of comprehensive legislation or administrative measures to regulate the funding of candidates for elected office and the funding of political parties; and insufficient legislation or mechanisms to prevent or regulate conflicts of interest
Article 8	47	138	Lack of codes of conduct for public officials, or their limited application to certain groups of public officials; limited reporting channels and protection measures for reporting officials; and inadequate measures to prevent conflicts of interest, including on outside activities, secondary employment, asset declarations and acceptance of gifts
Article 9	41	94	Ineffective or complex systems of national review and appeal in public procurement matters; inadequate selection and screening methods and training for procurement officials; no obligation for procurement officials to declare their interests, in particular in public procurements and their assets; lack of efficient information and communications technology-based procurement systems (e-procurement); limited transparency in the budget adoption process; and no or limited systems of risk management and internal control in the area of public financial management

Article of the Convention	Number of States with recommendations	Number of recommendations issued	Most prevalent challenges in implementation (in order of article of the Convention)
Article 10	36	59	Lack of legislation or measures to regulate public access to information and, where such legislation and measures are in place, gaps in the existing frameworks and inadequate application thereof, due to, among other things, lack of training for public officials; overly complex administrative procedures for public service delivery and information access; and limited data collection systems to identify, monitor and analyse corruption risks in the public sector.
Article 11	22	29	Lack of measures or insufficient measures to strengthen judicial integrity and integrity in the prosecution service, and lack of mechanisms to ensure compliance with relevant measures
Article 12	45	121	Limited cooperation between law enforcement agencies and private entities; a lack of or narrowly defined post-employment restrictions for former public officials; inadequate measures to prevent the misuse of procedures regarding subsidies and licences granted by public authorities for commercial activities; limited standards and procedures to safeguard the integrity of private entities, and inadequate measures to monitor compliance with those standards and procedures; and lack of legislation or inadequate legislation on the non-deductibility of expenses that constitute bribes
Article 13	25	39	Limited participation of civil society in preventing and combating corruption, including, inter alia, as a result of the lack of or inadequate implementation of relevant laws and procedures; failure to consult with civil society during the development of anti-corruption strategies, policies or legislation; insufficient collaboration between relevant government agencies and civil society; inadequate measures or mechanisms for reporting corruption; and lack of public awareness campaigns and education programmes on preventing corruption
Article 14	36	105	Country-specific gaps in the regulatory and supervisory frameworks aimed at countering money-laundering and the financing of terrorism; incomplete implementation of standards and recommendations issued by other international monitoring bodies; inadequate measures to detect and monitor the cross-border transfer of cash and bearer negotiable instruments; and insufficient supervision of money or value transfer services

Figure II
Good practices identified in the implementation of chapter II of the Convention

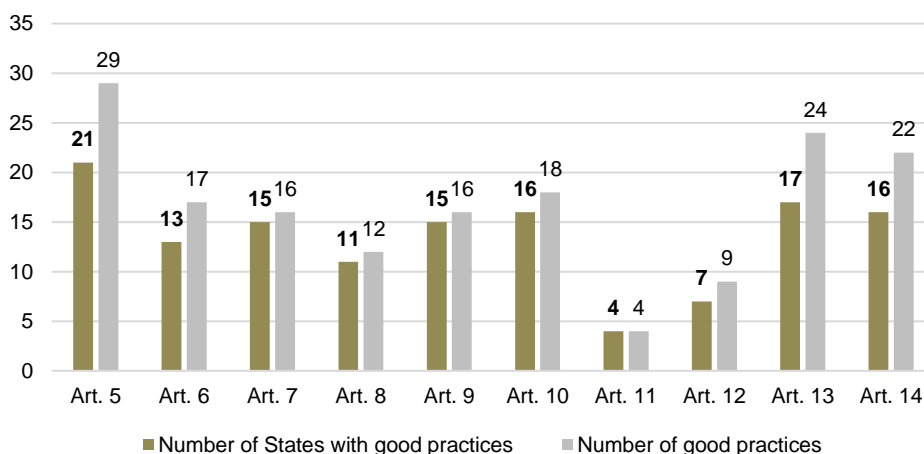


Table 2
Most prevalent good practices in the implementation of chapter II of the Convention

<i>Article of the Convention</i>	<i>Number of States with good practices</i>	<i>Number of good practices issued</i>	<i>Most prevalent good practices (in order of article of the Convention)</i>
Article 5	21	29	Active participation in international and regional organizations and programmes that address anti-corruption; establishment of anti-corruption strategies and policies, and monitoring of their progress and impact, in consultation with stakeholders; and implementation of a wide range of activities and measures to prevent corruption, including national campaigns and the inclusion of integrity principles in educational curricula
Article 6	13	17	Establishing operational anti-corruption units in public institutions; having independent budgets for preventive anti-corruption bodies; providing adequate resources, specialized staff and anti-corruption training for the personnel of such bodies; and actively coordinating among preventive anti-corruption bodies
Article 7	15	16	Identification of positions considered especially vulnerable to corruption, and adoption of additional measures to regulate such positions; advertising vacancies for public positions by various means; comprehensive regulation of political financing; and enhanced integrity training for public officials
Article 8	11	12	Measures to promote integrity and ethics and prevent corruption in the public service; establishment of integrity units in different ministries and offices; and adequate protection for reporting officials
Article 9	15	16	Use of electronic procurement systems and integrity pacts; suspension of contract awards during appeal processes; diverse measures to ensure transparency in public tendering; and measures to promote transparency in the budget process, including through the use of guides, interactive online tools and social media to expand engagement
Article 10	16	18	Strong framework for access to information complemented by awareness-raising efforts, training for personnel responsible for providing information and virtual platforms; and simplification of administrative procedures through the use of electronic means
Article 11	4	4	Development of a case management system to enhance transparency in case distribution
Article 12	7	9	Broad participation of the private sector in the development of anti-corruption policies; and enhanced measures to promote transparency among private entities
Article 13	17	24	Measures to promote public participation and broad consultations, including by inviting representatives of civil society to provide comments on draft laws or engage in corruption prevention measures; facilitation of the reporting of corrupt conduct to anti-corruption bodies through multiple channels; broad access to public documents and open data; the development of tailored educational curricula on integrity; and frequent training activities and information campaigns including through national youth networks
Article 14	16	22	Well-established national regime for preventing money-laundering and the financing of terrorism; sound inter-agency coordination; and promotion of regional and international cooperation

III. Implementation of chapter II of the United Nations Convention against Corruption

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

5. The Convention recognizes that the various legal systems and traditions of States parties may require different approaches to implementing article 5 of the Convention. The different approaches taken by States parties in that regard may be broadly categorized as follows: (a) the development of a comprehensive national anti-corruption strategy, as a single document or as a document embedded in other strategic government documents; (b) sector-specific anti-corruption strategies; or (c) the application of an implicit policy, which, even if not always codified in a specific document, is nevertheless implemented through consistent efforts to include provisions aimed at preventing corruption when drafting legislation, and through the adoption of specific measures to address corruption.

6. Most States parties have adopted, or are in the process of adopting, specific anti-corruption strategies and action plans, while some States parties have also developed plans at the sectoral and organizational levels. In several States parties, such strategies and plans are complemented by constitutional provisions enshrining anti-corruption values. Anti-corruption policies are sometimes contained in legislation, departmental policy documents, or development or national integrity plans, which was seen as sufficient by the reviewers.

7. Approximately 22 per cent of the States parties reviewed have either implemented implicit anti-corruption policies or have instead focused only on issues at the sectoral level, without developing a comprehensive strategy with a national scope. One State party relied on existing legislative and regulatory frameworks without having an implicit or explicit anti-corruption strategy; a recommendation was issued in that regard.

8. Establishing an effective coordination mechanism is a key element of a strong anti-corruption policy, as it helps to ensure that all public bodies with responsibilities under the policy are actively engaged in its implementation. Nearly all States parties have established such a mechanism, with two different approaches emerging as trends: some States parties have opted for the establishment of a new coordinating body or high-level coordination committee dedicated to anti-corruption to manage implementation and oversight, while others have charged existing structures, such as anti-corruption commissions and line ministries, with that task.

9. The coordination of anti-corruption policies at the national level has continued to pose challenges, and reviewers have noted the need to ensure greater coherence in the policies adopted. Enhancing coordination between national and departmental anti-corruption policies, increasing opportunities for information exchange and establishing monitoring and evaluation mechanisms to measure impact have been recommended.

10. A good practice identified in the course of the reviews is the inclusion of a wide range of stakeholders, including civil society, in the development, implementation and review of national anti-corruption strategies or policies.

11. States parties have implemented a broad variety of practices aimed at the prevention of corruption, including the introduction of anti-corruption measures at the organizational level, the development of codes of conduct, the introduction or enhancement of asset and interest disclosure systems, the organization of awareness-raising and educational activities and the inclusion of integrity-related topics in school curricula, the introduction of whistle-blowing regimes for public officials, the provision of training for public officials and the development of corruption risk management tools. The establishment of integrity and anti-corruption units in

governmental bodies and departments and the publication of annual reports by anti-corruption bodies have been identified as good practices.

12. Many States parties have reported that their anti-corruption bodies review relevant legal instruments and administrative measures, with a view to determining the adequacy of those measures in preventing and combating corruption. One anti-corruption body has an express mandate to evaluate all draft legislation before it may be considered by the legislative body. States parties that have not afforded anti-corruption bodies the opportunity to play such a role have received recommendations in that regard.

13. All States parties have reported on their membership or involvement in regional and international organizations, programmes and projects aimed at the prevention of corruption, including the Action Group against Money Laundering in Central Africa, the Advisory Board on Corruption of the African Union, the African Association of Anti-Corruption Authorities, the Anti-Corruption Initiative for Asia and the Pacific of the Asian Development Bank and the Organisation for Economic Co-operation and Development, the Arab Anti-Corruption and Integrity Network, the Asia/Pacific Group on Money Laundering, the Asset Recovery Inter-Agency Network for Southern Africa, the Association of Anti-Corruption Agencies in Commonwealth Africa, the Eastern and Southern Africa Anti-Money Laundering Group, the Economic Community of Central African States, the Egmont Group of Financial Intelligence Units, the European Partners against Corruption, the Financial Action Task Force of Latin America, the Global Anti-Corruption Initiative of the United Nations Development Programme, the Global Organization of Parliamentarians against Corruption, the Group of 20 Anti-Corruption Working Group, the Group of States against Corruption of the Council of Europe, the International Anti-Corruption Academy, the International Association of Anti-Corruption Authorities, the International Criminal Police Organization (INTERPOL), the Middle East and North Africa Financial Action Task Force, the Network of National Anti-Corruption Institutions in West Africa, the Network of National Anti-Corruption Institutions in Central Africa, the Organization for Security and Cooperation in Europe, the Pacific Association of Supreme Audit Institutions, the Pacific Islands Law Officers' Network, the Pacific Transnational Crime Network and the South East Asia Parties against Corruption mechanism.

14. International treaties, such as the African Union Convention on Preventing and Combating Corruption, the Economic Community of West African States Protocol on the Fight against Corruption, the Follow-Up Mechanism for the Implementation of the Inter-American Convention against Corruption and the Southern African Development Community Protocol against Corruption have also been noted as relevant. Some States parties have provided information on numerous memorandums of understanding in the area of anti-corruption that have been agreed with other States parties.

15. The place of anti-corruption preventive bodies in national institutional structures, and therefore their independence, varies. States parties typically establish a new, autonomous institution, or task existing institutions with relevant preventive functions. Only two States parties reported that they had no specialized anti-corruption preventive body in place and recommendations have been issued in that regard.

16. While most States parties have established dedicated anti-corruption bodies responsible for the implementation of policies and activities on the prevention of corruption, some have taken a different approach, relying on existing institutions such as ethics committees, line ministries, financial intelligence units, offices of ombudsmen and public service departments to prevent corruption and implement national anti-corruption policies. In one State party, each ministry designated contact points to facilitate national coordination concerning anti-corruption efforts.

17. States parties take different approaches to ensuring the independence of preventive anti-corruption bodies, such as the provision of constitutional guarantees

and the adoption of appropriate legal provisions, including on security of tenure, budget and staffing, and the use of traditional civil service structures and legislation. Recommendations have been issued where such bodies are not independent, including where they are under the control of other institutions or where they lack an autonomous budget.

18. Gaps in the implementation of articles 5 or 6 of the Convention have been identified in all but one of the States parties under review. However, while the main challenge for States in the African Group and the Latin American and Caribbean Group is the lack of effective policies, among those in the Asia-Pacific Group, the gaps mostly relate to the coordination and implementation of anti-corruption policies and the lack of corruption prevention measures, such as awareness-raising or education campaigns.

19. Insufficient resource allocation for preventive anti-corruption bodies is a common problem for States in the African Group and the Eastern European Group, while the inadequate legal and operational independence of anti-corruption bodies with preventive functions is a problem in several States, including those in the Asia-Pacific Group.

20. A total of 40 States parties have officially informed the Secretariat of their designated preventive anti-corruption bodies. The others have been encouraged to submit information in that regard.

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

21. All of the reviewed States parties have established rules and procedures governing the recruitment, hiring, retention, promotion and retirement of public officials in their constitutions or laws governing the civil service. However, certain categories of officials may be subject to dedicated laws in that regard. Some States also have specific human resources manuals or guidelines for civil servants. Most countries have merit-based systems or prescribe principles of efficiency and transparency for the administration of public officials. Most States apply competitive procedures for the recruitment and promotion of public officials, while others have a general policy preference for internal rotation or appointment over external recruitment. However, one State indicated that, in strictly defined scenarios, the drawing of lots could also be used in the recruitment of public officials.

22. There is some variance among the reviewed States parties regarding their institutional structures for the administration of public officials. While some countries have established centralized bodies in charge of recruitment and retention of their public officials, others tend to use a more decentralized approach by delegating such authority to specific government agencies. One State uses a hybrid approach to regulate different levels of public officials, with senior officials being subject to centralized administration with special measures. The same country has established an electronic human resources management information system for administering its civil service.

23. Many countries advertise vacancies publicly on the Internet or in newspapers. One country has created a one-stop website for submitting applications for all positions in the public service. In addition, some countries have appeal mechanisms in place through which unsuccessful candidates may challenge a hiring decision. Such mechanisms vary across countries and range from lodging a complaint with a designated agency or a special committee to filing an administrative appeal with a court.

24. Most States parties have not elaborated on or defined the term “positions considered especially vulnerable to corruption”. States either do not have any rotation system or other enhanced measures in place, or apply the same requirements to all

public positions Nevertheless, a small number of States have taken additional measures for the selection, rotation and training of individuals for public positions deemed vulnerable to corruption or have specifically identified such positions in their public administration systems, such as legislature, law enforcement, judiciary and procurement personnel or officers involved in the allocation of licences and permits. These measures have been recognized as good practices.

Box 1

Good practices identified in the implementation of article 7 (1)(b) of the Convention

The Anti-Corruption Commission in one State has assessed corruption risks in the public service and drawn a list of areas especially vulnerable to corruption. On the basis of this risk matrix, this State has taken concrete measures, in particular training and rotation, to mitigate the risks. In two other States, officials who hold such positions must submit a declaration of interests or assets on a regular basis. In yet two other States, positions considered vulnerable to corruption are identified and subject to regular rotation as governed by law.

25. A large number of reviewed States parties have highlighted that education programmes or specialized training, especially on anti-corruption, integrity and ethics, are available to public officials. Several States have made such training mandatory. Nevertheless, the absence of specific integrity and anti-corruption training for public officials has been identified as an implementation gap. With regard to remuneration, many States have demonstrated that adequate remuneration is provided to public officials, including through negotiations with trade unions.

26. All States parties have relevant legislation, such as Constitutions or specific laws, setting out criteria concerning candidature for and election to public office (relating to art. 7 (2) of the Convention), though in some cases the scope is limited. Candidates with criminal convictions for certain offences, such as corruption and fraud, are commonly barred from running for elected office.

27. Half of the States parties have referred to their rules on the funding of candidatures for elected public office. Moreover, most States have legislation in place to regulate the funding of political parties (relating to art. 7 (3) of the Convention). Such rules include provisions on the funding sources, bookkeeping and recording, disclosure or public scrutiny, and applicable sanctions. The adoption or amendment of specific laws in this area have been under discussion in a number of States. However, three States have reported that they have no political parties and that, consequently, no law pertaining to that issue is needed.

28. In addition, national legislation relating to funding for candidates for election and political parties in various States remains divergent in its content and coverage. For instance, some States allow for funding from both public and private sources, while several other States either provide for public funding as the main source of political financing or only allow for private funding for elections and political parties. Furthermore, a number of States have established various contribution limitations for donations, such as the maximum donation allowed from individual persons and private entities respectively, or have prohibited anonymous or foreign donations. In general, inadequate rules on political financing and ensuring transparency were identified as a significant challenge.

29. Almost all countries have put in place rules on the prevention of conflicts of interest (relating to art. 7 (4) and art. 8 (5) of the Convention). The scope and content of the applicable frameworks for preventing conflicts of interest and the types of prohibited interests vary. Countries have reported a range of measures, such as prohibiting or restricting secondary employment or outside activities, imposing limitations on gifts and requiring financial disclosure for certain public officials. Many States have adopted systems and procedures for public officials to declare their

existing or potential conflicts of interest. In one country, non-compliance with the obligation to submit a declaration of interest is a criminal offence punishable by imprisonment, whereas in another, the law defines having specific types of conflicts of interest as offences. However, some States have not provided for sanctions for failure to report conflicts of interest. In general, the difficulty in deciding what constitutes a conflict of interest was reported as a challenge.

30. There are no specific regional trends in the implementation of article 7 of the Convention, as almost all States in the different regional groups have received recommendations.

31. With regard to article 8 of the Convention, all States parties have referred to their various laws and measures in promoting integrity, honesty and responsibility among public officials. All States parties have also reported that various codes of conduct or ethics are in place or under review for public officials. In that regard, most countries have adopted general codes of conduct for all public officials or for most civil servants, whereas more than half of the States have adopted sectoral codes of conduct or have designated different agencies to develop specific codes for certain types of public officials. In addition, some States have referred to their adoption of the International Organization for Standardization standard 37001 for anti-bribery management.

32. In a number of States parties, the codes of conduct are enforceable, such as through administrative procedures (relating to art. 8 (6) of the Convention). Several States have duly incorporated the codes in different legislation or regulations, and non-compliant public officials are therefore subject to disciplinary sanctions. One State reported that criminal penalties may even be applied to breaches of such principles and ethical standards. Moreover, some countries have designated a special agency, the heads of the various agencies, or ethics committees or commissioners to monitor the enforcement of the codes of conduct and receive complaints.

33. Measures or procedures to facilitate the reporting by public officials of acts of corruption (relating to art. 8 (4) of the Convention) vary among States. Almost half of the States parties have indicated that public officials have a duty to report corrupt conduct, although some of those States parties may not have adequate reporting procedures in place. In a number of countries, sanctions exist for public officials who fail to report acts of corruption or other misconduct. Several countries have referred to the use of clear procedures and diverse platforms or dedicated channels to facilitate reporting, anonymously or otherwise. In addition, more than one third of the States parties have reported various measures to protect reporting persons, including their close relatives, such as the adoption of dedicated laws on whistle-blower protection.

34. Most countries have put in place requirements for the regular submission of asset declarations by certain levels of public officials (relating to art. 8 (5) of the Convention). However, the specific practices in that regard differ among States. For instance, some countries have included the family members of selected public officials in the same financial disclosure category as the officials themselves, whereas a few others have extended such disclosure systems to all public officials. In addition, reporting periods for officials who are under such an obligation vary significantly, with some countries requiring periodic reporting, while others require that officials file a report only when a substantial change in their assets occurs. Although some States may use electronic tools to facilitate the verification of declarations, the issue of verification has generally been identified as an implementation gap. Of the countries that have financial disclosure systems in place, more than half impose sanctions for non-compliance.

35. As regards regional differences, only one State in the African Group and two States in the Group of Western European and other States have not received recommendations.

36. With regard to article 11 of the Convention, the independence of the judiciary is enshrined in the Constitution or relevant laws in most countries. In addition, most

countries have referred to their legislation regulating court systems and judges. The selection of judges is usually conducted by dedicated bodies, which, to a large extent, also serve as disciplinary bodies for appointed judges. In addition, States parties have reported on measures to address conflicts of interest and ensure transparency in the judiciary, including the recusal of judges, the prohibition of acceptance of gifts, restrictions on outside activities, and asset and interest disclosure requirements. Other measures to enhance judicial integrity range from developing specific codes of conduct and judicial ethics training for judges to publishing judgements. Furthermore, several States are in the process of reforming their court systems to strengthen prevention of corruption.

37. With regard to prosecution services, States parties have adopted various laws, regulations and policies that set out the rights and duties of prosecutors. Many States have also adopted specific codes of conduct for prosecutors. In addition, several countries have reported on measures to enhance integrity among prosecutors, including case management procedures or systems, integrity training, risk assessment and disclosure of assets or conflicts of interest. Furthermore, some States have adopted guidelines or policies to control the exercise of prosecutorial discretion.

38. In terms of regional differences in the implementation of article 11 of the Convention, a higher percentage of countries from the Group of Western European and other States and the Group of Eastern European States have received recommendations. It is noteworthy that good practices in that regard have been identified in only four States and relate in particular to the establishment of case management systems.

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

39. While all States parties have adopted measures to regulate public procurement, their approach to doing so differs. Most States parties have adopted national legislation based on the principles of competition, transparency and objectivity, through which the provisions of article 9 of the Convention are implemented. Several States parties have managed procurement through regulations and ordinances or by delegating the issuance of rules to government ministers.

40. Most States parties have implemented decentralized procurement systems, whereby individual government bodies are responsible for their own procurement processes. Exceptions to that model are States parties that either centralize all, or only high-value, procurements through a central procurement body.

41. Integrity in procurement requires that all participants in the procurement process have the same information on deadlines, participation requirements and selection criteria, and have sufficient time to prepare their submissions. All States parties have adopted procedures to help to ensure the transparency of the procurement process. While many countries publish invitations to tender in newspapers or official journals, e-announcements are increasingly used for that purpose. In almost all States parties, the procurement legislation requires that procurement notices be published early in order to afford participants adequate time to prepare and submit tenders.

42. Using the open tender procedure by default reduces the integrity-related risks associated with artificially restricted competition and ensures that the goods or services are procured at a fair market price. The free competition of many participants in the tender process makes bid rigging and collusion less likely and easier to detect. Recommendations were made where legal frameworks did not designate competitive procurement as the preferred procurement method, prevent price-fixing in public tenders or regulate sole-source procurements.

43. Most States parties have established systems under which procurement decisions are reviewed upon receiving complaints lodged by participants. Such systems are indispensable for maintaining integrity in the procurement process. Recommendations have been made in instances where no system exists for the review

and appeal of procurement decisions or for audits of procurement processes, where time frames for filing complaints or appeals were limited or where information about the possibility to appeal was not provided to unsuccessful bidders. Further recommendations have been issued where filing an appeal is subject to certain preconditions, such as having to provide a certain percentage of the contract price to lodge an administrative appeal, or where the entity overseeing the appeal is not independent. While several States parties rely on systems of administrative review, others provide either judicial review or a combination of the two, depending on the specificities of their legal systems. In addition, most States parties provide for suspension of the award decision pending the conclusion of the review procedure.

44. Sound and merit-based procedures for the selection of procurement personnel are an important prerequisite for ensuring the effectiveness and integrity of the procurement system. Selection procedures should align with the provisions of article 8 of the Convention, with due regard to the specificity of the positions involved in procurement.

45. Regardless of the type of procurement system used, States parties are required to implement special measures to promote ethical conduct and prevent and manage conflicts of interest. In terms of regulating the personnel responsible for procurement, approximately 28 per cent of the States parties have adopted screening procedures for recruitment, legislation or rules on accountability, codes of conduct, conflicts of interest, declaration systems and periodic training policies. In two States parties, officials who have had any link to any party in the procurement process must recuse themselves from the proceedings. In another, contracting parties are forbidden to hire persons previously involved in the tender evaluation. Recommendations have been issued where States parties had no specific requirements for personnel to declare their interests or assets, or had no concrete measures in place to strengthen the integrity of procurement personnel beyond general codes of ethics.

46. Gaps in the implementation of article 9 (1) of the Convention have been identified in 33 of the 50 States parties that have completed their second-cycle reviews. Among those gaps, the need to establish effective systems of national review and appeal in public procurement matters and to take measures to improve selection and screening methods and training for procurement officials is the most common. Recommendations to rotate procurement personnel, reduce exceptions to the procurement process and collect, analyse and publish data on public procurement have been made.

Box 2

Good practices identified in the implementation of article 9 of the Convention

An important trend observed in most of the States parties is the introduction of electronic tools to facilitate procurement procedures and strengthen the integrity of the procurement process, which range from the use of electronic tender notices posted on government websites to full-scale, integrated Internet portals that enable bidders to submit offers electronically. Notably, recommendations have been issued to encourage States parties to establish electronic procurement systems.

47. A strong system for the management of public finances ensures that such funds are properly expended, strengthens confidence in public institutions and helps to maintain a high quality of public services. To meet this challenge, States parties are required under article 9 (2) of the Convention to promote transparency and accountability in the management of public finances.

48. To that end, the procedures for adoption of the national budget are of primary importance. Such procedures require the involvement of a number of institutions in drafting, reviewing and adopting the budget. Effective and inclusive budget planning helps to prioritize projects that meet the real needs of society.

49. All States parties have enacted laws, regulations and procedures concerning the adoption of their national budgets. One State party provides every public body with an annual budget kit containing clear explanations and undertakes consultations with individuals and groups outside the public sector prior to the adoption of the national budget, including through social media channels. In two States parties, all public entities are required to establish budget implementation committees or specific accounting teams to identify priority areas and address relevant issues. Another State party has developed a rating system to measure budgetary controls and created a corresponding accountability index.

50. In most States parties, national budgets are published online, and reviewers have deemed as a good practice the establishment of dedicated websites or interactive transparency portals to provide explanatory information on the national budget to the public.

51. Frequent and timely financial reporting is required in most States parties. Several States parties use their supreme audit institutions for oversight purposes and, in particular, to assess the reliability of internal controls and risk management systems. In others, each government agency has established internal audit units or departments. One State party that requires the establishment of internal audit units within each public body of a certain size regularly organizes meetings of such units to share experience and standardize audit procedures. Several States parties reported having risk committees that were designed to advise accounting officers at national institutions. In several States parties, audit institutions or internal audit departments are afforded the power to prescribe measures to address deficiencies found during the audit, in accordance with article 9 (2) of the Convention.

52. Nevertheless, in one State party, there is no effective mechanism of audit and oversight for certain categories of expenditure, and a recommendation has been issued accordingly. In addition, several States parties have received recommendations on establishing effective systems for risk management that provide for the possibility of corrective action in case of failure to comply with financial requirements.

53. Almost all States parties have taken measures to preserve the integrity of their accounting books, records, financial statements and other documents, as required pursuant to article 9 (3) of the Convention. Four States parties require that paper copies of certain electronic records be kept for a period of 10 years or longer.

D. Public reporting (art. 10) and participation of society (art. 13)

54. All States parties have taken some measures to facilitate public access to information, with approximately 62 per cent having relevant legislation in place. In approximately 32 per cent of the States parties, the right to access information is enshrined in their constitutions.

55. In approximately one quarter of the States parties reviewed, legislation on access to information either has not yet been adopted or is under development, and recommendations have been issued in that regard.

56. Furthermore, most States parties have designated or established dedicated agencies and offices (and, in two instances, transparency or communication units) to manage requests for access to information or to monitor relevant practices. In one State party, a designated commission supports citizens in obtaining access to information in the event of a refusal by a government body. Electronic services and one-stop information centres are widely used to handle information requests, with a view to simplifying administrative procedures. Eleven States parties have made reference to their participation in the Open Government Partnership.

57. Almost all States parties provide multiple channels to access information on public administration. In addition to Internet portals, such as e-government, e-citizen, e-procurement, e-invoice, e-tax and open data portals, such channels include official gazettes, national television, radio, press releases, publications, newsletters and

mobile telephone applications. In most States parties, government authorities post the majority of their reports online, while in some States parties, all open data are publicly accessible. One State party has expanded the types of information made publicly available to include the source codes and algorithms underlying administrative decisions and has required public bodies to proactively publish important documents. Reviewers recognized those actions as good practices. However, one State party has indicated that only some of its government divisions publish information online and that most of its ministries do not maintain official websites. A recommendation has been issued in that regard.

58. Most States parties have appeal mechanisms for recourse to administrative or judicial remedies in cases where access to information is not granted. However, in one State, that is only possible for information on public procurement. In the case of another, a recommendation was issued to simplify the appeals procedure to ensure that it does not impede effective access to information. Most States parties allow authorities to deny access to information if their decisions have a legitimate basis and are well-explained. In that context, the balance between the protection of privacy and personal data, national security and the right to information has been raised. For instance, in some States parties, it is an offence to wrongfully disclose official confidential information, such as Cabinet documents. Other States parties have reported that the application of national secrecy laws has limited the access to classified government information, and recommendations have been issued in that regard.

59. Most States parties respect the freedom of association, which is enshrined in their legislation or, as is the case in approximately 42 per cent of States parties, their constitutions. Freedom of expression is equally protected in most States parties.

60. Almost all States parties recognize the role played by society in preventing and combating corruption in accordance with article 13 of the Convention. In line with national legislation, initiatives and policies, various means, such as referendums, elections and direct consultations are regularly used to promote public participation in anti-corruption efforts. In addition, several States parties have included civil society representatives on national anti-corruption councils or as part of their national anti-corruption architecture. Most States parties invite non-governmental organizations to provide comments on draft laws, participate in policy review exercises or engage on corruption prevention measures. Of those, approximately 26 per cent of States parties have reported that civil society organizations have been invited to participate in the drafting and implementation of national anti-corruption strategies or policies. Recommendations have been issued where civil society organizations have not been consulted on the development of laws or the national budget.

Box 3

Good practices identified in the implementation of article 13 of the Convention

More States parties have engaged in broad consultations and coordination with civil society regarding strategies, programmes and objectives to prevent corruption. In one State party, public consultations on draft legislation are mandatory, which ensures that diverse perspectives are heard.

61. States parties regularly engage in numerous anti-corruption awareness-raising activities. Those activities include special curricula and events in schools, frequent training and information campaigns, anti-corruption television programmes and periodic reports. Civil society organizations are heavily involved in hosting and coordinating awareness-raising activities. However, statistics on the impact of those measures are not available.

62. Regarding the freedom to publish and disseminate information concerning corruption, most States parties provide for freedom of the press in their legislation,

albeit with legal restrictions to protect legitimate interests, such as public order and national security. No data on the application of those restrictions are available. At the same time, the reviews noted that, in some States parties, the freedom of the press appears to be curtailed, despite relevant provisions in national legislation.

63. Most States parties afford a number of mechanisms to facilitate the reporting of complaints to anti-corruption authorities, as required under article 13 of the Convention, including websites, mail or electronic means, toll-free numbers or hotlines and mobile applications. In one State party, complaints may be reported to any one of 18 identified institutions, which are mandated to follow up by providing feedback on the status of the complaint. Reviewers have identified this as a good practice. In almost all States parties, anonymous reporting is allowed and protected, which has been identified as a good practice.

E. Private sector (art. 12)

64. All reviewed States parties have adopted measures to prevent corruption in the private sector to various degrees. Most States have adopted national legislation regulating companies, as well as accounting and auditing standards. One State noted that anti-corruption efforts needed to include State owned enterprises.

65. Most States parties promote cooperation between law enforcement agencies and private entities through legislation or special initiatives. For example, the law enforcement authorities and private sector in one State have established joint initiatives to develop common anti-corruption strategies, while the anti-corruption agency in another State has signed memorandums of understanding with nine associations from the private sector for the prevention of corruption. Moreover, two States provide financial rewards to anyone who reports on illegal and corrupt practices to the extent that they are proved. However, the lack of resources in developing a systematic collaboration with the private sector has been identified as a challenge in a few States.

66. In order to safeguard the integrity of private entities, most States parties have adopted a variety of standards and procedures, such as codes of conduct or ethics, compliance requirements, and business judgment rules and mechanisms. In addition, a number of States have specific guidelines or standards on corporate governance in place. In almost half of the countries, special agencies or authorities have been designated to supervise corporate governance.

67. Many States have adopted business registration requirements and maintain publicly accessible registers for companies. A number of countries have also established special registers for beneficial owners or made information about beneficial owners available, which has generally been identified as a good practice. In several States, non-registration of the entity may even lead to criminal punishment. Nevertheless, some legal arrangements, such as trusts, are not fully covered by the registration provisions.

68. Limited information has been provided regarding the public oversight of the use of subsidies by private entities and licences granted by public authorities for commercial activities (relating to art. 12 (2) (d) of the Convention). It has been recommended to promote transparency in this area. Regulations on post-employment restrictions for public officials have been put into place in more than half of the States (relating to art. 12 (2) (e)). The restriction periods range from 1 to 3 years, depending on the State. Challenges identified in relation to the implementation of this provision include the inadequacy of enforcement mechanisms to ensure compliance and the limited applicability of the post-employment restrictions on certain officials.

69. Almost all States parties have established accounting and auditing standards for the private sector in various forms. Most rely on their national laws and regulations, while the rest can apply relevant international standards.

70. In implementing article 12 (3) of the Convention, many States parties apply legal sanctions for violations of the specific requirements on the maintenance of books and records based upon different laws, such as penal codes and laws regulating companies and accounting or auditing practices. Most States parties apply criminal punishment for certain offences, such as the forgery and falsification of documents, the use of false documents and the destruction of business documents. However, not all acts enumerated in article 12 (3), such as the making of off-the-books or inadequately identified transactions and the intentional destruction of bookkeeping documents earlier than foreseen by the law, are criminalized. Such conduct is subject to fines instead and, in a few States, the relevant private entities may be held individually or jointly liable with the perpetrators.

71. With regard to the implementation of article 12 (4) of the Convention, more than half of the States prohibit declaring bribes as tax-deductible expenses. Recommendations have been issued for the remaining States whose legislation either is silent on the matter or covers it implicitly.

72. There are no specific regional nuances in the implementation of article 12, as gaps have been identified in almost all States across the regional groups.

F. Measures to prevent money-laundering (art. 14)

73. All States parties have reported their domestic regulatory and supervisory regimes on countering money-laundering, including dedicated laws on countering money-laundering and the financing of terrorism, and supplementary sector-specific laws and regulations that generally contain provisions on customer due diligence, the identification of beneficial owners, record-keeping and the reporting of suspicious transactions. In many States, such legislation also includes law enforcement measures regarding money-laundering offences. Although a number of States have highlighted the establishment of beneficial ownership registers, the identification of beneficial owners has been referred to as a practical challenge.

74. Most countries apply a risk-based approach. Although some States do not articulate such an approach in their legislation, they have issued guidance to realize it in practice. Approximately 70 per cent of countries have completed or are in the process of completing their national risk assessments on money-laundering, with many of them publishing the results. The findings of the assessments have led several States to develop national anti-money-laundering strategies and implementing action plans.

75. There is some variance among the reviewed States parties in the designation of their supervisory authorities for banks and non-bank financial institutions. Some States have designated respective authorities to supervise different sectors, while one State has established a financial market authority as the sole, integrated and independent supervisory authority. Entities that are subject to anti-money-laundering obligations generally include banks and non-bank financial institutions. In a significant number of countries, reporting entities also include designated non-financial businesses and professions. However, some States have not listed all relevant businesses and professions in accordance with the recommendations of the Financial Action Task Force (FATF). To facilitate cooperation among supervisory authorities, a number of States have established national coordination committees, meetings or platforms, which have been viewed as good practices.

Box 4

Good practices identified in the implementation of article 14 of the Convention

Several States parties have set up coordination meetings, platforms or steering committees to facilitate cooperation among supervisory authorities. A number of States have contributed to the development and strengthening of regional and international cooperation in the fight against money-laundering, including by providing a series of training programmes to other countries. Making such contributions has been identified as a good practice. In addition, the establishment and upkeep of beneficial ownership registers is widely commended.

76. Almost all States parties have established financial intelligence units, many of which are of the administrative type. Most are members of the Egmont Group of Financial Intelligence Units. Some are also members or observers of regional groups of financial intelligence units. In general, reporting entities are responsible for the filing of suspicious transaction reports to such units. States have reported that anti-money-laundering supervisory and law enforcement authorities cooperate and exchange information actively at both the national and international levels.

77. All the countries have cited the adoption of rules or measures to monitor the cross-border movement of cash and appropriate bearer negotiable instruments. Such monitoring, conducted mainly by customs authorities, is usually based on disclosures, with a typical reporting threshold equivalent to 10,000 United States dollars or 10,000 euros. Sanctions such as fines, imprisonment, seizure and confiscation can be applied in many countries for failure to declare or making false declarations. However, the implementation of relevant rules was reported as a challenge in some countries.³ Almost all States have reported on their requirements for electronic funds transfers, including measures regarding money remitters. However, in some countries, financial institutions are not always required to maintain information throughout the payment chain or apply enhanced scrutiny to wire transfers containing incomplete information, and in a few other countries, money or value transfer services are not adequately regulated; recommendations have been issued accordingly.

78. Many countries have referred to their membership in FATF or FATF-style regional bodies. A large number of recommendations issued on the implementation of article 14 are equally relevant with regard to follow-up measures to address gaps or challenges identified in the evaluations carried out by FATF and FATF-style regional bodies.

79. With regard to global, regional, subregional and bilateral cooperation among different authorities for the purposes of combating money-laundering, many States parties have referred to the possibility for their financial intelligence units to share information proactively or upon request with both national authorities and foreign counterparts. In addition, a number of States can provide assistance on the basis of bilateral agreements or through multilateral forums, such as the Egmont Group, FATF and INTERPOL.

80. Overall, around 80 per cent of the States of the African Group and the Asian-Pacific Group have been issued recommendations regarding their implementation of article 14 of the Convention. Challenges have been identified in a lower percentage of countries belonging to other regional groups.

IV. Outlook

81. The present report reflects the analysis of 50 completed executive summaries and the detailed information provided in the country review reports. As more data become available from completed country reviews, a more comprehensive analysis

³ Lao People's Democratic Republic, Myanmar.

will be made of trends and nuances in implementation , and a regional addendum will be developed for the next iteration of the thematic report with a view to keeping the Implementation Review Group informed of the successes and challenges identified in the reviews.
