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Executive summary

Note by the Secretariat

Addendum

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II. Executive summary

Uruguay

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

The implementation by Uruguay of chapters III and IV of the Convention was reviewed in the second year of the first review cycle, and the executive summary of that review was published on 8 October 2014 (CAC/COSP/IRG/II/2/1/Add.31).

The Uruguayan legal system is based on the civil law tradition. The executive may conclude and sign treaties but requires the approval of the legislature to ratify them (art. 168 of the Constitution). Implementation of the Convention is governed by Act No. 18.056, pursuant to which the Convention became an integral part of the legal system of Uruguay. The instrument of ratification was deposited with the Secretary-General of the United Nations on 10 January 2007. The Constitution is the supreme law of the State, followed in order of precedence by laws, international treaties ratified by law, and codes.

The legislation implementing chapters II and V of the Convention includes Act No. 15.322 on the financial intermediation system, Act No. 17.060 on rules concerning the improper use of public authority, Act No. 18.930 on technical convergence in the area of international fiscal transparency, Act No. 19.574 on money-laundering, the relevant articles of the Criminal Code and the General Code of Procedure, the Compendium of Rules for Regulation and Control of the Financial System (RNRCFS) and the Compendium of Rules of the Central Bank of Uruguay.

The main institutions involved in preventing and combating corruption are the Transparency and Public Ethics Board (JUTEP); the National Secretariat for Combating Money-Laundering and the Financing of Terrorism; the Public Prosecution Service; the General Directorate for Cooperation with INTERPOL and the Fight against Organized Crime; the Financial Information and Analysis Unit (UIAF); the judiciary; and the Central Authority for International Cooperation of the Ministry of Education.

2. Chapter II: preventive measures

2.1. Observations on the implementation of the articles under review

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

Uruguay has a National Strategy against Money-Laundering, the Financing of Terrorism and the Proliferation of Weapons of Mass Destruction (2017–2020), one of the objectives of which is to make anti-corruption efforts a fundamental component of the fight against money-laundering. To ensure that preventive efforts are well coordinated, the President of JUTEP participates in the Coordinating Commission against Money-Laundering, which is responsible for implementing the Strategy. Efforts to combat corruption in areas other than money-laundering are not addressed in a policy document. Although initiatives are monitored, there is no established monitoring methodology or timetable. Uruguay participates in regional and global anti-corruption initiatives such as those led by the Organization of American States, including through its participation in the Mechanism for Follow-up on the Implementation of the Inter-American Convention against Corruption, the Financial Action Task Force of Latin America (GAFILAT) and the United Nations Office on Drugs and Crime.

Various institutions work together to implement the country's anti-corruption legislation, including JUTEP, the Internal Audit Office, the Court of Auditors, the

National Civil Service Office (ONSC) and the Access to Public Information Unit (UAIP).

In 2015, JUTEP was established (under art. 1 of Act No. 19.340) as a decentralized anti-corruption institution responsible for, inter alia, providing advice on certain offences committed by the high-ranking officials referred to in articles 10 and 11 of Act No. 17.060; providing advice to judicial bodies with jurisdiction over criminal matters; and promoting legislation as well as training and awareness-raising programmes to strengthen transparency in public administration (art. 2, paras. 1, 2 and 4). JUTEP can also suggest amendments to the rules governing matters within its competence (art. 3, para. 3).

JUTEP receives confidential reports of unethical conduct in public organizations, investigates such reports and issues recommendations to the institutions concerned (art. 2, paras. 1 and 3). Those institutions must then decide whether and how to implement such recommendations.

JUTEP has technical independence (art. 1 of Act No. 19.340). However, its budget has been considerably reduced and important technical posts (those of the only two lawyers and the only accountant) are occupied by persons who are working for JUTEP on secondment, having not been permanently assigned to the body. Uruguay has informed the Secretary-General of the United Nations that JUTEP is the authority that can assist other States parties in developing and implementing specific measures for the prevention of corruption.

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

Act No. 19.121 governs the recruitment, retention, promotion and suspension of public officials in the executive branch, with the exception of diplomats, police officers and other specified officials, and officials of subnational institutions that have their own statutes. ONSC conducts recruitments through competitive examination and merit; merit and background; or drawing of lots (arts. 1, 3, 55 and 94). The authorities indicated that such drawing of lots was used only for posts that did not require any training or required only basic training and that it could be used when the number of applicants made it very difficult to analyse their merits and skills.

All job openings must be advertised on the dedicated website “Uruguay Concursa” (arts. 15–17 of Decree No. 223/013). Although positions that are especially vulnerable to corruption have not been identified, staff rotations are carried out in the procurement area (art. 23 of Act No. 17.060 and art. 24 of Decree No. 30/003).

The executive proposes salary scales for each annual budget. The current scale is considered adequate. Before taking up their functions, public officials attend an induction course that covers ethics and anti-corruption topics.

The criteria and disqualification criteria applicable to candidature for and election to specific public offices, such as those of senator and representative, are set out in the Constitution (arts. 90–92, 98, 100, 122–126, 151, 152, 171, 176, 178, 200, 201 and 208). Citizen rights, including the right to stand for office, are suspended for a certain period of time in the case of any person who receives a sentence imposing exile, imprisonment or disqualification from exercising political rights for the duration of the sentence; or who is legally prosecuted in a criminal case that may result in long-term imprisonment, which applies to all offences established in accordance with the Convention (art. 80, paras. 2 and 4, of the Constitution).

Political parties and candidates for elected public office are financed through State contributions (arts. 20–32, 39 and 40 of Act No. 18.845) and private contributions (arts. 41–44). At the time of the country visit, a special commission of the Chamber of Senators had been created to analyse a bill to amend Act No. 18.485. Donations to political parties or lists of candidates are limited to a maximum of 300,000 indexed units per recipient and per donor (arts. 31 and 43). In the case of campaigns, the identity of the donor must be recorded and the donation must be deposited into a bank

account (arts. 31 and 32). Other limitations have also been established (art. 45). The campaign committee is to register all contributions and inform the Electoral Court of their existence and origin (art. 17). The committee is also to submit to the Electoral Court an initial campaign budget that sets out projected expenditure and income as well as donations received to date, in addition to a final statement of accounts and of the origin of the funds used. Penalties have been established for failure to submit those documents (arts. 33–35 and 38). The statements of accounts submitted to the Electoral Court are available to the public, and State contributions may be paid only to parties that have submitted their statements of accounts (art. 37). Political parties are also required to report their sources of funding annually (art. 52). The Electoral Court is mandated to penalize non-compliance with Act No. 18.485 (art. 49), but it lacks the resources and training required to do so effectively.

Public officials are prohibited from exercising their functions in relation to private activities in which they are involved and are obliged to report to their superior any potential conflicts of interest as established in chapter 3 of Decree No. 30/003 (arts. 28 and 29).

Standards of conduct for public officials and penalties for non-compliance with those standards are set out in Act No. 17.060, Act No. 19.121, the Consolidated Text on Accounting and Financial Administration of the State (TOCAF, Decree No. 150/012, which supersedes the previous consolidated text) and Decree No. 30/003 (chapter 2 for standards of conduct; arts. 38 and 39 establish the disciplinary regime). Public officials must observe the principle of probity and are prohibited from becoming involved in matters that may benefit them or their relatives financially (arts. 20 and 21 of Act No. 17.060). The Constitution (art. 59) and Decree No. 30/003 (art. 8) establish the principle that public officials are there to perform their functions, not that the functions exist for the officials' benefit. Although there is no uniform code of conduct, various institutions have created their own such code.

Public officials are obliged to report acts of corruption (art. 177 of the Criminal Code and art. 40 of Decree No. 30/003). However, the procedure for such reporting is not regulated and only a small number of institutions have set up internal reporting channels.

Decree No. 30/003 establishes prohibited conduct with a view to safeguarding the integrity of public officials, including in relation to outside activities and gifts (arts. 25–37).

The independence of the judiciary is established by the Constitution (art. 233) and by Act No. 15.750 (arts. 1 and 84). The Supreme Court of Justice has established that the Ibero-American Model Code of Judicial Ethics is applicable to the entire judiciary. The standards of conduct set forth in Decree No. 30/003 are also applicable to the judiciary (art. 2). The Supreme Court of Justice is mandated to decide on the disciplinary measures applicable to members of the judiciary (art. 100, paras. 2 and 3, and art. 101, para. 3, of Act No. 15.750).

The training provided to future judges includes an ethics component, and training based on the Model Code is a prerequisite for advancement. Judges must submit asset declarations and cannot engage in any outside activities, except for specific teaching duties and honorary public offices subject to prior authorization by the Supreme Court of Justice (art. 251 of the Constitution).

The Public Prosecution Service is independent from the judiciary (art. 315 of the Constitution). A code of ethics for the Public Prosecution Service was being developed at the time of the country visit. In the meantime, the Model Code and Decree No. 30/003 continue to apply.

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

Uruguay has a decentralized procurement system, in which each entity is responsible for its own procurement. The Consolidated Text on Accounting and Financial Administration of the State (TOCAF) systematizes the legislation governing

procurement. Procurement must be conducted through public tendering or another expressly established competitive procedure. However, there are a large number of exceptions (art. 33 of the TOCAF), such as abbreviated tendering, direct purchasing or procurement through a procedure determined by the authorizer of the purchase in the interests of good administrative practice, without a threshold value and applicable in the cases set out in an exhaustive list, including the purchase of goods known to be scarce. Procurement can also be conducted through framework agreements (art. 36), downward bidding (art. 34) or special procurement regimes (art. 37). Uruguay has a website for State procurement and purchases on which all calls for tenders, and in certain cases other relevant documents, must be published (art. 50).

The Agency for State Procurement and Purchases evaluates procurement processes and is in charge of the Single Register of State Suppliers (RUPE) (arts. 76 and 151). Anyone interested in concluding a contract with the State is required to be on the Register (art. 76). The general terms and conditions applicable to procurements must be complemented by a set of special terms and conditions that set out, inter alia, the objective evaluation criteria and any special or technical conditions required for each procurement process (art. 48). Procurement decisions can be appealed; such appeals suspend the process unless the administration declares, through a reasoned decision, that such suspension would affect urgent exigencies of service or would cause grave harm (art. 73). Public officials who have had a link to any of the parties in a procurement process in the previous 12 months must recuse themselves from the process (art. 72).

The legislature is responsible for approving the budget submitted by the executive (art. 214 of the Constitution). The balance sheet and monthly reports on income and expenditure are published on the website of the General Accounting Office of the Nation, which is also responsible for the Integrated System of Financial Information used to record all financial information of the State. The Internal Audit Office heads the internal control mechanism (art. 48 of Act No. 16.736), while the Court of Auditors monitors public expenditure (art. 228 of the Constitution).

Article 572 of Act No. 15.903 governs the administrative liability of public officials for any breaches related to the management of State assets. Decree No. 30/003 (art. 23) establishes financial administration standards and states that non-compliance with those standards constitutes an administrative violation (see also art. 137 of the TOCAF). In order to prevent any falsification of public accounting documents, such documents can be accessed only with a unique user code; and the falsification of public documents has been established as a criminal offence (arts. 236 and 237 of the Criminal Code).

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

Act No. 18.381 establishes the right of access to public information (art. 3).

Access to information may be denied if the information is classified or confidential (arts. 8–10 of Act No. 18.381). Act No. 19.178 grants the Access to Public Information Unit (UAIP) the power to declassify information. Applicants can seek judicial redress or file an administrative complaint with the Unit. Uruguay has implemented a platform for access to public information (www.uaip.gub.uy).

Act No. 18.381 requires institutions to publish certain minimum information on their websites, including information on their structure, powers, remuneration, compensation, budget, audits, concessions and statistical information (art. 5). Decree No. 232/010 (art. 38) requires reports on decision-making processes to be published.

Uruguay promotes the simplification of administrative procedures through initiatives such as the Open Government Alliance.

JUTEP promotes programmes on anti-corruption education and works closely with civil society organizations and universities. UAIP also runs educational programmes for young people on the law governing access to information, in collaboration with

civil society organizations and a public council comprising representatives of academia, the judiciary and civil society.

Private sector (art. 12)

The systems for registering the owners of entities that issue shares or registered shares and the beneficial owners are governed by Act No. 18.930 of 2012, Act No. 19.484 of 2017 and Decree No. 166/017. JUTEP collaborates with various professional associations in regulating professional liability. However, there is no anti-corruption framework for the private sector. At the time of the country visit, there was a bill to address corruption in the private sector.

JUTEP lacks the resources to develop and implement systematic collaboration with the private sector. The authorities indicated that some private sector entities had codes of conduct but the enforcement of those codes was not monitored or promoted by JUTEP.

Measures to prevent money-laundering (art. 14)

The Financial Information and Analysis Unit (UIAF) (see further information below at art. 58), the Central Bank of Uruguay and the National Secretariat for Combating Money-Laundering and the Financing of Terrorism (SENACLAFT), which is located organizationally under the Office of the President, are the main bodies responsible for preventing and combating money-laundering.

Reporting entities include all natural and legal persons under the remit of the Central Bank of Uruguay (art. 12 of Act No. 19.574 and art. 34 of the charter of the Central Bank), as well as the non-financial entities listed in article 13 of Act No. 19.574. The Central Bank is the regulatory and supervisory authority for financial reporting entities (art. 12 of Act No. 19.574) and SENACLAFT is the regulatory and supervisory authority for non-financial reporting entities (art. 4 (E) of Act No. 19.574).

Reporting entities are required, inter alia, to (a) verify the identity of their customers, including beneficial owners (arts. 14 and 15 of Act No. 19.574); (b) report unusual or suspicious transactions (arts. 12 and 13); and (c) retain records for a minimum period of five years (art. 21).

All cross-border movements of cash, precious metals or other monetary instruments with a value of more than 10,000 United States dollars or its equivalent in another currency must be declared to the National Customs Directorate (art. 29 of Act No. 19.574, art. 16 of Decree No. 355/010 and art. 1 of UIAF Communication No. 2013/069). Failure to comply with this obligation is punishable (art. 12 of Act No. 19.574).

Instructions for the electronic transfer of funds must include accurate information about the owner or originator. That information must accompany the transfer. If the customer does not consent to the collection of such information, the transaction should not be carried out (arts. 306–308 of the Compendium of Rules for Regulation and Control of the Financial System (RNRCFS)).¹ The recipient institutions must have in place procedures enabling the detection of incoming transfers that are not accompanied by complete information about the originator and, in such cases, must carry out a detailed review of the transfer in order to determine whether it constitutes an unusual or suspicious transaction that must be reported to UIAF (art. 307).

Uruguay is a member of GAFILAT and of the Group of Experts on Money-Laundering of the Organization of American States.

2.2. Successes and good practices

- Salary scales must be published on the website of each institution (art. 7, para. 1).

¹ Following the country visit, the authorities indicated that the Compendium had been updated though a new circular of 30 April 2019.

- Within the framework of GAFILAT, Uruguay has successfully participated in specific exercises to detect the cross-border movement of cash or other monetary instruments twice a year (art. 14, para. 2).

2.3 Challenges in implementation

It is recommended that Uruguay:

- Further strengthen effective, coordinated anti-corruption measures beyond the area of money-laundering; and endeavour to establish and promote effective practices aimed at the prevention of corruption and to periodically evaluate relevant legal instruments and administrative measures with a view to determining their adequacy (art. 5, paras. 1–4).
- Strengthen the independence of JUTEP and provide it with the necessary material resources and specialized staff, including by ensuring that staff are assigned to JUTEP on a permanent basis (art. 6, para. 2).
- Endeavour to identify public positions considered especially vulnerable to corruption and to adopt adequate procedures for the selection, training and rotation of holders of such positions (art. 7, para. 1 (b)).
- Consider taking measures to enhance transparency in the funding of candidatures for elected public office and the funding of political parties, including by strengthening capacities and increasing resources for monitoring such funding and its compliance with rules on transparency (art. 7, para. 3).
- Continue its efforts to achieve the adoption by all public entities of codes of ethics or conduct (art. 8, para. 2).
- Consider taking measures to facilitate the reporting of acts of corruption by public officials, including through the establishment of clear, dedicated reporting channels for that purpose (art. 8, para. 4).
- Assess whether the large number of exceptions established with respect to procurement through public tendering or other competitive procedures can be reduced in the interest of transparency and competition (art. 9, para. 1).
- Publish information, which may include reports on the risks of corruption in its public administration (art. 10 (c)).

Uruguay is encouraged to adopt a code of ethics for the Public Prosecution Service (art. 11, para. 2).

It is recommended that Uruguay:

- Take measures to prevent corruption in the private sector, in particular by strengthening cooperation between law enforcement agencies and relevant private entities and encouraging the adoption of private sector ethics and integrity standards (art. 12, paras. 1 and 2).

3. Chapter V: asset recovery

3.1. Observations on the implementation of the articles under review

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

Uruguay does not have a specific law on asset recovery. All cooperation is based on chapter IX of Act No. 19.574 concerning cooperation in combating money-laundering and on chapters II and IV of the General Code of Procedure (arts. 526–543), which govern international judicial cooperation in general.

In practice, Uruguay can exchange information without prior request and it uses the GAFILAT Asset Recovery Network and the Egmont Secure Web for that purpose.

Uruguay has not concluded any agreements to enhance the effectiveness of international cooperation undertaken pursuant to chapter V of the Convention.

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

Uruguay has established the obligation to identify customers and verify their identity on the basis of level of risk (arts. 14–18 of Act No. 19.574). The beneficial owner must be identified for all accounts (art. 15 (B)), and anonymous accounts or accounts held under fictitious names are prohibited (art. 14). Special due diligence procedures must be put in place for both national and foreign politically exposed persons, their contacts, family members and close associates (arts. 19 (A) and 20). The term “close associates” is not defined.

Act No. 19.574 indicates to reporting entities the categories of customers, commercial relationships and transactions in respect of which they are required to apply enhanced due diligence procedures as part of a risk-based approach (art. 19; and art. 299 of the RNRCSF). Reporting entities must implement each due diligence measure but can determine the degree to which they apply those measures on the basis of the risk involved and depending on the type of customer, business relationship, product or transaction (art. 16 of Act No. 19.574).

UIAF informs reporting entities of the identity of national politically exposed persons through a list published on its website. In practice, it could use the list to notify financial institutions of the identity of other natural or legal persons whose accounts should be subject to enhanced scrutiny.

Reporting entities must keep records of all transactions carried out with or for their customers, as well as all “know-your-customer” information, for a minimum period of five years after a commercial relationship has ended or a one-time transaction has been carried out (art. 21 of Act No. 19.574).

In order to operate, financial intermediary companies (including banks, art. 1 of the RNRCSF) must first obtain authorization from the executive and must be accredited by the Central Bank of Uruguay (arts. 1 and 6 of Decree-Law No. 15.322). In order for the Central Bank to issue an opinion, such companies must provide information on their physical address and, where appropriate, a note in which the supervisory body or bodies of the controlling entity state that they have no objections to the establishment of a subsidiary in Uruguay and indicate the type of supervision exercised (arts. 16 (a) and 17 (e) and (f) of the RNRCSF). If the person that exercises control is a financial institution, consolidated supervision by the supervisor of the country of origin is mandatory (art. 14, no. 6, of the RNRCSF).

However, correspondent financial institutions must be subject to regulation and supervision and have customer acceptance and know-your-customer policies that have been approved by the local institution. Moreover, such institutions must not establish business relationships with correspondent financial institutions incorporated in jurisdictions that do not require them to be physically present, nor may they establish correspondent relationships with foreign financial institutions that allow their accounts to be used by such institutions (art. 303 of the RNRCSF).

Uruguay has established an asset and income declaration system that applies to a wide range of public officials who must declare their assets upon taking up their functions, every two years thereafter and upon leaving their position (arts. 10–19 of Act No. 17.060). Such declarations also cover the official’s spouse and any persons for whom the official is legally responsible (art. 12). Declarations can be opened and verified only under certain conditions (art. 15); JUTEP cannot access databases or bank information. Certain information in the sworn declarations is protected by bank secrecy and can be accessed by JUTEP only if legal action has been formally initiated (art. 5 of Act No. 18.930 and art. 15 of Act No. 17.060), which limits the Board’s control functions. Although it is possible to withhold up to 50 per cent of the salary of officials who do not submit a declaration (art. 99 of Act No. 18.046), there is a high

rate of non-compliance. Declarations are confidential, except those submitted by the President and the Vice-President of the country.

The competent authorities may share information with their foreign counterparts if that information is sought through a request for mutual legal assistance.

There is no express obligation to report any interest in or signature or other authority over a financial account abroad. However, since there are no restrictions with respect to the location of the assets that must be declared, any accounts that a public official may hold abroad are included (art. 10 of Act No. 17.060). At the time of the country visit, a bill requiring all sworn declarations to be made public was under review.

Failure to submit a sworn declaration and in certain cases false declaration are regarded as serious breaches of official duties (art. 17 of Act No. 17.060). No penalties have been established for such breaches.

UIAF was established through a resolution of the Directorate of the Central Bank of Uruguay of 20 December 2000. It can order institutions subject to the Central Bank's control to block, for a period of 72 hours, suspicious transactions that might involve funds originating in money-laundering or terrorist financing offences (art. 24 of Act No. 19.574). UIAF receives and analyses information on financial transactions, cooperates with national and international counterparts and is a member of the Egmont Group. UIAF may, on a reciprocal basis, exchange information relevant to the investigation of money-laundering and the financing of terrorism with foreign counterparts from which it receives a reasoned request (art. 27). On the basis of Act No. 19.574, it may sign memorandums of understanding with its counterparts. At the time of the country visit, in addition to cooperation through the Egmont Group and GAFILAT, UIAF had signed three bilateral memorandums with counterparts since 2017.

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

Other States can, in their capacity as legal persons, initiate civil action in Uruguay in order to establish title to or ownership of property.

Uruguayan courts can order the payment of compensation or damages and the authorities confirmed that these provisions would permit the payment of damages to other States (art. 105 of the Criminal Code and art. 1319 of the Civil Code).

The competent authorities are permitted, when having to decide on confiscation, to recognize another State party's claim as a legitimate owner of property acquired through the commission of a money-laundering offence or any other predicate offence through the recognition of that State as a bona fide third party (arts. 55–58 of Act No. 19.574).

The authorities cannot give effect to foreign confiscation orders. Mutual legal assistance requests that accompany such orders are subject to the procedural and substantive law of Uruguay (art. 34 of Act No. 17.060 and arts. 68 and 72 of Act No. 19.574).

The authorities can order the confiscation of property of foreign origin in a judgment relating to money-laundering or any other offence, in accordance with the general rules applicable to confiscation (arts. 105 and 163 quater of the Criminal Code and art. 37 of Act No. 19.574).

For some offences established in accordance with the Convention, Uruguay can avail itself of a special form of non-conviction-based confiscation of seized property in certain cases, for example, if the investigated or accused person cannot be found and six months have passed (art. 52 of Act No. 19.574). Similarly, the current legislative framework provides for the confiscation of seized property in cases in which the accused dies and the illicit origin of the property or the illegality of the material fact to which the property is linked can be proven, without a criminal conviction being

necessary (art. 54 of Act No. 19.574). Uruguay can execute foreign non-conviction-based confiscation orders in relation to certain offences established in accordance with the Convention through exequatur (arts. 537–541 of the General Code of Procedure).

For most, but not all, offences established in accordance with the Convention, Uruguay can execute a freezing or seizure request with or without a foreign order (art. 34 of Act No. 17.060; arts. 68 and 72 of Act No. 19.574; and art. 530.1 of the General Code of Procedure).

In case of a foreign arrest warrant or indictment, courts may adopt measures to preserve property for confiscation on their own initiative (art. 535.1 of the General Code of Procedure and art. 43 of Act No. 19.574).

Uruguay has not yet received requests from other States for the confiscation of property located in Uruguay. Therefore, the implementation of paragraphs 1 and 2 of article 55 of the Convention cannot be assessed.

The General Code of Procedure and bilateral and multilateral treaties govern the content of requests for assistance in general, without establishing additional requirements for requests related to confiscation. With regard to money-laundering, requests must be duly reasoned, identify the foreign competent authority and be accompanied by a translation into Spanish (art. 70 of Act No. 19.574). Requests are processed in accordance with Uruguayan law (art. 525.1 of the General Code of Procedure and arts. 68 and 72 of Act No. 19.574).

During the review, Uruguay provided copies of its laws and regulations implementing article 55 of the Convention. It does not make the adoption of the measures referred to in paragraphs 1 and 2 of article 55 of the Convention conditional on the existence of a treaty.

When a request relating to money-laundering does not contain sufficient information, additional information or clarification can be requested (art. 75 of Act No. 19.574). In practice, the same applies in non-money-laundering matters. If the additional information is not received within the deadline established, the request is rejected.

The authorities confirmed that, in practice, before a provisional measure is lifted, the requesting State will have the opportunity to present its reasons in favour of continuing the measure.

There are provisions to protect the rights of bona fide third parties (arts. 335 and 336 of the General Code of Procedure and arts. 55 and 57 of Act No. 19.574).

Return and disposal of assets (art. 57)

The Criminal Code stipulates that for certain offences established in accordance with the Convention, the confiscated proceeds will belong to the State, without prejudice to the rights of bona fide third parties (art. 163 quater of the Code). Property confiscated pursuant to Act No. 19.574 passes into the ownership of the National Drugs Board, which is authorized to dispose of such property (art. 59). The protection of bona fide third parties is provided for (arts. 55–58 of Act No. 19.574).

There are no specific provisions that establish the obligation to return property in the cases provided for in the Convention.

In direct application of the Convention, Uruguay can deduct reasonable expenses incurred in investigations or judicial proceedings for the return or disposal of property.

Uruguay has not concluded any specific agreements for the final disposal of confiscated property, although Act No. 19.574 explicitly provides for the conclusion of agreements for the sharing of confiscated property that is the proceeds of transnational organized crime offences (art. 60). Act No. 19.574 does not define such offences. A number of treaties on cooperation in criminal matters (concluded with Ecuador, Spain, the United States of America and Mexico) establish that the State that

has custody of the property shall dispose of it in accordance with its domestic law; those treaties also provide for the possibility to transfer the confiscated property or the proceeds of its sale to the other State, to the extent permitted by law and under the terms deemed appropriate. A treaty with the Bolivarian Republic of Venezuela provides likewise; with regard to the disposal of property, the treaty establishes that property will be disposed of in accordance with the domestic law of the State that has custody of it, unless the property forms part of the assets of the requesting State (art. 22, para. 3).

3.2. Successes and good practices

- UIAF publishes a non-exhaustive list of national politically exposed persons on its website (art. 52, para. 1).

3.3. Challenges in implementation

It is recommended that Uruguay:

- Conduct enhanced scrutiny of accounts sought or maintained by or on behalf of legal persons who are “close associates” of individuals who are, or have been, entrusted with prominent public functions, for example, by establishing a definition of “close associates” that includes legal persons (art. 52, para. 1).
- Endeavour to strengthen measures related to asset declarations, including by taking measures to enhance compliance with the obligation to submit a declaration, establishing the possibility of conducting ex officio checks of declarations and enabling the cross-checking of information contained in the declarations even before action is formally initiated under Act No. 17.060 (this could be provided for in the bill under consideration); consider establishing specific and adequate penalties for non-compliance with the obligation to declare financial information and requiring relevant public officials having an interest (other than right of ownership) in or signature or other authority over a foreign financial account to report that relationship and to maintain appropriate records related to the account; and study the possibility of strengthening the verification system for such declarations (art. 8, para. 5, and art. 52, paras. 5 and 6).
- Take measures to permit its competent authorities to give effect to a foreign confiscation order (art. 54, para. 1 (a)).
- Consider taking measures to allow the confiscation of property without a criminal conviction in all of the cases indicated in art. 54, para. 1 (c).
- Take measures to permit its competent authorities to freeze or seize property in compliance with a foreign request in respect of any of the offences established in accordance with the Convention (art. 54, para. 2 (a) and (b)).
- Adopt measures for the return and disposal of confiscated property in accordance with article 57, paragraphs 1–3, of the Convention, taking into account the rights of bona fide third parties (art. 57, paras. 1–3); and ensure that confiscated property is returned to the requesting State party in accordance with article 57, paragraph 3, of the Convention, including in cases in which bilateral or multilateral treaties provide otherwise (art. 57, paras. 3 and 5).
- Assess whether the power of UIAF to prevent suspicious transactions could be extended to all offences established in accordance with the Convention (art. 58).
- Consider concluding agreements to enhance the effectiveness of international cooperation undertaken pursuant to chapter V of the Convention.