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Executive summary

Note by the Secretariat

Addendum

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II. Executive summary

Indonesia

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

Indonesia signed the United Nations Convention against Corruption on 18 December 2003 and ratified it on 19 September 2006.

Indonesia was reviewed during the first year of the first cycle of the Mechanism for the Review of Implementation of the Convention (CAC/COSP/IRG/I/1/1/Add.4).

The main implementing legislation incudes: Law No. 31 of 1999 on Eradication of the Criminal Act of Corruption, as amended; Prevention and Eradication of Money Laundering Criminal Act No. 8 of 2010 (Law on MLCA); Law No. 5 of 2014 on State Civil Apparatus (ASN); Law No. 8 of 1974 on Principles of Civil Service, as amended; Law No. 14 of 2008 on Public Information Disclosure; Law No. 28 of 1999 on State Administration that is Clean and Free from Corruption, Collusion and Nepotism; Regulation No. 54 of 2010 on Public Procurement of Goods and Services, as amended; and Law No. 1 of 2006 concerning Mutual Legal Assistance in Criminal Matters (MLA Law).

Institutions involved in preventing and countering corruption include: Corruption Eradication Commission (KPK); Attorney General's Office (AGO); judiciary; Ministry of Law and Human Rights; Ministry of Foreign Affairs; Ministry of Finance; Indonesian National Police; Supreme Audit Board (BPK); Finance and Development Supervisory Agency (BPKP); National Ombudsman Commission; Financial Intelligence Unit (PPATK); Financial Service Authority (OJK); Ministry of National Development Planning (Bappenas); Ministry of Administration and Bureaucratic Reform (AR&BR); Civil Service Commission (KASN); Public and Procurement Agency (LKPP) and Judicial Commission (KY).

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)

The National Strategy on Corruption Prevention and Eradication (Stranas PPK), adopted by Presidential Regulation No. 55 of 2012, contains targets, evaluation indicators, a road map for implementation, and a coordination mechanism.

The coordination mechanism for implementation is elaborated in Minister of National Development Planning's Regulation No. 1 of 2013. Monitoring and evaluation are carried out monthly under the coordination of Bappenas, the Ministry of Home Affairs and Provincial Inspectorates.

Evaluation results are submitted quarterly through an online monitoring system to Bappenas and compiled into an annual report. Based on those results, Bappenas may invite concerned ministries to explain any deviations from the targeted results. The report is presented annually by the Executive Office of the President, KPK and Bappenas to the President of the Republic. Bappenas uploads the report on its website, and civil society can provide input online or through other channels.

Activities under the action plans are prioritized in line with Presidential priorities in the government workplan. Potential corruption risks in priority areas are reviewed in accordance with Presidential Instructions, for strategic action to be taken by ministries and agencies.

Indonesia has assessed the effectiveness of the Strategy, including measurable achievements and progress in achieving its objectives. Revision is currently in the hands of the President of the Republic.

Several institutions, including KPK, Bappenas, the Ministry of AR&BR and the Central Statistics Agency, conduct assessments of the effectiveness of anti-corruption programmes.

The review and evaluation of legal instruments with a view to their harmonization is carried out by Bappenas in accordance with the National Strategy of Regulatory Reform of 2015 and National Medium Term Development Plan (RPJMN 2015–2019). Law No. 12 of 2011 on the Establishment of Laws and Regulations further sets out the right of individuals to comment on laws and regulations (art. 96).

KPK is in charge of coordination and supervision of authorized institutions in their anti-corruption activities, as well as conducting corruption prevention measures, including awareness-raising (art. 6, Law No. 30 of 2002 on KPK). Further, corruption prevention units are established in every government agency. KPK cooperates with BPKP to ensure coordination and supervision of corruption prevention programmes in provincial, district and local governments.

KPK, as an independent institution, is responsible to the public in performing its duties and submits reports openly and periodically to the President, Parliament (DPR) and BPK (art. 20, KPK Law). KPK publishes annual reports and audited financial reports. All KPK staff are subject to prohibitions aimed at avoiding conflicts of interest.

KPK receives public complaints related to corruption. The Ombudsman receives complaints regarding maladministration and public services. Several local governments also receive public complaints through their complaint handling units or via direct link with the head of local government.

Government Regulation No. 53 of 2010 on Civil Service Discipline provides for the obligation of civil servants, inter alia, to report promptly to the supervisor on any matters that could harm or prejudice the State or Government. Internal reports related to alleged corruption in Government can be submitted to the inspectorates general or compliance units in the respective institutions (Government Regulation No. 60 of 2008 on Government Internal Control System (SPIP)). Specialized internal reporting structures and supervisory units in each institution also receive corruption-related complaints.

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

Law No. 5 of 2014 on ASN regulates the merit system (art. 1), basic principles of the ASN profession (art. 3), basic values (art. 4), intent and purpose of the code of ethics (art. 5), and the principle of freedom from intervention by any group or political party (art. 9).

KASN ensures that recruitment is on the basis of merit and that it operates transparently and in accordance with competencies and qualifications through open announcements and structured interviews. There is no specific procedure for the selection and training of individuals for public positions considered vulnerable to corruption or for their periodic rotation.

Law No. 7 of 2017 on General Election prescribes criteria concerning candidature for and election to public office. Asset declaration constitutes a requirement for nomination as a candidate for the office of president, vice president, and head and deputy head of local government. The Elections Commission publishes information on the candidates, process, and results of elections on its website.

Measures to enhance transparency in the funding of candidates for elected public office and political parties are contained primarily in Law No. 7 of 2017. The rules require the identification of funding sources, accounting, safekeeping, limitations on

contributed amounts, and reporting and audit. The Elections Supervisory Body (Bawaslu) conducts supervision on campaign funds.

Several laws and regulations promote integrity, honesty and responsibility among public officials, notably article 5 of Law No. 28 of 1999 and article 3 of Law No. 5 of 2014, which also contains the Code of Ethics and Code of Conduct of civil servants (art. 5). More specific codes of ethics and conduct are applicable in ministries, local government and other government agencies.

KASN has the authority to oversee, monitor and evaluate the implementation of policies and management of ASN, including the codes of ethics (art. 25, Law No. 5 of 2014).

However, challenges are reported in the receipt, management and coordination of complaints pertaining to public services, including breaches of codes of ethics. These include the absence of a public complaints management system and supervision in all agencies, as well as awareness-raising.

Regulation of the Ministry of AR&BR No. 37 of 2012 stipulates the General Guidelines for Handling Conflict of Interest, which are applicable to all ministries, agencies and regional governments. The Guidelines are followed up by government agencies by adoption of more detailed guidelines, although this is not implemented uniformly across agencies. The Guidelines specify a reporting obligation by state officials of potential conflicts of interest to their supervisor, with verification conducted by each institution. Monitoring is conducted by the Ministry in coordination with relevant institutions (sect. VIII, 3, Regulation No. 37). In addition, chapter 3 of Law No. 30/2014 on Government Administration obliges government employees to report potential conflicts of interest to their supervisors (art. 43(2)). Verification is done by each institution in coordination with KPK. Violations of the Conflict of Interest Guidelines are subject to the same administrative sanctions as violations of the codes of conduct, although there is no effective oversight of the imposition of sanctions by institutions.

Civil servants are obliged to report gifts and benefits to KPK (Law No. 30 of 2002, art. 16), unless the conditions or context of receipt are exempt (KPK Circular No. B1341/01-13/03/2017). While government officials are precluded under Law No. 20 of 2001 from accepting any gratification related to their position and contrary to their functions, there are different thresholds established in the implementing regulations. KPK has issued Guidelines on Gratification Control in June 2015 and Guidelines on Conflict of Interest Handling in 2009 to facilitate graft control and handle conflict of interest.

Based on Supreme Court Regulation No. 6 of 2016, the selection process of judge candidates is conducted transparently to the public. Every judge candidate must attend training on the code of ethics and judicial code of conduct. KY can monitor the behaviour of judges, including Supreme Court judge candidates (Law No. 18 of 2011 on KY).

Law No. 48 of 2009 on Judicial Power regulates the integrity of judges and requires adherence with the code of ethics and judicial code of conduct. In the event of any breach of the code of ethics, administrative sanctions can be imposed ranging from oral reprimands to dishonourable discharge. Judges' conflicts of interest are regulated in article 17 of Law No. 48 and several regulations. Internal and external oversight over the conduct of judges are conducted by the Supreme Court Monitoring Unit and Judicial Commission (KY), respectively.

Prosecutors' conflicts of interest are regulated in Law No. 16 of 2004 on the Public Prosecution Service. In addition, the code of conduct of prosecutors is regulated in Attorney General Regulation 014/A/JA/11/2012 about the Behavior of the Prosecutor. In case of violations, administrative sanctions are imposed.

Based on Attorney General Regulation No. PER-064/A/JA/07/2007 on recruitment of Civil Servants and Candidates for Prosecutors of AGO, the selection process of

candidates for prosecutors shall be open to the public through announcements. Prosecutors are public officials and must disclose their assets to KPK (Law No. 28 of 1999).

All court hearings are open to the public, except matters involving sexual offences or related to minors (art. 153(3), Criminal Procedure Code (CPC)). The public can access court decisions online and can follow court proceedings through the Case Tracking System (SIPP).

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

Public procurement is regulated in several instruments, notably Presidential Regulation 54 of 2010 on Public Procurement of Goods and Services, as amended.

The Regulation does not have the status of law with clear legal superiority over other existing rules and does not allow for the imposition of criminal sanctions. Separate procurement rules govern procurement of construction services and procurement by some State-owned enterprises.

The principles of transparency, competition and objective criteria in decision-making form the foundation of Presidential Regulation 54/2010 (Chap. II, art. 5). In principle, the government procurement of goods and services should use the public tender method. However, in practice direct procurement and direct appointment are used more frequently.

Tenders must be advertised on the website of the procuring institutions, on the official notice board for the public, and via the Electronic Procurement System LPSE (art. 25(3), Presidential Regulation 54/2010). In addition, procuring entities must publish all evaluation criteria in the notice of procurement (art. 48, Presidential Regulation 54/2010). All regulations concerning public procurement are accessible online and procuring entities are obliged to publish the outcome of tenders, including the successful bidders.

Supervision and audit are performed internally by procuring institutions (art. 116, Presidential Regulation 54/2010). There are no mandatory or periodic external audits. While BPK is authorized to conduct audits of state financial management, its focus is purely financial and does not include the procurement process itself or the outcome.

Bidders may file an objection to the head of the procuring agency in case of any deviation from the procurement procedures (art. 82). However, the Regulation does not spell out the procedure to be followed in reviewing complaints or sanctions for violations. While LKPP can be heard during the appeal process at the request of the head of agency, the final decision rests with the procuring entity. Any person may file a complaint to the internal government auditor (APIP) or to LKPP on indications of any procedural irregularities, corruption, collusion, nepotism, or violation of fair competition. LKPP maintains a blacklist of tenderers, including those related to corruption.

There are no specific conflict of interest requirements for procurement personnel.

The process of budget preparation is regulated by the 1945 Constitution (art. 23(2)) and Law No. 17 of 2003 on State Finance (arts. 11–15). Local government budget preparation is regulated in articles 16 to 20, Law 17/2003.

According to Law No. 14 of 2008, public agencies shall provide information on their project workplan, annual expenditure estimates (art. 11) and financial statements (art. 9). The rules on central and local government financial reporting are stipulated in articles 55–56 of Law No. 1 of 2004 on State Treasury.

BPKP functions as the Government internal auditor under SPIP. The general responsibility for internal controls is exercised by the inspectorates general, provincial inspectorates and district/city inspectorates that perform internal supervision of all government activities funded by the state, provincial, district or city budgets.

The 1945 Constitution, article 23E, provides that the audit of state financial management and accountability shall be carried out by BPK. Audited financial statements are submitted by the President to the House of Representatives no later than 6 months after the fiscal year ends (art. 30(1), Law 17/2003). After deliberation by the government and parliament, the Law on Accountability of State Budget Execution is issued and published in the state gazette and online.

Accounting standards used by the Government are regulated in Law 1/2004. A central government accounting system (SAPP) ensures transparency and accountability in government financial statements.

Pursuant to Law No. 15 of 2004 on Audit of State Financial Management and Accountability, audit reports are submitted by BPK to the Houses of Representatives and are open to the public (arts. 17 and 19). Pursuant to article 20, State financial management officials must provide explanations to BPK on the follow-up to audit recommendations within 60 days. BPK periodically monitors the follow-up to audit recommendations and submits its monitoring results to the houses of representatives and responsible parties. There is no procedure for parliament to systematically follow up on the results of audit monitoring. However, corrective measures in the form of administrative or criminal sanctions may be taken to address violations of financial reporting, accounting and auditing procedures, or in follow-up to audit reports.

Training and accreditation requirements for external and internal auditors are in place. However, reported challenges in professional education and certification affect auditor capacity and the quality of audits in line ministries and local government inspectorates, with little focus on risk-based audit.

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

Law No. 14 of 2008 states the right of the public to obtain information and enhance its active participation in State administration and in public decision-making processes. The law requires agencies to appoint public information officers (art. 13). However, this has not been fully implemented. Public agencies are obliged to provide at all times a list of all public information under their control. In addition, the Central Information Commission (KIP) regularly organizes dissemination, advocacy and education sessions on public information disclosure. A mechanism to appeal the denial of requests for information is established.

Indonesia has made a commitment to delivering transparent and accountable administration under the Open Government Action Plan.

Presidential Regulation No. 97 of 2014 mandates central and local governments to implement integrated one-stop services (PTSP) for licensing and non-licensing services.

Presidential Regulation No. 87 of 2014 stipulates the dissemination of laws, draft laws and legislation priorities (*prolegnas*) by Parliament and Government, with a view to providing information and obtaining public or stakeholder input (art. 170).

Private sector (art. 12)

Indonesia has adopted non-binding initiatives aiming to prevent corruption in the private sector. As a measure to enforce the guidelines, Indonesia issued OJK Regulation No. 21/POJK.04/2015 on Corporate Governance Guideline for Public Companies.

The International Standards on Auditing were adopted as the Public Accountant Professional Standards of Indonesia in 2012.

Publicly listed companies are required to implement the principle of full disclosure in their financial statements (OJK Regulation No. 21/POJK.04/2015). However, there is no law or regulation requiring the full disclosure or fair presentation of financial statements by private sector entities other than publicly listed companies, as foreseen under article 12, paragraph 3, of the Convention. The intentional destruction of

bookkeeping documents earlier than foreseen by the law is stipulated in Law No. 8 of 1997 regarding company documents.

Indonesia does not impose restrictions on the employment of former public officials by the private sector.

There is currently no law criminalizing bribery in the private sector.

KPK can investigate corruption in the private sector if there is a link to the public sector (art. 11, Law No. 20/2001). Legal persons registration and administration is carried out through the Legal Entity Administration System "SABH", which is publicly accessible. The prevention of the misuse of subsidies is ensured through various means, including PTSP and electronic licensing.

Indonesian law does not explicitly stipulate the prohibition of including bribes as tax-deductible expenses.

Measures to prevent money-laundering (art. 14)

The anti-money-laundering (AML) legal regime consists notably of the Law on MLCA, OJK Law No. 21 of 2011, and relevant regulations and circulars of PPATK, OJK and the Bank of Indonesia (BI).

"Know Your Customer" (KYC) standards are required for all financial and non-financial institutions (FSIs) as well as goods and service providers (DNFBPs) (art. 17–18, Law on MLCA; art. 3, Government Regulation No. 43 of 2015), including money remitters (arts. 41–46, BI R.19/10/PBI/2017).

Each supervisory and regulatory agency (LPP) supervises the compliance of reporting parties with KYC principles (art. 18(4), Law on MLCA) and the reporting obligation of suspicious transactions (art. 31(1), Law on MLCA). Such supervisory function is conducted by PPATK in the event that the dedicated LPP is not available or determined (arts. 18(6) and 31(2), Law on MLCA). OJK holds the role as LPP for FSIs.

Supervision is also conducted through a special audit scheme by PPATK (art. 43(c), Law on MLCA). Furthermore, with a view to avoid overlapping in its implementation, OJK and PPATK conduct monitoring coordination meetings on a regular basis to exchange information on the compliance of the reporting parties.

According to article 23 of Law on MLCA, each reporting party shall report suspicious financial transactions to PPATK. This includes financial institutions, non-bank financial institutions and DNFBPs (art. 3, Government Regulation No. 43 of 2015).

The imposition of sanctions is the authority of each relevant LPP or PPATK, when the LPP is not established (arts. 1(11) and 30(2), Law on MLCA).

Steps towards incorporating a risk-based approach in the AML/CFT framework and adopting risk-mitigating policies are being taken.

Indonesia has established a National Coordination Committee for the Prevention and Eradication of MLCA. Internationally, PPATK cooperates through various multilateral forums, such as the Financial Action Task Force, the Asia-Pacific Economic Cooperation, the International Criminal Police Organization (INTERPOL) and the International Organization of Securities Commissions, and has signed 52 memorandums of understanding with its counterparts. OJK has signed 22 cooperation agreements with foreign authorities whose scope of cooperation includes cross-border supervision and information exchange.

Chapter V of the Law on MLAC establishes a cross-border declaration legal framework of cash and negotiable instruments. Failure to declare or misreporting is punishable under articles 34 and 35. However, enhanced scrutiny in case of incomplete information on the transaction's originator is not required.

As a member of the Asia/Pacific Group on Money Laundering (APG), Indonesia completed a national risk assessment in 2015. The second mutual evaluation review is ongoing.

2.2. Successes and good practices

- The framework for public participation in monitoring anti-corruption actions of government. Further, Indonesia uses a variety of measurements to map out corruption and anti-corruption efforts (art. 5).
- The international and regional cooperation efforts of Indonesian institutions (art. 5(4)).
- The Integrity Pact in Government Procurement and Indonesia's electronic procurement system (art. 9(1)).

2.3. Challenges in implementation

It is recommended that Indonesia:

- Continue efforts to strengthen the capacity of authorities to prevent and eradicate corruption at all domestic levels, in particular at the provincial, district and local levels; accelerate the amendment of the National Strategy on Corruption Prevention and Eradication for more structured coordination and more integrated prevention programmes; strengthen coordination among all relevant authorities for the development, implementation and supervision of corruption prevention programmes; promote anti-corruption awareness-raising; continue efforts to adopt a more structured approach towards KPK prevention work (arts. 5(2) and 6(1))
- Ensure the independence of anti-corruption bodies to carry out their functions effectively and free from undue influence, by considering adoption of the Jakarta Statement on Principles for Anti-Corruption Agencies, including full support to the necessary material resources and specialized staff (art. 6(2))
- Consider adopting additional measures for the selection and training of individuals for public positions deemed vulnerable to corruption and their rotation, where appropriate (art. 7(1))
- Continue efforts towards the full implementation of the rules on conflicts of interest (AR&BR Regulation No. 37 of 2012) and gratification control (Law No. 20/2001), to further the prevention, detection, enforcement and administrative sanctioning of conflicts of interest, and consider strengthening oversight of the enforcement of conflict of interest rules by institutions (arts. 7(4) and 8(5))
- Continue efforts to address challenges in the receipt, management and coordination of complaints pertaining to public services, including breaches of codes of ethics, and consider adopting an integrated system of public complaints management and supervision in all agencies, as well as raising awareness of relevant reporting mechanisms (art. 8(6))
- Take steps towards enacting a comprehensive law on public procurement with clear provisions regulating the complaint handling procedure (including an appeals mechanism to an independent body) and sanctions for violations. Consider establishing a system for procuring entities to report to a relevant authority, such as LKPP, on the results of their internal supervision and audits, and consider establishing mandatory or periodic external audits of public procurements. Continue to ensure the consistent application of open tenders as the norm for regular public procurements. Consider strengthening integrity measures for procurement personnel (art. 9(1))
- Consider strengthening the risk-management system in the area of public financial management. Enhance professional education of internal and external

auditors, with a focus on risk-based audits (including fraud risks). Ensure corrective action is taken to address violations of financial reporting, accounting and auditing procedures, or in follow-up to audit reports (art. 9(2))

- Continue to strengthen the application of integrity measures in justice institutions such as the courts and prosecution, and address remaining recommendations from the first cycle review of Indonesia, in particular regarding investigative and prosecution functions of KPK, AGO and police (art. 11)
- Strengthen measures to prevent corruption in the private sector, including: (a) consider criminalizing bribery in the private sector, reinforcing cooperation between the private sector and law enforcement agencies, and providing, where appropriate, sanctions in case of non-compliance; (b) continuing efforts to promote transparency of legal persons and arrangements; (c) consider restricting for a reasonable period of time the employment of former public officials by the private sector; and (d) consider further developing anti-corruption guidelines for the private sector in the light of international best practices (art. 12(1))
- Improve legislation on company financial reports in line with article 12(3) and enhance the transparency of the private sector in line with international standards, including disclosure requirements, reporting and monitoring mechanisms, and accounting standards (art. 12(3))
- Legislatively clarify the non-deductibility of expenses that constitute bribes or are incurred in furtherance of corrupt conduct (art. 12(4))
- Continue efforts towards full implementation of Law No. 14 of 2008, including to ensure that all public agencies are endowed with public information officers (art. 13(1)(b))
- Continue efforts to implement the risk-based approach, including to address threats and vulnerabilities identified in the national risk assessment. Consider improving the regulatory framework on beneficial ownership transparency and accelerate its implementation (arts. 14 and 52)
- Consider adopting measures to comply with art. 14(3)(c).

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

- Capacity-building on innovative approaches and new technologies to prevent and combat corruption, including development of gratification and asset declaration reporting systems (art. 5)
- Capacity and institution-building in conflicts of interest management (art. 7)
- Capacity-building in managing public complaints and coordinating responses, as well as code of conduct training (art. 8)
- Capacity-building, including training and certification for fraud examiners, forensic auditors, risk management and internal control, and comparative study/benchmarking on fraud prevention strategies (art. 9)
- Capacity-building on judicial integrity and transparency (art. 11)
- Capacity-building on typologies of corruption in the private sector (art. 12)

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)

Confiscation and asset recovery requests are executed on the basis of bilateral and multilateral treaties, including this Convention. In the absence of such agreements, requests may be conveyed directly to the Minister of Law and Human Rights.

PPATK spontaneously transmits information on money-laundering offences to its foreign counterparts (art. 90(2), MLA Law), either directly or through relevant networks, such as INTERPOL and the Egmont Secure Web.

Indonesia is party to five multilateral agreements containing relevant asset recovery provisions and has ratified six bilateral MLA agreements.

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

Customer due diligence requirements for financial and non-financial institutions are listed in articles 17 and 18 of the Law on MLCA, articles 2 and 3 of Government Regulation No. 43 of 2015, and article 15 of Regulation No. 12/POJK.01/2017 concerning the implementation of programmes in the financial services sector for the countering of money-laundering and the prevention of terrorist financing (POJK APU-PPT).

The obligation for financial institutions to identify and verify beneficial owners is set forth in articles 27 to 29 of POJK APU-PPT and relevant regulations of the reporting parties (e.g., arts. 22 and 23, POJK APU-PPT; and art. 5, Ministerial Decree No. 55/PMK.01/2017 related to public and other accountants). Presidential Regulation No. 13 of 2018 on Beneficial Ownership obliges notaries and legal persons to include information on beneficial ownership in the registration process.

Politically exposed persons, family members and related parties are subject to enhanced due diligence (EDD) (arts. 1(26) and 30(f), POJK APU-PPT).

Financial institutions are required to adopt and implement a risk-based approach (RBA), involving EDD of high-risk persons, accounts and transactions as well as account opening and maintenance procedures (arts. 2–5 and 30, POJK APU-PPT); record-keeping is addressed in article 56. EDD requirements are also found in BI circular letters for commercial and sharia banks. OJK conducts AML/CFT training of monitored institutions.

POJK APU-PPT (art. 36) foresees a mechanism for updating the database of persons subjected to EDD based on lists of the Financial Action Task Force.

Article 7 of BI Regulation No. 11/1/PBI/2009 on Commercial Banks obliges banks to establish a registered domicile. POJK APU-PPT further prohibits financial services providers from establishing business relations with “shell banks”, including through cross-border correspondent banking (arts. 42 and 50, POJK APU-PPT).

State administrators are obliged to report their assets and sources of income (Law No. 28 of 1999, Law No. 30 of 2002, and KPK Regulation No. 7 of 2016 on the Procedure for Registration, Audit and Publication of State Administrator Property Reports). High-ranking officials report to KPK, while civil servants report to their respective heads of agencies. Financial disclosures, which cover overseas assets, are publicly available in summary form as supplements to the State Gazette (arts. 2 and 5, Law No. 28 of 1999). Violations of such provisions are punishable pursuant to article 20 of the same law.

Indonesia is a member of APG, the Egmont Group, and the Asset Recovery Inter-agency Network for Asia and the Pacific, and an observer in the Camden Asset Recovery Interagency Network.

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)

Indonesian legislation does not specify recovery mechanisms for States to establish title or ownership of property, or be awarded compensation or damages for injuries, through domestic proceedings. The general principle of civil liability (art. 1365, Civil Code) obliges defendants causing damage to pay compensation, and the procedure for submission of claims is contained in article 118 of the Revised Code. Furthermore, article 98 of the CPC allows for joining of civil claims to criminal proceedings.

In order to enforce a foreign confiscation order, a domestic procedure to seize and confiscate assets must be initiated (arts. 51 and 52, MLA Law). The requirements for submitting requests are addressed in articles 28, 51 and 52 of the MLA Law.

There is no legislation on non-conviction-based confiscation.

Foreign orders for search and seizure are also not directly enforceable, but must first be submitted to the courts for execution (art. 41, MLA Law).

Because of limited capacity of the office of State Detention and Storage of State Treasuries, seized assets are managed by several agencies depending on the stage of the criminal proceeding. The police manage seized assets that are being investigated and prosecutors manage seized assets in cases being prosecuted.

Return and disposal of assets (art. 57)

Indonesia does not have specific domestic provisions providing for the return of assets as prescribed under article 57, including for offences under the Convention.

According to article 55 of the MLA Law, expenses incurred in the implementation of requests for assistance shall be charged to the requesting State.

3.2. Successes and good practices

- The use of several networks and instruments to facilitate international cooperation in asset recovery (art. 59)

3.3. Challenges in implementation

It is recommended that Indonesia:

- Specify in the law the recovery mechanisms for States to establish title or ownership of property, or be awarded compensation or damages for injuries, through domestic proceedings (art. 53(a) to (c))
- Develop relevant measures as may be necessary to permit competent authorities to give effect to a confiscation order issued by a foreign court (art. 54(1)(a))
- Consider adopting measures allowing for non-conviction-based confiscation (art. 54(1)(c))
- Take measures to permit competent authorities to freeze or seize property upon a freezing or seizure order and upon a request issued by a foreign court or competent authority (art. 54(2)(a) and (b))
- Strengthen mechanisms for the preservation of property pending confiscation, including through the establishment of an adequately resourced central asset management office, and consider adopting comprehensive asset management guidelines (art. 54(2)(c)). Consider establishing a specific body that is authorized to manage seized and/or confiscated assets, including the supervision role (art. 54)
- Amend the MLA Law to provide for the return of proceeds in accordance with all provisions of article 57, in particular in cases of embezzlement of public

funds or of laundering of embezzled public funds, and review relevant treaties in this regard (art. 57)

- Regulate the costs of MLA in line with articles 46(28) and 57(4) of the Convention. Review existing asset sharing agreements in the light of chapter V of the Convention (art. 57).

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

- Best practices in managing assets pending confiscation (art. 54)
- Capacity-building on cross-border asset tracing and recovery (art. 54)
- Capacity-building on money-laundering investigation and prosecution (art. 52)
- Capacity-building in opening and channelling communication with requested States to facilitate the making of MLA requests (art. 57)