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**Review of implementation of the United Nations
Convention against Corruption**

**Implementation of chapter V (Asset recovery) of the
United Nations Convention against Corruption**

Thematic report prepared by the Secretariat

Summary

The present report contains a compilation of the most common and relevant information on successes, good practices and challenges identified and observations made during the second cycle of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption with regard to the implementation of chapter V (Asset recovery) of the Convention.

* [CAC/COSP/IRG/2019/1](#).



I. Scope and structure

1. The present thematic report contains a compilation of the most common and relevant information on successes, good practices and challenges identified, as well as observations made, in the executive summaries and country review reports, organized by theme, for submission to the Implementation Review Group, to serve as the basis for the Group's analytical work, 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.

2. The report contains information on the implementation of chapter V (Asset recovery) of the United Nations Convention against Corruption by States parties under review in the second cycle of the Mechanism. It is based on information included in the 20 country review reports that were complete, or close to completion, at the time of drafting.¹ The report focuses on current trends in and examples of implementation, and includes tables and figures showing the most commonly encountered challenges and good practices.

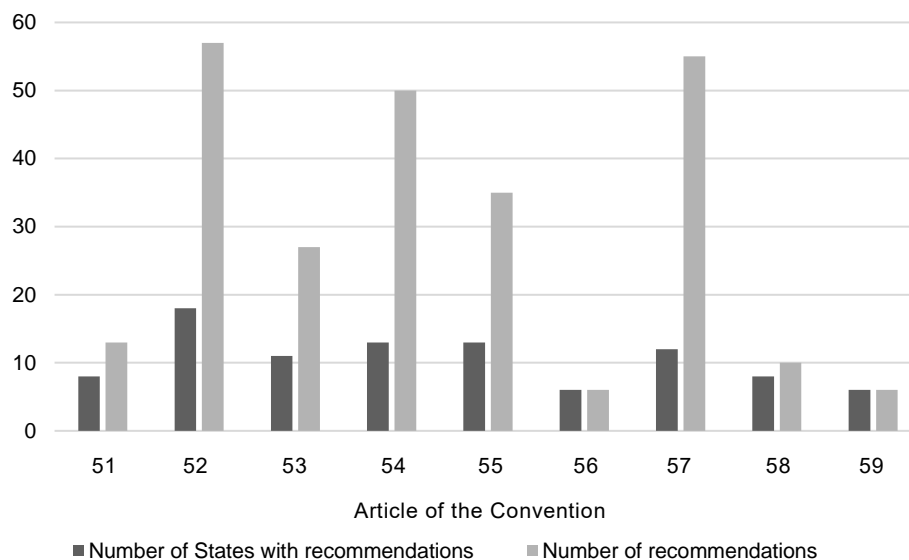
3. As the various articles of the four substantive chapters of the Convention are closely related, the present report builds upon the previous thematic reports covering the implementation of chapter V, as well as of chapters III and IV, of the Convention, which were under review in the first cycle. The structure of the present report follows that of the executive summaries and thus groups articles and topics that are closely related in clusters.

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

4. The following figures and tables provide an overview of the most prevalent challenges and good practices in the implementation of chapter V.

Figure I

Challenges identified in the implementation of chapter V of the United Nations Convention against Corruption



¹ Data used in the preparation of the present report is based on finalized country reviews as at 20 February 2019.

Table 1
Most prevalent challenges in the implementation of chapter V of the United Nations Convention against Corruption

<i>Article of the Convention</i>	<i>No. of States with recommendations</i>	<i>No. of recommendations issued</i>	<i>Most prevalent challenges in implementation (in order of prevalence of identified challenge)</i>
Article 52	18	57	Identification of foreign and domestic politically exposed persons and beneficial owners; reporting of foreign interests; effectiveness of the asset declaration system; prohibition of shell banks; lack of resources of competent authorities
Article 54	13	50	No or limited non-conviction-based confiscation; no direct enforcement of foreign confiscation orders or exclusion of certain Convention offences; no mechanisms for preservation of property for confiscation; no measures to freeze or seize upon an order or request by a foreign State
Article 55	13	35	Lack of mechanisms to give effect to foreign order or obtain domestic order for search, seizure or confiscation; no obligation to give, before lifting any provisional measure, the requesting State party an opportunity to present its reasons in favour of continuing the measure; Convention could not be used as treaty basis
Article 57	12	55	Insufficient legislative or other measures for the return of proceeds to requesting States; no regulation of costs or deduction of expenses in the course of mutual legal assistance provision
Article 53	11	27	Lack of mechanisms for foreign States to establish title or ownership of property, be awarded compensation or damages or be recognized as legitimate owners of property in foreign confiscation proceedings
Article 51	8	13	Complicated asset recovery procedures; inadequate legislation and/or procedures for mutual legal assistance; lack of capacity of competent authorities
Article 58	8	10	Emergency freezing powers for the financial intelligence units; insufficient financial intelligence unit capacity, including in the area of international cooperation
Article 56	6	6	Lack of incorporation of regional standards into domestic law; insufficient measures and coverage for the spontaneous transmission of information
Article 59	6	6	Insufficient ability to use the Convention as a treaty basis; lack or shortage of bilateral or multilateral agreements or arrangements

Figure II
Good practices identified in the implementation of chapter V of the United Nations Convention against Corruption

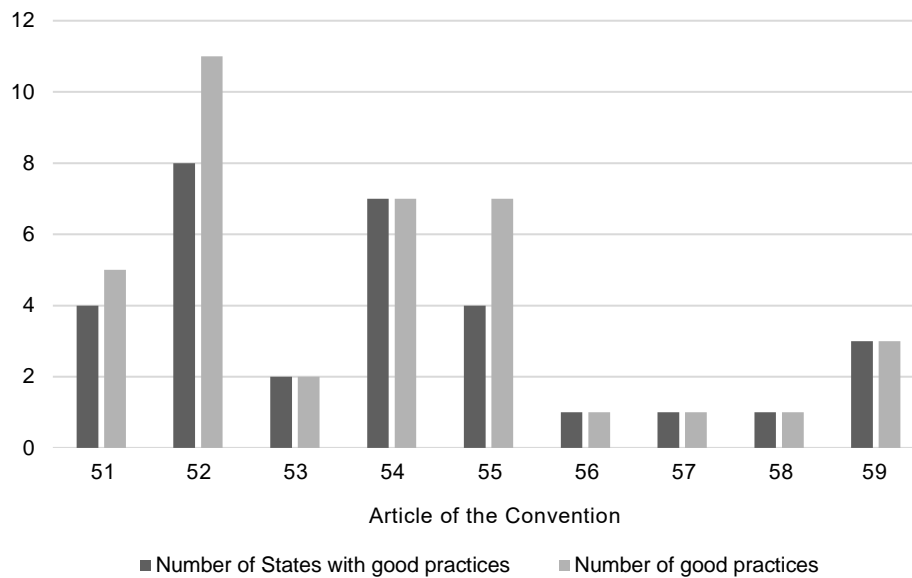


Table 2
Most prevalent good practices in the implementation of chapter V of the Convention

Article of the Convention	No. of States with good practices	No. of good practices	Most prevalent good practices (in order of prevalence of identified good practice)
Article 52	8	11	Definition of politically exposed persons includes domestic politically exposed persons; establishment of registry of bank accounts or of beneficial owners; sharing of financial intelligence with other States
Article 54	7	7	Capacity to provide international cooperation in asset recovery measures in both conviction-based and non-conviction-based proceedings; low evidentiary and formal requirements for the enforcement of a foreign, or issuance of a domestic, freezing, seizure or confiscation order
Article 55	4	7	Close cooperation and consultations between requesting and requested State; use of the Convention as legal basis for mutual legal assistance
Article 51	4	5	Active engagement in the development and promotion of international cooperation; institutional arrangements for asset recovery
Article 59	3	3	Use of various networks and agreements to facilitate international cooperation
Article 53	2	2	Foreign States treated like any other legal person
Article 56	1	1	Spontaneous sharing of information with a wide range of counterparts
Article 57	1	1	Return of property to bona fide third parties
Article 58	1	1	Close cooperation with other financial intelligence units

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

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

5. Consistent with the information presented in the previous thematic report, all States parties reported they had in place a domestic framework or various arrangements for asset recovery (art. 51). At the regulatory level, more than one third of the States had established a strong and comprehensive framework for the recovery of assets. Other States could, to various extents, apply procedures reflected in their national legislation, such as a mutual legal assistance act, a criminal procedure code or an anti-money-laundering law, for the confiscation and return of assets. Two States parties had enacted legislation on the recovery of assets in a single or dedicated legislative instrument. Two States had formulated an asset recovery guide to facilitate a relevant process, while three States had established, or were in the process of finalizing, guidelines for the provision of mutual legal assistance. A few States reported that they were at the early stage of developing an asset recovery regime.

6. At the institutional level, a small number of States with completed reviews had designated a separate entity for the recovery of assets, while one State was in the process of creating such a body at the time of the review. Another State had created a specialized inter-agency asset recovery task force to provide a coordinated and integrated approach to asset confiscation. Several States had established a specialized entity for the management of assets, whereas a few States used a more decentralized approach involving institutions such as the prosecution, tax and finance authorities and the police to trace, preserve and manage assets prior to confiscation. In this vein, one State reported that asset management guidelines were regularly used to assist each law enforcement agency in handling the management and preservation of seized assets. It was recommended that some States that did not have relevant institutional arrangements consider establishing a dedicated asset recovery agency without prejudice to their domestic laws.

7. At the practical level, a number of States presented successful cases and experiences in terms of asset recovery. Some States indicated that while they had never received a request in relation to asset recovery, they could provide such assistance under their domestic legal systems.

8. Consistent with the information presented in the previous thematic report, almost all States reviewed so far allowed for the spontaneous transmission of information which might lead to a request under chapter V of the Convention (art. 56). Some States stipulated transmission in their anti-money-laundering laws, while several others provided for such provisions in their mutual legal assistance legislation and one State provided for it in its anti-corruption law. In other cases, States without specific legislation on the spontaneous transmission of information nonetheless had an existing practice of providing assistance without prior request. Most States empowered their financial intelligence units to exchange information without prior request by virtue of their membership in the Egmont Group of Financial Intelligence Units, which is a platform for the secure exchange of expertise and financial intelligence to combat money-laundering and the financing of terrorism. In addition, several States reported that they could use law enforcement channels or asset recovery networks to proactively share information. However, one State indicated that spontaneous information-sharing was not possible owing to a lack of legal basis.

9. All reporting States parties had ratified multilateral or bilateral agreements or made relevant arrangements to enhance international cooperation undertaken pursuant to chapter V (art. 59). This was consistent with information provided in the previous thematic report (CAC/COSP/IRG/2018/5). Some States also relied on a number of law enforcement or mutual legal assistance networks for asset recovery. Moreover, many States parties could use the Convention as a legal basis for

international cooperation and allow the direct application of its self-executing provisions.

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

10. States parties reported that they had taken a series of measures for the prevention and detection of transfers of proceeds of crime, including the use of a risk-based approach (art. 52). This trend was also identified in the previous thematic report. Almost all States reported having in place various requirements in their anti-money-laundering laws and other legislation for financial institutions to conduct customer due diligence (art. 52, para. 1). One State's legislation, however, was found to lack a general customer due diligence obligation. All but two States had measures in place for determining the identity of beneficial owners of funds deposited into high-value accounts. In this regard, the establishment of a beneficial ownership register in many European Union countries had been identified as a good practice. Almost all States had measures for conducting enhanced scrutiny of accounts sought or maintained by or on behalf of politically exposed persons and their family members and close associates. However, no common trend could be determined with respect to the treatment of domestic, as opposed to foreign, politically exposed persons. Some States provided a definition of domestic politically exposed persons but faced challenges in the determination of foreign politically exposed persons. For example, one State often prepared profiles of domestic politically exposed persons and shared them with other financial institutions – a practice that was not applicable to foreign politically exposed persons. Several other States excluded domestic politically exposed persons from their definition of politically exposed persons. In this respect, one State held that foreign politically exposed persons always posed high risks, while the risks posed by domestic politically exposed persons could be decided on a case-by-case basis only.

11. The majority of States had issued advisories or guidelines for reporting entities to apply enhanced scrutiny and notify financial institutions of the identity of particular natural or legal persons to whose accounts such institutions would be expected to apply enhanced scrutiny (art. 52, para. 2). All States had legislation that provided for the maintenance of adequate records of accounts and transactions by financial institutions (art. 52, para. 3). Such maintenance ranged from periods of 5 to 15 years. However, one State reported that its record-keeping requirements did not apply to beneficial owners. All but two States had measures in place intended to prevent the establishment of banks that had no physical presence and that were not affiliated with a regulated financial group (art. 52, para. 4). Financial institutions in most States were obliged to refuse entering into relationships with such “shell banks”. The majority of States also reported their measures on prohibiting the continuation of a correspondent banking relationship with such institutions or other foreign financial institutions that permitted their accounts to be used by banks that had no physical presence and that were not affiliated with a regulated financial group.

12. Most States parties reported that they had financial disclosure systems for certain levels of public officials (art. 52, para. 5). Some States provided that direct family members of selected public officials, such as spouses and children, were also subject to the same asset declaration obligations, while two States even extended such disclosure systems to all public officials. With regard to verification, some States reported that resources or means to verify asset declarations were not adequate. A few States parties indicated that electronic tools were either used or being developed for submission and verification. One State that did not have a financial declaration system for its public officials noted that such a system for ensuring transparency with regard to the personal financial situation of officials was considered to be an interference with the right to privacy. However, its public officials were subject to tax declarations of their income and assets worldwide. Of the States with financial disclosure systems in place, more than half imposed sanctions for non-compliance.

13. There was some variation among States parties regarding public accessibility to asset declarations. A number of States only granted law enforcement authorities access to the declarations. In some States parties, asset declarations were generally kept confidential unless specifically required on special account. For instance, one State reported that declarations were not available online but could be requested from the constitutional court, which was designated as the depository institution. Another State could provide relevant access upon request on the basis of free access to information. In several States, however, asset declarations were made available to the public in summary form or through a public register. With regard to foreign assets, disclosure requirements in some States applied equally to foreign properties and financial interests, whereas in other States foreign assets were not subject to asset disclosure. Only a few States reported that they could share such information with the competent authorities of other States parties when the information was required to recover proceeds of corruption offences.

14. A small number of States reported that they had introduced measures to require appropriate public officials that had an interest in or signature or other authority over a financial account in a foreign State to report that relationship to the appropriate authorities and to maintain appropriate records related to such accounts (art. 52, para. 6). One State required its public officials to declare their worldwide income and assets in their tax declarations. In the absence of such measures, many States received recommendations to consider measures to require appropriate public officials to report that relationship and to maintain records, as well as to consider measures for appropriate sanctions for non-compliance.

15. Consistent with the information presented in the previous thematic report, all States had established financial intelligence units responsible for receiving, analysing and disseminating to competent authorities reports of suspicious financial transactions (art. 58). In addition, all except three States parties were members of the Egmont Group of Financial Intelligence Units, although the models and functions of the units varied. Some had both administrative and investigative mandates, while others were performing mainly administrative functions. One salient variance lay in the power of financial intelligence units to take interim measures in emergency cases. For example, some were reported to be able to freeze assets or suspend transactions for up to 48 hours in urgent situations, while others did not have such powers and could only turn to law enforcement or the judiciary. Other challenges identified included inadequate allocation of resources to the units, lack of internal coordination and insufficient submission of suspicious transaction reports.

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

16. Foreign States could initiate civil action to establish title to or ownership of property or seek compensation or damages when harmed by a Convention offence in almost all States under review (art. 53, paras. (a) and (b)). One State had established explicit jurisdiction over civil actions brought by States parties to the Convention regarding compensation or the recognition of property rights in property acquired through acts of corruption. The other States either referred to legislation granting locus standi to legal persons, with the definition of legal persons including States, or indicated that foreign States were entitled to bring civil action under the general provisions of civil litigation under common law. Some States parties stated that no regulation existed to prevent foreign States from initiating civil action. Several States referred to the need to comply with domestic civil procedure, including the need to hire local counsel, the need to demonstrate a legitimate interest or the need for a deposit to be paid prior to a lawsuit being heard. Only one State reported that there was no way for foreign States to sue for compensation or damages and that another State's claim as a legitimate owner of property acquired through the commission of

an offence could not be recognized by the courts or competent authorities when deciding on confiscation. About half of the States indicated that they had no experience with foreign States initiating civil actions in their courts.

17. Regarding the necessary measures to permit courts or competent authorities to recognize another State party's claim as a legitimate owner of property when having to decide on confiscation (art. 53, para. (c)), many States referred to the general regulations on the protection of bona fide third parties in criminal proceedings, which were regulated in all States (art. 55, para. 8). Possibilities included the option for authorities or courts to order restitution even without a claim for ownership having been made; the granting to an affected third party, upon application, of the proceeds of crime, their value or revenue from their sale; or a claim of ownership through proof that the assets were not proceeds of crime. One State reported that victims and their representatives and heirs could initiate criminal proceedings with the aim of having their legitimate ownership recognized. In some States, civil claims had to be pursued through civil action, which in turn could be filed in criminal court or joined with pending criminal proceedings. In one State, pending or intended civil litigation could be taken into account when a decision was being made on a confiscation order. A number of States parties indicated that there was no means domestically for foreign States to have their legitimate ownership recognized in confiscation proceedings, with one State stating that legislative reform in this regard was under way.

18. Most States parties did not indicate a specific way of giving notice to prospective victims or legitimate owners of property. In one State, when the underlying offence was not prosecuted or there was no conviction, prior to confiscation a notice was published in the gazette addressed to any person claiming to have an interest in the property to attend before the court to show cause as to why the property should not be confiscated. In another State, where the owner of a property was unknown or could not be found, a notice had to be published in two daily newspapers of wide circulation in order to locate possible bona fide third parties.

19. The majority of States parties had taken measures to allow for confiscation without a criminal conviction (art. 54, para. 1 (c)), either through confiscation in rem as part of criminal proceedings, or through civil forfeiture proceedings. Some States limited the grounds for non-conviction-based confiscation to the death or flight of the defendant and some included the mere absence of the defendant, while in other States it sufficed that adequate grounds for confiscation or forfeiture existed, but deciding thereon in criminal proceedings was not possible, such as where an offender was unknown. One State had established mandatory so-called preventive confiscation for persons considered "generally dangerous", including persons suspected of defrauding public funds, persons considered to be "habitual bribers" or persons "used to living with the proceeds of illegal activities". Confiscation proceedings could be initiated in that State even after the death of a suspect, with the heirs to the property not being awarded third party protection rights. A number of States had not established non-conviction-based confiscation or forfeiture. One State limited civil forfeiture to proceeds or instrumentalities of a "serious crime-related activity", and in one State party, proceedings without conviction were possible only in cases of illicit enrichment.

20. With regard to article 54, paragraph 2 (c), some States reported on measures that they had in place regarding the management of seized assets. One State indicated that each law enforcement agency handled the management and preservation of seized assets in accordance with its own guidelines and that, once forfeited, such assets could be sold or used by the agency in their operations. A few States had dedicated agencies for the management of assets, with one State explicitly including property seized or confiscated in the course of international cooperation under the authority of the agency. One State party indicated that its authority had limited capacity and resources and that asset management consisted primarily of storing assets in a dedicated facility. In another State, asset management explicitly included the assessment of the quality of the assets and a determination of steps needed for their preservation, such as making sales and investments and paying the proceeds into a trust fund. Another State

had the option of appointing trustees or asset managers who could do anything they considered reasonably necessary or appropriate to preserve or protect the property and its value, including becoming parties to any civil proceedings that affected the property, ensuring that the property was insured or taking care of employees when the property consisted of a trade or business. At the time of the review, two States were considering establishing a central asset management office.

21. Confiscation orders issued by a court of another State party could be given effect in most States (art. 54, para. 1 (a)). A number of States parties allowed for direct enforcement of foreign judgments and confiscation orders, with a few States parties also permitting the direct enforcement of foreign non-conviction-based confiscation orders. In some States, foreign confiscation orders had to be reviewed and validated by domestic authorities, namely, the central authority, the attorney general or the court, to give them effect and render them enforceable. One State party applied a mixed approach and allowed for direct enforcement of confiscation orders from States with which a treaty existed, but required a domestic decision on enforceability for orders from other States, which in turn had to be designated under domestic legislation. One State limited enforceable confiscation orders to those issued on the basis of an underlying “serious offence” according to the receiving State’s domestic legislation. In turn, the State accepted a certificate issued by an appropriate foreign authority stating that a foreign forfeiture order was in force and was not subject to appeal as sufficient proof for the registration of the foreign confiscation order. Three States parties reported that they could not enforce a foreign confiscation order either directly or through the domestic authorities giving effect to it. In those States, a domestic confiscation order had to be obtained based on the foreign order. In two States where foreign orders were directly enforceable, domestic confiscation proceedings would often be opened in parallel in order to accelerate the process. The foreign request would be used as evidence in the proceedings and attached to an affidavit. In one of those States, confiscation or, alternatively, search or seizure, was then possible within 24 hours. Several States indicated that no requests for execution of a foreign confiscation order had yet been received.

22. Most States could execute foreign freezing or seizure orders, or requests from another State to freeze or seize, either directly, sometimes requiring a domestic decision on enforceability based on domestic evidentiary standards, or indirectly through the issuance of a corresponding domestic order (art. 54, para. 2 (a) and (b)). In one State, the issuance of a domestic order was dependent on a foreign order being registered later, while in another State, as was the case for confiscation orders, foreign requests for freezing or seizure could be executed only when the underlying offence was considered “serious” under the requested State’s domestic legislation. Two States limited the ability to give effect to search and seizure orders to only those with certain underlying offences, such as money-laundering and bribery, and one of those States could only give effect to search and seizure orders from specified States. Two States, while being able to obtain and execute a domestic search or seizure order based on a foreign order, had no mechanism in place to freeze or seize property upon a request from another State. Four States parties reported that they could issue domestic freezing orders proactively, without a request or foreign court order, and in one State the order could even be issued on the sole basis of media reports. Four States parties indicated that diplomatic channels were not required for mutual legal assistance requests regarding freezing or seizure of assets, but that informal cooperation, such as police-to-police cooperation or cooperation between financial intelligence units or asset recovery offices would suffice. In one State, administrative freezing orders for up to seven days could be issued by the financial intelligence unit.

23. While most States had regulations in place to facilitate the execution of mutual legal assistance requests for search, seizure or confiscation (arts. 54 and 55, paras. 1 and 2), many States indicated that no requests had been received to date regarding the enforcement of foreign orders or that there was little experience in general with respect to mutual legal assistance requests, including for the recovery of assets. Thus, the implementation of article 55, paragraphs 1 and 2, could not be

assessed in some States. In a few States, the taking of measures regarding the execution of requests for search, seizure or confiscation was at the discretion of the domestic authorities, while one State limited cooperation to requests under its anti-money-laundering code and another State limited assistance to the issuance of a search warrant. One State described how, during an initial investigation based merely on an informal request, possible property of the offender was discovered in two other States and the information was forwarded to the requesting State party.

24. All States parties had domestically regulated the content required for requests for mutual legal assistance (art. 55, para. 3), and the rendering of assistance was subject to the provisions of domestic law and procedural rules, or any bilateral or multilateral agreement or arrangement (art. 55, para. 4). The content required for requests included information to satisfy the dual criminality requirement, details of specific procedures or requirements to be complied with or the desired time limit to carry out the request. One State party required a statement specifying the measures taken by the requesting State to give appropriate notice to bona fide third parties and to ensure due process. Another State indicated that translation into one of its official languages was needed and that the translation had to be verified by a certified court interpreter, while one State allowed for the request and accompanying documents to be expressed in either the language of the requesting party or that of the requested party. One State provided a model form for mutual legal assistance requests online, which included fields for all required information. In that State and in several others, however, failure to provide sufficient information was not considered a ground for refusing assistance.

25. Those States parties that had not previously furnished copies of their laws and regulations that gave effect to article 55 of the Convention and any subsequent changes to those laws and regulations or a description thereof to the Secretary-General, did so in the course of the first or second cycle of their review (art. 55, para. 5).

26. Most States did not make cooperation for the purposes of confiscation conditional on the existence of a treaty (art. 55, para. 6). In the absence of a bilateral or multilateral treaty, mutual legal assistance could be provided on the basis of reciprocity or domestic legislation. One State limited the provision of legal assistance to States parties with which an arrangement existed; which were States parties to the same multilateral Convention, with that Convention having been transposed into domestic law; or which were designated through domestic legislation. In many States, the Convention was applicable directly. In one State, while the Convention could be used as a legal basis for cooperation, States had to be designated under domestic legislation as an additional requirement.

27. With the exception of one State, all States parties listed grounds for refusal of incoming mutual legal assistance requests (art. 55, paras. 4 and 7). Many States could provide assistance regardless of the value of the property, while some States listed a *de minimis* value of the property or the imposition of an excessive burden on the requested State's resources as a possible reason for refusal. Sufficient evidence was needed by most States in order to execute a mutual legal assistance request, but generally States would request the requesting State to present such evidence prior to lifting provisional measures or refusing assistance. One State, when not receiving requested additional information within a reasonable period of time, would provisionally close the case and re-open it upon receipt of the information. Two States indicated that no request for cooperation regarding the recovery of assets had ever been denied. Other reasons for refusal listed by States included the fact that the underlying offence could not be prosecuted in the requested State, for example for lack of dual criminality or a conflict with a domestic investigation, prosecution or judicial proceeding or the expiration of the statute of limitations in the requesting or requested State. Possible prejudice or threat to the requested State's *ordre public*, sovereignty, security or fundamental principles of law were also listed as possible grounds for refusing requests, as was prosecution of offences of a political character or prosecution that was considered discriminatory. One State could refuse requests if

the foreign decision was issued under conditions that did not offer sufficient guarantees with regard to the rights of the defence, and another State could refuse assistance if the underlying evidence had been acquired through a criminal offence or if the proceedings had violated basic human rights or the rule of law.

28. All States except three indicated that consultations with a requesting State party would take place prior to the lifting of any provisional measure and that the requesting State party would be given an opportunity to present its reason in favour of continuing the measure (art. 55, para. 8). Countries either had specific legislation on the issue or could consult as a matter of practice. In States where the Convention was self-executing, consultations were seen as mandatory by the implementing States parties. Two States parties included provisions on consultations in all their bilateral treaties to emulate such practices, and one of them ensured consultations even when circumstances would permit the refusal of the request. In two of the States that indicated that consultations were not mandatory or common, notice was given to the requesting State prior to the lifting of any provisional measures. One State referred to a letter of refusal as the last resort and, as a matter of practice, always wrote to requesting States identifying potential grounds for refusal and requesting the issuance of a new or supplementary request. The same State conducted regular formal and informal meetings with the diplomatic representatives of foreign requesting States to address issues regarding submitted mutual legal assistance requests. A few States parties encouraged foreign authorities to submit draft requests for review prior to submitting the formal request to ensure that all necessary information was included. One State party reported that discussions had been held with another over a number of months in relation to the form and content of a particular order that they were seeking to have registered, resulting in the successful registration of the order. One State used senior official meetings with members from the same region as a platform for discussion and coordination.

D. Return and disposal of assets (article 57)

29. Most States parties confirmed that they had some provisions on the return or disposal of assets, although in some States asset return was foreseen only for certain offences, under narrow procedural circumstances or at the discretion of the Minister. In several States, confiscated property could be returned by direct application of the Convention, while the domestic legal bases for international cooperation in criminal matters could be found in mutual legal assistance, criminal procedure or proceeds of crimes acts, or sometimes in anti-corruption or anti-money-laundering and countering financing of terrorism acts. Two States reported that amendment bills were in process with a view to allowing for the return of assets to a requesting State.

30. In most States, assets became the property of the State when confiscated, but could subsequently be returned to the requesting State (art. 57, paras. 2 and 3). In most States, the applicable legislation provided for the protection of the interests of bona fide third parties (art. 57, para. 2). One State allowed for the direct transfer of confiscated assets to a victim in a foreign State, even without a request by that State. In another State, the confiscation order did not need to be conviction-based to allow for the return of assets. In another State, assets could be returned solely upon sufficient demonstration of a reasonable basis for ownership by the requesting State.

31. Most States parties could deduct reasonable expenses incurred in investigations, prosecutions or judicial proceedings leading to the return or disposal of confiscated property (art. 57, para. 4). Five States parties reported that assets were usually returned in full, without any deductions having been made. One State indicated that expenses would be deducted only in exceptional cases and that to date, assets had always been returned in full.

32. Most States parties could conclude, on a case-by-case basis, agreements or arrangements for the final disposal of confiscated property, and a few States had

concluded such agreements or arrangements, leading to the return or partial return of assets to the requesting State (art. 57, para. 5).

33. In practice, however, few States had practical experience with the return of sizeable amounts of assets, while most States indicated that no return had taken place so far, usually because no requests had been received or made. To date, a good practice with regard to the successful return of assets had been identified in only one State.

IV. Outlook

34. The present report contains the analysis of 20 finalized country reviews. Once more executive summaries have been finalized and more data has been compiled, more comprehensive analysis and regional addenda will be produced to keep the Implementation Review Group informed of successes and challenges identified in the course of the reviews.
