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## Implementation Review Group

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State of implementation of the United Nations

Convention against Corruption

## Implementation of provisions of a cross-cutting nature in chapter II (Preventive measures) and 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 information available as at 31 May 2023 on successes, good practices, challenges and observations identified during the second cycle of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption, with a focus on cross-cutting issues with regard to the implementation of chapter II (Preventive measures) and chapter V (Asset recovery) of the Convention. The report also endeavours to establish correlations with the findings of the first review cycle.



## I. Scope and structure of the report

1. The present thematic report contains a compilation of the most relevant information on successes, good practices, challenges and observations contained in the executive summaries and country review reports emanating from the Mechanism for the Review of Implementation of the United Nations Convention against Corruption, in accordance with paragraphs 35 and 44 of the terms of reference of the Mechanism.

2. For the purposes of providing more detailed information on the implementation of the Convention by States parties, this report contains information on the implementation of cross-cutting issues with regard to chapter II (Preventive measures) and chapter V (Asset recovery) of the Convention. The information is complemented by the thematic reports on the implementation of chapter II ([CAC/COSP/IRG/2023/5](#)) and chapter V ([CAC/COSP/IRG/2023/9](#)) and the regional supplements thereto ([CAC/COSP/IRG/2023/5/Add.1](#) and [CAC/COSP/IRG/2023/9/Add.1](#)), which focus on the other topics and provisions under review in the second cycle. Given that the thematic report on chapter II was submitted to the Implementation Review Group in June 2023, the number of reviews analysed in the report was smaller.<sup>1</sup> Therefore, the conclusions of the different reports may vary depending on the information available at the time of drafting.

3. The present report is based on the information included in the 72 executive summaries and country review reports that had been completed as at 31 May 2023.<sup>2</sup> The report focuses on existing trends in and examples of implementation and includes cumulative tables and figures depicting the most common challenges and good practices.<sup>3</sup> Regional differences have been reflected as appropriate.

4. The structure of the report mirrors the structure of the executive summaries by clustering closely linked articles and topics. More specifically, the report analyses asset declarations, financial disclosure systems and prevention of conflicts of interest (art. 7, para. 4; art. 8, para. 5; and art. 52, paras. 5 and 6); beneficial ownership identification (art. 12, para. 2 (c); art. 14, para. 1 (a); and art. 52, para. 1); and measures to prevent money-laundering, the prevention and detection of transfers of proceeds of crime, and financial intelligence units (arts. 14, 52 and 58). In line with the regional supplements that were issued for the thematic reports on the implementation of chapters II and V, the current report is also complemented by a regional supplement ([CAC/COSP/IRG/2023/10/Add.1](#)).

5. As the number of executive summaries and country review reports finalized under the second review cycle has grown and thus become more representative, section V of this report endeavours to provide information about the correlation between certain provisions under review in the first review cycle (chapters III and IV) and the second review cycle (chapters II and V) and builds upon the previous thematic reports.

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<sup>1</sup> The thematic report on chapter II submitted to the Implementation Review Group in June 2023 ([CAC/COSP/IRG/2023/5](#)) contains an analysis of executive summaries and country review reports of 62 reviews.

<sup>2</sup> The present report builds on 20 completed reviews for the Group of African States, 24 for the Group of Asia-Pacific States, 13 for the Group of Western European and other States, 8 for the Group of Latin American and Caribbean States and 7 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.

<sup>3</sup> In line with the outcome of the discussions of the Implementation Review Group, the thematic reports and the reports on implementation at the regional level are no longer anonymized; countries featured as illustrative examples of good practices have been identified throughout the report.

## II. General observations on challenges and good practices in the implementation of cross-cutting provisions in selected articles of chapters II and V of the Convention

6. The figures and tables below provide an overview of the most prevalent challenges and good practices identified in the implementation of the selected articles of chapters II and V, organized by article of the Convention. For a better comparison among provisions, figures I and III contain information on articles analysed in their entirety, while figures II and IV contain information on provisions of which some subparagraphs were analysed separately.

Figure I

### Challenges identified in the implementation of articles 14, 52 and 58 of the Convention, by article

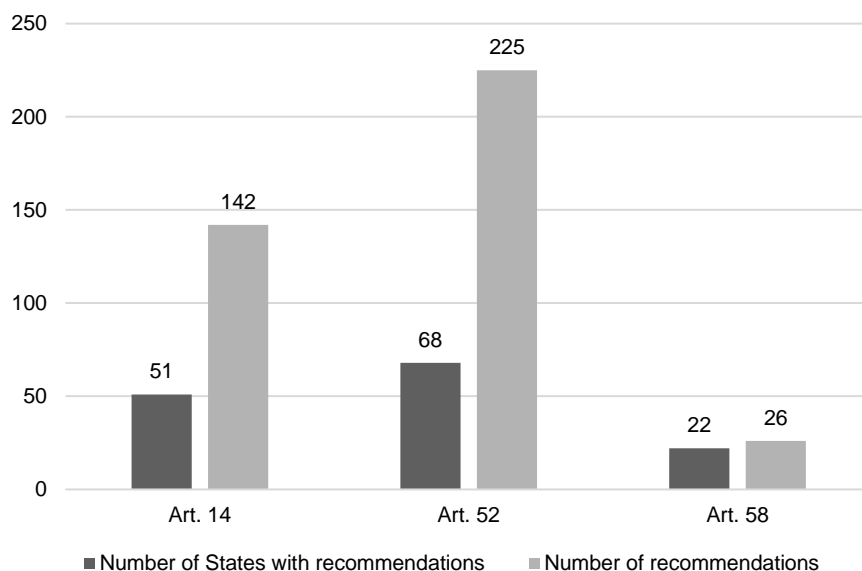


Figure II

### Challenges identified in the implementation of article 7, paragraph 4; article 8, paragraph 5; article 12, paragraph 2 (c); article 14, paragraph 1 (a); and article 52, paragraphs 1, 5 and 6, of the Convention, by article

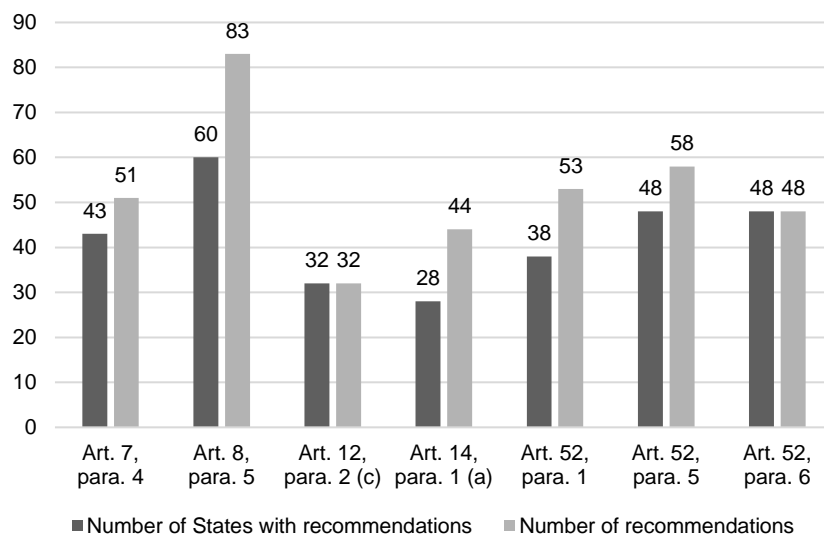


Table 1  
**Most prevalent challenges in the implementation of selected provisions of the Convention**

<i>Article of the Convention</i>	<i>Most prevalent challenges in implementation (in order of article of the Convention)</i>
Art. 7, para. 4	Adoption or strengthening of systems for a wide range of stakeholders to prevent conflicts of interest
Art. 8, para. 5	Declaration of outside activities, employment, investments, assets and substantial gifts or benefits; verification of declarations
Art. 12, para. 2 (c)	Enhancement of transparency regarding the owners and managers of private entities
Art. 14, para. 1 (a)	Institutional weaknesses in financial supervision; lack or inefficient identification of beneficial owners; lack of implementation of a risk-based approach
Art. 14, paras. 1 (b)–5	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 such as the Financial Action Task Force and Financial Action Task Force-style regional 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
Art. 52, para. 1	Identification of foreign and domestic politically exposed persons and beneficial owners; deficiencies in the scope of politically exposed persons
Art. 52, paras. 2–4	Inadequate issuance of advisories; prohibition of shell banks; lack of resources of competent authorities
Art. 52, para. 5	Ineffective financial disclosure system
Art. 52, para. 6	Reporting of interest in or signature or other authority over foreign accounts
Art. 58	Lack of emergency freezing powers for financial intelligence units; inadequate allocation of resources, inadequate independence and insufficient capacity of financial intelligence units, including in the area of inter-agency and international cooperation

Figure III  
**Good practices identified in the implementation of articles 14, 52 and 58 of the Convention, by article**

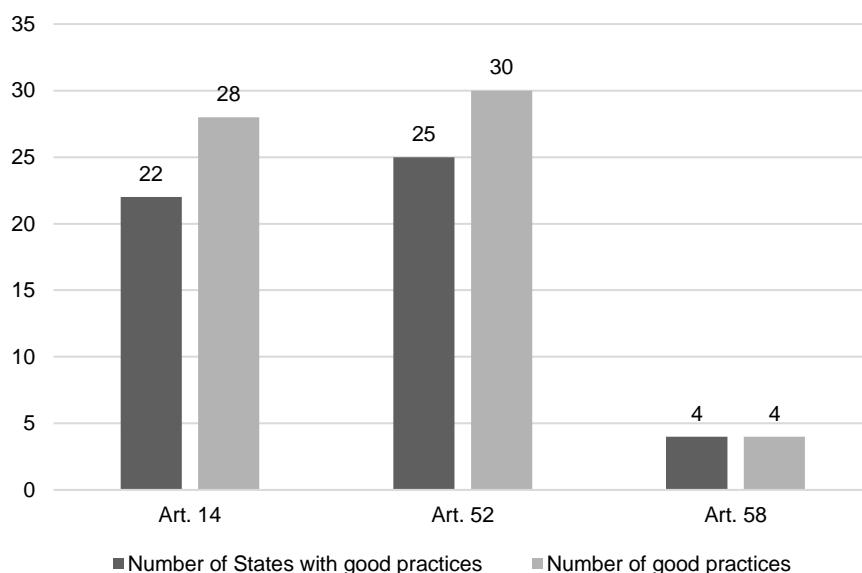


Figure IV

**Good practices identified in the implementation of article 7, paragraph 4; article 8, paragraph 5; article 12, paragraph 2 (c); article 14, paragraph 1 (a); and article 52, paragraphs 1, 5 and 6, of the Convention, by article**

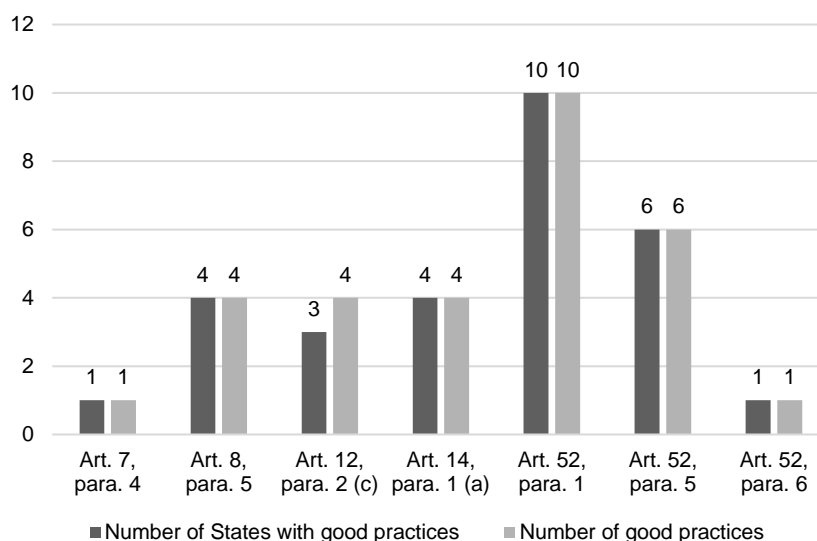


Table 2

**Most prevalent good practices in the implementation of selected provisions of the Convention**

<i>Article of the Convention</i>	<i>Most prevalent good practices (in order of article of the Convention)</i>
Art. 7, para. 4	Structured approach to promoting transparency and preventing and managing conflicts of interest among different categories of public officials
Art. 8, para. 5	Efforts in establishing, modernizing or reinforcing the asset declaration system
Art. 12, para. 2 (c)	Establishment and updating of corporation registries; publication of beneficial ownership information
Art. 14, para. 1 (a)	Well-established national regime for preventing money-laundering and the financing of terrorism; the establishment and institutional setting up of public beneficial ownership registries; outreach activities for financial institutions
Art. 14, paras. 1 (b)–5	Sound domestic inter-agency coordination mechanisms; promotion of regional and international cooperation on countering money-laundering
Art. 52, para. 1	Definition of politically exposed persons includes domestic politically exposed persons; establishment of beneficial ownership information; ability to exchange financial information
Art. 52, paras. 2–4	Establishment of a registry of bank accounts or of beneficial owners; sharing of financial intelligence with other States; prohibition of correspondent banking relationships with shell banks
Art. 52, para. 5	Effective asset declaration system; verification and publication of declarations
Art. 52, para. 6	Efforts in reinforcing asset declaration systems
Art. 58	Close cooperation with foreign financial intelligence units; reports issued by the financial intelligence unit can be incorporated into a judicial proceeding as evidence; sharing of information by the financial intelligence unit on its role and responsibilities

7. A total of 492 challenges were identified in relation to articles 14, 52 and 58. Despite this high number, the sample size of States with completed reviews remained limited to one third of the States parties, which, as in the previous analysis, means

that it is still too early to provide a wider analysis. However, it is possible to further identify preliminary trends analysed at the previous sessions of the Implementation Review Group.

8. The interlinkages between the two chapters reviewed in the second cycle of the Implementation Review Mechanism remained noticeable in terms of both the challenges and the good practices identified. For example, both articles 8 and 52 include provisions related to the declaration of assets. Articles 14 and 58 provide another such interlinkage, in cases where capacity-building for financial investigations was identified in relation to both chapters.

### **III. Analysis of cross-cutting issues in chapters II and V of the Convention**

#### **A. Prevention of conflicts of interest in the public sector, asset declarations and financial disclosure systems (art. 7, para. 4; art. 8, para. 5; and art. 52, paras. 5 and 6)**

9. Article 7, paragraph 4, of the Convention requires States parties to endeavour to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest. This article complements article 8, paragraph 5, of the Convention, pursuant to which States parties are to endeavour to establish measures and systems requiring public officials to declare their assets. In implementing these articles, States parties could consider establishing effective financial disclosure systems for appropriate public officials, which could also include the disclosure of interests in or signature or other authority over foreign financial accounts, as prescribed by article 52, paragraphs 5 and 6, of the Convention.

10. Almost all States parties had put in place rules on the prevention of conflicts of interest (relating to art. 7, para. 4, and art. 8, para. 5), but the scope and content of the applicable frameworks and the types of prohibited interests varied significantly. Countries had 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. In five cases, although the acceptance of gifts was prohibited in all circumstances, reviewers found conflicting legislation providing for exceptions and issued recommendations to clarify those regulations and to harmonize the existing framework in that regard.

11. Moreover, many States had adopted systems and procedures for public officials to declare their existing or potential conflicts of interest. For example, Nauru had established a mandatory register of interest declarations for parliamentarians, while South Africa had taken a structured approach to preventing and managing conflicts of interest among different categories of public officials, including detailed disclosure requirements for public officials in high-risk areas, training and guidelines. In contrast, the Constitutional Court in another State party had deemed unconstitutional the mandatory declaration of professional activities of children, parents and other family members of a public official.

12. Restrictions and sanctions for non-compliance were widely imposed, including criminal sanctions in a few countries. However, a small number of States reported that they did not have procedures in place to implement those restrictions and sanctions. Although several States had defined conflicts of interest in their legislation, the difficulty in deciding what constituted a conflict of interest was reported as a challenge in some other States. In certain cases, recommendations were made to strengthen the current financial disclosure regime for public officials at certain levels, including by reconciling potential discrepancies between different laws, specifying the requirement for appropriate public officials having an interest in or signature or other authority over a financial account in a foreign country to report that relationship

and taking measures to permit the sharing of such information with foreign competent authorities.

13. Most States parties had in place requirements for the regular submission of asset declarations by public officials at certain levels (relating to art. 8, para. 5) and a financial disclosure system for appropriate public officials (art. 52, para. 5). However, the specific practices in that regard differed significantly among States. For instance, with regard to the personal scope of application of the declarations, some countries extended the disclosure obligation to all public officials, while several others confined it to high-level officials or persons holding public positions vulnerable to corruption. In two instances, it was recommended to consider expanding the scope of the requirement to adopt and maintain systems to prevent conflicts of interest to all public officials, instead of only officials in the central public administration. Furthermore, some States had included family members of selected public officials in the same financial disclosure category as the officials themselves or required selected public officials to declare the assets of their close family members, such as spouses and children. However, the excessively broad personal scope of application in one State party, which covered, inter alia, grandfathers, grandmothers, mothers and fathers-in-law, was considered an obstacle to the effectiveness of the financial disclosure system and a recommendation was issued in that regard.

14. Regarding the scope of the declarations, several States required a wide range of assets to be declared, including financial interests, directorships, shareholdings, investment property, public appointments, income and liabilities. Some States made data on income publicly available through taxation register or open portals. Only a limited number of States had measures in place to require appropriate public officials having an interest in or signature or other authority over a financial account in a foreign country to report that relationship to appropriate authorities and to maintain appropriate records related to such accounts (art. 52, para. 6). Therefore, most of the analysed States parties received recommendations in that regard. Some States parties indicated that their asset declaration system had undergone a reform during the review process.

15. Although some States had legislation requiring the reporting of an interest in or signature or other authority over a financial account in a foreign country, its implementation was found to be rather challenging. As an alternative to fulfilling this provision, Slovenia required its public officials to declare their worldwide income, assets and accounts in their tax declaration, while three States prohibited public officials from opening, operating or controlling a foreign bank account without the approval of relevant authorities. The Philippines made no distinction between assets, liabilities and interests to be declared at the domestic level and those to be declared overseas. In the case of two States, reviewers noted that the implementation of a system that complied with article 52, paragraph 6, of the Convention had been considered but not implemented. In another State, it was not clear whether the assets subject to the declaration included an interest in or signature or other authority over a financial account in a foreign country.

16. In addition, the frequency of submission required of officials obliged to declare their assets varied significantly, with some countries requiring periodic reporting and others requiring such reporting upon assuming and leaving office, upon re-election and reappointment, when the income surpassed a specified threshold or whenever a substantial change occurred. Nevertheless, one country reported that “substantial change” was not defined in its legislation, which gave rise to difficulties in implementation. In one State, reviewers found that the efficiency and effectiveness of the financial disclosure system was significantly diminished given that, among other circumstances, public officials were not required to submit an updated statement of property at the end of service. A recommendation was issued in that regard.

Box 1

**Examples of implementation of article 52, paragraph 5, of the Convention**

In Armenia, declarations of property and income, excluding the personal data they contain, were being made available on a dedicated website. In the Plurinational State of Bolivia, the process of verifying the information contained in sworn declarations of property and income and a summary of the information contained in each declaration were published on a dedicated website. In Cuba, every public official was obliged to report, through a sworn declaration, the origin of the money when depositing in bank accounts amounts exceeding the threshold of 10,000 convertible pesos or 30,000 Cuban pesos, as established by the Central Bank of Cuba. Thailand required financial declarations to be submitted to the National Anti-Corruption Commission, along with supporting evidence that could prove the actual existence of assets and liabilities, including evidence of the income tax paid by a natural person in the previous tax year.

17. The lack of verification has generally been identified as a gap in implementation, owing either to a lack of verification processes or a lack of adequate human resources. Some States parties designated a central agency to verify all declarations, while a number of others authorized different bodies to verify declarations submitted by different categories of public officials. Furthermore, while some States could use electronic tools to conduct periodic verification, many others reported that verification was performed only when there was a complaint or investigation. In one case, a State party reported that electronic filing was done by members of parliament while ministers used a manual procedure. More than one third of the States parties analysed in the present report received recommendations to establish or enhance systems to verify asset declarations or financial disclosures. Moreover, for 10 of those States, the recommendations also mentioned the importance of using automated or electronic filing tools.

18. Only 17 of the States parties analysed reported on the use of information and communications technologies for the submission, management, verification or publication of the declarations. As an example, for the verification of the completeness and accuracy of declarations, France reported on the use of specialized software (Artemis) that operated by scanning the list of declarants daily and collecting new, relevant, publicly available information. In contrast, 11 States specifically indicated that the submission of declarations was paper-based or performed manually by persons obliged to do so, which was identified as an obstacle to the efficiency of the declaration systems. Some States also required declarations to remain sealed unless a criminal investigation was opened. In one State, the verification of declarations submitted by high-level officials and declarations that raised red flags was not prioritized. That State did not require public officials having an interest in or signature or other authority over a financial account to disclose that relationship and the verification process did not include lifestyle checks for the officials and family members. A recommendation was issued in that regard. In contrast, one State reported the publication of asset declarations of high-ranking officials and the review of disclosures by ethics councils established in 265 public institutions.

19. A small number of States provided asset declarations to the public in part, in summary form or through a public register or a dedicated website, while other States granted access to the declarations only to law enforcement authorities, or made the declarations accessible only upon request or consultation or subject to approval. The use of information and communications technologies for the submission and publication of asset declarations was also reported.



## **B. Beneficial ownership identification (art. 12, para. 2 (c); art. 14, para. 1 (a); and art. 52, para. 1)**

20. Beneficial ownership identification is a crucial tool in countering corruption, enabling information to be gathered on the persons that ultimately have effective control over an institution and thus hindering the ability of criminals to use corporate vehicles to hide the ownership and control of assets. Transparency in this area is a key measure in the prevention of corruption involving the private sector (art. 12, para. 2 (c)) and in the prevention of money-laundering and the prevention and detection of transfers of proceeds of crime (art. 14, para. 1 (a), and art. 52, para. 1).

21. Many States had adopted business registration requirements and maintained publicly accessible registers for companies (art. 12, para. 2 (c)). Moreover, in one State, biometric registration was mandatory. A number of States, in particular European Union member States, had also established special registers for beneficial owners or made information about beneficial owners available, which was identified as a good practice. In that regard, reviewers made a recommendation for one European Union member State to accelerate the implementation of Directive 2015/849/EU of the European Parliament and of the Council, including through the establishment of a beneficial owner register. In that case, before the review had been concluded, the State indicated that it had transposed the Directive. Non-compliance with the registration obligation of the entity could lead to administrative or even criminal sanctions in some States. Nevertheless, certain legal arrangements, such as trusts, were not fully covered by the registration provisions in some countries. In some States, bearer shares were prohibited.

### **Box 2**

#### **Example of good practice in relation to article 14, paragraph 1 (a), and article 52, paragraph 1, of the Convention**

Tax authorities in Norway published information available to them annually as part of the tax assessment of companies and private citizens. That information included tax information on foreign shareholders in Norwegian companies and a wide range of legal entities.

In Croatia, the register of beneficial owners became operational in 2020. The data in its register were available to public authorities, including obliged entities, for the purpose of carrying out customer due diligence and, to a limited extent, to the general public through an online platform.

22. With regard to article 14, paragraph 1 (a), and article 52, paragraph 1, of the Convention, all States reported on their domestic regulatory regimes, and many States referred to their dedicated laws on countering money-laundering and the financing of terrorism, as well as supplementary sector-specific laws and regulations that generally contained provisions on customer due diligence, the identification of beneficial owners, record-keeping and the reporting of suspicious transactions. In many States, such legislation also provided for administrative or even criminal sanctions in cases of non-compliance with anti-money-laundering obligations. Furthermore, reviewers identified supranational regional legislation such as European Union directives or West African Economic and Monetary Union directives as applicable. In that regard, all but two States had measures in place for the determination of the identity of beneficial owners. In one State, although the identification of beneficial owners was generally required, an exception existed in the case of customers in respect of which beneficial owner information was publicly available or the existence of a beneficial owner was impossible for objective reasons. The review of one State noted the absence of a legal provision indicating who could be considered a beneficial owner.

23. Some States had encountered challenges in the identification of beneficial owners in practice, in particular in relation to complex legal structures. For example, in the case of one State party, although reviewers noted the existence of regulations

related to the identification of beneficial owners, they also highlighted that the regulations were not sufficient to actually identify the natural person in control. Moreover, two States parties received recommendations to identify beneficial owners systematically and not only in the event of doubt. In another State party, reviewers identified the use of complex and international ownership structures as an obstacle and issued a recommendation to continue the practice of identifying and verifying beneficial owners.

24. Although article 52, paragraph 1, of the Convention refers only to the identification of beneficial owners of funds deposited into high-value accounts, this element does not seem to impose an obstacle, as States have reported on general obligations to identify beneficial ownership. Moreover, some of the States specifically reported that such an obligation was imposed irrespective of the value of the account. In only two cases did reviewers recommend that the State party define what was considered as a high-value account in order to identify the beneficial owners of the funds. In one case, it was recommended to take further measures to strengthen the identification and verification of the identity of beneficial owners of funds deposited into high-value accounts.

25. Despite the fact that the verification of the identity of beneficial owners is not a requirement under the Convention, some States parties had included such verification as a requirement in their legislation. One State party, in addition to requiring the verification of the identity of beneficial owners, also required continued monitoring. Recommendations were issued when it was found that the identity of beneficial owners had not been verified or such verification was not sufficiently effective. At the same time, some States parties went beyond the Convention and required enhanced due diligence in relation to beneficial owners who were identified as politically exposed persons.

### **C. Measures to prevent money-laundering, and customer due diligence (art. 14)**

26. In accordance with article 14, paragraph 1 (a), of the Convention, in the vast majority of States parties, measures had been taken to prevent money-laundering, as a criminal offence, through dedicated laws against money-laundering. There was remarkable uniformity among States parties with regard to the issuance of domestic regulatory and supervisory regimes for banks and non-bank financial institutions, as well as other bodies particularly susceptible to money-laundering. In that regard, most States parties had implemented internal supervisory regulations such as customer due diligence obligations and other supervisory procedures to protect the integrity of financial institutions and non-bank financial institutions. Nevertheless, the absence of or inadequate regulatory legislation related to non-bank financial institutions was noted in some States and recommendations were issued accordingly.

Box 3

#### **Example of implementation of article 14 of the Convention**

Thailand carried out significant outreach activities and conducted seminars for financial institutions, as well as some designated non-financial businesses and professions. Norway had lowered the threshold of permitted cash payments for persons trading in goods in order to facilitate the tracing of illicit assets.

27. With regard to the supervisory regime, most States parties used a risk-based approach, requiring that the levels of due diligence applied to customers, transactions and activities be commensurate with the respective money-laundering risks. Although some States had not articulated such an approach in their legislation, they had issued guidance to realize it in practice. Most States parties had completed or were in the process of completing their national risk assessments on money-laundering, with many of them publishing the results of the assessments. In some states, such risk

assessments were conducted within a pre-established periodicity. On the basis of the findings of the national risk assessments, several States had also developed national anti-money-laundering strategies and implementation plans and had identified high-risk circumstances to be taken into account by obliged entities.

28. Regarding the designation of supervisory authorities for banks and non-bank financial institutions, while some States had designated respective authorities to supervise different sectors, others had established a financial market authority as the sole, integrated and independent supervisory authority. In that regard, in one State, reviewers noted that the majority of obliged entities had not been assigned a supervisory authority. With regard to the entities that were subject to anti-money-laundering obligations, some States had not listed all relevant businesses and professions in accordance with the recommendations of the Financial Action Task Force.

29. With regard to article 14, paragraph 1 (b), of the Convention, States parties had reported that anti-money-laundering supervisory and law enforcement authorities cooperated and exchanged information actively at both the national and international levels, and some States had been commended for their sound inter-agency coordination and promotion of regional and international cooperation on countering money-laundering. The existence of coordination meetings, platforms or steering committees to facilitate cooperation among various supervisory authorities, as well as the development and strengthening of national, regional and international cooperation in the fight against money-laundering, including by providing a series of training programmes to other countries, were viewed as good practices. In addition, several States could provide assistance on the basis of bilateral agreements or through multilateral forums, such as the Egmont Group of Financial Intelligence Units, the Financial Action Task Force and the International Criminal Police Organization (INTERPOL).

30. All States parties cited the adoption of rules or measures to monitor the cross-border movement of cash and appropriate bearer negotiable instruments, in accordance with article 14, paragraph 2, of the Convention. Such monitoring, conducted mainly by customs authorities, was usually based on disclosures, with a typical reporting threshold equivalent to \$10,000 or 10,000 euros. In one State, however, the threshold was not established by legislation but by the Ministry of Finance, which had not established such a threshold at the time of the review. Sanctions such as fines, imprisonment, seizure and confiscation could 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, and some States did not include the obligation to declare appropriate negotiable instruments.

Box 4

**Example of good practice in the implementation of article 14, paragraph 2, of the Convention**

In the Bahamas, in addition to the declaration of cross-border transfers of substantial quantities of cash and negotiable instruments, there was also a requirement to declare the cross-border movement of precious metals and stones.

31. Almost all States reported on their requirements for electronic funds transfers, including measures regarding money remitters. However, in some countries, financial institutions were not always required to maintain information throughout the payment chain or to apply enhanced scrutiny to wire transfers containing incomplete information on the originator, and in a few other countries, money or value transfer services were not adequately regulated. Recommendations were issued accordingly.

32. With regard to global, regional, subregional and bilateral cooperation among different authorities for the purposes of preventing and combating money-laundering, as set out in article 14, paragraph 5, of the Convention, many States parties referred

to the possibility for their financial intelligence units to share information proactively or upon request with both national authorities and foreign counterparts. Reference was made by many States to their membership of the Financial Action Task Force or a Financial Action Task Force-style regional body, such as the Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism, the Asia/Pacific Group on Money Laundering or the Intergovernmental Action Group against Money-Laundering in West Africa. Many recommendations were issued pertaining to follow-up measures to address gaps or challenges previously identified in other evaluations, in particular those conducted by the Financial Action Task Force. The mutual evaluations carried out by Financial Action Task Force and Financial Action Task Force-style regional bodies appeared to have ensured a high level of compliance.

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

### **1. Prevention and detection of transfers of proceeds of crime (art. 52)<sup>4</sup>**

33. In accordance with article 52, paragraph 1, of the Convention, States parties are to require financial institutions to verify the identity of customers, take reasonable steps to determine the identity of beneficial owners of funds deposited into high-value accounts and conduct enhanced scrutiny of accounts sought or maintained by politically exposed persons. The article also focuses on the issuance of advisories inspired by relevant initiatives of regional, interregional and multilateral organizations against money-laundering (art. 52, para. 2 (a)). Moreover, it was considered important to determine whether there was a system that permitted the State party to communicate the identity of high-risk clients identified, and to receive such information from other States parties (art. 52, para. 2 (b)). In accordance with article 52, paragraph 3, of the Convention, States parties should have defined requirements for record-keeping and specific requirements for high-risk accounts and transactions, such as those involving politically exposed persons. The prohibition of the establishment of shell banks and the criteria established for such prohibition are set out in article 52, paragraph 4, of the Convention.

34. All States parties had taken a variety of measures for the prevention and detection of transfers of proceeds of crime. States parties must ensure that their notion of what constituted “proceeds of crime” corresponded to the definition contained in article 2, subparagraph (e), of the Convention, and included any property derived from or obtained, directly or indirectly, through the commission of an offence. Most States had adopted similar or equivalent definitions.

35. Similarly, in other cases, it was noted as a good practice that the laundering of proceeds of crime was criminalized not only when the alleged offender had actual knowledge, but also when he or she ought reasonably to have known that the assets laundered had resulted from a crime, or when he or she had acted contrary to a duty to know or a rational assumption, or on the basis of inexcusable ignorance of such fact. Several States applied similar standards in their domestic legislation.

36. A risk-based approach was widely used by States in their anti-money-laundering regimes. Almost all States had, to varying degrees, requirements in their anti-money-laundering laws or other financial legislation to conduct customer due diligence (art. 52, para. 1). The Convention requires, at a minimum, that financial institutions be subject to customer due diligence requirements. Sanctions could be applied in several States for non-compliance with those requirements.

<sup>4</sup> As mentioned above, given the close links between article 52 and article 14 (on measures to prevent money-laundering), as well as article 8, paragraph 5 (in relation to financial disclosure systems), readers may wish to refer to the relevant information in the thematic report prepared by the Secretariat on the implementation of chapter II (Preventive measures) of the Convention ([CAC/COSP/IRG/2023/5](#)).

37. Almost all States had measures in place for conducting enhanced scrutiny of accounts sought or maintained by or on behalf of politically exposed persons and their family members and close associates. Some States had also provided screening tools for reporting entities to identify such persons. However, States differed in defining the scope of politically exposed persons: some applied the same standards for both domestic and foreign politically exposed persons, while others distinguished between foreign and domestic politically exposed persons by only including one or the other category in their definition of politically exposed persons. In addition, the scope of family members and close associates subject to enhanced scrutiny was not clear in several States, and some States did not include family members and close associates in the ambit of such scrutiny.

38. The majority of States had issued advisories or guidelines for reporting entities, including financial institutions, to apply enhanced scrutiny (art. 52, para. 2). Those advisories or guidelines were generally issued by the financial supervisory authorities, financial intelligence units or law enforcement bodies. In addition, a number of States obliged their financial institutions to exercise enhanced due diligence with regard to business relations and transactions with persons from high-risk jurisdictions.

39. In Portugal, authorities went beyond the minimum requirements of the Convention and provided guidance on how to detect the criminal activity of politically exposed persons, which included a set of indicators on how to identify such persons after they were no longer politically exposed. In Croatia, the Anti-Money-Laundering Office developed and published typology reports that contained case studies from practice. Furthermore, the Office can issue orders to a reporting entity, including on the basis of a foreign request, to apply ongoing monitoring measures in relation to a customer.

40. All States had legislation that provided for the maintenance by financial institutions of adequate records of accounts and transactions (art. 52, para. 3). The maintenance period varied among States; 5, 7, 10 or 15 years, or even up to 25 years. Some States also prescribed different maintenance periods for various records, depending on the sensitivity of the information. The maintenance requirement always started from the date of termination of the business relationship or the date of completion of the transaction. Such records also had to include information on beneficial owners and the method used for verification by reporting persons. In Senegal, the establishment of a registry of bank accounts at the level of the Central Bank, which listed all the bank cards and chequing accounts of the customers of the reporting institutions, was considered as a good practice.

41. Most States had measures in place intended to prevent the establishment of banks that had no physical presence and were not affiliated with a regulated financial group (shell banks), in line with article 52, paragraph 4, of the Convention. In many States, financial institutions were obliged to refuse to enter into relationships with such shell banks. In Zimbabwe, that prohibition was extended to any person, while in the Marshall Islands, it referred also to cash dealers. More than two thirds of States parties also reported measures to prohibit the continuation of correspondent banking relationships with such institutions, or with other foreign financial institutions that permitted their accounts to be used by shell banks.

## **2. Financial intelligence unit (art. 14, para. 1 (b), and art. 58)**

42. Under article 14, paragraph 1 (b), of the Convention, States parties are encouraged to set up a financial intelligence unit mandated to collect and analyse suspicious transaction reports. In accordance with article 58 of the Convention, States parties should cooperate with one another for the purpose of preventing and combating the transfer of proceeds of offences established in accordance with the Convention. For that purpose, they should consider establishing a financial intelligence unit to serve as a national centre for the collection, analysis and dissemination of reports of suspicious financial transactions to the competent

authorities. States parties could implement these provisions by different means, namely, by creating a new financial intelligence unit, establishing a specialized branch for an existing unit or using an existing unit. Article 58 of the Convention should be interpreted in a manner consistent with article 14, paragraph 1 (b), of the Convention.

43. Almost all States had financial intelligence units responsible for receiving, analysing and disseminating to competent authorities reports of suspicious financial transactions. Those financial intelligence units were generally autonomous or independent, although some units had deficiencies in maintaining their independent status or operational capacity. In most of the States, the financial intelligence units were members of the Egmont Group. Some were also members or observers of regional groups of financial intelligence units. Half of the States that had not acquired membership of the Egmont Group for their national financial intelligence unit were in Africa. States parties also referred to other forms of cooperation through the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism, the FIU.net platform and the European Union network of asset recovery offices, as well as regional cooperation networks such as the Asset Recovery Inter-Agency Network in West and Central Asia. Almost all of the sample of analysed States had units invested with the ability to cooperate and exchange information at the domestic and international levels.

44. In most States, the national financial intelligence unit also had the authority to access financial accounts and banking records under the legislation and framework against money-laundering and the financing of terrorism in the context of money-laundering investigations. Banking secrecy regimes could not be invoked as grounds for refusing to submit information. Furthermore, those measures were sometimes carried out not only through the usual prosecutorial and law enforcement channels but also by specialized authorities, such as asset recovery offices, adding considerably to their practical effectiveness.

45. The reporting entities specified in anti-money-laundering legislation had the obligation to take due diligence measures, inform the respective financial intelligence unit (or, in some cases, the public prosecutor) of any suspicious fact or transaction for the purposes of detecting criminal offences, and to provide information and documents to authorized officers upon request.

46. Some variation existed regarding the functions of the financial intelligence units. Some units mainly performed administrative functions, while others had additional investigative mandates. Moreover, the financial intelligence units in some States parties had the power to take interim measures in emergency cases, such as freezing assets or suspending transactions for up to 48 or 72 hours, or even 7 or 14 days in urgent situations. In Peru, the financial intelligence unit was obliged to inform a judge of such interim measures within 24 hours.

47. The financial intelligence units appeared to have adequate human, financial and technical resources to conduct their work properly. Although there were no formal coordination mechanisms with other law enforcement offices, most of the units noted that there was an exchange of information. The financial intelligence unit of one State party did not engage in substantive cooperation with counterpart units.

Box 5

**Examples of implementation of article 58 of the Convention**

In the Bahamas, the financial intelligence unit organized public events to share information on its role and responsibilities. Peru reported that the financial intelligence unit could, at the request of the public prosecutor, produce a report on the basis of verifiable information contained in financial intelligence reports. That report could be used as evidence in a judicial proceeding, and the unit could be called upon to participate in oral proceedings as an informing expert. In Cyprus, the financial intelligence unit could instruct obliged entities not to execute or to suspend execution of a transaction, or to have the transactions of a bank account monitored if there was reasonable suspicion of money-laundering or terrorist financing. The instruction regarding the suspension or non-execution of a transaction could be valid for up to seven business days and could be renewed for a period not exceeding 30 business days in total.

#### **IV. Correlation with the first cycle of the Implementation Review Mechanism**

48. As the number of finalized executive summaries and country review reports for the second cycle of the Implementation Review Mechanism grows, it becomes possible to establish some correlations among the provisions reviewed in the first and second cycles of the Mechanism. Nevertheless, as mentioned above, the number of country reviews finalized under the second review cycle continues to grow steadily and the analysis must be updated as more reviews are finalized.

49. The provisions of the Convention regarding the reporting of suspicious transactions and the establishment of a financial intelligence unit (arts. 14 and 58) were considered milestones in removing obstacles to domestic criminal investigations posed by bank secrecy (art. 40). Those provisions complement article 40 by introducing a wider obligation to ensure that laws and regulations protecting banking information are amended for the purpose of effectively implementing anti-corruption measures.

50. Good practices identified in relation to the institutional set-up for the prevention of money-laundering, in particular domestic inter-agency cooperation mechanisms, were combined with good practices related to the lifting of bank secrecy in three States parties.

Box 6

**Examples of implementation of article 14, paragraph 1 (b), and article 40 of the Convention**

In Germany, the highly detailed, comprehensive and up-to-date central register of bank accounts provided easy access for investigative authorities and prevented bank secrecy from hindering investigations. (art. 40) The annual reports of the financial intelligence unit, which are published bilingually, listed instances of international cooperation by country, for the most active countries (art. 14, para. 1 (b)).

In Portugal, the Central Bank had a central database that was accessible to all prosecutors and judges and that centralized information from all banks, such as information on financial transactions, names of persons with access to an account and the history of the account. Portugal had established domestic coordination meetings and platforms within the anti-money-laundering and countering the financing of terrorism sector. Meetings were held periodically and attended by all supervisory and oversight authorities, as well as the public prosecution service and the financial intelligence unit, among others (art. 14, para. 1 (b));

In Slovenia, access to banking information was granted to the Commission for the Prevention of Corruption and the police and, by judicial order, to the prosecutor. The police could request bank information when there were grounds to believe that a crime for which the perpetrator was prosecuted ex officio had been committed or planned, and direct access was provided through the Agency for Public Legal Records and Related Services, which held a central registry of transaction accounts (art. 40). Slovenia had established domestic coordination meetings and platforms that met periodically and were attended by all supervisory authorities (art. 14, para. 1 (b)).

51. In most jurisdictions, bank secrecy did not present significant issues, even in cases where bank secrecy rules were in place, although issues with regard to the lifting of bank secrecy were noted in a few jurisdictions. In addition, concerns were noted about delays in the lifting of bank secrecy by judges and the subsequent provision of information by banks. In practice, this meant that banks and other financial institutions should facilitate access to data and precedents as required. In one jurisdiction, legislation was being developed that would establish a financial intelligence unit and a reporting regime for financial institutions and address bank secrecy issues.

52. Similarly, with respect to the spontaneous transmission of information (art. 46, paras. 4 and 5) and the establishment of financial intelligence units (art. 58), in some States parties, national authorities specifically referred to the cooperation and exchange of information being undertaken between such units. The spontaneous transmission of information to foreign authorities was generally not specifically regulated. States parties reported that even if the spontaneous transmission of information was not provided for by law, it was possible to the extent that it was not explicitly prohibited, and noted that such transmission frequently occurred through informal channels of communication available to law enforcement authorities. In one State party, requests related to money-laundering could be transmitted directly through financial intelligence units.

53. Moreover, most States parties reported that, in urgent circumstances, requests under article 46 of the Convention that were made through INTERPOL were acceptable, even though in some cases subsequent submission through official channels was required. Such exchanges of information appeared to be widespread among financial intelligence units, and more than half of the States parties indicated current or developing interaction between their units and foreign units, mainly through the conclusion of memorandums of understanding. Several countries noted that they had taken steps to join the Egmont Group. Those practices were relevant to the implementation of the above-mentioned provisions under review in the first and second review cycles. In the first cycle, good practices were identified in 23 States parties in relation to efforts in the area of international cooperation. In the second cycle, reviewers commended efforts to engage in cross-border cooperation, the ability to exchange financial intelligence and the use of forums and networks in 13 States parties.

54. In addition to the correlation with articles 14, 40 and 46, it was found that article 58 also had a strong correlation with article 36, which dealt with the establishment of specialized authorities to combat corruption through law enforcement. A common finding with regard to both articles was the independence of those authorities, as well as the adequacy of their capacities and resources.

55. The vast majority of States parties had established one or more bodies or specialized departments to combat corruption through law enforcement. Those bodies or departments were often newly created and faced common challenges related to limited capacity and resources for implementation, as well as competing priorities. With regard to article 36, challenges in relation to operational measures to enhance effectiveness, such as information-sharing, inter-agency coordination, the collection and use of relevant data and clear policy guidance, were highlighted during the first



review cycle. Recommendations were issued in a number of cases to increase resources for training and capacity-building in the agencies, to increase political support and to continue efforts to combat corruption through the strengthening of law enforcement and prosecutorial bodies.

56. A challenge that persisted with regard to the implementation of the provisions under review in the first and second review cycles was the allocation of adequate resources to further strengthen the efficiency and capacity of international cooperation mechanisms. Furthermore, regarding the general recommendations for both cycles, the need to continue to devote adequate resources and attention to building the capacity of authorities responsible for combating corruption and conducting financial investigations, including by undertaking a comprehensive assessment of technical assistance needs, was underscored. Regarding the prevention of money-laundering, the need to strengthen enforcement and address issues of overlapping mandates, as well as the challenges in coordination among the competent authorities responsible for money-laundering cases related to the proceeds of offences established in accordance with the Convention, was highlighted.

57. An additional correlation could be drawn between the establishment of asset declarations and financial disclosure systems (art. 8, para. 5, and art. 52, paras. 5 and 6) and the criminalization of illicit enrichment (art. 20).

58. Illicit enrichment, a non-mandatory provision, had not been established as a criminal offence in the majority of States parties, but legislation was being developed in several cases. Objections to enacting relevant legislation commonly related to constitutionality. In cases where illicit enrichment had not been criminalized, a similar effect was achieved by way of asset and income declaration requirements. A total of 71 States parties presented challenges in the implementation of article 20 of the Convention, and the majority of them also faced challenges related to the establishment of asset declarations and financial disclosure systems (art. 8, para. 5, and art. 52, paras. 5 and 6). From the sample analysed, 26 States parties faced challenges related to asset declarations in both cycles.

59. In the first review cycle, with respect to the implementation of article 20, reviewers issued recommendations to 20 States parties to consider establishing not only interest declaration systems but also asset declaration systems, at least for high-ranking officials and members of parliament, and in general to take measures to improve the effectiveness of existing systems, reduce operational weaknesses and provide for more effective sanctions in relation to incorrect declarations. Moreover, in one case, a recommendation issued in the second cycle review referred to the strengthening of the financial disclosure system to allow for the verification and use of information provided to detect cases of conflict of interest and illicit enrichment in the absence of any criminal investigation.

60. The following good practices were underscored in the first cycle and were relevant to the implementation of the above-mentioned articles under review in the second cycle: active participation in international and regional networks, platforms and forums aimed at promoting international cooperation; the efficient use of electronic databases to track, monitor and follow up on requests for international cooperation; the application for membership of the Egmont Group; and the conclusion of a large number of agreements between national financial intelligence units and units in foreign jurisdictions. In the second cycle, the use of forums and networks for international cooperation was identified as a good practice in nine countries.

## V. Outlook

61. As more data become available from completed country reviews, a more comprehensive analysis of trends will be provided and additional nuances will be identified in future iterations of the thematic reports, with a view to keeping the Implementation Review Group informed of successes and challenges identified in the course of the reviews.