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**Executive summary**

**Note by the Secretariat**

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## II. Executive summary

### Bhutan

#### 1. Introduction: overview of the legal and institutional framework against corruption of Bhutan in the context of implementation of the United Nations Convention against Corruption

Bhutan signed the United Nations Convention against Corruption on 15 September 2005. Parliament ratified the Convention on 3 December 2015. Royal Assent was received on 20 May 2016. Bhutan deposited its instrument of ratification with the Secretary-General of the United Nations on 21 September 2016.

Article 8 (9) of the Constitution states that “every person shall have the duty to uphold justice and to act against corruption.”

Article 10 (25) of the Constitution states that international conventions, treaties and agreements duly acceded to by the Government, when they have been ratified by an act of Parliament and have come into effect, shall form an integral part of Bhutan’s domestic law unless they are inconsistent with the Constitution.

Bhutan is a democratic, constitutional monarchy with a parliamentary form of government. The democratically elected Parliament consists of the National Council and the National Assembly. The Constitution stipulates the separation of the executive, legislative and judicial branches.

The institutions most relevant to the fight against corruption are the following: Anti-Corruption Commission of Bhutan (ACC), Office of the Attorney General (OAG), Royal Bhutan Police, Royal Monetary Authority (RMA), Royal Audit Authority, Royal Court of Justice, Financial Intelligence Department (FID) (under RMA), Ministry of Foreign Affairs, Royal Civil Service Commission, Ministry of Finance and Ministry of Home and Cultural Affairs.

#### 2. Chapter III: criminalization and law enforcement

##### 2.1. Observations on the implementation of the articles under review

###### *Bribery and trading in influence (arts. 15, 16, 18 and 21)*

Active bribery of public officials is criminalized primarily under section 42 of the Anti-Corruption Act of Bhutan 2011 (ACAB), while passive bribery is criminalized by sections 43 and 126 of the Penal Code in regard to solicitation.

Section 176 of ACAB provides a broad definition of “public servant”, which encompasses not only all categories of public officials under article 2 of the Convention, and persons who are not affiliated with a public agency, but also unpaid persons who represent the State or perform public functions or services.

ACAB (sections 42 (2) and 43 (2)) covers both direct and indirect bribery, and it is irrelevant whether the advantage is promised, offered or given directly or indirectly. Also, it is irrelevant whether the advantage was intended for the benefit of the public servant or a third person.

Active and passive bribery of foreign public officials and officials of public international organizations is covered by sections 44 and 45 of ACAB. Prior to the entering into force of the Act in 2011, bribery was already punished under sections 289 and 290 of the Penal Code 2004, as shown in the case law provided.

Active and passive trading in influence is criminalized under sections 54 to 57 of ACAB.

Active and passive bribery in the private sector is covered by sections 48, 49, 66 and 67 of ACAB.

*Money-laundering and concealment (arts. 23 and 24)*

Section 159 of the Anti-Money Laundering and Countering of Financing of Terrorism Act (the AMLCFT Act), passed in 2018, criminalizes money-laundering. Money-laundering in relation to corruption proceeds is also criminalized under sections 70 to 72 of ACAB.

There have been two money-laundering convictions to date, both related to corruption.

Participatory acts to money-laundering are covered by section 168 of the AMLCFT Act, read together with the Penal Code of Bhutan (sections 64, 125 and 127) and the ACAB (section 75).

With regard to predicate offences, the AMLCFT Act adopts an “all crimes” approach; “predicate offence” is defined as any offence as a result of which proceeds have been generated that may become the subject of an offence of money-laundering. This includes foreign predicate offences, subject to dual criminality (section 161 (2)). Section 161 (1) (b) of the AMLCFT Act further provides that the offence of money-laundering shall also apply to persons who have committed the predicate offence.

Concealment is criminalized under section 73 of ACAB. However, obstruction of justice does not qualify as an underlying offence with regard to the concealment of corruption proceeds under section 73 of ACAB.

*Embezzlement, abuse of functions and illicit enrichment (arts. 17, 19, 20 and 22)*

Embezzlement and misappropriation are criminalized principally by sections 52 and 53 of ACAB, while section 68 criminalizes embezzlement in the private sector. “Third party benefits” are also covered under these provisions, although they are only mentioned in section 52 (1) (d) of ACAB. According to the case law provided, one of the elements of the crime of embezzlement is the use of funds or property for a purpose other than that for which they are intended, and this general provision covers embezzlement for the benefit of third parties.

Abuse of functions is criminalized under sections 58 (“Commission”) and 59 (“Omission”) of ACAB, as well as section 316A of the Penal Code. Officials explained that the acts enumerated in section 58 (“favouritism, nepotism or patronage, etc.”) are the most common types of abuse of functions in Bhutan, and that the list is not exhaustive, owing to the use of the term “etc.” and the very broad scope of the provision “abuse of functions”. Case examples provided illustrate the broad scope of the offence.

Section 60 of ACAB (“Possession of unexplained wealth”) criminalizes illicit enrichment. The provision also covers former public servants and persons who serve or have served in civil society or other organizations using public resources.

Section 38 of ACAB requires public servants and other individuals using public resources to declare their personal assets, income and liabilities, as well as those of their spouses and/or dependents to ACC.

*Obstruction of justice (art. 25)*

The use of physical force, threats or intimidation to induce false testimony or to interfere in the giving of testimony or the production of evidence is criminalized by section 74 of ACAB. There are no specific provisions to prohibit the bribery of witnesses, although general provisions on the solicitation of crimes (section 126 of the Penal Code) are relevant.

Section 113 of ACAB criminalizes the use of physical force, threats or intimidation to interfere with the exercise of official duties, and sections 422 and 367 of the Penal Code cover judicial and law enforcement officials, respectively.

*Liability of legal persons (art. 26)*

Bhutan has established the liability of legal persons for offences under ACAB, which include offences under the Convention against Corruption. The definition of the term “person” in section 176 (aa) of ACAB and section 215.8 of the Civil and Criminal Procedure Code 2011 (CCPCB) encompasses legal persons. Accordingly, any offence under ACAB may be committed not only by a natural person but also by a legal person, and legal persons may be held liable for such offences. Case law illustrates the application of ACAB to legal persons.

Penalties for legal persons under ACAB and the Penal Code are calculated in accordance with value-based sentencing, whereby the relevant prison term specified in the legislation is converted into the corresponding value-based sentence. Secondary punishment may further be imposed.

*Participation and attempt (art. 27)*

Bhutanese legislation criminalizes participation in all forms of corruption offences under ACAB (section 75) and under provisions in the Penal Code, including accomplice liability (section 64), aiding and abetting (section 125), solicitation (section 126) and conspiracy (section 127). Attempt is criminalized in section 120.

The mere preparation for a crime is not criminalized separately from attempt or conspiracy.

*Prosecution, adjudication and sanctions; cooperation with law enforcement authorities (arts. 30 and 37)*

Bhutan has established a comprehensive system of value-based sentencing that takes into account the minimum wage in place at the time of the crime during the previous 35 years or more. Secondary punishment may include restitution, payment of damages, confiscation or recovery of property, suspension or cancellation of licenses or transactions, and removal from official position (sections 20 and 21 of the Penal Code). Criminal court judgments are not generally made available to the public.

Bhutan does not provide criminal immunity for acts of corruption to public servants. However, section 135 of ACAB grants immunity from punishment for persons who report acts of bribery to ACC prior to the commencement of proceedings. The exemption is not automatically applied but takes into account the degree of assistance provided by the defendant in the investigation. However, there are no procedures in place that regulate the application of this immunity provision. There has been only one case of its application.

Prosecutorial discretion is vested in the Attorney General pursuant to article 29 of the Constitution and may be delegated to ACC in accordance with section 20 of the OAG Act of Bhutan. The prosecutorial discretion of the OAG is subject to a check and balance as contemplated in section 128 (3) of ACAB and is further subject to judicial scrutiny (see Supreme Court judgment No. Nyontho (Om 12-267)).

Bail can be granted by ACC under the conditions specified in section 90 of ACAB. The Criminal Court has discretionary powers and may grant bail in the cases and within the limits established under section 199 of CCPCB.

The Constitution gives His Majesty the King of Bhutan the power to grant parole. Such a decision is made upon the recommendation of a panel, taking into account the seriousness of the crime committed, in accordance with section 172 of the Prison Act, and the gravity of the offence.

The suspension of public servants during investigations is clearly provided for in the Penal Code (section 20), the Bhutan Civil Service Rules and Regulations and ACAB (section 167). Removal or reassignment of civil servants is possible upon conviction (Penal Code, section 20; Civil Service Act, sections 85 and 86; and Civil Service Rules and Regulations, rule 19.9.5), as well as an administrative sanction taken by each agency.

Disqualification of convicted persons from holding public office is established in the Constitution (article 23) for persons holding elective office, and in the Civil Service Rules and Regulations 2012 (rule 4.6) for civil servants convicted of a criminal offence or under investigation or prosecution. The disqualification also applies to the holding of offices in State-owned enterprises.

Bhutan has established some measures to encourage the cooperation of defendants in investigations and prosecutions. While ACAB affords protection to complainants, informers and witnesses, and a system of plea bargaining is in place in Bhutan, the Act does not specifically encourage persons who participate in corruption offences to supply information or help to competent authorities.

*Protection of witnesses and reporting persons (arts. 32 and 33)*

Bhutan affords physical protection to complainants, informers, witnesses and their families in corruption-related cases, including from economic and other threats (section 117 of ACAB and section 198 of the Royal Bhutan Police Act 2009). Procedural protections of witnesses and victims are provided in section 118 of ACAB.

The protection of informants of ACC from any action or proceeding, including disciplinary, is covered in section 119 of ACAB. Protection of the identity of witnesses (anonymity) and procedural protections for witnesses are afforded in sections 33 and 118 of the Evidence Act of Bhutan 2005. These measures may be applied either upon the judge's own motion, at the request of either party or at the request of the witness concerned. Persons who engage in victimization are subject to criminal punishment (section 116 (5) of ACAB).

Anonymity of reporting persons is ensured under section 115 of ACAB.

Public servants who report acts of corruption to ACC are protected from civil or criminal liability and disciplinary actions (section 116 of ACAB). Internal reporting of corruption within the concerned institution is also covered.

*Freezing, seizing and confiscation; bank secrecy (arts. 31 and 40)*

Sections 131 to 134 of ACAB provide for the confiscation of the proceeds of corruption or instrumentalities (property used in or destined for use in the commission of the offence). In addition, sections 47 and 48 of the Penal Code provide for conviction-based confiscation of proceeds, instrumentalities and benefits derived from offences. These provisions also cover value-based confiscation.

Sections 180 and 181 of CCPCB allow police officers to seize any property associated with the commission of an offence. Search warrants are provided for under section 168. Section 95 of ACAB provides ACC with the powers of search and seizure for both movable and immovable property (sections 103 and 107 of ACAB). The AMLCFT Act further permits FID, within RMA, to issue a temporary freezing notice over a property held by a reporting entity for a period not exceeding 21 days. Freezing of property for purposes of confiscation is provided under sections 125 to 127 of the AMLCFT Act.

In Bhutan, each law enforcement agency has its own system and procedure in place to deal with asset management. ACAB regulates the management of property seized under its provisions (sections 103 to 108) and CCPCB also contains relevant measures (section 71).

The confiscation of unexplained wealth is provided for in sections 60 (5) and 176 (1) (pp) of ACAB.

The aforementioned provisions apply without prejudice to the rights of bona fide third parties.

While financial institutions have a duty of customer confidentiality imposed by section 216 of the Financial Services Act of Bhutan (FSA), access to information by competent authorities for the proper performance of their functions is ensured through

section 216 of FSA. Section 216, however, is limited to cases where disclosure is required by law or court order to protect the legitimate interests of the licensee. Furthermore, ACC is empowered to obtain information from the financial institutions directly or by court order, and may even order a bank not to deal in or dispose of property for 21 days (section 106 of ACAB).

*Statute of limitations; criminal record (arts. 29 and 41)*

Bhutan has no statute of limitations for offences under ACAB or the Penal Code.

Previous convictions in other States are taken into account (section 129 of ACAB).

*Jurisdiction (art. 42)*

Jurisdiction is regulated in sections 20 to 22 of CCPCB, as well as sections 1 and 4 of ACAB. The Supreme/High Court has jurisdiction on the basis of the following principles: territoriality; nationality; passive personality; protection; universality; flag jurisdiction; airspace (section 20 of CCPCB).

*Consequences of acts of corruption; compensation for damage (art. 34 and 35)*

Secondary punishment and other administrative penalties may be imposed under ACAB, the Penal Code or CCPCB. Termination of government contracts may be applied as a consequence of corruption, according to case examples provided.

Compensation for losses and damages is provided (sections 130 of ACAB and 198 of CCPCB). The court may order the defendant to make restitution and pay compensation to the victims.

*Specialized authorities and inter-agency coordination (arts. 36, 38 and 39)*

Article 27 of the Constitution of the Kingdom of Bhutan establishes ACC as an authority with legal, operational and financial independence. ACAB further provides for its legal and operational independence (section 6) and financial security and independence (section 7), as well as the security and independence of its human resources management. Although Bhutan fulfils the requirements of the Convention, additional capacity-building to further the development of specialized skills of relevant law enforcement personnel, e.g. in ACC, OAG, the Police and FID, would be beneficial.

ACAB provides for consultation and sharing of information among ACC, other law enforcement bodies, RMA, FID, the Department of Revenue and Customs, the Auditor General and others (section 9). Information-sharing is also established under other laws, such as FSA and the Audit Act of Bhutan 2006. Other informal mechanisms and arrangements for cooperation exist, such as memorandums of understanding.

The Business Integrity Initiative of Bhutan provides for cooperation between national authorities and private sector entities, while the Constitution, the Penal Code and ACAB establish a duty on the part of individuals to report corruption crimes.

## 2.2. Successes and good practices

Overall, the following successes and good practices in implementing chapter III of the Convention are highlighted:

- Section 60 of ACAB (“Possession of unexplained wealth”) also covers former public servants and persons who serve or have served in civil society or other organizations using public resources (art. 20)
- Bhutan’s comprehensive system of value-based sentencing that takes into account the minimum wage in place at the time of the crime during the previous 35 years or more (art. 30, para. 1)

- Measures concerning the independence of ACC enshrined in the Constitution, including its financial security and operational independence (sections 6 and 7 of ACAB) and the security and independence of human resources management (art. 36)
- The existence of memorandums of understanding among government agencies and civil society to enhance cooperation and coordination (art. 38)

### 2.3. Challenges in implementation

To further strengthen existing anti-corruption measures, it is recommended that Bhutan:

- Consider including obstruction of justice as an underlying offence for purposes of the offence of concealment of corruption proceeds under section 73 of ACAB (art. 24)
- Adopt measures prohibiting the bribery of witnesses, as provided for in article 25 (a) of the Convention
- To enhance transparency of the judicial process, give consideration to establishing a law reports system whereby court judgments are made available in an accessible format (art. 30, para. 1)
- Specify the procedure for the application of the immunity provision in section 135 of ACAB, taking into account the cooperation of the defendant, and provide adequate safeguards in the application of immunities, such as oversight by senior prosecutors and the recording of the matter in the case file (art. 30, para. 2)
- Strengthen measures for the management and administration of frozen, seized and confiscated property (art. 31, para. 3)
- Remove the proviso in section 216 of FSA, to ensure the disclosure of bank, financial and commercial records where required by law or court order, regardless of the protection of the interests of the client (art. 31, para. 7)
- Continue to invest in capacity-building to further the development of specialized skills of relevant law enforcement personnel, e.g. in ACC, AOG, the Police and FID (art. 36)
- Adopt measures to encourage persons who participate in corruption offences to cooperate in investigations or prosecutions by providing information or assistance related to the case or the recovery of proceeds (art. 37, para. 1)

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

Bhutan has requested the following forms of technical assistance relating to chapter III:

- Summary of good practices/lessons learned (arts. 31, 32 and 36)
- Capacity-building programmes (disproportionate assets) (art. 20)
- Capacity-building programmes (anti-money-laundering investigations) (art. 23)
- Capacity-building programmes (asset tracing, forfeiture and recovery; determination of benefits of proceeds of crime (valuation); and management and administration of frozen, seized or confiscated property) (art. 31)
- Capacity-building programmes (management and protection of witnesses, experts, reporting persons and victims) (art. 32)
- Capacity-building programmes (interview and interrogation techniques, documents/forensic examinations of documents, forensic accounting, fraud investigation and corporate scams investigations, investigations of procurement fraud, collection and preservation of evidence, media source management and

media management, and specialization on corruption prosecution/adjudication of corruption offences) (art. 36)

- Capacity-building programmes (development of statistical databases and data linkages between law enforcement agencies) (art. 38)

### 3. Chapter IV: international cooperation

The Convention is considered part of the domestic law of Bhutan as per article 10 (25) of the Constitution. The authorities explained that, in theory, it would be possible to apply the provisions of the Convention on extradition and mutual legal assistance where the matters are self-executing and are not adequately addressed in the domestic legislation. However, in case of conflict with other domestic legislation, a more specific legal act would prevail over a more generic one (including the Convention).

Although Bhutan does not make extradition conditional on the existence of a treaty, the authorities indicated that they would prefer to conclude bilateral treaties with requesting States on an ad hoc basis in order to conduct extradition.

Extradition in Bhutan is governed by the Extradition Act 1991 (EA). Bhutan can extradite in the absence of a treaty pursuant to a decision of the Royal Government. The institution in charge of extradition matters is the Ministry of Home and Cultural Affairs. Once received, a request is transmitted to the High Court, which inquires into the matter and submits a report to the Royal Government, which in turn takes the final decision.

Overall, EA provides for basic regulation of the process of extradition, and many details covered in article 44 of the Convention are not addressed.

Bhutan has only one extradition agreement, with India, and it has never received nor sent any extradition requests.

The basic framework for mutual legal assistance in corruption matters is provided in chapter 9 (“International cooperation”) of ACAB. ACC is the central authority for mutual legal assistance in corruption matters.

While ACAB provides a basic framework for the provision of mutual legal assistance, many of the provisions of article 46 of the Convention do not have adequate coverage in the domestic legislation. Bhutan has initiated the drafting of a comprehensive Mutual Legal Assistance Act, which would provide a more detailed regulation of mutual legal assistance, while the provisions of chapter 9 of ACAB would remain in place with regard to corruption-related mutual legal assistance requests.

Bhutan confirmed that it would consider paragraphs 9 to 29 of article 46 as a legal basis for mutual legal assistance with other States parties in the absence of bilateral treaties.

Bhutan has never received a mutual legal assistance request and has sent only one mutual legal assistance request, to Thailand.

Bhutan ratified the South Asian Association for Regional Cooperation Convention on Mutual Assistance in Criminal Matters. However, that Convention was not officially in force at the time of review.

#### 3.1. Observations on the implementation of the articles under review

*Extradition; transfer of sentenced persons; transfer of criminal proceedings (arts. 44, 45 and 47)*

According to section II.B, together with schedule (alternative 1) of EA, any offence which, if committed in Bhutan, would be punishable under Bhutanese law, is extraditable.

According to section II.B, together with schedule (alternative 2) of EA, an offence punishable by imprisonment exceeding 12 months shall be treated as an extradition offence. Dual criminality is not expressly required under the Act.



The purpose of having these several alternatives in EA is not imminently clear.

Moreover, under alternative 2, the extradition of a person sought for the commission of obstruction of justice would not be possible, since that offence is punishable by a maximum term of imprisonment of less than one year.

Section VI.B of EA lists “the commission of a political offence” as a ground to refuse extradition. However, the domestic law of Bhutan does not contain a definition of political offences.

Bhutan does not make extradition conditional on the existence of a treaty, as it can extradite on the basis of section I.D of EA in the absence of a bilateral treaty pursuant to the decision of the Government. Nevertheless, Bhutanese authorities indicated that, in practice, they would prefer to enter into bilateral treaties with requesting States on an ad hoc basis in order to conduct extradition.

The procedure and conditions applicable to extradition are contained in sections VI and VII of EA. Section VI.C, inter alia, broadly stipulates that the Royal Government shall not extradite a fugitive offender if, “for any other reasons deemed important by the Royal Government, it is unjust or inexpedient to extradite the fugitive offender.”

Section VII.A provides for the possibility of prosecuting rather than extraditing a fugitive offender. The reasons for which the Government may decide to prosecute the offender in Bhutan in lieu of extradition are not stipulated.

EA does not provide for an expedited extradition procedure. However, the authorities confirmed that requests made on the basis of the Convention would be given priority. Importantly, evidence and documents received from requesting States may be admitted as evidence in court (section VIII.A of EA).

Bhutan can arrest the person whose extradition is sought in accordance with section IV.B–E of EA.

The Extradition Act does not contain a condition for the refusal of extradition on the ground that an alleged offender is a Bhutanese national.

EA does not contain provisions regarding the fair treatment of sought persons. Generic guarantees are contained in the Constitution and CCPCB.

The Extradition Act does not provide for the refusal of extradition on the ground that the offence involves fiscal matters, nor does it contain a requirement for consultation with requesting States.

Under section 158 of ACAB, ACC may conclude bilateral or multilateral agreements on the transfer of persons sentenced to imprisonment for corruption offences.

The transfer of criminal proceedings is regulated pursuant to section 159 of ACAB.

#### *Mutual legal assistance (art. 46)*

There are no limitations to providing mutual legal assistance for offences involving legal persons.

The provisions of article 46, paragraph 3 (a) and (b), of the Convention are implemented in section 145 of ACAB.

The provisions of article 46, paragraph 3 (c)–(g) and (i), of the Convention are implemented in sections 142–145 of ACAB. However, provisions relevant to the implementation of article 46, paragraph 3 (h), of the Convention are lacking.

Bhutan has taken steps to implement article 46, paragraph 3 (j)–(k), of the Convention in sections 143–144, 153 and 155 of ACAB. However, a legal mechanism for the direct enforcement of foreign confiscation orders is lacking and the decision on the final return of asset is left to the discretion of the Minister of Finance, as per section 155, while the return as provided for under article 57, paragraph 3 (a), of the Convention shall be mandatory.

Bhutan does not have specific legislative measures on the spontaneous exchange of information.

ACAB does not stipulate bank secrecy as a ground for refusal to render mutual legal assistance.

Dual criminality is not a requirement for the provision of mutual legal assistance, except for coercive actions as stipulated under section 144 (3) of ACAB.

ACAB does not contain specific provisions on the temporary transfer of detained or sentenced persons for giving evidence.

ACC is the central authority for mutual legal assistance in corruption matters.

Mutual legal assistance requests shall be in writing (section 155, ACAB). It is not clear whether an oral request can be accepted and what the acceptable languages are for purposes of mutual legal assistance.

The content requirements for mutual legal assistance requests are contained in section 152 of ACAB. Notably, section 154 stipulates that requests can be implemented even when not fully compliant with the requirements of the Act, where ACC is satisfied that there is sufficient compliance to enable it properly to execute the request.

The grounds for refusing mutual legal assistance requests are contained in section 146 of ACAB.

There are no detailed provisions in ACAB addressing the requirements of article 46, paragraphs 17–20 and 24–29.

At the time of the country visit, Bhutan did not have any bilateral or multilateral agreements or arrangements on mutual legal assistance in force.

*Law enforcement cooperation; joint investigations; special investigative techniques (arts. 48, 49 and 50)*

Section 24.1 (f) of ACAB allows ACC to exchange information with foreign law enforcement agencies. ACC has signed memorandums of understanding with counterparts in Thailand, Bangladesh and Malaysia.

Bhutan is a member of the South Asian Association for Regional Cooperation and the Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation, which provide platforms for the exchange of law enforcement information.

Bhutan actively uses the International Criminal Police Organization (INTERPOL) for sharing law enforcement intelligence and information and participates in the INTERPOL/Stolen Asset Recovery Initiative Global Focal Point Network.

RMA has signed memorandums of understanding with the financial intelligence units of Bangladesh, Republic of Korea, Sri Lanka and Cambodia and initiated the process of joining the Egmont Group of Financial Intelligence Units.

The Convention would be considered as a basis for mutual law enforcement cooperation on a case-by-case basis.

The establishment of joint investigative teams is possible under section 157 of ACAB. ACC can employ special investigative techniques under sections 86 and 87 of ACAB. It also developed an internal procedure on the use of special investigative techniques. Bhutan would conclude arrangements with other States parties on the use of special investigative techniques transnationally when necessary.

### **3.2. Successes and good practices**

- Section VIII.A of EA, allowing for evidence and documents received from requesting States to be admitted as evidence in court, notwithstanding the provisions of the law of Bhutan (art. 44)

- Section 154 of ACAB, stipulating that requests can be implemented even when not fully compliant with the requirements of the Act, where ACC is satisfied that there is sufficient compliance to enable it properly to execute the request (art. 46, paras. 15 and 21)

### 3.3. Challenges in implementation

It is recommended that Bhutan:

- Review domestic legislation pertinent to extradition and mutual legal assistance to more specifically address relevant obligations under the Convention against Corruption, including by adopting more specific laws on extradition and mutual legal assistance (arts. 44 and 46)
- Ensure that the Convention offences are considered extraditable (art. 44, para. 1)
- Ensure that Convention offences are included as extraditable in future extradition treaties and are not considered political offences (art. 44, para. 4)
- May consider the Convention as the legal basis for cooperation on extradition with other States parties (art. 44, para. 6)
- May consider clearly defining, in applicable domestic legislation and in line with the requirements of the Convention, the circumstances under which extradition may be denied (art. 44, para. 8)
- Ensure that an expedited extradition procedure and simplified evidentiary requirements can be applied to extradition requests received from other States parties (art. 44, para. 9)
- Specifically include guarantees of fair treatment in EA (art. 44, para. 14)
- Specifically include grounds for refusal of extradition as specified in article 44, paragraph 15, in EA
- Consider specifically stipulating in EA a requirement to consult with the requesting State party before refusing extradition and ensure that such consultations are conducted in practice (art. 44, para. 17)
- Adopt more detailed provision on facilitating the voluntary appearance of persons in the requesting State party (art. 46, para. 3 (h))
- Review and amend (as necessary) legislation on the recovery of assets in the light of the binding obligations of chapter V, in particular article 57, of the Convention (art. 46, para. 3 (k))
- Specifically incorporate the requirements stipulated in article 46, paragraphs 4, 5, 10–12, 14, 17–20 and 24–29, in its domestic legislation and ensure that they are followed in cases of mutual legal assistance provided to other States parties on the basis of the Convention
- Bhutan is encouraged to specifically incorporate the requirements of article 46, paragraph 8, of the Convention in its domestic legislation and ensure that they are followed in cases of mutual legal assistance provided to other States parties on the basis of the Convention
- Consider the possibility of concluding additional multilateral agreements or arrangements to enhance mutual legal assistance (art. 46, para. 30)
- Continue taking further necessary actions to enhance international law enforcement cooperation, particularly in improving law enforcement cooperation and information-sharing with States parties outside of its geographic region (art. 48, para. 1)
- Endeavour to take further necessary actions to enhance the implementation of article 48, paragraph 3

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

Bhutan has requested the following forms of technical assistance relating to chapter IV:

- Summary of good practices/lessons learned (art. 46)
  - Capacity-building programmes (training module on mutual legal assistance and extradition) (art. 44)
  - Capacity-building programmes (training module on mutual legal assistance and extradition, asset tracing, forfeiture and recovery, including determination of benefits of proceeds of crime (valuation)) (art. 46)
  - Capacity-building programmes (cybercrime investigations) (art. 48)
  - Capacity-building programmes (conduct of joint investigation with other countries' border law enforcement agencies) (art. 49)
  - Capacity-building programmes (use of special investigative techniques such as controlled delivery, cover operations, physical surveillance and observation, as well as other special investigative techniques and call data record analysis) (art. 50)
  - On-site assistance by a relevant expert on the use of special investigative techniques (art. 50)
-