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State of implementation of the United Nations
Convention against Corruption

Executive summary

Note by the Secretariat

Addendum

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* CAC/COSP/IRG/2024/1.
II. Executive summary

Maldives

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


The implementation by Maldives of chapters III and IV of the Convention was reviewed in the fourth year of the first review cycle, and the executive summary of that review was issued on 25 September 2015 (CAC/COSP/IRG/I/4/1/Add.24).

Relevant implementing legislation includes, principally, the Anti-Corruption Commission Act, the Civil Service Act, the Right to Information Act and the Mutual Legal Assistance in Criminal Matters Act.

Entities involved in preventing and countering corruption include the Anti-Corruption Commission, the Civil Service Commission, the Prosecutor General’s Office, the Attorney General’s Office and the Financial Intelligence Unit within the Maldives Monetary Authority.

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)

Maldives has a national anti-corruption policy for the period 2022–2026 and a strategic action plan for the period 2019–2023, which are aimed, inter alia, at facilitating the prevention of corruption through the implementation of a national integrity system and the enhancement of transparency and efficiency in public procurement. Although the national anti-corruption policy acknowledges the importance of civil society, the media and the private sector in the prevention of and fight against corruption and was developed with the contribution of a wide range of stakeholders, it is mainly focused on the public sector. At the time of the country visit, work had begun to include civil society, the media and the private sector in future anti-corruption policies.

Owing to the lack of institutional structures, such as a national integrity council tasked with supervising implementation, resources and monitoring and evaluation mechanisms, only certain parts of the national anti-corruption policy that fall within the mandate of the Anti-Corruption Commission were being implemented on an interim basis at the time of the country visit.

The Anti-Corruption Commission carries out ad hoc risk assessments of sectors at risk of corruption and has undertaken some awareness-raising and anti-corruption activities.

The Attorney-General’s Office is mandated to identify outdated and obsolete legislation, in accordance with presidential instructions and the five-year legislative agenda. The repeal of the Prevention and Prohibition of Corruption Act has led to gaps in the prevention and criminalization of corruption, including in areas such as conflicts of interest and asset recovery.

Maldives participates in regional and global initiatives such as the International Association of Anti-Corruption Authorities, the International Organization of Supreme Audit Institutions and the Asia/Pacific Group on Money Laundering. Furthermore, the Anti-Corruption Commission collaborates with foreign counterparts and is a member of the Global Operational Network of Anti-Corruption Law Enforcement Authorities (GlobE Network).
The Anti-Corruption Commission is mandated, inter alia, to conduct research on the prevention of corruption, submit recommendations for improvement to relevant authorities and promote the values of honesty and integrity (arts. 199 and 202 of the Constitution; sect. 21 of the Anti-Corruption Commission Act).

The Anti-Corruption Commission is legally independent and accountable only to the legislature (art. 199 of the Constitution; sects. 2 and 28–1 of the Anti-Corruption Commission Act). It is composed of five members whose appointment is approved by a majority of the members of the People’s Majlis (the country’s parliament) on the basis of a list submitted by the President of the Republic (sects. 3 and 4 of the Act). Members of the Commission can be dismissed by a no-confidence vote of the People’s Majlis (art. 207 of the Constitution; sect. 14 of the Act) and their tenure is five years, renewable once (art. 203 of the Constitution; sect. 6 of the Act). The requirements for being appointed a member of the Commission include possessing the educational qualifications, experience and recognized competence necessary to discharge the Commission’s functions, and members must not engage in any other employment (art. 201 of the Constitution). The Commission reports annually on its activities to the President’s Office and the People’s Majlis (sect. 31 of the Act). Challenges in receiving and disbursing the Commission’s budget and a reported lack of legal certainty surrounding the Commission’s mandates and decision-making authority pose obstacles to its legal and financial independence; there is also a lack of specialized training for staff.

The Ministry of Finance and Treasury may 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)

The Civil Service Act and the Civil Service Regulation regulate employment in the civil service. Deputy ministers, the Executive Secretary to the President, personnel serving in the army and employees of State enterprises are subject to separate regulations (sect. 3 of the Act).

The recruitment process considers academic qualifications, skills and experience (sects. 5(e), 37 and 38(a) of the Civil Service Act). Conditions for employment include not having been convicted of an offence of theft, fraud or misappropriation within the previous five years (sect. 41(a)(4) of the Act). The selection of candidates is based exclusively on desk reviews and interviews, which may be dispensed with if interviewing all candidates is difficult (sect. 95 of the Civil Service Regulation). The lack of written examinations in the recruitment of public officials hinders the use of objective criteria in the selection of the most suitable candidates. There are no procedures for the selection and training of individuals for public positions considered especially vulnerable to corruption or for their rotation, where appropriate.

The Civil Service Commission is a legally independent entity mandated, inter alia, to appoint and dismiss civil servants and to raise awareness among civil servants of corruption and integrity (sects. 8, 9(d) and 37 of the Civil Service Act), as well as to determine, upon consultation with the Minister of Finance and Treasury, the salaries of civil servants, which must be published (sect. 43 of the Act).

Candidature for and election to public office are governed by the Elections (General) Act, the Presidential Elections Act, the Parliamentary Elections Act and the Local Council Elections Act. The criteria for being elected as President, Vice-President, a member of the Cabinet and a parliamentarian are regulated and include some restrictions related to criminal convictions (arts. 73, 109 and 130 of the Constitution; sect. 8 of the Parliamentary Elections Act).

The Elections Commission is mandated to conduct, manage, supervise and facilitate all elections and to ensure that elections are conducted freely and fairly, without undue influence or corruption (sect. 21 of the Elections Commission Act).
Candidates for elected positions may receive both public and private financial contributions in a specific bank account opened by them for that purpose (sect. 67 of the Elections (General) Act). Anonymous contributions and contributions by foreigners are prohibited (sect. 70 of the Act). The Elections Commission publishes the information and materials furnished by candidates, including financial reports (sect. 73 of the Act; sect. 45 of the Presidential Election Regulation). There are limits on election expenses of candidates (sect. 69 of the Act) and the breach of elections regulations constitutes an offence (sect. 75 of the Act).

Political parties may receive public and private contributions (sect. 33 of the Political Parties Act), including from State-owned enterprises. Although there are no limits on private contributions, permission from the Elections Commission must be obtained before political parties can receive contributions from international or anonymous donors (sect. 37 of the Act). Political parties must appoint a dedicated person to manage finances, maintain financial statements and submit audit reports to the Auditor General (sects. 39–43 of the Act). The financial reports must be audited and submitted to the People’s Majlis and the Elections Commission (sect. 31 of the Political Parties Regulation).

Civil servants are prohibited from acting in a manner that creates conflicts of interest, must refrain from undertaking official duties or functions that may give them any undue advantage and may not hold elected positions or abuse their positions for personal gain (sects. 22, 23 and 43 of the Civil Service Regulation). There are no provisions prohibiting civil servants from holding positions in the public and private sector simultaneously and no specific rules to prevent conflicts of interest among elected public officials. The Anti-Corruption Commission conducts integrity and anti-corruption training for new recruits to the civil service.

Civil servants are obliged to comply with the code of conduct for employees enshrined in chapter 2 of the Civil Service Regulation (sect. 33 of the Civil Service Act; sect. 17 of the Regulations). Violations of the code may result in disciplinary sanctions such as reprimands, reassignments or dismissals. Some institutions such as the Elections Commission have their own codes of conduct.

Civil servants must disclose and expressly report to concerned authorities any conflicts of interest (sect. 22(f) of the Civil Service Regulation), and may not acquire or accept any gift or benefit from anyone in the conduct of their duties and responsibilities (sect. 23 of the Regulations). However, since the repeal of the Prevention and Prohibition of Corruption Act, no authority is in charge of collecting these reports and there is no effective enforcement mechanism or associated sanctioning procedure. Elected officials are not obliged to disclose conflicts of interest.

At the time of the country visit, the system of asset declarations, as described in the section below on article 52 of the Convention, was under revision.

Civil servants are obliged to report incidents of corruption (sect. 22(k) of the Civil Service Regulation) using general reporting channels,¹ and the confidentiality of reports is ensured (sect. 35 of the Civil Service Act).

The independence of the judiciary is enshrined in the Constitution (arts. 141 and 142). The judicial system of Maldives is composed of the Supreme Court, the High Court and trial courts. The Chief Justice and judges of the Supreme Court are appointed by the President, after consultation with the Judicial Service Commission and confirmation by a majority of the members of the People’s Majlis (art. 147 of the Constitution). All other judges are appointed by the Judicial Service Commission (art. 148(b) of the Constitution). The requirements to become a judge of the Supreme Court are established in article 149(c) of the Constitution. Judges must submit annual statements of property, business interests, assets and liabilities (art. 153 of the Constitution).

¹ As described in the section below on article 13 of the Convention.
There is a code of conduct for members of the judiciary, and judges receive training on integrity. The Judicial Service Commission investigates complaints about judges and takes disciplinary actions against them (art. 159(b) of the Constitution). Judges may be removed from office only on the basis of a finding by the Judicial Service Commission of gross incompetence or gross misconduct (art. 154(b) of the Constitution).

The Prosecutor General’s Office is an independent legal entity (sect. 2 of the Prosecutor General’s Act) headed by the Prosecutor General, who is legally independent (art. 220(c) of the Constitution). The Prosecutor General is appointed by the President from a list submitted to the People’s Majlis following approval by a majority of its membership (art. 221 of the Constitution; sect. 3 of the Act), and can only be removed from office on the grounds of misconduct, incapacity or incompetence (sect. 9 of the Act). The criteria for serving as Prosecutor General include not having been convicted of an offence of bribery (sect. 4 of the Act) or having any secondary employment (art. 222 of the Constitution; sect. 4(h) of the Act). There are no additional measures aimed at strengthening prosecutors’ integrity and preventing opportunities for corruption, apart from those applicable to civil servants.

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

Public procurement is regulated by chapter 10 of the Public Finance Regulation. As the procurement rules are not established by law, amendments have been frequent. The Procurement Regulation applies to all government agencies. State-owned enterprises are subject to procurement guidelines issued by the Privatization and Corporatization Board that may be adapted and do not have the force of law.

The National Tender Board and the Procurement Policy Board are key institutions in the Ministry of Finance and Treasury and have primary responsibilities for public procurement. The Auditor General and the Public Account Committee conduct external oversight functions for public procurement.

Procurement methods include open tendering (sect. 10.22 of the Public Finance Regulation), restricted tendering (sect. 10.23), shopping (sect. 10.24), single source procurement (sect. 10.25), emergency procurement (sect. 10.26) and direct procurement through State-owned enterprises, listed companies and “mega” projects (sect. 10.27). Special projects and “mega” projects can be authorized by the Economic Council of the Cabinet for State-owned enterprises or listed companies without an open bidding process. In practice, direct tendering is frequently applied for all types of procurement, and there is no comprehensive monitoring.

Conditions for participation (sect. 10.33 of the Public Finance Regulation), eligibility criteria (sect. 10.34) and supplier registration (sect. 10.35) are regulated. Bidders and suppliers may be suspended from public procurement for improper bidding practices, including corruption or a conviction for a criminal offence (sect. 17.17).

Any procurement with a value above 35,000 rufiyaa (approximately $2,200) should be published for public tender (sect. 10.77 of the Public Finance Regulation), subject to the exceptions described above. Invitations and bid documents are published in the Gazette or on the website of the procuring body (sect. 10.38). The Ministry of Finance and Treasury publishes details of procurement contracts awarded by the National Tender Board on its website.

Bid invitations should specify the rules, technical standards and eligibility requirements (sect. 10.38 of the Public Finance Regulation). The criteria for deciding

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2 Procurement contracts with a value above 5 million rufiyaa (approximately $325,000) are managed by the National Tender Board. For procurements with a value below this threshold, contracts are awarded by procurement officers (below 2,000 rufiyaa, or approximately $130), by finance executives (between 2000 rufiyaa and 35,000 rufiyaa, or between approximately $130 and $2,200) and by bid committees (between 35,000 rufiyaa and 5 million rufiyaa, or between approximately $2,200 and $325,000) of procuring bodies.

3 See the eleventh amendment to the Public Finance Regulation (May 2015).
between bids must be established in the bid handbook or information sheet (sect. 10.45). Section 10.47(a) of the Regulation permits quality- and cost-based selection. Bidders must be given a reasonable time to receive the bidding documents and to prepare bids (sect. 10.43(e)).

Appeals against procurement decisions must be submitted in writing to the procurement officer of the procurement entity concerned (sect. 17.09 of the Public Finance Regulation), whose decision can be appealed to the Ministry of Finance and Treasury (sect. 17.10). The Ministry must set up an independent review committee to investigate the appeal (sect. 17.12). Beyond the review committee, there is no independent system for reviewing appeals related to public procurement.

Members of evaluation committees and the National Tender Board must sign conflict of interest declarations pursuant to guidelines issued by the Ministry of Finance and Treasury. However, staff involved in procurement are not subject to any additional conflict of interest rules and do not receive specialized training on the matter.

Prior to the commencement of each financial year, the Minister of Finance and Treasury must submit for approval to the People’s Majlis a budget containing the projected revenue and expenditures for the year and a statement of actual revenue and expenditures for the preceding year (art. 96 of the Constitution). The People’s Majlis may approve or amend the budget as it deems fit. No supplementary expenditures may be added to an approved budget without further approval by the People’s Majlis. Members of the public may participate in the budget process of the local councils but not of the central Government (sect. 107 of the Decentralization Act).

The Auditor General audits the accounts and financial statements of, among others, all ministries, departments and independent commissions and offices (art. 212 of the Constitution). Audit reports are published online after approval by the People’s Majlis (art. 213 of the Constitution). The internal audit function is exercised through the State Internal Audit Committee of the Ministry of Finance and Treasury, which issues recommendations based on risks identified during the analysis of the internal reports submitted by public institutions. The Public Finance Committee is responsible for investigating alleged violations of the Public Finance Regulation (sect. 17.06 of the Public Finance Regulation).

Although the forgery of documents and the act of tampering with documents are criminalized (sects. 310 and 311 of the Criminal Code), Maldives has not adopted specific measures in accordance with article 9, paragraph 3, of the Convention.

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

Maldives has established the freedom to acquire knowledge and information and freedom of expression (arts. 27 and 29 of the Constitution), including the right to information held by State institutes (sects. 4 and 72 of the Right to Information Act). However, not all State-owned enterprises consider themselves bound by the law.

State institutes must disclose certain information proactively, including details of their functions, responsibilities and structure (sect. 37 of the Right to Information Act). However, it was confirmed that very few institutions disclose such information.

Information should be disclosed where the public interest outweighs the protected interest (sect. 20(b) of the Right to Information Act), unless the information is exempted, there is no consent by a third party to disclose personal information (sects. 22 and 23 of the Act) or disclosure is refused (sects. 24–26 and 28–31 of the Act). Records relevant to enforcement agencies and cabinet records may be kept confidential (arts. 27 and 32 of the Act).

Requests for information must be made in writing to information officers, who have been designated in most State institutes (sect. 6 of the Right to Information Act). Complaints may be lodged to review committees that must be established in State institutes (sect. 41 of the Act). Decisions on access to information can be further appealed to the Information Commissioner appointed under the Act (sect. 56 of the...
Act), whose decisions may be appealed to the High Court within 30 days (sect. 64 of the Act). In practice, most institutions have designated information officers and review committees. The deadline of 21 days to respond to requests for information (sect. 7(a) of the Act) and 30 days for the review committee to decide on appeals (sect. 41(b) of the Act) were considered too long to ensure that the right of information is effectively protected.

Maldives has developed electronic tools to facilitate access to administrative services and process.4

After the submission of a legislative bill to the People’s Majlis, there is an opportunity for the public and other stakeholders to provide feedback and suggestions on the proposed legislation.

The Anti-Corruption Commission conducts education programmes that contribute to the non-tolerance of corruption, such as the School Integrity Programme designed for students, teachers and parents.

Although Maldives has not carried out a national corruption risk assessment, it has published a number of studies related to corruption in its public sector.

Anyone can report acts of corruption to the Anti-Corruption Commission by email or telephone, online and through social media, or anonymously through the “Zero Tolerance to Corruption” portal.

*Private sector (art. 12)*

Basic corporate information is accessible to the public in the companies registry (sect. 7 of the Companies Act). However, the information in the registry is not regularly verified. At the time of the country visit, steps were under way to establish a registry of beneficial ownership.

Corporate governance codes have been developed by the Capital Market Development Authority for listed companies, by the Maldives Monetary Authority for banks, insurance companies and finance companies, and by the Privatization and Corporatization Board for State-owned enterprises. However, except for prosecutors and legal professionals, there are no restrictions on the professional activities or employment of former public officials in the private sector.

To promote cooperation with law enforcement authorities, Maldives has regulated leniency agreements (sect. 104(f) of the Criminal Procedure Code).

There are 32 State-owned enterprises in Maldives, which are regulated by the Companies Act and the Privatization and Corporatization Act. However, those enterprises are not subject to critical anti-corruption regulations such as the Public Finance Regulation and do not consider themselves to be bound by the Right to Information Act. The lack of regulations increases the possibility of State-owned enterprises being used as vehicles for corruption.

Maldives has not implemented measures to prevent the misuse of procedures regulating private entities.

Although the forgery of documents and the act of tampering with documents are criminalized (sects. 310 and 311 of the Criminal Code), Maldives has not taken any additional measures in accordance with article 12, paragraph 3, of the Convention.

Bribes are non-deductible expenses (sect. 32(8) of the Income Tax Act).

*Measures to prevent money-laundering (art. 14)*

The prevention of money-laundering is regulated principally in the Prevention of Money-Laundering and Financing of Terrorism Act and subsidiary regulations

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4 See the oneGov website (https://one.gov.mv/), where a number of administrative processes can be performed. In addition, the National Digital Identity, eFAAS (https://efaas.egov.mv), allows the public to access business and government services online.
applicable to certain sectors such as banks, life insurance businesses, securities businesses and money transfer and exchange businesses. The Act applies to financial institutions and designated non-financial businesses and professions. Such businesses and professions include money or value transfer service providers, dealers in real estate, dealers in high value goods such as precious metals and stones, lawyers, notaries and other independent legal professionals, independent accountants, auditors and tax advisers, and trust and company service providers (sect. 77 of the Act). However, there is no law regulating trusts, and no assessments have been conducted on the relative size of this sector. Casinos and gambling services are outlawed under the Constitution and sharia law. Bearer shares and nominee arrangements are also disallowed.

There are no supervisory authorities for the real estate sector or dealers in precious metals and stones and other high value goods. The Bar Council and the Institute of Chartered Accountants function as de facto supervisory authorities for lawyers and accountants, respectively. Maldives is seeking assistance in drafting regulations for designated non-financial businesses and professions and with training/capacity-building for the Financial Intelligence Unit.

The Prevention of Money-Laundering and Financing of Terrorism Act establishes customer due diligence requirements (sect. 16) and requires reporting entities to verify the identity of customers and principals when establishing business relations, carrying out occasional transactions (above specified thresholds in the case of certain sectors) and electronic fund transfers, and in the case of doubt about previously obtained customer identification data or suspected money-laundering (sect. 16(a)). Reporting entities must also identify and take reasonable measures to verify the identity of beneficial owners, including natural persons with a controlling interest and natural persons who manage the entity (sect. 16(f)). Reporting entities must conduct ongoing customer due diligence (sect. 16(h)) and establish internal compliance programmes (sect. 21). However, the identification is not required of insurance companies and insurance brokers in the case of pension insurance contracts used for non-investment purposes (sect. 17(a)).

Reporting entities are subject to record-keeping requirements as detailed in the section below on article 52, paragraph 3, of the Convention and must file suspicious transaction reports, threshold transaction reports and money remittance transaction reports.

A national risk assessment of money-laundering and terrorism financing was completed in December 2022, and its implementation has begun, pending its formal adoption. At the time of the country visit, a national strategy to counter money-laundering and the financing of terrorism was being developed on the basis of the assessment’s findings.

The Prevention of Money-Laundering and Financing of Terrorism Act provides for domestic cooperation and information exchange between the Financial Intelligence Unit and supervisory and law enforcement authorities pursuant to an agreement or arrangement (sects. 28(f) and 29). Furthermore, the Unit is authorized to exchange information with foreign financial intelligence units or other agencies (sects. 28(g) and 38(a)). The requirement for an agreement or arrangement (sect. 38(b)) is not applied in practice. The Unit has concluded several memorandums of understanding with domestic and foreign authorities.

Any natural person who enters or leaves the territory of Maldives transporting cash or bearer negotiable instruments with a value of $10,000 or more, or its equivalent in

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rufiyaa or foreign currency, must report the amount to the Maldives Customs Service (sect. 24(a) of the Prevention of Money-Laundering and Financing of Terrorism Act; the Regulation on Cross-Border Cash Declaration Amount). This information is transmitted by the Maldives Customs Service to the Financial Intelligence Unit (sect. 24(b) of the Act). The Maldives Customs Service may seize unreported cash or bearer negotiable instruments suspected of being related to money-laundering or in the case of false declarations (sect. 24(c) of the Act); however, administrative penalties for non-compliance and the procedure for dealing with seized cash and negotiable instruments (see section 24(f) of the Act) are not prescribed.

Under the Prevention of Money-Laundering and Financing of Terrorism Act, reporting entities must conduct customer due diligence when carrying out domestic or international transfers of funds (sect. 16(2)). Money remitters must identify their customers, including the originator of a wire transfer, and verify their identity, and this information must be included in the transfer message or payment instruction and maintained throughout the payment chain (sect. 18 of the Act; sect. 7(d) and (f) of the Regulation on Prevention of Money-Laundering and Financing of Terrorism for Money Transfer Businesses and Money-Changing Businesses). In cases of incomplete originator information, the remitting institutions must take measures to obtain the missing information and otherwise refuse the transfer and file a report with the Financial Intelligence Unit (sect. 18(e) of the Act).

Maldives participates in global and regional initiatives aimed at strengthening cooperation in the prevention of money-laundering through its membership of the Asia/Pacific Group on Money Laundering (the first mutual evaluation was carried out in 2020), the Asset Recovery Inter-Agency Network for Asia and the Pacific (ARIN-AP) and the GlobE Network. At the time of the country visit, Maldives was seeking assistance in advancing the Financial Intelligence Unit’s application for membership of the Egmont Group of Financial Intelligence Units.

2.2. Successes and good practices

- Ongoing efforts to conduct risk assessments in the public sector.

2.3. Challenges in implementation

It is recommended that Maldives:

- Implement the national anti-corruption policy by establishing the necessary institutional structures and monitoring and evaluation mechanisms and allocating sufficient resources for its implementation; and ensure that future anti-corruption policies encompass all relevant sectors at risk of corruption, including the private sector and State-owned enterprises, and promote the participation of actors outside the public sector (art. 5, para. 1).

- Endeavour to assess the impact of the practices aimed at the prevention of corruption with a view to enhancing their effectiveness (art. 5, para. 2).

- Ensure that the Anti-Corruption Commission has the necessary legal and financial independence, financial resources and specialized training for its staff to be able to perform its functions independently and effectively (art. 6, para. 2).

- Endeavour to enhance transparency and the use of objective criteria such as merit, equity and aptitude in public sector recruitment; and endeavour to adopt procedures for the selection and training of individuals for public positions considered especially vulnerable to corruption and the rotation of those individuals, where appropriate (art. 7, para. 1).

- Adopt legislation on political party financing that establishes appropriate limits on private contributions and regulates contributions from international donors and anonymous sources, and ensure adequate transparency in the funding of political parties (art. 7, para. 3).
• Endeavour to adopt rules prohibiting civil servants from holding simultaneous positions that may result in a conflict of interest; furthermore, endeavour to adopt measures and systems to prevent conflicts of interest among elected officials such as members of the People’s Majlis and cabinet ministers (art. 7, para. 4).

• Implement the rules requiring the disclosure by civil servants of conflicts of interest by appointing an authority to be in charge of collecting and analysing the conflict of interest reports required pursuant to section 22(f) of the Civil Service Regulation and establishing an effective enforcement and sanctioning mechanism; furthermore, endeavour to adopt rules requiring elected officials to disclose conflicts of interest (art. 8, para. 5).

• Adopt legislation governing public procurement that is applicable to all government bodies, including State-owned enterprises, without exceptions for special categories of exempt procurement, and minimize the issuance of further exemptions for special projects or procurements by cabinet or presidential decision; ensure that direct procurement is the exception and that procurement contracts, including by State-owned enterprises, are awarded on the basis of a competitive process and objective criteria; and strengthen monitoring and oversight to ensure that procurement rules are being implemented (art. 9, para. 1).

• Establish an independent mechanism outside the Ministry of Finance and Treasury for the review of procurement decisions and, where appropriate, adopt additional conflict of interest rules and provide specialized training for staff involved in procurement (art. 9, para. 1 (d) and (e)).

• Take the necessary measures to preserve the integrity of public accounting books, records, financial statements and related documents (art. 9, para. 3).

• Ensure that public institutions comply with their obligation to proactively disclose information in accordance with the Right to Information Act and endeavour to explicitly include State-owned enterprises in the scope of the Act; continue efforts to appoint information officers and establish review committees in obliged institutions; and revise the adequacy of the time frames for the provision of information and the issuance of appeal decisions under the Act (art. 10 (a)).

• Carry out a comprehensive corruption risk assessment and publish its results (art. 10 (c)).

• Take measures to strengthen integrity and prevent opportunities for corruption among prosecutors, such as the establishment of a specialized code of conduct (art. 11, para. 2).

• Adopt necessary safeguards and legislation to prevent the use of State-owned enterprises as vehicles for corruption; promote the transparency of private entities by requiring legal entities to collect and make available timely and accurate beneficial ownership information, operationalizing the beneficial ownership registry and ensuring that the companies registry is kept up to date and regularly verified; and consider adopting restrictions on the professional activities of former public officials transitioning to the private sector (art. 12, para. 2 (c) and (e)).

• Take the necessary measures to prohibit the acts detailed in article 12, paragraph 3, of the Convention.

• Ensure that supervisory authorities are formally designated for all relevant sectors, including lawyers, accountants, the real estate sector and dealers in precious metals and stones and other high value goods; assess legal requirements governing trusts and pension insurance contracts, taking into account their relative size and operations, and consider the need for regulation; adopt and approve the national risk assessment of money-laundering and
terrorism financing; continue efforts to draft regulations for designated non-financial businesses and professions and provide training/capacity-building for the Financial Intelligence Unit (art. 14, para. 1).

• Prescribe administrative penalties for non-compliance with cross-border declaration requirements and establish the procedure for dealing with seized cash and negotiable instruments, and ensure effective enforcement (art. 14, para. 2).

• Continue efforts to obtain membership of the Egmont Group (art. 14, para. 5).

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

Maldives indicated the need for technical assistance in the following areas:

• The development and implementation of policies and practices related to the prevention and investigation of corruption and the assessment of their impact (art. 5, paras. 1 and 2).

• The fiscal independence of its preventive anti-corruption bodies (art. 6).

• Legislative assistance: State-owned enterprise governance and public procurement (art. 9).

• Participatory budgeting (art. 9, para. 2, and art. 13, para. 1).

• Judicial integrity (art. 11).

• The development of a risk self-assessment tool for private sector companies (art. 12).

• Capacity-building: forensic intelligence and financial investigation, advocacy and research on anti-corruption measures (art. 13, para. 1, and art. 14).

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)

Pursuant to the Mutual Legal Assistance in Criminal Matters Act, Maldives can provide assistance in criminal proceedings related to asset recovery for “serious offences” punishable by a term of imprisonment of at least one year under domestic law (sects. 8(2), 37 and 56(p)). Although this includes the offences established in accordance with the Convention, a gap arises because Maldives has not criminalized all offences established in accordance with chapter III of the Convention. This presents impediments to the provision of mutual assistance in criminal matters, because the absence of dual criminality is a discretionary ground for the refusal of assistance (sect. 8(2)(a)).

Although the Criminal Procedure Act establishes some provisions for law enforcement authorities to confiscate proceeds of crime, following the repeal of the Prevention and Prohibition of Corruption Act, the country does not have a mechanism for recovering proceeds of offences established under the Convention, as no laws stipulate that the proceeds and instrumentalities of corruption offences must be seized and confiscated, except for offences involving terrorism, money-laundering and drugs, and the procedures related to the mechanism were repealed.

Maldives may provide assistance with asset recovery in the absence of a treaty on the basis of reciprocity and has received and executed mutual legal assistance requests on the basis of the Convention.

The Financial Intelligence Unit may, on its own initiative or upon request, share information with any foreign counterpart that is subject to similar secrecy obligations as those provided in section 37 of the Prevention of Money-Laundering and Financing
of Terrorism Act, as agreed by both parties, regardless of the nature of the agency (sect. 38(a) of the Act). Information may only be shared pursuant to an agreement or arrangement entered into with the foreign counterpart agency (sect. 38(b)), though this is not applied in practice and the Financial Intelligence Unit has provided information to foreign financial intelligence units in the absence of a memorandum of understanding, subject to confidentiality restrictions and prior consent from the Unit before the information is shared with any third party.

Maldives has signed multilateral agreements concerning judicial cooperation in criminal matters, including the Convention on Mutual Assistance in Criminal Matters of the South Asian Association for Regional Cooperation and the United Nations Convention against Transnational Organized Crime. Maldives is a party to one bilateral treaty, with India. Authorities cooperate through international and regional platforms, including ARIN-AP, the South-East Asia Justice Network (SEAJust) and the GlobE Network.

In total, authorities received approximately 15 requests for mutual legal assistance in the five years prior to the country visit (not limited to corruption offences or asset recovery) and have refused only one request. There have been no requests for asset confiscation in that period.

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

The Prevention of Money-Laundering and Financing of Terrorism Act establishes customer due diligence requirements and requires reporting entities to verify the identity of customers and principals (sect. 16(a)). Reporting entities must also identify and take reasonable measures to verify the identity of beneficial owners, including natural persons with controlling interests and natural persons who manage the legal persons (sect. 16(f)).

Legal persons established in Maldives are required to maintain adequate, accurate and current information on their beneficial ownership and control structure and to provide this information to supervisory or law enforcement authorities and the Financial Intelligence Unit upon request (sect. 26(a) and (e) of the Prevention of Money-Laundering and Financing of Terrorism Act). Similar requirements apply to trust and company service providers in respect of local and locally administered foreign arrangements. The Financial Intelligence Unit verifies that beneficial ownership information is up to date as part of the risk-based approach through onsite inspections. Some challenges were reported in the implementation of customer due diligence requirements regarding up-to-date customer information, especially for legal entities, and ensuring ultimate beneficial owner verification in complex legal structures.

Reporting entities are required to determine whether a customer or beneficial owner is a politically exposed person and if so, to conduct enhanced customer due diligence measures (sect. 16(j) of the Prevention of Money-Laundering and Financing of Terrorism Act). A politically exposed person is defined as any person who is or has been entrusted with prominent public functions in Maldives or any foreign country, as well as that person’s family members and close associates, whether legal or natural (sect. 77(n) of the Act). Persons holding prominent political functions in international organizations are not explicitly covered. Maldives does not have an official list of politically exposed persons. According to the guidelines on politically exposed persons, the scope of the term “immediate family” includes spouses, children (including adopted children and step-children), spouses of children, parents, siblings, parents-in-law and siblings-in-law. However, the guidelines are advisory in nature and enforced only through inspections.

Maldives has issued guidelines specifying enhanced customer due diligence requirements for specific sectors, covering issues such as application of the risk-based approach, know your customer standards, customer due diligence and enhanced customer due diligence. As part of its strategic analysis, the Financial Intelligence Unit issues instructions with red flags regarding measures related to customer due
diligence and to counter money-laundering and the financing of terrorism and engages in direct communication with compliance officers. Supervisory authorities and the Unit communicate information on higher risk persons or accounts through different means, including monthly meetings of compliance officers and information on high-risk jurisdictions, and there are no restrictions on the source of this information, including whether it comes from abroad.

By law, reporting entities are required to maintain customer due diligence and other records for at least five years from the date of the transaction or the end of the business relationship (sect. 20 of the Prevention of Money-Laundering and Financing of Terrorism Act).

The Prevention of Money-Laundering and Financing of Terrorism Act prohibits the establishment in Maldives of any bank without a physical presence in the country and without a licence issued by the Maldives Monetary Authority (sect. 25(a)). Financial institutions operating in Maldives are prohibited from entering into or continuing business relations with banks registered in jurisdictions where they are not physically present or that are not regulated by the competent regulatory authority. There is no obligation for financial institutions to guard against establishing relations with foreign financial institutions that permit their accounts to be used by shell banks.

As stipulated in the Constitution, the President, cabinet ministers, parliamentarians and judges are required to declare their assets. Members of some independent institutions and independent offices must submit declarations under their respective laws. However, it was confirmed that the filing obligations are not being implemented, there has been no enforcement action and there is currently no verification or sanctioning mechanism. Information obtained through asset declarations may be shared with foreign States through mutual legal assistance channels.

Although bank accounts, both domestic and overseas, must be reported (in accordance with the reporting form established by the Auditor General), there is no obligation for public officials to disclose any signature or control authority over foreign accounts.

The Financial Intelligence Unit is established within the Maldives Monetary Authority. The Prevention of Money-Laundering and Financing of Terrorism Act provides for the Unit’s independent decision-making authority and budgetary autonomy (sect. 30). The Director is appointed by the Governor of the Maldives Monetary Authority (sect. 27(b)).

**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)**

Although there is no legislative basis that gives foreign States legal standing to initiate civil actions in Maldives, authorities indicated that there are no restrictions in the Civil Procedure Code on the legal standing of claimants, and some provisions explicitly refer to claims by foreign parties, whether natural or legal (sects. 55–58).

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6 This includes the following: the Judicial Service Commission, the Elections Commission, the Anti-Corruption Commission, the Attorney General, the Prosecutor General and the Auditor General. It does not include the following: the Vice-President, members of the Human Rights Commission, the Civil Service Commission, the Maldives Media Council, the Maldives Broadcasting Commission, the Police Integrity Commission and the Customs Integrity Commission. Furthermore, by a presidential order issued in 2018, political appointees are to declare their assets, while board members of State-owned companies are required to report pursuant to a policy of the Privatization and Corporatization Board. The bill on the declaration of financial and other interests introduced in the parliament in February 2022 ([https://majlis.gov.mv/en/19-parliament/parliament-work/869](https://majlis.gov.mv/en/19-parliament/parliament-work/869)) would establish a system for the declaration of property, financial records, business interests, assets, liabilities and other interests of 51 high-ranking public officials. The bill would appoint an independent verification body to review and verify the contents of declarations and refer matters to investigative bodies.
Although the possibility of civil remedies in respect of criminal conduct is expressly provided for in the Criminal Code only in the case of Maldivian nationals and residents (sect. 14), the Prosecutor General may request compensation on behalf of foreign States for injuries directly resulting from criminal conduct under provisions of the Civil Procedure Code and the Supreme Court Regulation.

Section 196 of the Criminal Procedure Code protects bona fide third parties, without limitation as to their identity or nationality. It allows third parties to initiate civil action in confiscation proceedings in cases where the third party has a right in the property subject to confiscation by the Government. Section 25 of the Mutual Legal Assistance in Criminal Matters Regulation further prescribes that third-party rights in property must be settled prior to confiscation.

The Mutual Legal Assistance in Criminal Matters Act provides for requests by foreign States for the enforcement of foreign confiscation orders and any other orders relating to proceeds of serious crimes located in Maldives (sect. 37(a)), subject to the dual criminality requirement in the definition of serious offences noted above. Section 37(d) of the Act provides that once a request is received, the foreign order must be registered in a domestic court in order to enforce it in Maldives. The Mutual Legal Assistance in Criminal Matters Regulation prescribes further details related to the enforcement of foreign orders, including applications for the registration of orders in the courts of Maldives, as well as conditions and grounds for refusal (see the information below on article 55 of the Convention).

There is no mechanism for the authorities to issue a domestic confiscation order on the basis of a foreign request in the absence of a foreign judicial order.

Confiscation in Maldives is conviction-based (sect. 192 of the Criminal Procedure Code), and the country does not have a civil forfeiture system. Although foreign civil judgments could be enforced domestically through the filing of a claim in the local courts (chapter 33 of the Civil Procedure Code), there are no provisions under the Mutual Legal Assistance in Criminal Matters Act for assistance to be provided in respect of confiscation in the absence of a conviction. The absence of a mechanism for international cooperation in civil forfeiture was noted as a challenge by authorities.

The Mutual Legal Assistance in Criminal Matters Act provides for the recognition and enforcement of foreign orders to freeze or seize property or to place it into custody until the termination of related criminal proceedings (sect. 37(b)). The Mutual Legal Assistance in Criminal Matters Regulation prescribes further details related to the enforcement of such provisional foreign orders, including the necessary documents that must be submitted with the request. Furthermore, the Mutual Legal Assistance in Criminal Matters Act provides for requests by foreign States regarding the issuance of a court order in Maldives to trace and seize property (sect. 16(1)).

Items seized at the request of foreign States that are relevant to foreign criminal proceedings for serious offences are held in custody by the police. The Prosecutor General may issue written instructions on how to handle the property (sect. 19 of the Mutual Legal Assistance in Criminal Matters Act). The Regulation on Prosecution Procedures (2017/R-76) contains further guidelines on the administration of criminal proceeds, notably for perishable and high-value items (sects. 14–16). There are no additional measures to preserve property for confiscation.

Section 37 of the Mutual Legal Assistance in Criminal Matters Act outlines the procedure for the recognition and enforcement of foreign confiscation and provisional orders on application to the Prosecutor General, and the related conditions and requirements are further stipulated in the Mutual Legal Assistance in Criminal Matters Regulation. Section 6 of the Act and the template in the Regulation establish the content requirements for incoming requests for mutual legal assistance. Section 17 of the Act addresses requests for search and seizure. Authorities engage in communication prior to mutual legal assistance, including through SEAJust and focal
points in the European Union Agency for Criminal Justice Cooperation (Eurojust) and the European Union Agency for Law Enforcement Cooperation (Europol).

Section 6(5) of the Mutual Legal Assistance in Criminal Matters Act provides that failure to comply with the stipulated content requirements is not a ground for refusing assistance. However, the Prosecutor General may not proceed with the request unless the requirements are met. The Act does not provide grounds for refusal on the basis that the request involves property of a de minimis value.

Authorities would consult with requesting States as a matter of practice before lifting provisional measures, although no such cases have arisen.

The protection of the interests of bona fide third parties is prescribed (sects. 22–25 of the Mutual Legal Assistance in Criminal Matters Regulation; sects. 196 and 197 of the Criminal Procedure Code).

**Return and disposal of assets (art. 57)**

Assets may be returned to a requesting State pursuant to a request for the enforcement of a foreign confiscation order in accordance with section 37(a) of the Mutual Legal Assistance in Criminal Matters Act and the Mutual Legal Assistance in Criminal Matters Regulation. However, the Act does not provide for the disposal or return of proceeds of corruption offences under the circumstances set out in article 57, paragraph 3, of the Convention. At the time of the country visit, Maldives was developing a more comprehensive asset recovery mechanism in line with article 57. There is no law or policy on the return or disposal of proceeds of corruption offences.

Maldives bears the ordinary costs of executing mutual legal assistance requests from foreign States (sect. 53(1) of the Mutual Legal Assistance in Criminal Matters Act). Costs of a substantial or extraordinary nature are borne in the manner agreed upon by both States (sect. 53(2)). A similar rule is established in the bilateral treaty with India on mutual legal assistance in criminal matters.

There have been no agreements or arrangements on asset disposal or return.

### 3.2 Successes and good practices

- Communication prior to mutual legal assistance, including through SEAJust and focal points in Eurojust and Europol (art. 51).

### 3.3 Challenges in implementation

It is recommended that Maldives:

- Continue efforts to adopt, as a matter of priority, a legal and institutional framework for recovering proceeds of offences established under the Convention (art. 51).

- Continue to strengthen the implementation of customer due diligence and ultimate beneficial owner verification requirements for reporting entities, especially complex legal structures, include customer due diligence requirements – including in respect of politically exposed persons – in enforceable regulations giving rise to sanctions for non-compliance, and specifically include persons holding prominent political functions in international organizations in the definition of politically exposed persons (art. 52, para. 1).

- Consider requiring financial institutions to guard against establishing relations with foreign financial institutions that permit their accounts to be used by banks that have no physical presence and that are not affiliated with a regulated financial group (art. 52, para. 4).

- Enhance the asset declaration regime by adopting regulations covering all relevant officials, including their family members, ensuring effective implementation, follow-up, verification and sanctioning and enhancing the
transparency of declarations; consider adopting measures requiring relevant officials to declare any interest in or signature or other authority over foreign financial accounts and to keep records in relation thereto (art. 52, paras. 5 and 6).

- More clearly specify measures to permit its courts to order payment of compensation or damages to an injured foreign State (art. 53 (b)).
- Adopt measures to permit its competent authorities to order the confiscation of property of foreign origin in the absence of a foreign judicial order, with a view to providing mutual legal assistance (art. 54, para. 1 (b)).
- Consider adopting measures allowing for confiscation of property involved in the commission of Convention offences without a criminal conviction (art. 54, para. 1 (c)).
- Consider adopting additional measures to permit its competent authorities to preserve property for confiscation, such as on the basis of a foreign arrest or criminal charge (art. 54, para. 2 (c)).
- Take the necessary measures to ensure that confiscated property is returned in line with article 57 of the Convention, even in the absence of an agreement with the requesting State (art. 57, para. 3).

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

Maldives indicated the need for technical assistance in the following area:

- Legislative assistance in developing an asset recovery framework (art. 51).