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## Implementation Review Group

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### Review of implementation of the United Nations Convention against Corruption

## Executive summary

## Note by the Secretariat

## Addendum

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## II. Executive summary

### Oman

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

Oman acceded to the United Nations Convention against Corruption (the Convention) by Royal Decree No. 64/2013 of 20 November 2013, which was published in *Official Gazette* No. 1035 of 24 November 2013. Oman deposited its instrument of accession with the Secretary-General of the United Nations on 9 January 2014.

The implementation by Oman 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 published on 15 September 2015 (CAC/COSP/IRG/I/4/1/Add.19). Oman has requested that its full review report be made available on the website of the United Nations Office on Drugs and Crime.<sup>1</sup>

Oman has adopted the principle of direct implementation of international conventions. With respect to international law, conventions and agreements come into force after their ratification by His Majesty the Sultan and thereafter take legal force, in accordance with articles 76 and 80 of the Basic Act of the State.

The framework to prevent and combat comprises provisions from several laws, notably the Criminal Code, the Code of Criminal Procedure, the Protection of Public Funds and Avoidance of Conflict of Interests Act and the Anti-Money Laundering and Terrorism Financing Act. Oman is a party to a number of international agreements on international cooperation, crime control and the prevention and combating of crime.

At the international level, the Omani authorities are cooperating through various mechanisms and networks including the Middle East and North Africa Financial Action Task Force (MENAFATF), the Cooperation Council for the Arab States of the Gulf (GCC) and the International Criminal Police Organization (INTERPOL).

Oman has several authorities and bodies to prevent and combat corruption, including the State Audit Institution, the department of the Office of the Public Prosecutor responsible for public funds crimes, the Capital Market Authority and the National Centre for Financial Information.

The Office of the Public Prosecutor plays a leading role in international cooperation. Oman has also established a National Committee to Combat Money-Laundering and the Financing of Terrorism.

#### 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)*

In consultation with civil society, a committee comprising eight government institutions has prepared a draft national strategy to promote integrity and combat corruption for 2016–2020. The draft strategy was submitted to the Council of Ministers on 12 October 2016. It includes binding commitments for public institutions, private-sector organizations and civil society (art. 1). Their activities will be subject to periodic review and monitoring. The draft also includes a plan of action that specifies measurable benchmarks, performance indicators and deadlines for the submission of reports. The draft provides that the State Audit Institution is the entity fundamentally responsible for monitoring and overseeing the strategy.

The Institution has drafted specific guidance concerning corruption risks. The guidance is used for risk analysis by internal audit units and when reviewing the work

<sup>1</sup> <https://www.unodc.org/unodc/treaties/CAC/country-profile/CountryProfile.html?code=OMN>.

of public agencies. The audit reports of the Institution are the main standard for the assessment of corruption in Oman. Other than the foregoing, there have been no internal or external assessments the effectiveness of anti-corruption practices.

Under Council of Ministers decision 15/2014, the Institution has taken on the role of an anti-corruption agency responsible for implementing anti-terrorism policies and preparing the draft national anti-corruption strategy. The Institution carries out activities to prevent and raise awareness of corruption and to monitor and assess government agencies (article 8 of the State Financial and Administrative Audit Act). It also assesses the effectiveness of those practices through indicators and feedback provided by questionnaires and agencies under its authority.

The Institution is provided with adequate training and resources, and is afforded due independence (article 2 of the State Financial and Administrative Audit Act).

Oman has carried out assessments of its legislation on money-laundering and foreign bribes, the Criminal Code and the Code of Criminal Procedure. Oman has put in place a code of conduct for public officials and issued judicial instructions to prosecutors. It has also introduced a professional ethics guide for members of the Institution. The Ministry of Legal Affairs is responsible for putting in place laws and regulations and reviewing draft legal instruments. Public agencies review and assess laws and regulations whenever necessary, and the Institution pinpoints procedural weaknesses and recommends legal amendments.

The fourth main goal of the draft anti-corruption strategy consists of strengthening regional and international cooperation on integrity and combating corruption. Several national authorities implement that goal from a practical standpoint.

The Omani authorities have engaged in international cooperation primarily through MENAFATF, GCC and INTERPOL. They also participate in regional and international meetings and seminars.

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

Oman has taken measures with regard to the hiring, employment, retention, promotion and retirement of public officials. Article 15 of the Civil Service Act provides that employment should be based on merit, equity and aptitude, as detailed in the Civil Service Regulation.

Royal Decree No. 78/2013 sets out a salary scale for Omani public officials according to 19 job categories, with additional scales for judicial, medical and other salaries.

Vacancy announcements are the basic criterion that is adopted for most public sector positions (article 13 of the Civil Service Act). Decision No. 8/2011 of the Civil Service Council, as amended, regulates positions of a special nature (first and foremost ministerial appointments on the basis of specific criteria). In sectors beyond the scope of the civil service, such as the army, defence and independent government agencies, appointments and salaries are regulated separately but according to the same principles as the civil service.

Some appointments to senior positions, and appointments of individuals who handle confidential or sensitive information or work in sectors and ministries governed by specific regulations, are subject to security approval and additional integrity measures before appointments, moves, transfers, secondments and retirement. Those regulations are detailed in circulars issued by the Council of Ministers. The Audit Institution and individual ministries provide training in integrity and anti-corruption for officials in sensitive posts such as public procurement.

No formal rotation system has been established, but officials move regularly three or four years of service based on the assessment of the competent minister. Oman is considering taking more formal measures in that regard.

Oman has adopted legislative and administrative measures to put in place criteria for election to the Shura Council and for elected members of municipal councils. These are the only elected positions in Oman. Municipal council elections follow broadly the same procedures as Shura Council elections, unless otherwise stated in the implementing regulation of Act No. 2012/15 on municipal councils.

There are no political parties in Oman, and there are no systems to promote transparency in the financing of candidates. There are no legal provisions to prevent conflicts of interests among candidates or to ensure that nobody is influenced directly or indirectly in any election campaign.

The Protection of Public Funds and Avoidance of Conflict of Interests Act prohibits several types of conflict of interest (arts. 7 to 13). However, it is unclear whether that framework is broad enough to cover all types of public servant and potential conflicts, such as activities and benefits that could undermine the integrity of public office. The Audit Institution monitors conflict of interest and reports suspicious cases to the Office of the Public Prosecutor.

Article 104 (k) of the Civil Service Act prohibits the acceptance of any gifts, remuneration or commissions that could affect the performance of public functions. The Act does not address benefits that could affect the objective performance of the official's functions.

Oman promotes the integrity, honesty and accountability of its public officials first and foremost through the Protection of Public Funds and Avoidance of Conflict of Interests Act, the Civil Service Act and the Procurement Act. Government officials also receive training on integrity and anti-corruption. Additional criteria of conduct apply to members of the judiciary and the State Financial and Administrative Audit Institution. The Civil Service Council has adopted a Code of Professional Conduct for Public Officials, which is being reviewed by the Ministry of Legal Affairs before entering into force.

Government officials have an obligation to preserve public funds and the integrity of their premises, and to immediately inform the competent authorities of any violations (art. 5 of the Protection of Public Funds and Avoidance of Conflict of Interests Act and art. 29 of the Code of Criminal Procedure). Channels and procedures have been established in order to facilitate the filing of internal and external reports. However, there are no specific procedures to protect the individuals who file the report.

As regards other financial disclosures, Oman requires the disclosure of conflicts of interests only under specific circumstances, namely when a Government official, minister or deputy minister seeks to take part in private sector activities (art. 10 of the Protection of Public Funds and Avoidance of Conflict of Interests Act).

Oman has taken measures to promote integrity and prevent corruption among members of the judiciary. The same rules apply to members of the Office of the Public Prosecutor. Judicial instructions for members of the Office of the Public Prosecutor detail the duties and prohibitions that apply to them. A draft judicial code of conduct is also being prepared.

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

Public procurement in Oman is regulated by the provisions of the Procurement Act and its implementing regulation. Those measures make broad provisions for transparency, competition and objective criteria in decision-making.

Open tenders are the general rule in the area of procurement. There are, however, other authorized modalities for entering into contracts, subject to specific restrictions that are set out in articles 3, 47, 51, 54 and 57 of the Procurement Act and in parts 3 and 4 of the implementing regulation. The Tender Board monitors the use of waivers in accordance with article 15 of the Act. Calls for tender are published and announced (arts. 18 and 48 of the Procurement Act). Information is provided regarding the opening of sealed bids and the awarding of contracts (art. 27 of the Act and art. 58 of

the implementing regulation). As part of the process of calling for tenders and submitting bids, information is provided regarding the selection process and the pre-determined criteria for remuneration (art. 31).

Bidders can be excluded from public tenders for certain specific reasons, which are set out in article 41 of the Procurement Act and in the Protection of Public Funds and Avoidance of Conflict of Interests Act promulgated by Royal Decree No. 112/2011.

Oman has not established an effective system of review and appeal in the event that the rules and procurement procedures are violated. The available information was not sufficient to assess whether there is an adequate screening system for public procurement.

Article 6 of the Procurement Act and Article 6 of the Protection of Public Funds and Avoidance of Conflict of Interests Act set out specific restrictions on the dealings of procurement officials and their relatives. Action is being taken to adopt an electronic procurement system.

Oman has taken measures to promote transparency and accountability and to preserve the integrity of accounting books, first and foremost through the provisions contained in the Basic Act of the State, the Finance Act and its implementing regulation, the State Financial and Administrative Supervision Act, the Protection of Public Funds and Avoidance of Conflict of Interests Act and the Criminal Code.

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

There are no procedures or regulations allowing the public to obtain information. Some measures have been taken to simplify administrative procedures and facilitate the provision of public services. One example is the Government Services Contact Centre, which consists of a central one-stop shop for Government services based in the Council of Ministers.

Oman provides information regarding corruption. Such information consists primarily of annual statistics on crime and corruption, which are published by the State Financial and Administrative Audit Institution, the Police and the Office of the Public Prosecutor, in addition to awareness campaigns and Government media and websites. No studies or updated assessments have been undertaken regarding the risk of public sector corruption.

Generally speaking, Oman encourages public participation in Government decision-making and raising awareness of corruption, including through public education. There are, however, no legal provisions protecting the right of citizens and civil society to publish information concerning corruption.

The Audit Institution receives reports of corruption, including anonymously, through various channels, mobile phone applications and social media sites.

*Private sector (art. 12)*

Oman has taken steps to prevent corruption and enhance financial controls on the private sector. The governance charter for publicly listed companies that was issued by the Capital Market Authority entered into force on 21 July 2016. Under the charter, publicly listed companies that are listed on the Muscat Stock Exchange are held to certain standards with regard to compliance, notification, investor protection, conflict of interests, screening and disclosure requirements. The Capital Market authority monitors implementation of the charter. In April 2008, the Authority adopted a governance code of conduct for Omani publicly listed companies. A draft code for State-owned companies is almost complete.

The Oman Centre for Governance and Sustainability established by Royal Decree No. 30/2015, encourages sound management and sustainability for companies of all legal categories in Oman.

The screening requirements for limited liability companies are set out in the Commercial Companies Act. However, only publicly listed companies are required to have external and internal auditors (Administrative Decision No. 6/2007 of the Capital Market Authority). The Commerce Act promulgated by Royal Decree No. 55/1990 prohibits erroneous or inaccurate accounting and bookkeeping (art. 27).

Limited information concerning the owners and directors of private entities can be found on the Government portal ([www.business.gov.om](http://www.business.gov.om)) and in the Register of Commercial Companies maintained by the Ministry of Commerce and Industry. There are no specific regulations restricting the activities of former public officials after their resignation.

There is no explicit provision disallowing the tax deductibility of expenses that constitute bribes.

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

The Omani anti-money-laundering legal regime consists primarily of Act No. 30/2016 (the Anti-Money-Laundering and the Financing of Terrorism Act) and the regulations, decisions and instructions issued by the Central Bank of Oman, other monitoring authorities and the National Centre for Financial Information, including those that apply to banks, exchange businesses, fund transfer companies, insurance companies and non-financial businesses and professions.

The Act defines the monitoring authorities responsible for combating money-laundering. These consist of the following: the Ministry of Justice, the Ministry of Commerce and Industry, the Ministry of Housing, the Ministry of Social Development, the Central Bank of Oman, the Capital Market Authority, as appropriate, and any other entity designated by a decision of the National Committee to Combat Money-Laundering and the Financing of Terrorism.

Under the Act, the National Centre for Financial Information is responsible for receiving, requesting and analysing suspicious transaction reports and transmitting the findings to the Office of the Public Prosecutor or the competent authority. It also has the power to sign relevant memorandums of understanding and information exchange with entities and units within the country and abroad. The Centre has applied to join the Egmont Group of Financial Intelligence Units; its application is under review.

The monitoring authorities responsible for law enforcement and combating money-laundering exchange information at the local and international levels.

All financial institutions and designated non-financial businesses and professions are required to have internal regulations on combating money-laundering. The requirements include verifying the identities of beneficial holders; constant monitoring of transactions; heightened due diligence with regard to high-risk customers, accounts and transactions; maintaining records; and reporting suspicious transactions (see art. 52).

Article 46 of the Act requires financial institutions that process electronic transfers to obtain information regarding the originator and recipient of the transfer, and to ensure that such information is included in the transfer order or relevant messages. Financial institutions are prohibited from initiating a transfer if they cannot collect such information.

Oman has adopted a system for declaring cash and bearer negotiable instruments when entering or leaving the country with a sum equal to or greater than 6,000 Omani rials (art. 53 of the Act and Decision No. 1/2017 of the National Committee to Combat Money-Laundering and the Financing of Terrorism). The Act sets forth penalties consisting of fines and imprisonment for failure to declare funds or making a fraudulent declaration.

A national team established by a decision of the National Committee is currently conducting a nationwide assessment of the money-laundering threat.

Monitoring reports submitted to MENAFATF show that Oman has satisfactorily addressed the shortcomings that were pinpointed in the assessment report prepared by the National Centre for Financial Information and MENAFATF in 2011, including those involving prevention and monitoring procedures.

Oman is contributing to the development and strengthening of international cooperation in the fight against money-laundering, particularly through its effective participation in the work of MENAFATF.

## **2.2. Successes and good practices**

Efforts have been made to develop the case management system, to introduce electronic systems and judicial proceedings that ensure the expeditious disposal of judicial cases, and to improve transparency in the work of courts (art. 11).

## **2.3. Challenges in implementation**

It is recommended that Oman:

- Continue to make efforts to adopt and implement a draft national strategy to strengthen integrity and combat corruption; ensure adequate coordination when carrying out monitoring and oversight, and when following up the outcomes of the monitoring process; continue to take steps to ensure transparency when implementing the strategy and associated actions, and to raise awareness among all stakeholders (art. 5, para. 1)
- Continue efforts to strengthen risk assessments for corruption, including by modernizing the guidance regarding the risk of corruption with a view to formulating new standards and indicators and improving awareness of the applicable standards for public institutions (art. 5, para. 2)
- Continue to cooperate with international and regional organizations in preventing and combating corruption (art. 5, para. 4)
- Continue to ensure adequate transparency in the recruitment, retention and promotion of public officials, publish job vacancies and employment conditions, as well as in positions that are filled through appointments; continue to make efforts to identify public positions considered vulnerable to corruption; define the procedures for the selection, training and rotation of such individuals in those positions (art. 7, para. 1)
- Consider taking measures to prevent conflicts of interest for candidates for election, enhance transparency in the funding of candidatures, and prevent the influencing of electoral campaigns, including through financing (art. 7, para. 3)
- Consider reviewing and expanding provisions regarding public officials' conflicts of interests, in the light of international best practices, with a view to covering activities and benefits that could cause a possible conflict of interest or undermine the integrity of public office; consider expanding that framework to include all types of public official as well as civil servants, such as ministers and politicians (art. 7, para. 4), and consider establishing an obligation for public officials to declare relevant benefits from which a conflict of interest may result with respect to their functions (art. 8, para. 5)
- Consider establishing or strengthening measures to protect individuals who provide information to the competent authorities (art. 8, para. 4)

- Continue taking steps to amend the Procurement Act and its implementing regulation and modernize the procurement procedure in accordance with international best practice, including through the following actions:
  - Review and strengthen measures to exclude bidders for public tender, notably when they have criminal convictions or have previously committed violations involving integrity (art. 9, para. 1 (b))
  - Ensure that an effective system of domestic or foreign review of public procurement is in place, especially for processes that are particularly significant or are over a given amount, and that the system is not restricted to financial or administrative aspects (art. 9, para. 1 (d))
  - Adopt an effective and comprehensive system of domestic review and appeal as provided for under article 9, paragraph 1 (d)
  - Consider strengthening measures to regulate matters regarding personnel responsible for procurement, such as declaration of interest, screening procedures and training requirements (art. 9, para. 1 (e))
  - Continue efforts aimed at introducing an electronic procurement system (art. 9, para. 1)
- Adopt measures or regulations governing public access to information (art. 10 (a)) and continue efforts to strengthen assessments of the risk of corruption through pertinent studies and assessments (art. 10 (c))
- Adopt and implement the draft judicial code of conduct (art. 11, para. 1)
- Continue consolidating measures to prevent corruption and strengthen accountability and review standards for the private sector, including through the following actions:
  - Adopt governance standards for companies and strengthen internal auditing controls, as is the case for publicly listed companies (art. 12, paras. 2 (d)–(f))
  - Strengthen information transparency among private entities (art. 12, para. 2 (c))
  - Consider expanding restrictions on the professional activities of former public officials to include relevant categories of public officials (art. 12, para. 2 (e))
  - Adopt provisions explicitly disallowing the tax deductibility of expenses that constitute bribes (art. 12, para. 4)
- Strengthen public participation by improving the transparency of government processes; consider adopting legal provisions to protect the right of citizens and civil society to publish information concerning corruption (art. 13, para. 1)
- Continue efforts to prepare a national assessment of money-laundering risks (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)*

Oman has no separate law on mutual legal assistance or asset recovery; this issue is governed by the provisions of local law, including chapter VIII of the Anti-Money-Laundering and the Financing of Terrorism Act, as well as the provisions of bilateral and multilateral agreements that are in force, which are applied based on principles of reciprocity and international comity. Oman has concluded several regional and bilateral treaties concerning legal mutual legal assistance that can be used as the basis



for asset recovery efforts, and it considers the Convention to be a basis for mutual legal assistance.

Oman does not have a central authority that is responsible for mutual legal assistance; the Ministry of Foreign Affairs receives requests for mutual legal assistance and refers them to the appropriate authorities. The Office of the Public Prosecutor receives legal and judicial assistance requests from the competent foreign authorities in relation to money-laundering and any related predicate offence (art. 61 of the Anti-Money-Laundering and the Financing of Terrorism Act).

Oman may cooperate in asset recovery efforts even if no treaty is in place, as long as it given an undertaking that its cooperation will be reciprocated. The same set of measures and actions that are available in domestic criminal proceedings, including those relating to the tracing, freezing, seizure and confiscation of property, can be utilized in the context of cooperation relating to asset recovery. Oman implements the provisions of the Convention directly in cases where no relevant agreement applies.

To date, Oman has not refused any asset recovery request and has responded positively to two requests that it received to identify and recover assets. Moreover, it has made one request to recover assets under the terms of the Convention.

Pursuant to article 28 of the Anti-Money-Laundering and the Financing of Terrorism Act, the National Centre for Financial Information may exchange with its foreign counterparts information on money-laundering and predicate offences, either *proprio motu* or upon request. In addition, the Omani authorities may transmit immediately information to other States on the basis of the United Nations Convention against Corruption. Authorities also share information immediately through the Egmont Group and INTERPOL.

In conformity with article 56 of the Convention, the Riyadh Arab Agreement on Judicial Cooperation sets forth rules governing special cooperation between prosecutors, investigative authorities and attorneys general of the States members of GCC, and other treaties to which Oman is a party.

Oman has concluded several bilateral and multilateral international cooperation conventions that relate to combating crime and tracking and recovering the proceeds of crime. The National Centre for Financial Information is reviewing memorandums of understanding that it may enter into with its foreign counterparts.

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

Pursuant to the Anti-Money-Laundering and the Financing of Terrorism Act (arts. 33–50), financial institutions, designated non-financial businesses and professions, and non-profit associations and organizations are subject to anti-money-laundering requirements. Those requirements include due diligence with respect to customers, compliance with know-your-customer standards, verifying the identities of beneficial holders, constant monitoring of transactions, maintaining records, continuously updating information on a regular basis and reporting suspicious transactions. Those requirements also include assessing the risk of money-laundering and taking appropriate action to manage such risk, as well as exercising enhanced due diligence with respect to high-risk customers, accounts and transactions, including the accounts of high-risk foreign and local political figures, their family members and persons close to them.

The National Centre for Financial Information has issued a guide on reporting suspicious transactions and circulated it to all entities that are required to report. In addition, several supervisory bodies, including the Central Bank of Oman, the Ministry of Justice and the Capital Market Authority, have issued circulars and directives on anti-money-laundering.

In its circular No. 7449/2009, the Central Bank of Oman requested banks, non-bank financial institutions and exchange bureaus to adopt risk management systems that

enable them to identify high-risk relationships, such as non-resident clients and high-value private banking clients.

The Capital Market Authority has also issued an anti-money-laundering guide for securities companies and another for insurance companies, brokers and agents. Both guides include information on such things as procedures for classifying clients based on risk (clients, business relationships or transaction that are considered high-risk).

The Central Bank of Oman has also issued operating instructions to banks, exchange bureaus and financial leasing companies that include directives on risk assessment procedures and the conditions under which heightened and relaxed due diligence procedures must be applied.

Moreover, the licensing procedures for banks mandated by the Banking Act prevent the establishment of shell banks. Article 38 of the Anti-Money-Laundering and the Financing of Terrorism Act prohibits financial institutions from entering into or maintaining a correspondent banking relationship with a shell bank or with a bank that provides correspondent services to a shell bank.

Oman has not established an effective financial disclosure system that would require concerned public officials to disclose their finances on a regular basis and at the start and end of service. However, under article 12 of the Protection of Public Funds and the Avoidance of Conflict of Interest Act and article 105 of the Civil Service Act, officials are required to submit financial disclosure statements to the State Financial and Administrative Audit Institution in which they list all movable assets and real estate that they, their spouses or minor children own and indicate the source of those assets. The head of the Institution may request such disclosures when necessary. These disclosures are confidential and cannot be viewed without the consent of the head of the Institution. Such disclosures must be filed only when they have been requested specifically, something that significantly diminishes the effectiveness of the financial disclosure system and its potential use in preventing and combating corruption.

Oman does not have any legal provisions that require appropriate public officials having an interest in or signature or other authority over a financial account in a foreign country to report that relationship to appropriate authorities and to maintain appropriate records related to such accounts.

*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)*

Oman considers States to be legal persons ex officio. Under Omani law, in particular article 6 of the Criminal Code, article 20 of the Code of Criminal Procedure and article 176 of the Civil Transactions Act, the injured party, whether a natural or legal person, may bring a civil suit before local courts to claim ownership of property or compensation for harm suffered. Foreign States are not excluded from exercising that right.

Under the Code of Criminal Procedure (art. 20), those who have been harmed as a result of a crime may claim their civil rights. The same applies to foreign States. Moreover, article 6 of the Criminal Code provides that the imposition of the penalties that are set out in the Code, including confiscation, does not prevent the litigants from seeking restitution, compensation, expenses and any other rights.

Under article 72 of the Anti-Money-Laundering and the Financing of Terrorism Act, the Omani authorities, acting on the basis of a judgment handed down by a competent local court, may execute foreign confiscation orders in cases of money-laundering offences and related predicate offences. Should the Office of the Public Prosecutor receive a request to execute a foreign confiscation judgment, it must forward the request to the competent court for action. The competent court will authorize execution after it has determined that the foreign judgment meets the conditions established by law, without considering the merits.

Although Oman has already returned assets to a State requesting the execution of a foreign confiscation judgement, article 72 does not appear to apply to foreign confiscation judgements in relation to corruption offences unless such offences are related to money-laundering offences. Under article 100 of the Anti-Money-Laundering and the Financing of Terrorism Act, Omani courts are allowed to confiscate property of foreign origin that is in Oman through a domestic judicial decision that has been handed down in relation to a money-laundering offence.

Confiscation can be effected without a conviction in several situations, including where the accused has died or his identity is unknown, pursuant to article 15 of the Code of Criminal Procedure and article 101 of the Anti-Money-Laundering and the Financing of Terrorism Act. Moreover, under article 69 of the Anti-Money-Laundering and the Financing of Terrorism Act, it is permissible to execute a request for legal assistance if it includes a request for the civil confiscation of the property of a person who is deceased or absent, or whose identity is unknown.

Omani legislation does not allow for the possibility of freezing or seizing property on the basis of a foreign freezing or seizure order.

However, the competent Omani authorities can freeze or seize property on the basis of a foreign request under the Anti-Money-Laundering and the Financing of Terrorism Act, article 66 of which expressly allows for freezes and other precautionary measures to be effected as forms of mutual legal assistance. The same range of measures and procedures that are available in domestic criminal proceedings are also available in the context of mutual legal assistance. The Code of Criminal Procedure (arts. 76–103) and the Anti-Money-Laundering and the Financing of Terrorism Act stipulate a broad range of investigative measures that can be used to detect, trace, freeze and confiscate the proceeds and instrumentalities of an offence. Those measures can also be used in the context of mutual legal assistance.

The laws of Oman stipulate certain provisions and measures relating to the management of seized items that can be applied in the context of international cooperation on asset recovery. Article 101 of the Code of Criminal Procedure provides that seized items can be placed under guard and that the measures required to preserve such items may be taken, while article 103 of the same Code allows for the sale of seized items that can spoil or whose maintenance would entail a cost equivalent to their own value.

In 2016, by an order of the Public Prosecutor issued on the basis of article 85 of the Anti-Money-Laundering and the Financing of Terrorism Act, Oman established a specialized department to oversee frozen, seized and confiscated funds, and to trace funds, maintain on data and measures taken that are relevant thereto. However, that department can only take actions that are based on the Anti-Money-Laundering and the Financing of Terrorism Act.

The aforementioned mechanisms can be utilized in the context of international cooperation on asset recovery.

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

The general principle in Omani law is that seized property belongs to the public treasury. However, article 99 of the Code of Criminal Procedure expressly provides that seized items that are the object or proceeds of the offence must be returned to the person who lost possession thereof as a result of the offence.

Omani law, in particular article 6 of the Criminal Code, article 100 of the Anti-Money-Laundering and the Financing of Terrorism Act and article 99 of the Code of Criminal Procedure, preserves the rights of bona fide third parties when the proceeds of an offence are identified and seized. Those articles also applicable when the competent authorities return confiscated property.

Oman does not impose any conditions on the return of assets. In addition, Omani law provides for the compensation of victims of crime (art. 6 of the Criminal Code).

There are no provisions in Omani law that prohibit the collection of expenses incurred by Oman in investigations, prosecutions or judicial proceedings. This issue is addressed in several of the conventions that Oman has concluded on mutual legal assistance, which typically provide that the costs of mutual legal assistance shall be established through consultations among States parties. There have been no cases to date where Oman has deducted expenses related to asset recovery.

Under article 73 of the Anti-Money-Laundering and the Financing of Terrorism Act, Oman may share funds confiscated in its territory pursuant to an agreement that has been concluded with the requesting State.

Oman has not concluded any agreements related to disposal of assets and there have been no cases involving asset disposal to date.

The provisions of the Convention are implemented directly in cases where no relevant agreement applies. A request received from another State party in accordance with article 57 would be executed accordingly.

### **3.2. Challenges in implementation**

It is recommended that Oman:

- Adopt integrated legislation that regulates in detail international cooperation matters, including requests for mutual legal assistance in recovering assets related to offences established by the Convention, in accordance with the requirements set out in chapter V thereof, and establish a central authority to coordinate mutual legal assistance related to asset recovery and corruption offences (arts. 51, 55 and 57)
- Consider establishing effective financial disclosure systems for appropriate public officials, establish appropriate sanctions for non-compliance and take such measures as may be necessary to permit the sharing of relevant information with the competent foreign authorities (art. 52)
- Consider taking measures that would require appropriate public officials having an interest in or signature or other authority over a financial account in a foreign country to report that relationship to appropriate authorities and to maintain appropriate records related to such accounts
- Take such measures as may be necessary to permit its competent authorities to give effect to an order of confiscation issued by a court of another State party in relation to corruption offences not linked to money-laundering crimes, both directly and without the need for domestic ruling on the merits (art. 54, para. 1 (a))
- Consider expanding the scope of confiscation without a conviction (art. 54, para. 1 (c))
- Take such measures as may be necessary to permit its competent authorities to freeze or seize property upon a freezing or seizure order that provides a reasonable basis to believe that there are sufficient grounds for taking such actions and that the property would eventually be subject to an order of confiscation (art. 54, para. 2 (a))
- Broaden the jurisdiction of the department responsible for frozen, seized and confiscated funds to cover all funds linked to corruption cases, as that would help to improve of the management of frozen, seized or confiscated, including in the context of international cooperation (art. 54, para. 2 (c))
- Consider regulating the issue of expenses incurred in the implementation requests for mutual legal assistance and asset recovery, either by law or by means of a manual on mutual legal assistance requests or on asset recovery (art. 57, para. 4)

- Continue its efforts to conclude additional agreements on international cooperation in asset recovery, in particular between the National Centre for Financial Information and its foreign counterparts (art. 59)

### **3.3. Technical assistance needs identified to improve implementation of the Convention**

- Adopt good practices relating to financial disclosure statements, such as the electronic filing systems, mechanisms for receiving and verifying disclosures, and broadening the scope of officials covered (art. 52)
  - Draft a manual on asset recovery expenditure and expenses incurred in executing requests for mutual legal assistance and asset recovery (art. 57)
-