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Executive summary

Note by the Secretariat

Addendum

Contents

	<i>Page</i>
II. Executive summary	2
Zimbabwe	2

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II. Executive summary

Zimbabwe

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

Zimbabwe signed the Convention on 20 February 2004 and ratified it on 8 March 2007. The Convention entered into force for Zimbabwe on 7 April 2007.

The legal system of Zimbabwe is based on common law.

The implementation by Zimbabwe of chapters III and IV of the Convention was reviewed in the second year of the first cycle, and the executive summary of that review was published on 21 June 2013 ([CAC/COSP/IRG/II/2/1/Add.17](#)).

The country's legislative framework for corruption prevention and asset recovery includes, notably, the Constitution, the Anti-Corruption Commission Act, the Public Finance Management Act, the Public Service Act, the Public Procurement and Disposal of Public Assets Act, the Money Laundering and Proceeds of Crime Act, as amended, the Public Entities Corporate Governance Act and the Criminal Matters (Mutual Assistance) Act.

The key authorities involved in corruption prevention and asset recovery include the Zimbabwe Anti-Corruption Commission, the Office of the President and Cabinet, the Public Service Commission, the Office of the Auditor General, the Corporate Governance Unit in the Office of the President and Cabinet, the Procurement Regulatory Authority, the Financial Intelligence Unit, the National Prosecuting Authority, the Office of the Prosecutor General, the Zimbabwe Republic Police and the Zimbabwe Revenue 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)

Zimbabwe has a set of laws and policies in place to prevent and fight corruption. The country is yet to take measures to identify specific corruption risks with a view to developing a strategic long-term policy framework to prevent corruption. Currently, Zimbabwe is implementing the Transitional Stabilisation Programme 2018–2020 within the framework of the Vision 2030 national socioeconomic development policy, which is aimed at eradicating corruption and improving governance by, inter alia, increasing the capacity of the anti-corruption authorities, establishing anti-corruption courts and enhancing the anti-money-laundering framework.

The implementation, monitoring and evaluation of the Programme involves various stakeholders, including private and non-governmental sector representatives, and is overseen by the Office of the President and Cabinet.

Effective anti-corruption practices have been established and are promoted.

Legislation and administrative measures are periodically reviewed to assess their capacity to prevent corruption, including as part of system reviews and audits carried out by the Zimbabwe Anti-Corruption Commission and the Office of the Auditor General.

The Zimbabwe Anti-Corruption Commission (ZACC) is the main corruption prevention body in Zimbabwe. Under the Constitution and the Anti-Corruption Commission Act, the Commission is mandated to combat corruption and to promote honesty, financial discipline and transparency in the public and private sectors. The Commission may recommend measures to eliminate or minimize corruption risks,

provide advice on ways to strengthen anti-corruption legislation, educate the public about corruption risks and assist public and private entities in formulating preventive practices, systems and procedures.

The Commission is provided with the necessary budgetary and staff resources. Its commissioners are appointed by the President from a list of not fewer than 12 nominees submitted by the relevant parliamentary committee following public interviews; the Chair is appointed by the President following consultations with that same parliamentary committee (sects. 235 and 236 of the Constitution). At the time of the country visit, the positions of the Chair and commissioners were vacant. The vacancies, however, did not have any immediate adverse effects on the Commission's operations.

In addition, the Office of the President and Cabinet administers key corruption legislation and may, inter alia, identify suspects for criminal investigation and appoint investigators under the Prevention of Corruption Act. The Corporate Governance Unit advises and supports line ministries to ensure that relevant public entities comply with the Public Entities Corporate Governance Act.

The Zimbabwean authorities have signed several international and regional treaties and initiatives to combat corruption, such as the Southern Africa Development Community Protocol Against Corruption, the African Union Convention on Preventing and Combating Corruption and the Eastern and Southern Africa Anti-Money Laundering Group.

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

The legal framework for the recruitment, hiring, retention, payment, promotion and retirement of civil servants is formed, primarily, by the Constitution, the Public Service Act, the Public Service Regulations (2000) and the Public Finance Management Act. The Public Service Commission develops policies and procedures on these matters.

Recruitment to the civil service is based on merit and requires the prior publication of vacancies on a central portal for all junior and some senior positions (sects. 5–11 of the Public Service Act). Human resource decisions can be appealed to the Public Service Commission.

All civil servants must take sector-specific training courses that cover ethics and corruption. The Public Service Commission continuously reviews and revises the training courses through its Training Advisory Board. Several public entities regularly rotate staff, including for the purpose of minimizing corruption risks.

Qualification and disqualification criteria have been established for presidential and vice-presidential candidates (sect. 91 (1) of the Constitution) and parliamentary candidates (sects. 121 and 129 of the Constitution and sect. 46 of the Electoral Act). Furthermore, the Electoral Act provides for the disqualification of candidates in the event that they are convicted of an offence involving breach of trust, dishonesty or physical violence (sect. 46) or illegal practices committed during electoral campaigns (sects. 134–157).

The Constitution, the Electoral Act, the Political Parties (Finance) Act and the Electoral Code of Conduct for Political Parties and Candidates and Other Stakeholders, together with their subsidiary legislation, regulate electoral funding matters. The Political Parties (Finance) Act and its regulations provide for the financing of political parties by the State, define permissible and prohibited donations and establish the obligation for parties to keep a register and books of accounts for all donations and expenses. Sanctions for violating these rules are established in sections 139–141 of the Electoral Act.

The Constitution establishes the obligation for vice-presidents, ministers, deputy ministers and other public officers to avoid conflicts between their private interests

and official or public duties (sects. 106 and 196). For members of the Parliament and Cabinet ministers who are members of the Parliament, specific provisions on avoiding conflicts of interest and on disclosure of financial interests can be found in the Code of Conduct and Ethics for Members of Parliament. Similar disclosure rules exist for certain staff of public entities specified in the Public Entities Corporate Governance Act (sects. 34 and 37). However, the Act does not establish sanctions for providing false information.

The failure by civil servants and judicial officers to disclose to a superior any conflict of interest or other personal information relevant to any matter connected with the discharge of their duties is deemed an act of misconduct (sect. 2 of the Public Service Regulations (2000) and sect. 45 of the Judicial Service Regulations). However, with respect to civil servants, there is neither a clear definition of a conflict of interest nor an established procedure to report conflicts of interest to superiors or manage such conflicts when they arise.

The Constitution promotes integrity, honesty and responsibility among public officials (sects. 106 and 196). Other legislation, such as the Public Entities Corporate Governance Act and the Anti-Corruption Commission Act (for staff of the Commission), also promotes ethical behaviour for different categories of public officials. Codes of conduct exist for different categories of public officials and staff of government-owned or controlled corporations. Public entities have also adopted entity-specific codes of conduct. However, no code of conduct for civil servants is available, although a draft code was being developed at the time of the country visit.

Violations of the codes result in disciplinary and other sanctions. In addition, the concealment of a transaction from a principal or of a personal interest in a transaction is an offence under the Criminal Law (Codification and Reform) Act (sects. 172 and 173).

There is no comprehensive legal and administrative framework to facilitate the reporting of acts of corruption in the public sector. Relevant public entities have established their own reporting channels.

The Constitution and the Judicial Service Act govern the appointment and removal of judges and established the Judicial Service Commission to enforce rules on employment, discipline and conditions of service as set out in the Judicial Service Regulations. The Judicial Service (Code of Ethics) Regulations serve as a code of conduct, outline the recusal process and prohibit judicial officers from accepting gifts or engaging in certain outside activities and business dealings. A similar code of conduct is being developed for magistrates.

Rules on the appointment and tenure of the Prosecutor General, who is the head of the National Prosecuting Authority, are provided in section 259 of the Constitution. The National Prosecuting Authority Act and the National Prosecuting Authority (Code of Ethics) Regulations (2015) further regulate the recruitment, discipline, conditions of service and ethical behaviour of National Prosecuting Authority officials. Under section 6 of the Regulations, prosecutors may engage in financial and business dealings provided that such dealings, inter alia, do not reflect adversely on, interfere with or exploit their duties or position (subsect. 9). However, they are prohibited from accepting gifts (subsect. 4) or engaging in certain outside activities (subsect. 11). Prosecutors must recuse themselves from any proceedings where there are grounds to do so, or disclose those grounds to the other parties in the proceedings (sect. 7). However, there is no requirement to disclose financial and business dealings or non-prohibited outside activities to superiors.

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

Public procurement in Zimbabwe is decentralized and regulated mainly by the Constitution, the Public Procurement Act and the Public Procurement and Disposal of Assets (General) Regulations (2018). The Procurement Regulatory Authority is established by the Act and is mandated to supervise public procurement, monitor

compliance with the Act, advise and assist procuring entities, issue directives and guidelines and maintain relevant databases (sects. 5–7).

Section 17 of the Act requires each procuring entity to establish a procurement management unit headed by the entity's accounting officer, as defined in section 10 of the Public Finance Management Act. Accounting officers must appoint evaluation committees for procurements above the threshold specified in section 10 (2) of the Public Procurement Regulations. Procuring entities must obtain authorization from the Procurement Regulatory Authority to conduct certain procurements (sect. 15 of the Public Procurement Act and sect. 10 (1) of the Regulations).

Sections 30–34 of the Public Procurement Act and sections 10 and 13–17 of the Regulations govern when and how different procurement methods are to be applied and the related thresholds. Competitive bidding is to be employed except in the cases listed in section 30 of the Act. Detailed rules and procedures for invitations to bid, the content of invitations, bidding periods, the content of bids and the opening and evaluation of bids are set out in sections 36–56 of the Act and sections 18–34 of the Regulations. However, there are no centralized electronic platforms for invitations to bid, contract awards and other relevant information.

A dedicated code of conduct for procurement officers is provided in the First Schedule to the Regulations. It establishes the obligation for procurement officers to disclose conflicts of interest to direct supervisors and restricts the acceptance of gifts and benefits. Bidders may be disqualified if they have been found guilty of unethical conduct in relation to any procurement or convicted of an offence involving, *inter alia*, dishonesty or corruption (sect. 72 of the Act).

The appeal mechanism is outlined in part X of the Act. High-value procurements exceeding the thresholds specified in the Second Schedule of the Regulations and conducted by the entities defined in section 10 (5) of the Regulations are audited by the Special Procurement Oversight Committee. The Anti-Corruption Commission may monitor and examine procurement procedures (sect. 12 of the Anti-Corruption Commission Act). The Office of the Auditor General can also conduct compliance and financial audits of public procurements.

In line with section 305 of the Constitution and section 28 of the Public Finance Management Act, national budget proposals are developed by the Government and submitted to the Parliament for consideration and adoption. The reporting framework, which is described in part IV of the Act, is based on generally accepted accounting principles and includes the International Financial Reporting Standards and International Public-Sector Accounting Standards. All government ministries and statutory and constitutional bodies submit monthly, quarterly and annual financial statements to the Office of the Auditor General and the Parliament.

Section 41 of the Act establishes the obligation for each public entity to have an accounting authority. Such authorities must establish and maintain effective, efficient and transparent systems of financial and risk management and internal controls as well as a system of internal audit (sect. 44 of the Act).

In addition, the Public Service Commission may appoint an internal auditor to any ministry or reporting entity of a ministry to conduct an internal audit (sect. 80 of the Act). The Office of the Auditor General conducts external audits (sect. 81). Violations of the Act may lead to disciplinary or criminal sanctions (sects. 85–87 and 91).

Accounting authorities must ensure reasonable protection of records and keep full records of the financial affairs of public entities pursuant to sections 42 and 49 of the Public Finance Management Act. The National Archives Act also contains provisions on the storage, preservation and disposal of government records. The falsification or destruction of records, if they amount to fraud, forgery, obstruction of justice or giving false information to public authorities, is punishable under the Criminal Law (Codification and Reform) Act (sects. 135–138 and 180).

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

According to section 62 of the Constitution, every Zimbabwean citizen or permanent resident has the right to access any information held by public authorities insofar as the information is required in the interests of public accountability. However, no enabling legislation giving effect to this right, with appropriate restrictions, has been adopted yet.

Zimbabwe is taking steps to simplify administrative procedures and increase the transparency of decision-making processes. Several e-government initiatives to provide digital services to citizens have been introduced, such as the ZimConnect portal. Public entities have published information and reports on their work and performance on websites and other platforms.

Members of the public are to be consulted during the legislative process, including in relation to the drafting of the national budget. Relevant policies and guidelines have been developed and published, such as the Parliament's Public Hearing Guidelines and the ZACC Public Education and Publicity Campaign Strategy.

The Anti-Corruption Commission, the Office of the Auditor General and other bodies are mandated to periodically report on corruption risks in the public sector. Additionally, the Anti-Corruption Commission and other bodies conduct public education campaigns among the general public and at the secondary school level in order to raise awareness of corruption.

Corruption can be reported to the Anti-Corruption Commission and the Zimbabwe Republic Police anonymously via a 24-hour call centre.

Private sector (art. 12)

Zimbabwe has taken measures to prevent corruption in the private sector. The Public Entities Corporate Governance Act established the National Code on Corporate Governance, which contains guiding principles and recommendations to ensure the integrity of private entities and applies to all business entities in both the public and private sectors. The Anti-Corruption Commission carries out oversight of practices, systems and procedures in the private sector to prevent corruption.

The Companies Registration Offices register companies and associations in accordance with the Companies Act and maintain a registry of companies. The registry is paper-based, although a project to digitize it is under way. The provision of false statements, including for the purposes of registering a company, is an offence (sect. 341 of the Act).

Chapter 4 of the National Code on Corporate Governance recommends specific measures on governance risks in private entities. In particular, boards of companies should be assisted by internal audit units which should, inter alia, assess risks of fraud, corruption, unethical behaviour and other irregularities (sects. 226–233). Sections 255–260 of the Code recommend that companies establish a whistle-blowing system that is independent, trusted and anonymous.

There are no restrictions on public officials following resignation or retirement, except for legal practitioners.

The Companies Act contains provisions on accounting and auditing systems for all registered companies and associations in Zimbabwe. Sections 140–155 refer to the content and form of accounts, auditors' reports and auditors' right to access books and records. Auditors and accountants must apply the International Financial Reporting Standards, as approved by the Public Accountants and Auditors Board of Zimbabwe. Provisions on accountability and oversight of auditors and accountants are set out in the Public Accountants and Auditors Act and the Chartered Accountants Act.

Zimbabwe is in the process of updating the Companies Act through the new Companies and Other Business Entities Bill. Some key changes foreseen in the Bill are the introduction of an electronic registry of companies, the establishment of an

inspectorate to better enforce the Bill's provisions, measures to make the beneficial ownership of companies more transparent and the introduction of a system to continuously update the registry.

International Financial Reporting Standard 9 contains provisions prohibiting the use of accounting practices for the purpose of committing corruption offences. Concealing, destroying, falsifying or making false entries in company books with the intent to defraud or deceive is an offence (sects. 341, 343 and 345 of the Companies Act and sect. 71 of the Building Societies Act).

The tax legislation of Zimbabwe does not expressly prohibit deductions of bribe payments from taxable income (sects. 15–16 of the Income Tax Act of 2016).

Measures to prevent money-laundering (art. 14)

The Money-Laundering Act, the Bank Use Promotion Act, as amended, and other legislation establish a domestic regulatory and supervisory regime to counter money-laundering and the financing of terrorism. The Money-Laundering Act establishes obligations for obliged entities in relation to, inter alia, customer identification and verification, including beneficial owners (sects. 15–23); the reporting of suspicious transactions and certain cash transactions to the Financial Intelligence Unit (sect. 30); record-keeping (sect. 24); and the development and implementation of internal programmes to counter money-laundering (sect. 25). The Act also establishes sanctions in case of violations. Obligated entities are defined in section 13 of the Act and include financial institutions and designated non-financial businesses and professions.

The first national risk assessment exercise was conducted and the results were published in 2015. The assessment found that non-bank financial institutions and designated non-financial businesses and professions had a low level of understanding of anti-money-laundering obligations. A second assessment was launched in February 2019 by the National Task Force on Money-Laundering and the Financing of Terrorism, a 23-member body comprising representatives of the Financial Intelligence Unit (FIU), the Anti-Corruption Commission and other law enforcement agencies and relevant supervisory authorities.

Under section 6B of the Money-Laundering Act, the FIU is mandated to, inter alia, receive, analyse and disseminate financial intelligence domestically and internationally. The Unit cooperates with domestic law enforcement and supervisory authorities for the purposes of information-sharing. It has signed memorandums of understanding with relevant supervisory authorities and is planning to sign such memorandums with law enforcement agencies. The National Task Force also serves as a platform for domestic cooperation on efforts to combat money-laundering and the financing of terrorism.

International cooperation in cases involving money-laundering and related predicate offences is provided under the Criminal Matters (Mutual Assistance) Act and coordinated by the National Prosecuting Authority. Cooperation is also possible through informal police-to-police arrangements and the International Criminal Police Organization (INTERPOL). Furthermore, section 37 of the Money-Laundering Act empowers the FIU to exchange information with foreign counterparts on its own initiative or upon request.

Zimbabwe has introduced a disclosure system to detect and monitor cross-border movements of cash and bearer negotiable instruments having a value equal to or exceeding US\$ 15,000. Failing to disclose such information or making a false or incomplete disclosure is punishable by a fine not to exceed US\$ 100,000, a term of imprisonment of up to 12 months, or both (sect. 11 of the Act).

Under the Act, wire transfers having a value equal to or exceeding US\$ 1,000 must indicate the identity, account number (or a unique reference number) and address (or national identity number and date of birth) of the originator throughout the payment chain. If such information is missing or cannot be obtained and verified, financial

institutions must refuse to accept the transfer and immediately report it to the FIU (sect. 27).

To date, no sanctions under the Act have been imposed.

Zimbabwe, by virtue of its membership of the Eastern and Southern Africa Anti-Money Laundering Group, which is an associate member of the Financial Action Task Force, is obliged to implement the relevant Task Force standards. The country's anti-money-laundering framework was assessed as part of a mutual evaluation by the Group in 2016 and the deficiencies identified during the assessment were addressed at the legislative level through amendments to the Money-Laundering Act in 2018.

The FIU has signed memorandums of understanding for the exchange of information with 15 foreign counterparts. Currently, the FIU is not a member of the Egmont Group of Financial Intelligence Units but it is taking steps to secure membership by 2020.

2.2. Successes and good practices

- The establishment of the Training Advisory Board to continuously review and revise training for civil servants (art. 7, para. 1 (d)).

2.3. Challenges in implementation

It is recommended that Zimbabwe:

- Ensure that the anti-corruption measures set out in the Transitional Stabilisation Programme are effectively implemented and continue identifying further corruption risks with a view to developing a long-term policy framework to prevent corruption (art. 5, para. 1).
- Monitor to ensure that the vacancies among the positions of commissioners and Chair of the Zimbabwe Anti-Corruption Commission do not have adverse effects on the Commission's operational independence (art. 6, para. 1).
- Endeavour to adopt a clear definition of a conflict of interest and a procedure for civil servants to report and manage conflicts of interest when they arise (art. 7, para. 4, and art. 8, para. 5).
- Endeavour to adopt a code of conduct for civil servants (art. 8, para. 2).
- Consider introducing a comprehensive legal and administrative framework to facilitate the reporting of acts of corruption in the public sector, including effective protection against retaliation (art. 8, para. 4).
- Endeavour to establish effective sanctions for the provision of false or incomplete information as part of financial disclosures under the Public Entities Corporate Governance Act (art. 8, para. 5).
- Strengthen transparency measures in public procurement by developing and introducing public electronic platforms where all invitations to bid, contract awards and other relevant information can be accessed (art. 9, para. 1).
- Adopt necessary legislative and administrative measures to allow members of the public to access information held by public authorities, such measures to include clear and consistent procedures across all public bodies and effective mechanisms to review decisions denying access (art. 10 (a)).
- Continue simplifying administrative procedures by developing and implementing various e-government initiatives (art. 10 (b)).
- Adopt a comprehensive and effective code of conduct for magistrates (art. 11, para. 1).
- Ensure that there are clear and effective disclosure obligations for prosecutors regarding their financial and business dealings, gifts and outside activities (art. 11, para. 2).

- Strengthen the legislative and administrative framework for preventing corruption in the private sector, including by (i) adopting measures to increase the transparency and accuracy of information regarding the ownership and management of private entities; and (ii) imposing appropriate restrictions on public officials following resignation or retirement (art. 12, para. 2 (c) and (e)).
- Prohibit the tax deductibility of expenses that constitute bribes and other corruption-related payments (art. 12, para. 4).
- Ensure that all obliged entities understand and comply with their obligations under the framework for combating money-laundering and the financing of terrorism; furthermore, in order to strengthen compliance with the Money-Laundering Act, monitor to ensure that the enforcement mechanisms provided under the Act, including sanctions, are applied effectively (art. 14, para. 1 (a)).
- Increase the ability of the FIU to cooperate internationally by ensuring that it concludes further memorandums of understanding with foreign counterparts and becomes a member of the Egmont Group (art. 14, para. 5).

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

- Legislative assistance (arts. 5, 9, 10, 13 and 14)
- Institution building (arts. 5, 6, 11 and 13)
- Policymaking (arts. 5–7, 10, 13 and 14)
- Capacity-building (arts. 5–11, 13 and 14)
- Research/data-gathering and analysis (arts. 5–11, 13 and 14)
- Facilitation of international cooperation with other countries (arts. 5, 6, 11 and 13)

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)

The legal framework for asset recovery consists mainly of the Money Laundering and Proceeds of Crime Act, as amended, the Criminal Matters (Mutual Assistance) Act and the Criminal Procedure and Evidence Act. Except for the provisions on assistance in relation to the taking of evidence and production of documents (part II), the Criminal Matters (Mutual Assistance) Act applies only to countries designated by the Minister of Justice by statutory instrument, when the Minister is satisfied that reciprocal provisions have been made by those countries (sect. 3). To date, no countries have been designated under the Act.

One of the functions of the FIU is to disseminate the results of its analysis to foreign counterpart agencies (sect. 6B (c) of the Money-Laundering Act). It may spontaneously share information with any counterpart agency that is subject to similar secrecy obligations with respect to the information it receives (sect. 37 (1) of the Act). The Zimbabwe Republic Police may spontaneously share information through the INTERPOL National Central Bureau in Harare.

Zimbabwe is a member of the Asset Recovery Inter-Agency Network for Southern Africa.

Zimbabwe has ratified or acceded to a number of international instruments on mutual legal assistance in criminal matters, namely, the Southern Africa Development Community Protocol Against Corruption and the African Union Convention on Preventing and Combating Corruption. No bilateral treaties or agreements on criminal matters have been signed.

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

Under the Money-Laundering Act, financial institutions are prohibited from establishing or maintaining anonymous accounts or accounts under fictitious names (art. 14 (1)). Obligated entities are required to identify and verify the identity of beneficial owners (sect. 15 (3)). They are also required to determine if a customer or a beneficial owner is a politically exposed person and, if so, (i) to obtain approval from senior management before establishing business relations with that person; and (ii) to take all reasonable measures to identify the source of wealth and funds and other assets of the customer or beneficial owner (sect. 20 (1) (b)). The definition of a politically exposed person includes any person who is or has been entrusted with prominent public functions in Zimbabwe or by a foreign country or any person who is or has held a position of senior management in an international organization, or a close associate, spouse or family member of such persons (sect. 13).

Obligated entities are required to implement a risk-based approach (sect. 12B of the Money-Laundering Act and Guideline No. 01-2006 BUP/SML: Anti-Money Laundering).

The Director General of the FIU may issue directives or guidelines to obliged entities in order to (i) further clarify or elaborate on their obligations in terms of their risk-based approach (sects. 4 and 12B (5) of the Money-Laundering Act); or (ii) prohibit or restrict business relationships with other obliged entities (sect. 20 (3) of the Act). In addition, obliged entities are required to exercise enhanced due diligence, proportionate to the risk, towards business relations and transactions with natural and legal persons from countries identified by the FIU through a directive or circular, which include those countries identified by the Financial Action Task Force (sect. 26A of the Act).

Pursuant to section 24 of the Money-Laundering Act, obliged entities must maintain all books and records with respect to their customers and transactions for not less than five years from the date of the transaction or the date the business relationship ended.

The establishment or operation of shell banks, as defined under section 13 of the Act, is prohibited in Zimbabwe (sect. 14 (2)). It is also prohibited for any person to enter into or continue business relations with a shell bank or a respondent financial institution in a foreign country that permits any of its accounts to be used by a shell bank (sect. 14 (3)).

Except for members of the Parliament and certain staff of public entities specified in the Public Entities Corporate Governance Act, Zimbabwe has not established a financial disclosure system for appropriate public officials. There is no requirement for public officials to report foreign financial accounts in which they have an interest or over which they have signature or other authority.

The FIU has the power to obtain information from the financial institutions and other entities listed under section 6E of the Money-Laundering Act. The Director General may issue freezing orders having effect for not more than 14 days in respect of suspicious accounts (sect. 41A of the Bank Use Promotion Act, as amended).

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)

Zimbabwe does not have a provision allowing other States to initiate civil action in its courts in order to establish title to or ownership of property acquired through the commission of an offence. Section 362 of the Criminal Procedure and Evidence Act may provide a basis for a court to order the accused to pay compensation to another State party that has been harmed. However, the definition of “person” under section 2 of the Act does not specifically include foreign States. In addition, section 365 of the Act may serve as a basis for a court, when having to decide on confiscation, to recognize another State party’s claim as the legitimate owner of property. Nevertheless, the law

does not specifically recognize the rights of foreign States as legitimate owners of property or primary claimants in confiscation proceedings.

Section 32 of the Criminal Matters (Mutual Assistance) Act provides for the enforcement of foreign forfeiture orders. If the Prosecutor General is satisfied that a person has been convicted of an offence and that the conviction is final, they may request registration of the order with the High Court. A registered foreign forfeiture order may be enforced as if it were a forfeiture order made by a court under the Serious Offences (Confiscation of Profits) Act (sect. 32 (6) of the Criminal Matters (Mutual Assistance) Act).

The property identified as tainted property of a person convicted of a serious offence, which includes money-laundering offences, as defined under section 2 of the Money-Laundering Act, may be confiscated (sects. 50–57). The definition of “tainted property” makes no distinction between property of local or foreign origin (sect. 2).

A confiscation order may be issued in cases where the concerned person absconds or dies, provided the conditions set out in section 51 of the Act are met. In addition, part I of chapter V of the Act provides for civil forfeiture in respect of tainted and terrorist property.

Section 32 (2) of the Criminal Matters (Mutual Assistance) Act provides for the enforcement of foreign interdicts. An interdict is an order restraining any person from dealing with the identified property (sect. 2). Requests for search and seizure in respect of tainted property and for interim interdicts can be executed pursuant to sections 33 and 34 of the Act, respectively. When a court makes a property freezing order, it may also make, at any time, other orders for the preservation, management or disposition of that property (sect. 82 of the Money-Laundering Act). Section 100A of the Money-Laundering Act created the Fund Asset Management Unit to act as a receiver or trustee of all property for which a receiver or trustee may be appointed, as provided under the law (sect. 100B). Nevertheless, to date, the Fund has not been implemented.

No requests for freezing, seizure or confiscation have been received under the Criminal Matters (Mutual Assistance) Act and there are no cases where the courts have ordered the enforcement of foreign forfeiture orders. Section 9 of the Act describes the information that any request for assistance in a criminal matter should include. Zimbabwe does not require that there be a treaty in order to provide assistance for the purposes of confiscation.

Section 6 of the Act outlines the grounds for refusal of assistance, which do not include the de minimis value of the property. The legislation of Zimbabwe does not provide for the possibility, before the lifting of any provisional measure, to give the requesting State party an opportunity to present its reasons in favour of continuing the measure. However, according to governmental authorities, in practice, Zimbabwean authorities would not discontinue provisional measures without first giving the requesting State an opportunity to outline why the measures should be continued.

The rights of bona fide third parties are protected under sections 44, 54 (4), 57 and 85 of the Money-Laundering Act.

Return and disposal of assets (art. 57)

Any moneys derived from the fulfilment of confiscation must be credited to the Recovered Assets Fund (sect. 97 (1) (a) of the Money-Laundering Act). The Minister of Finance may authorize payments from the Recovered Assets Fund to compensate victims who have suffered losses as a result of serious offences or to pay third parties for interests (as defined under section 2) in property (sect. 97 (2) (a) and (d)).

In addition, under section 97 (2) (c) of the Act, the Minister of Finance may authorize payments from the Recovered Assets Fund to share recovered property with foreign

States. Pursuant to section 97 (2) (b) of the Act, Zimbabwe may deduct the expenses relating to the recovery, management and disposition of confiscated property.

A court may exclude a property from a confiscation order when a person who is not the defendant has an interest in it (sect. 57 of the Act).

Zimbabwe has not concluded any agreement or arrangement, on a case-by-case basis, for the final disposition of confiscated property.

3.2. Successes and good practices

- The prohibition for any person on entering into or continuing any business relations with a shell bank or a respondent financial institution in a foreign country that permits any of its account to be used by a shell bank (sect. 14 (3) of the Money-Laundering Act) (art. 52, para. 4).

3.3. Challenges in implementation

It is recommended that Zimbabwe:

- Consider extending the scope of application of the Money-Laundering Act to those States which have not been designated to date (art. 51).
- Consider the possibility of establishing an independent asset recovery agency (art. 51).
- Continue to strengthen mechanisms for the preservation of property pending confiscation, including through the implementation of the Fund Asset Management Unit (art. 51 and art. 54, para. 2 (c)).
- Consider establishing effective and enforceable financial disclosure systems for all appropriate public officials; to the extent permissible under law, Zimbabwe is encouraged to make such information publicly accessible (art. 52, para. 5).
- Consider requiring appropriate public officials to report the existence of foreign financial accounts in which they have an interest or over which they have signature or other authority (art. 52, para. 6).
- Take measures to permit another State party to initiate civil action in its courts to establish title to or ownership of property acquired through the commission of an offence (art. 53 (a)).
- Ensure that its courts are permitted to (i) order those who have committed an offence to pay compensation to the States that have been harmed; and (ii) when having to decide on confiscation, recognize another State's claim as a legitimate owner of property acquired through the commission of an offence (art. 53 (b) and (c)).
- Ensure that the Prosecutor General exercises discretion under section 32 of the Criminal Matters (Mutual Assistance) Act in a way that observes the binding obligations under article 55, paragraphs 1 and 2.
- Ensure that consultations with requesting States are carried out before lifting any provisional measures (art. 55, para. 8).
- Adopt legislative and other measures to enable the return of property in full as required under article 57, paragraph 3, and ensure that such returns are conducted in practice (art. 57, para. 2).
- Limit any deductions to reasonable expenses incurred in the recovery, management and disposition of confiscated property (art. 57, para. 4).
- Consider concluding bilateral or multilateral agreements or arrangements to enhance the effectiveness of international cooperation on asset recovery (art. 59).

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

Zimbabwe indicated that it required technical assistance in the following areas:

- Capacity of the asset recovery unit and case management system on asset recovery (art. 51).
 - Training for investigators at the ZACC, the Zimbabwe Republic Police, the Zimbabwe Revenue Authority, prosecutors and judicial officers on financial investigations, asset tracking and asset recovery.
 - Best practices in asset management (art. 54, para. 2 (c)).
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