



**Conference of the States Parties
to the United Nations
Convention against Corruption**

Distr.: General
22 June 2012

Original: English

**Open-ended Intergovernmental Working
Group on the Prevention of Corruption**

Vienna, 27-29 August 2012

Item 2(a)(i) of the provisional agenda*

**Implementation of Conference resolution 4/3, entitled
“Marrakech declaration on the prevention of corruption”,
and of the recommendations made by the Working Group
at its meeting in August 2011: good practices and
initiatives in the prevention of corruption: thematic
discussion on conflicts of interest, reporting acts of
corruption and asset declarations; particularly in the
context of articles 7-9 of the United Nations Convention
against Corruption**

**Conflicts of interest, reporting acts of corruption and asset
declarations, particularly in the context of articles 7-9 of the
Convention**

Note by the Secretariat**

Contents

	<i>Page</i>
I. Introduction	3
II. Policies and measures adopted by States parties in relation to conflicts of interest	4
A. Application of written standards in relation to conflicts of interest	4
B. Implementation of conflicts of interest standards	9
III. Policies and measures adopted by States parties regarding asset declarations	10
A. Asset declaration requirements	11
B. Monitoring and review of asset declarations	12

* CAC/COSP/WG.4/2012/1.

** This document has not been formally edited.



IV. Policies and measures adopted by States parties to facilitate the reporting of acts of corruption.	14
A. Imposition of a legal obligation to report acts of corruption.	14
B. Protection of individuals who report acts of corruption	15
C. Reporting mechanisms, training and other awareness-raising initiatives to facilitate the reporting of acts of corruption.	17
V. Conclusions and recommendations	19

I. Introduction

1. In its resolution 3/2 entitled “Preventive measures”, the Conference of the States parties (hereinafter, the Conference) stressed the importance of implementing articles 5 to 14 of the United Nations Convention against Corruption¹ to prevent and fight corruption. The Conference established an open-ended intergovernmental working group (hereinafter, the Working Group) to advise and assist the Conference in the implementation of its mandate on the prevention of corruption. The Working Group held two intersessional meetings, from 13 to 15 December 2010 and from 22 to 24 August 2011, in Vienna, Austria.²

2. At its fourth session, held in Marrakesh, Morocco from 24 to 28 October 2011, the Conference adopted resolution 4/3 in which it decided that the Working Group should continue its work and should hold at least two meetings prior to the fifth session of the Conference which will be held in 2013. In the same resolution, the Conference noted with appreciation that many States parties had shared information on their initiatives and good practices on the topics considered by the second meeting of the Working Group, and urged States parties to continue to share with the Secretariat and other States parties new as well as updated information on such initiatives and good practices.

3. Furthermore, it was decided that, in advance of each meeting of the Working Group, States parties should be invited to share their experiences of implementing the provisions under consideration, preferably by using the self-assessment checklist and including, where possible, successes, challenges, technical assistance needs, and lessons learned in implementation. Also in advance of each meeting, the Secretariat should prepare background papers for the topics under discussion, based on the input from States parties, in particular if they related to initiatives and good practices.

4. The third meeting of the Working Group will focus its attention on the following topics, which were proposed during the last meeting:

(a) Implementation of article 12 of the Convention, including the use of public-private partnerships; and

(b) Conflicts of interest, reporting acts of corruption and asset declarations, particularly in the context of articles 7-9 of the Convention.

5. In accordance with this request, the present note has been prepared on the basis of information relating to conflicts of interest, reporting acts of corruption and asset declarations, particularly in the context of articles 7-9 of the Convention provided by Governments in response to the Secretary-General’s note verbale CU 2012/28 (A) of 27 February 2012 and the reminder note verbale CU 2012/82 (A) of 18 April 2012. By 7 June 2012, submissions were received from the following 27 countries: Argentina, Armenia, Austria, Belarus, Bosnia and Herzegovina, Bulgaria, Burkina Faso, Chile, China, Costa Rica, Czech Republic, France, Germany, Guatemala, Japan, Republic of Korea, Malaysia, Republic of Moldova, Philippines, Poland, Romania, Russian Federation, Switzerland, Tunisia, Turkmenistan, Thailand and

¹ United Nations, *Treaty Series*, vol. 2349, No. 42146.

² All documents related to these meetings are available at www.unodc.org/unodc/en/treaties/CAC/working-group4.html.

United States of America. The full text of the submissions will be made available on the website of UNODC, with the agreement of the countries concerned.

6. The present note provides a thematic compilation of the information submitted by States parties with direct relevance to the topics under consideration.

7. An account of implementation of article 12 of the Convention, including the use of public-private partnerships, is provided in a separate note by the Secretariat.³

II. Policies and measures adopted by States parties in relation to conflicts of interest

8. Conflicts of interest are most directly addressed by the Convention in Article 7, paragraph 4, which provides that each State party shall, in accordance with the fundamental principles of its domestic law, endeavour to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest. While much of the information provided by States as regards conflicts of interest referred to policies and practices broadly aimed at the implementation of this provision, these policies also provided evidence of good practices and successful implementation of related provisions of the Convention.

9. In this regard, many States outlined how written standards and, particularly, codes of conduct are employed to provide guidance to officials as to the types of activities they should refrain from in order to avoid the potential for conflicts of interest, providing evidence of the implementation of Article 8 (Codes of conduct for public officials). A number of States also emphasized how specific legislative measures and other practices aimed at “high-risk” sectors, such as public procurement, had sought to reduce the likelihood of conflicts of interest in these sectors, providing evidence of implementation of Article 9 of the Convention (Public Procurement and Management of Public Finances).

10. The interrelated nature of the measures, policies and practices adopted by States to address the issue of conflicts of interest reflects the comprehensive approach to the prevention of corruption required by Chapter II of the Convention. While, for the purposes of comparative analysis, specific issues such as conflicts of interest and asset declarations have been addressed in separate sections of this report, both the provisions of the Convention and the practical examples of its implementation explored in this paper provide evidence of the importance of adopting a holistic approach by taking action in all aspects of public administration to effectively address the issue of conflicts of interest and prevent corruption more broadly.

A. Application of written standards in relation to conflicts of interest

11. The majority of States referred to their use of written standards as a key preventive measure in relation to conflicts of interest. Such written provisions generally sought to address the potential for conflicts of interest through a combination of positive declaratory values or principles and a range of restrictions

³ CAC/COSP/WG.4/2012/2.

or prohibitions in relation to specified types of activities, assets or remuneration deemed to give rise to potential conflicts of interest. These written standards are generally found in the criminal, civil and administrative law of States, most predominantly in the form of codes of conduct.

(i) *Declaratory standards and values*

12. As a method of encouraging public officials to uphold the principles of integrity and transparency in their professional work, and thereby avoid potential conflicts of interest, a number of States highlighted domestic provisions outlining the basic principles public officials are required to uphold while exercising their official responsibilities.

13. These efforts to instil and uphold basic principles in the exercise of public administration, in addition to forming part of systems aimed at the prevention of conflicts of interest as required by Article 7, paragraph 4 of the Convention, also represent examples of good practice as regards Article 8, paragraph 1, which provides that States shall promote, inter alia, integrity, honesty and responsibility among its public officials in order to fight corruption.

14. In this regard, the Philippines highlighted their use of a general declaration in the Code of Conduct for public officials which outlines the fundamental principles and values applicable to them. The Code provides, inter alia, that public officials “must at all times be accountable to the people, serve them with the utmost responsibility, integrity, loyalty and efficiency, act with patriotism and justice, and lead modest lives”.

15. In the United States all civil servants must take an oath of office by which they swear to faithfully discharge the duties of office. This requirement is expanded in the standards of conduct of the executive branch which provides that “Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws and ethical principles above private gain”. A more individualised form of declaration is required from certain Presidential appointees in the form of an “ethics pledge”.

16. Similarly, the Code of Conduct in Germany states that public servants are required to serve the entire populace rather than a political party, to fulfil their duties in a just and non-partisan manner and, in exercising their professional duties, to take account of the welfare of the general public.

17. In Bulgaria, the Code for the conduct for public officials obliges all officials to carry out their roles with integrity and impartiality.

(ii) *The application of prohibitions and restrictions to public officials*

Sources of prohibitions and restrictions

18. The application of prohibitions and restrictions on the activities, interests and assets of public officials was the main legislative means to prevent conflicts of interest referenced by States. Such prohibitions and restrictions are applied through a range of different legislative measures with States often combining criminal, civil and administrative law to produce a framework of responsibilities for public officials. Noteworthy examples of this multi-layered approach to the imposition of

legal responsibilities came from China, the Russian Federation and the United States.

19. In the United States, criminal conflict of interest statutes, civil ethics statutes and administrative standards including codes of conduct are used to set common standards for public officials with regard to conflicts of interest. Under the Criminal Code, broad prohibitions are imposed for the receipt of anything of value or compensation from any organization other than the US Government for their work as public officials and for the involvement of a public official in relation to any matter in which they, any family member or other personal or professional acquaintance has a financial interest.

20. The Civil Code complements these broad prohibitions through the application of specific prohibitions on senior public officials from receiving compensation for work with private sector entities, engaging in specified activities such as teaching without prior authorization and receiving more than 15 per cent of their annual pay from outside sources, regardless of the type of activities for which the income was received. Branch-specific administrative provisions, in the form of codes of conduct, contain restrictions and prohibitions of particular relevance to the role and functions of public officials in specific branches of government.

21. In the Russian Federation, a vertically integrated system of anti-corruption legislative standards for public officials operates at four levels. Primary legislation, for example in the form of the Federal Anti-Corruption Act, sets out the basic obligations of civil servants, the restrictions and prohibitions applicable to them and the general rules for settling conflicts of interests and submitting financial information.

22. Subsidiary legislation, principally in the form of a Presidential Decree, sets out the general principles for the official conduct of civil servants. Thirdly, a Model Code of Ethics and Official Conduct for Officials of State and Municipal Agencies of the Russian Federation has been adopted by the Council of the President. Lastly, all federal ministries have adopted departmental codes of ethics and official conduct, adapting the Model Code to the specific conditions of civil service employment in the relevant ministry.

23. In China, a combination of the Civil Servant Law of the People's Republic of China, subsidiary Guidelines of Integrity and a number of other rules and regulations provide the legal framework for civil servants to address issues involving conflicts of interest. The Guidelines of Integrity outline restrictions on the activities of senior public officials, prohibiting 18 types of activities relevant to potential conflicts of interest including engagement in profit-making activities which are against established rules, such as starting or running one's own commercial business and the trading of stocks and shares.

24. In contrast with this multi-instrument approach, Bulgaria has made efforts to simplify the requirements applied to public officials by compiling all prohibitions and restrictions applicable to public servants contained in the Labour Code, Civil Servants Act and other instruments into one statutory provision.

General prohibitions applicable to public officials

25. A range of general prohibitions and restrictions applicable to public officials were cited by States. Common general prohibitions include a prohibition on holding office or performing any activity which is incompatible with professional duties and the use by a public official of his position for his private advantage or personal gratification. The majority of responding States indicated that general prohibitions of this nature were applied as part of legislative efforts aimed at preventing conflicts of interest.

26. The Code of Conduct in the Republic of Korea, for example, sets out 16 behavioural standards including general prohibitions such as the “Prohibition of the Improper Use of Public Position”. Similarly, in China, a broad prohibition is placed on leading cadres (senior public officials) from taking advantage of their position to secure illegitimate gains for their spouses or children.

Prohibitions and restrictions relating to activities in the private sector

27. A number of States applied specific restrictions on the private sector activities of public officials. States including Armenia, Bulgaria and Burkina Faso placed an absolute prohibition on such activities whereas in a number of other States, including Austria and France, public officials were entitled to receive income from private activities where specific authorization had been given or up to a certain level of income.

28. Under the National Public Service Act, public officials in Japan are prohibited from engaging in any private sector activities unless permission is granted by the National Personnel Authority, the centralized body responsible for governing the conduct of public officials. Any other type of outside activity in exchange for remuneration is only possible where permission is granted to the public official by the Prime Minister and the head of the government agency employing that official.

29. In a number of States, the prohibition on private-sector activities was limited to ensuring that public sector employees were not in any way connected with private bodies regulated by or otherwise subject to the authority of the public body for which they work. The Code of Conduct of Public Officials applicable in the Philippines, for example, provides that a public official cannot own, control, manage or accept employment in any capacity in a private entity which is regulated, supervised or licensed by the public body for which that public official works.

30. Similarly, in Tunisia, public officials may not have any interest in an entity which is subject to the control of the public body for which they work if that interest compromises their independence. Where a public official breaches this prohibition, he will be guilty of a criminal offence with an applicable penalty of two years imprisonment.

31. In France, civil servants are prohibited from holding stocks in a firm subject to oversight by the office where he or she works. Ministers and Members of Parliament are prohibited from holding board positions or acting as officers at private entities while they are exercising their electoral mandate. However, as in Japan, civil servants may be authorized on a case-by-case basis to perform private sector activities.

32. Prohibitions or restrictions on activities in the private sector by public officials were extended by a number of States beyond the actual period of employment, with many States applying a 3 to 5 year post-employment prohibition on such activities. In China, a 3 year restriction is applied, reduced to 2 years where the individual held a junior public position.

33. Similarly, in France, civil servants are prohibited from working for companies that have been supervised, controlled, or contracted with the office where the civil servant worked over the last three years. In Germany, a waiting period of three to five years applies. All civil servants, including retired officials, must inform authorities prior to taking up employment outside of the public service.

34. In both the Republic of Korea and Japan, former public officials are prohibited, for a period of two years, from working for a private company operating in an area in which the retired official worked within the last five years.

35. However, while many States have enacted prohibitions or restrictions on activities in the private sector, a number also highlighted the challenges they face in implementing such measures. Armenia noted that many public officials, despite a legal prohibition on such activities, did in fact hold significant business interests, with this being particularly prevalent among elected officials.

Restrictions on the solicitation or acceptance of gifts

36. A second key area of restrictions and prohibitions concerned the solicitation, acceptance and giving of gifts by public officials. A number of States placed strict restrictions on the ability of individuals to accept gifts so as to reduce the possibility of conflicts of interest arising.

37. In the Philippines, the Code of Conduct provides that no public official may solicit or accept any gift while carrying out their official duties, with nominal gifts from foreign governments exempted. This type of approach was reflected in a number of States including China, where the Guidelines of Integrity specifically prohibit the acceptance of any form of cash gift and the acceptance of any gifts, treatment, trips, entertainment or any other form of hospitality that may affect the honest execution of public duties.

Specialized written standards for specific areas of public administration

38. A significant number of responding States, including Austria, China, France, Germany and the United States highlighted how specialized regulations or codes of conduct were applied to “high risk” sectors of public administration as regards conflicts of interest.

39. In Austria, the Federal Ministry of the Interior has developed its own code of conduct, including practical guidance regarding specific forms of conflicts of interest that employees of the Ministry may be confronted with. To assist in the implementation of the Code, the Austrian Anti-Corruption Bureau provided specialized training including tailored e-learning programmes and workshops for senior officials at the Ministry.

40. In the Russian Federation, specialized codes of conduct are developed by executive agencies on the basis of a federal Model Code of Ethics. Codes of ethics have been developed by most agencies and their application was often supplemented

by additional training, the provision of advisory services and the presentation of written standards in an easy-to-use tabulated format. In the case of the Federal Security Service, it was noted that such measures had led to a significant reduction in corruption offences.

41. Similarly, Poland also noted that specialized codes of ethics or conduct had been developed in relation to a number of areas of public administration including the police, judiciary and prison services.

42. In the Republic of Korea, a specialized Code of Conduct for Local Councilmen has been enacted with the aim of reflecting the distinct characteristics of the status of local public officials.

B. Implementation of conflicts of interest standards

43. While some States emphasized the punitive measures applicable in the event that a conflict of interest is identified, there were many States which instead sought to highlight proactive practices and policies employed for the early resolution of conflicts of interest.

44. Such measures represent good practices as regards the implementation of Article 8, paragraph 6 of the Convention which requires State Parties to consider taking, in accordance with the fundamental principles of its domestic law, disciplinary or other measures against public officials who violate the codes or standards established in accordance with the requirements of the Convention.

45. In Argentina, the work of the Anticorruption Office demonstrated a significant movement towards the proactive resolution of possible conflicts of interest and incompatibilities. Efforts include the early provision of preventive recommendations to public officials, such as a recommendation to refrain from participating in activities which are prescribed as grounds for disqualification under applicable regulations.

46. In the Republic of Korea, under a 4-step approach outlined in the Guidelines for Conflict of Interest, an ethical counselling system is available to public officials aimed at developing their ability to accurately assess the likelihood of conflicts of interest and to take action to resolve them when they arise. Disciplinary measures are, however, also used when relevant standards are breached.

47. The United States also outlined preventive actions that may be taken where a potential conflict of interest exists. In one example, potential appointees to senior positions in the Executive provide a draft asset declaration which is reviewed by the White House, the agency they will be working for and the Office of Government Ethics. On the basis of the information provided, steps are identified which must be taken before the individual takes up the post (i.e. divestiture of assets). These steps are outlined in an “ethics agreement” which is agreed with the respective employee. The Office of Government Ethics ensures that the ethics agreement is implemented within 90 days of appointment. Copies of the relevant declarations and “ethics agreements” are available to the public online.

48. Many States imposed a requirement of divestiture of assets where potential conflicts between the property held by an individual and his professional

responsibilities are identified. An innovative solution to such divestiture was highlighted by the Republic of Korea in the form of a Blind Trust of Stocks. Under this initiative, senior elected and politically appointed officials are required to dispose or entrust any stocks they own with a value of more than 30 million KRW into the Blind Trust.

49. The importance of a centralized body that is responsible for the monitoring and implementation of conflict of interest standards was highlighted by many States including Bulgaria, Costa Rica, Guatemala and Japan, with this body often also acting as the central authority for the receipt of asset declarations and reports of suspected acts of corruption.

50. In Japan, the National Personnel Authority, the central body responsible for implementing legislation related to the exercise of duties by public officials, combines its enforcement powers with awareness-raising activities. It has, for example, distributed 105,000 pamphlets to government agencies to encourage adherence to relevant standards of conduct by public officials. In 2000, the Authority issued guidelines aimed at helping each Ministry determine the severity of punishments for breaches of conduct regulations, ensuring that appropriate disciplinary actions are taken by all government agencies.

51. In the Republic of Korea, the Anti-corruption and Civil Rights Commission is the central body responsible for introducing and monitoring the implementation of the Code of Conduct for Public Officials. In this capacity, the Commission has produced “Guidelines for Conflict of Interest” as a practical guide for public officials to effectively respond to conflict of interest risks.

52. By contrast, in the Russian Federation, the implementation of requirements placed on public officials regarding ethics issues and conflicts of interest is largely left to individual agencies. However, the Ministry of Economic Development plays a central monitoring role in relation to the implementation by federal State agencies of anti-corruption measures.

53. In a number of States, a distinction was drawn between criminal and civil conflict of interest laws, which are generally enforced by a central prosecuting body, and administrative standards such as codes of conduct, which are often monitored and enforced by individual agencies. This was the case in the United States where the Department of Justice enforces the criminal conflict of interest laws and the civil ethics laws for all public officials while administrative sanctions are imposed by the agency employing the official who has breached the relevant administrative standards of conduct.

III. Policies and measures adopted by States parties regarding asset declarations

54. Article 8, paragraph 5 of the Convention refers to the imposition of asset declaration requirements on public officials as a tool in the prevention of conflicts of interest. Specifically, this provision requires States parties to endeavour to establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment,

investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials.

55. States have demonstrated a variety of approaches as regards the type of information requested from public officials and the methods used to monitor and assess the information provided. Key emerging themes include the prevalence of central, independent authorities charged with monitoring the implementation of asset declaration requirements and the increasing use of information technology tools to carry out these tasks.

A. Asset declaration requirements

56. All responding States indicated that some form of asset declaration requirements were placed on specified categories of public officials. Practice varies significantly between States, however, regarding the type of assets which must be declared and the range of public officials that are subject to the asset declaration regime.

57. A broad approach is taken in Malaysia where all public officials are required to file a Statement of Assets and Liabilities and Networth. Public officials are required to submit their declaration under oath and all business interests and financial connections must be declared. Similarly, in Switzerland, all federal employees must declare to their superiors all public and remunerated activities outside of their professional responsibilities. In the Philippines also, all public officials are required to file asset declaration forms on arrival and annually thereafter.

58. In the majority of States, however, the obligation to provide an asset declaration was primarily applicable to senior public officials. In the United States, those who serve in the most senior positions of all three branches of government are required to file a personal financial disclosure report upon entry into the position, then annually and a final one on leaving their post. Specific disclosure requirements were also applicable in individual branches of government. It was reported, for example, that there are 28,000 public asset declarations made per year by public officials in the Executive Branch alone.

59. In China, asset declaration requirements are principally applicable to leading cadres who are required to provide a report containing 14 pieces of information including the financial assets of the officials and their family members.

60. In the Republic of Korea, a property registration system has been introduced to prevent illegal property accumulation by public officials. Under this system, public officials are regularly requested to disclose information on their property status and that of their family members. The obligation to complete asset declarations and submit them in the property registration system applies to all senior public officials and to lower-level officials working in “high risk” areas of public administration such as tax, law enforcement or auditing.

61. Chile detailed a system combining both the declaration of assets and a separate declaration of interests. Declarations of interests include the professional and economic activities involving the official and must be made within 30 days of a

senior public official assuming their position. Declarations are then updated every four years.

62. Similarly, in Costa Rica, all high-level officials must provide an asset declaration to the Comptroller General within 30 days of taking up their position. The information required in the declaration includes any changes in equity of the individual for the previous year. Information must be updated on an annual basis while the public official continues to hold the position and a final declaration must be made within a period of one month of leaving.

63. In Argentina, asset declaration requirements apply to a broad range of officials including those at director level or above and any officials, regardless of seniority, involved in the award of procurement contracts or responsible for the management of public property. A broad range of information was also required, with officials compelled to disclose all property, investments, bank deposits, loans and mortgages, annual income and expenses.

64. Some States applied a *de minimis* level of income over which public officials are required to produce asset declarations. In Austria, for example, elected public officials have to disclose all income over 1,142.40 euros per year.

65. A number of States highlighted that the authority responsible for monitoring asset declarations also has the power to request any official to complete an asset declaration, even where they would not normally be required to do so. This was the case in Costa Rica, where the Comptroller General Office may require an asset declaration from any public official, and in Japan, where the National Personnel Authority may require any public official to declare any shareholdings they have in private enterprises and may require the official to dispose of the relevant shareholdings or, alternatively, resign from the position.

66. Such powers were often used by centralized authorities in “high risk” areas such as public procurement. In Malaysia, for example, any officer who has a vested interest in a quotation or tender exercise is required to declare that interest and to recuse themselves from the procurement process. In the United States, executive branch agencies typically require procurement officials to file confidential financial disclosures to ensure that contracting decisions are made free from bias.

B. Monitoring and review of asset declarations

67. A variety of approaches to the monitoring and review of asset declarations were detailed in the submissions provided to the Secretariat. One of the key distinctions that could be drawn between the systems in States parties is whether a central, independent body is used to monitor the asset declarations of public officials or whether it is left to the discretion of the government entity in which a public official works to assess the information provided.

68. A central authority for the review of some or all asset declarations was reported as being used in many States including Argentina, Armenia, Bosnia and Herzegovina, Chile, the Republic of Korea, Malaysia, the Philippines and the Russian Federation. In Armenia, all senior public officials must submit property and income declarations to the Ethics Commission for High Ranking Officials which assesses the information provided in order to identify any potential conflicts of

interest. The most common forms of conflicts of interest identified by the Ethics Commission are self-dealing, outside employment, family interests and gifts from friends. Despite the existence of such a body, Armenia noted that implementation of asset declaration legislation was often challenging and had proved easy to circumvent.

69. Similarly, in Bosnia and Herzegovina, asset declarations of all elected officials, members of the executive and advisors are given to the Central Election Commission. The Commission compiles this information into a searchable database and conducts an assessment as to whether a violation of conflict of interest laws has occurred.

70. In Chile also, all senior public officials are required to file their declaration of interests and assets with a central body, the Comptroller General, which is responsible both for reviewing the contents of declarations and ensuring timely compliance by public officials with their declaration obligations. The declarations of all public officials are held by the Comptroller General for future reference and will be consulted where a conflict of interest is identified following an investigation.

71. The Anticorruption Office in Argentina is the central body responsible for the implementation of asset declaration requirements of members of the Executive, receiving 4,293 declarations in 2011. There, a computerized system is used for the submission and analysis of asset declarations, allowing for the automatic detection of statements demonstrating a significant increase in assets, the automatic calculation of assets per employee and the ability to search by specified criteria such as their rank. Where a potential conflict of interest is identified, the specialized Asset Declaration Unit will prepare a report outlining the potential areas of conflict and any required actions. This report is sent to the public authority for which the relevant public official works for appropriate follow-up action.

72. A similarly advanced system was highlighted by the Republic of Korea in the form of the Property Ethics Total Information system. This system allows for property registration and review to be processed at the same time, linking HR, finance and real estate data together. This has led to a 91 per cent level of accuracy in the information provided by public officials.

73. Other States take a more decentralized approach to the monitoring and implementation of asset declarations. In Belarus and a number of other States, the heads of each government department are responsible for reviewing the content of declarations. In the Philippines, the Committees of both Houses of Congress are also responsible for evaluating the declarations of its own members.

74. Practice differed among States as to whether the information provided in asset declaration forms was made publicly available. In a number of States including Bosnia and Herzegovina, Bulgaria, Chile, the Republic of Korea and the United States, asset declarations made by senior officials were made available to the public, most commonly online. In Chile, there are 205 public authorities that have published such declarations.

75. Many States provide for civil, administrative or criminal penalties to be applied where a public official fails to meet asset declaration requirements. A common approach among States is to apply civil penalties such as a fine where an

asset declaration form has not been completed but to provide for the possibility of criminal prosecution where an individual provides false or misleading information.

76. Such an approach is taken in the United States where an automatic \$200 fine is triggered where an individual fails to file an asset declaration on time. Where false information is filed, the Department of Justice, following a referral from the relevant government agency, will prosecute. This system of enforcement has led to a high level of compliance. Statistics compiled by the Office of Government Ethics indicated that in 2010 of 28,078 public reports required, only 295 remained outstanding.

77. Similarly, in Bosnia and Herzegovina, where the Central Electoral Commission finds that incomplete or inaccurate information has been provided, it may refer the matter to the competent Prosecutors Office. The Philippines highlighted a specific case in which the Supreme Court found an official at the Department of Public Works and Highways guilty of negligence for failing to properly complete an asset declaration relating to 28 pieces of real estate held by the official and imposed a fine of six months' worth of retirement benefits.

78. By contrast, in China, penalties applicable where an individual does not report on time or fails to report honestly are primarily administrative in nature, including the possibility of dismissal, official criticism or transfer to another post.

IV. Policies and measures adopted by States parties to facilitate the reporting of acts of corruption

79. Information provided by States regarding the reporting of acts of corruption principally focused on measures relevant to the implementation of Article 8, paragraph 4 of the Convention. This provision provides that each State party shall consider, in accordance with the fundamental principles of its domestic law, establishing measures and systems to facilitate the reporting by public officials of acts of corruption to appropriate authorities, when such acts come to their notice in the performance of their functions.

80. The information provided by States also, however, contained examples of measures, policies and practices relevant to the implementation of other provisions of the Convention. A number of States highlighted the protection of those reporting acts of corruption as a key element in encouraging such reports (see Section B below). Such measures, in addition to meeting the requirements of Article 8, also provided examples of the implementation of Article 33 (Protection of Reporting Persons). A number of the reporting mechanisms and awareness-raising tools highlighted by States (see section C) were available both to public officials and to members of the public more broadly, and thus also provided good examples of the implementation of Article 10 of the Convention (Public Reporting).

A. Imposition of legal obligations to report acts of corruption

81. A significant number of the responses from States focused on the imposition of legal obligations, both specifically on public officials and on members of the public more broadly, to report suspected acts of corruption.

82. Argentina, Armenia, Bulgaria, Burkina Faso, Chile, Costa Rica, France, Japan, the Republic of Korea, the Russian Federation, Switzerland, Tunisia and the United States all outlined the legal obligations that are imposed on individuals to report suspected crimes. This element of compulsion, backed by sanctions in a number of States, was viewed by many States as forming a key part of an effective framework for facilitating the reporting of acts of corruption. In the majority of States, the breach of such an obligation constitutes a criminal offence.

83. In the United States, all heads of executive agencies are required to report to the Attorney General any information or allegation regarding a violation of the criminal code by an executive branch officer or employee. More broadly, any employee who is aware of fraud, waste or corruption and fails to report it is subject to administrative discipline. Similarly, in the legislative branch of government, the applicable Codes of Official Conduct place an obligation on all members of the legislature to report and expose corruption.

84. In the Russian Federation, the legal obligation to report is applied on a departmental level. Ministry of Internal Affairs officials, for example, are required to report any approach made to them in relation to a corruption offence, following the procedure provided for under an Order issued by the Ministry.

85. Argentina, Bulgaria and the Republic of Korea provide for a specific obligation to report acts of corruption under their domestic anti-corruption legislation.

86. Burkina Faso outlined how, under its Criminal Code, those who have knowledge of a crime or offence being planned and fail to report it, will be considered as an accomplice in the crime that is ultimately committed.

87. There were divergent practices among States regarding the persons to whom reporting obligations apply. In the majority of States, the obligation to report acts of corruption applied to all public officials. This was the case in France, where the Cour de Cassation had broadly interpreted the relevant provisions of the Penal Code. The Court further noted that the act of reporting could, in practice, be carried out by superiors, thus affording the more junior employee some measure of protection.

88. Efforts were made in some States to educate public officials as regards their obligation to report acts of corruption. In Tunisia, the National Fact-finding Committee on Bribery and Corruption has held periodic seminars in order to urge public officials to report all suspected acts of corruption. These seminars have succeeded in strengthening the trust between civil servants and the Committee and have resulted in several public departments and bodies reporting cases of corruption.

B. Protection of individuals who report acts of corruption

89. Many States highlighted the importance of protecting individuals who report suspected acts of corruption as part of a comprehensive approach to encouraging the reporting of such acts.

90. Austria, Argentina, Bosnia and Herzegovina, Bulgaria, Chile, China, France, Japan, the Republic of Korea, Malaysia, the Philippines and the Russian Federation highlighted provisions of their domestic legislation which provide for the protection of individuals who come forward with information regarding acts of corruption in the public sector.

91. In China, such protection is provided under criminal law, criminal procedure and administrative law. Under these provisions, it is stipulated that no one must obstruct a person from reporting an act of corruption, that reporting persons are entitled to require protection from competent authorities and that it is illegal to retaliate against an individual for reporting an act of corruption. China also indicated that domestic provisions ensure that the personal details of reporting persons are kept confidential. Furthermore, reporting persons may be given incentives where evidence they have provided has facilitated investigations.

92. A number of States, including Argentina and the Republic of Korea, allowed for the anonymous reporting of suspected corruption offences. In Argentina, a variety of different degrees of anonymity are permitted. Entirely anonymous allegations of corruption can be received by the Anti-Corruption Office, although it has proven difficult for investigators to build cases on these reports due to the impossibility of obtaining further information from the reporting person. Alternatively, it is possible for an individual to bring an allegation of corruption and for the Anti-Corruption Office to keep their identity hidden during the investigation of the suspected offence, thus protecting the identification of the reporting person while also allowing for effective investigations.

93. Chile also allows for the identity of the reporting person to be kept secret during criminal proceedings in relation to corruption offences. Where the reporting person requests anonymity, the disclosure of his identity shall be prohibited in any form and any breach of this requirement is subject to administrative penalties.

94. Similarly, the Republic of Korea reported that where a person suffers or may suffer disadvantage or discrimination having reported an act of corruption the provisions on “Protecting Those Who Report Specific Crimes Act” under its law of criminal procedure, shall apply *mutatis mutandis* to the investigation stage so as to protect the identity of the reporter.

95. In the United States and Austria, anonymous tips are accepted on anti-corruption hotlines. Austria reported that the number of reports of suspected acts of corruption had increased as a result of allowing the provision of information on an anonymous basis.

96. By contrast, Bulgaria noted that anonymous allegations could not form a valid basis for investigation under its criminal procedure code.

97. A number of States highlighted the protections afforded to reporting persons under labour legislation. Chile noted that under their labour laws it was prohibited for an employer to take disciplinary measures against an employee following an allegation of corruption. Bosnia and Herzegovina noted that under its whistle-blower protection legislation, compensation is payable to an individual who suffers harm as a result of reporting suspected corrupt behaviour.

98. France cited broad legislative provisions relating to the protection of public officials from harassment and the threat of violence as providing protection to individuals coming forward with reports of suspected acts of corruption.

C. Reporting mechanisms, training and other awareness-raising initiatives to facilitate the reporting of acts of corruption

99. States also provided detailed information on broader efforts to engage with public officials so as to encourage them to report suspected acts of corruption. These measures include the adoption of specific reporting mechanisms for acts of corruption, the training of public officials regarding corruption-related offences and other awareness-raising tools. Such policies and measures represent good practices as regards the implementation of Article 8 (4) and Article 8 (1) of the Convention.

Reporting Mechanisms

100. Austria, Argentina, Armenia, Belarus, Bosnia and Herzegovina, Burkina Faso, Costa Rica, France, Germany, Guatemala, the Republic of Korea, Malaysia, the Philippines, Poland and the United States provided information regarding the specific mechanisms put in place to facilitate the reporting of suspected acts of corruption. A distinction could be drawn between those States who provided reporting mechanisms on an individual department or agency basis and those with a separate, central body for dealing with reports of corruption.

101. In Costa Rica, the central Office of Public Ethics was responsible for the development of a mechanism for the receipt of reports of suspected acts of corruption and now acts as a monitoring body in relation to such reports. Furthermore, the Office also performs a preliminary investigation to determine the administrative or judicial action that may be necessary in relation to reports received. Statistics provided by Costa Rica demonstrated a significant increase in the number of reports received from 2006-2011 with a corresponding increase in follow-up action taken.

102. Guatemala also highlighted the establishment of a new centralized complaints management system. Under this system, a central body is responsible for receiving and processing reports related to possible corruption in the Executive branch at the request of citizens or on its own initiative. Austria similarly noted that the Federal Bureau of Anti-Corruption acts as a central reporting centre for all federal employees and provides a hotline for use in reporting suspected acts of corruption.

103. The Republic of Korea has established an independent anti-corruption authority which runs a Corruption Report Centre. Reports may be made by telephone, online, or by an on-site visit from a member of the Report Centre. To ensure high-quality counselling, retired public officials with significant experience are employed to work in the centre.

104. A specific example of the role played by the Report Centre was given in the form of a case in which an official had received an illegal order from his immediate superior to make a private contract with a company. The official refused to follow the order, reporting to the Centre that over 1 billion KRW had been wasted through such practices. In response to this, the central authority required the organization to

reverse discriminatory measures taken against Mr. B as a result of his whistle-blowing and awarded Mr. B 30 million KRW for his contribution to corruption prevention. The case was reported in the media, raising public awareness in Korean society on the need to protect whistle-blowers.

105. The United States provided evidence of both centralized and branch-specific reporting mechanisms, with Inspector Generals in individual agencies acting as internal watchdogs in addition to a specialized Disclosure Unit within the U.S. Office of Special Counsel providing a separate route for the provision of information by whistle-blowers. The U.S. Office of Special Counsel received 900 whistle-blower disclosures in 2011 with 47 referred to agency heads for investigation. The Office of Special Counsel has recently confirmed allegations made by whistle-blowers in ten different agencies.

106. Armenia, Poland and the Philippines outlined reporting mechanisms provided by individual governmental agencies. In Poland, public officials in the Ministry of Justice may provide information via the Ministry of Justice website, by e-mail or by post. This information is then collected by the Head of the Complaints Unit at the Ministry of Justice and is passed to the Director General for follow-up action to be taken.

107. The most frequently cited example of reporting mechanism by States was that of a hotline or other form of telephone reporting system whereby individuals can report suspected acts of corruption. Austria, Argentina, Armenia, Belarus, Burkina Faso, China, Costa Rica, Guatemala, Malaysia, the Philippines, Poland, the Republic of Korea, and the United States all indicated that such hotlines were available for members of the public. In a smaller number of countries, including Bosnia and Herzegovina, China and the United States, online forms were available for use by reporting persons.

108. In Costa Rica, the anti-corruption hotline of the Office of Public Ethics is used both as a tool for the reporting of suspected acts of corruption and as an advisory line for public officials regarding their duties of probity and transparency. In 2011, 135 calls were received on the hotline in addition to 76 in-person visits.

Training and other awareness-raising activities

109. Many States highlighted the training provided to public officials and other awareness-raising activities carried out so as to facilitate their reporting of acts of corruption. Common tools include anti-corruption publications, training sessions for new employees and broader media campaigns to raise awareness levels regarding existing reporting mechanisms.

110. France highlighted the training provided to public officials regarding their reporting obligations under the Criminal Code and the available reporting mechanisms. In sectors defined as “at risk”, such as public accounting, specific awareness campaigns are implemented through circulars.

111. Poland noted two handbooks recently published by its Central Anti-Corruption Bureau specifically aimed at civil servants and entrepreneurs, respectively. The handbooks have been accompanied by 560 training events for over 13,000 civil servants in which topics addressed in the handbook are discussed.

112. Malaysia reported a number of innovative awareness-raising measures aimed at encouraging the reporting of suspected acts of corruption including a Road Show publicizing the provisions of the Anti-Corruption Act, the development of a drama based on a successful anti-corruption operation and public recognition being accorded to reporting persons. Malaysia noted a significant increase in the number of arrests made in relation to corruption offences following the introduction of these initiatives.

V. Conclusions and recommendations

113. The third session of the Working Group on Prevention comes at a time of significant change in the way that States seek to regulate conflicts of interest. The increased use of asset declarations is one of a series of reforms being undertaken by States to develop effective preventive systems for the identification and resolution of conflicts of interest. In this regard, many States referred to recently-introduced legislation in their responses while others, including Costa Rica, the Czech Republic and the Republic of Korea indicated that they were presently developing new laws on this matter.

114. While some States are beginning the process of reform, significant efforts have already been made by others as regards the improvement of conflicts of interest regulation. In particular, the innovative use of technology for the purposes of preventing and identifying conflicts of interest, whether in the form of e-learning programmes adopted in Austria or the automated assessments of asset declarations in Argentina, was a common theme in the responses received.

115. In light of both the eagerness for reform demonstrated in many States and the examples already provided by others of the creative use of legislative and technological tools in this regard, the Working Group may use the opportunity of its third meeting to further explore the good practices described in this paper as sources both of inspiration and practical guidance for those States presently seeking to amend and improve their regulatory framework in this area.

116. The use of training, education and awareness-raising measures to encourage the reporting of acts of corruption is a key theme that arises from the responses of States. Many, such as Poland and Malaysia, demonstrate considerable effort and imagination in their attempts to increase knowledge both among public officials and the public more broadly as to the mechanisms available to them for reporting such acts. The Working Group may therefore wish to explore how the lessons learned from the implementation of such measures could be applied in States currently considering reforms in this area. Furthermore, the Working Group may wish to underline the importance of both the protection of reporting persons and the existence of easily-accessible and confidential reporting mechanisms in efforts to further encourage the reporting of suspected acts of corruption.

117. In order to continue and enhance this process of mutual learning, States are encouraged to provide further updates and present new initiatives in the areas of discussion at the Working Group.

118. On the basis of the information summarized in this report and the information presented at its third meeting, the Working Group may wish to give an overall appraisal of progress made so far in relation to the issues addressed in this paper.
