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

Executive Summary

Note by the Secretariat

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II. Executive summary

Gabon

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

Gabon deposited its instrument of ratification of the United Nations Convention against Corruption with the Secretary-General of the United Nations on 1 October 2007.

The President of Gabon negotiates international agreements and treaties and ratifies them once the Parliament has voted in favour of a law authorizing ratification and the constitutionality of the instrument has been verified by the Constitutional Court.

The Convention ranks high among statutory instruments, just below the Constitution but above other laws.

The fight against corruption and illicit enrichment is a priority for the Government of Gabon. Accordingly, on 23 November 2012, Gabon approved a national strategy for combating corruption and money-laundering.

2. Chapter III: Criminalization and law enforcement

2.1. Observations on the implementation of the articles under review

Bribery and trading in influence (arts. 15, 16, 18 and 21)

Bribery of national public officials is established as an offence under the Criminal Code of Gabon (articles 144 and 146) and under Act No. 002/2003 establishing a system to prevent and suppress illicit enrichment (arts. 15 and 16 of Act No. 002/003).

Active and passive bribery of foreign public officials have not been criminalized under Gabonese law.

Articles 145 and 147, paragraph 1, of the Criminal Code and articles 15, paragraph 5, and 20 of Act No. 002/2003 penalize active and passive trading in influence as established by the Convention.

Active and passive bribery in the private sector is partly covered by Gabonese law (articles 144 and 146 of the Criminal Code and articles 16 and 25 of Act No. 002/2003). The element of a person's directing or working for a private sector entity and the direct or indirect nature of an undue advantage are not covered.

Money-laundering, concealment (arts. 23 and 24)

Regulation No. 02/10 of the Central African Economic and Monetary Community (CEMAC) and the Central African Monetary Union (UMAC) of 2 October 2010 deals with the suppression and prevention of money-laundering and the financing of terrorism in Central Africa. Article 1 of the Regulation defines the elements constituting the offence of money-laundering, including the conversion, transfer, concealment, acquisition, possession and use of property derived from crime or of proceeds of crime. The Regulation also covers participation, conspiracy and complicity through aiding or facilitating the commission of an offence.

Gabonese legislation sets out a list of predicate offences in relation to money-laundering, but that list does not include all of the offences under the Convention.

Money-laundering itself is established as a criminal offence under article 51 of the aforementioned Regulation.

Gabon provided the Secretariat with a copy of its legislation on money-laundering on 23 April 2015.

Article 312 of the Criminal Code and articles 21, 22 and 23 of Act No. 002/2003 establish concealment as a criminal offence, but they do not specify the circumstances in which property might be derived from one of the offences established in accordance with the Convention.

Embezzlement, abuse of functions and illicit enrichment (arts. 17, 19, 20 and 22)

Article 141 of the Criminal Code establishes criminal liability for the misappropriation or embezzlement by a public official of funds, cash, securities or property entrusted to him or her. However, the Code does not refer to benefits for third parties. Act No. 002/2003 penalizes the fraudulent conversion of immovable property.

The Act partly covers abuse of functions as defined in article 19 of the Convention. It does not refer to benefits for third parties.

Article 2 of the Act defines illicit enrichment as a significant increase in the assets of a person vested with State authority that he or she cannot reasonably explain in relation to his or her lawful income. However, Gabon has not provided examples of concluded cases concerning such enrichment.

Article 292 of the Criminal Code, on theft, is too broad and does not specify which acts in the private sector constitute embezzlement of property.

Obstruction of justice (art. 25)

Paragraph 179 of the Criminal Code establishes criminal liability for the use of promises, offers or gifts, pressure, threats, violence, ploys or deception to compel another person to submit a false deposition, statement or affidavit during judicial proceedings.

Articles 46 and 47 of Act No. 003/2003 on the establishment, organization and functioning of the National Commission to Combat Illicit Enrichment penalize obstruction of the Committee's activities and the use of threats, insults or violence against its members.

Article 181 of the Criminal Code establishes as a criminal offence the publication, in the course of proceedings, of comments intended to influence witness statements or the decision of an investigating or trial court. There is no explicit reference to the use of physical force or threats to interfere with the exercise of official duties by a justice or law enforcement official in relation to an offence established under the Convention.

Liability of legal persons (art. 26)

Article 46, paragraph 5, of the aforementioned CEMAC-UMAC Regulation provides for the fining of legal persons, without prejudice to the criminal liability of natural persons who have committed a money-laundering offence.

Participation and attempt (art. 27)

Articles 48, 49 and 49 bis of the Criminal Code establish criminal liability for participation in the commission of a serious crime (*crime*) or major offence (*délit*) as an accomplice, aider or instigator. Attempt to commit a serious crime or major offence is covered by article 6, paragraphs 1 and 2, of the Criminal Code. Preparation of an offence is not punishable under Gabonese law.

Prosecution, adjudication and sanctions; cooperation with law enforcement authorities (arts. 30 and 37)

Articles 1, 2 and 3 of the Criminal Code provide for sanctions that are commensurate with the gravity of the offence, and establish a range of custodial sentences and fines.

Among public officials, members of Parliament enjoy immunity while the Parliament is in session. This parliamentary immunity can be lifted only with the consent of the office of the Chamber concerned or in the case of flagrante delicto or a final judgement of conviction (article 38 of the Constitution). Members of the judiciary also enjoy immunity, which is lifted in the case of flagrante delicto or upon the decision of the President of the Republic after consultation with the Supreme Council of Justice (art. 71 of Act No. 12/94 on the regulations governing members of the judiciary). The Vice-President of the Republic and members of the Government and of the Constitutional Court are accountable to the High Court of Justice (art. 78, para. 2 of the Constitution).

The principle of legality is paramount in Gabon. Gabon indicated that the Code of Criminal Procedure provides that the prosecutor's decision to dismiss a case may be reviewed. Gabon also indicated that the prosecutor may not exercise prosecutorial discretion in cases of corruption and money-laundering.

The Code of Criminal Procedure defines custody as an exceptional measure and regulates the release of accused persons pending trial, taking into account the need to ensure their appearance at subsequent proceedings (arts. 115, 121, 122 and 126).

The Code specifies the conditions applicable to requests for parole, but does not explicitly stipulate that the gravity of the offences concerned must be taken into account when considering the eventuality of early release or parole.

Act No. 12/94 of 16 September 1994 on the regulations governing members of the judiciary provides for disciplinary sanctions such as demotion, temporary suspension or removal. Act No. 8/91 of 26 September 1991 on the general civil service regulations provides for the removal of public officials convicted of bribery. However, Gabonese legislation does not explicitly provide for the removal, suspension or reassignment of public officials accused of other offences covered by the Convention.

Article 18 of the Criminal Code provides that any person convicted of a criminal offence shall be banned from holding public office. In the case of a major offence, the right to exercise civil rights may be suspended for a period of 5 to 10 years (art. 19 of the Criminal Code).

Article 21 of Act No. 002/2003 provides for the permanent disqualification from public office of any person vested with State authority who is convicted of committing an offence while holding office in and entrusted with the administration or oversight of a private company or a public or parastatal institution. The article thus establishes sanctions applicable only to persons vested with State authority rather than to any person.

Article 131 of the general civil service regulations provides for the suspension of public officials in the case of serious misconduct, such as non-fulfilment of official duties or commission of an offence under ordinary law. The regulations governing court clerks provide for provisional measures without prejudice to the disciplinary or criminal sanctions that may be imposed by the competent courts.

Decree No. 0018 of the Ministry of Justice and Human Rights of 15 July 2014 on the internal regulations governing prisons provides for reintegration through prison labour, education and training.

Articles 45 and 46 of the Criminal Code provide for circumstances in which punishment of a convicted person may be mitigated. However, Gabonese legislation does not establish specific measures to encourage cooperation with law enforcement authorities.

Protection of witnesses and reporting persons (arts. 32 and 33)

Gabon does not have legislation on the protection of witnesses, experts and victims or reporting persons.

Freezing, seizing and confiscation; bank secrecy (arts. 31 and 40)

Article 54 of the CEMAC-UMAC Regulation provides for the confiscation of property that is the subject of the offence of money-laundering or property belonging directly or indirectly to a sentenced person. Articles 358 and 359 of the Code of Criminal Procedure provide for the confiscation of property, equipment or other instrumentalities intended for use in the commission of an offence. Not all of the offences established by the Convention are covered.

Articles 40 and 41 of Act No. 003/2003 establish measures for freezing and/or seizure. However, no reference is made to measures for identification or tracing.

Articles 367, 368 and 369 of the Code of Criminal Procedure establish general procedures for the return of confiscated items.

Gabonese law does not provide for the confiscation, freezing or seizure of assets derived from proceeds of crime that have been transformed or converted, nor does it provide for the confiscation of property acquired from legitimate sources that has been intermingled with proceeds of crime.

Article 54 of the CEMAC-UMAC Regulation provides for the confiscation of income and other benefits derived from property that is the subject of an offence. Article 40, paragraphs 3 and 5, of Act No. 003/2003 provides for the seizure or

freezing of assets that have been acquired wholly or partly through illicit enrichment. Not all of the offences established by the Convention are covered, and the legislation does not refer to property that has been transformed, converted or intermingled with proceeds of crime.

Article 31 of Act No. 003/2003 authorizes the members of the National Commission to Combat Illicit Enrichment to request any document or item relevant to their investigations. If such a request is refused, a judge may order that the items or documents in question be made available. Article 88 of the Code of Criminal Procedure provides that the investigating judge may order any seizure of items that may assist in establishing the truth. Under article 15 of the CEMAC-UMAC Regulation, the National Financial Investigation Agency (ANIF) and the judicial authorities may request the submission of information and documents. In addition, article 31 provides that requests made by ANIF for information or documents may not be refused on the ground of professional secrecy. Article 289 of the Criminal Code also provides for the lifting of professional secrecy with respect to any person called upon to testify.

Article 54 of the CEMAC-UMAC Regulation provides for reversal of the burden of proof in cases of confiscation following a conviction. The convicted person is thus required to prove the lawful origin of his or her property.

Articles 89 and 357 of the Code of Criminal Procedure provide for the return of confiscated items to any person claiming title to them.

Statute of limitations; criminal record (arts. 29 and 41)

The Code of Criminal Procedure establishes a statute of limitations period of 20 years for serious crimes, 10 years for major offences and one year for minor offences (*contraventions*). However, Gabonese legislation does not explicitly provide for suspension of the statute of limitations where the alleged offender has evaded the administration of justice.

Gabon does not take into consideration any previous conviction in another State for an offence established by the Convention.

Jurisdiction (art. 42)

The Code of Criminal Procedure establishes jurisdiction over offences committed in Gabon (arts. 254-256) with respect both to principals and accomplices, and applies both to citizens and to stateless persons who have their habitual residence in Gabon. Jurisdiction over offences committed on board an aircraft registered in the Gabonese Republic is determined on the basis of the place where the aircraft lands (article 271-2 of the draft Code of Civil Aviation, which is in the process of being adopted). Gabon has also established its jurisdiction over offences committed by foreign nationals outside its territory where the offence in question constitutes an attack on the security of the State and the foreign national is arrested in Gabon or extradited to Gabon (art. 516 of the Code of Criminal Procedure). Offences that are classified as serious crimes or major offences and have been committed abroad by a Gabonese citizen may be prosecuted and adjudicated in Gabon (art. 514 of the Code of Criminal Procedure).

Consequences of acts of corruption; compensation for damage (arts. 34 and 35)

In addition to the confiscation of securities provided by the offender as part of a tendering procedure and temporary suspension from participation in public procurement, article 180 of Decree No. 254 of the Office of the President and of the Ministry of Economy, Employment and Sustainable Development of 19 June 2012 provides for the revocation of authorization as a penalty.

Article 7 of the Code of Criminal Procedure allows any natural or legal person that has directly suffered damage to file a civil claim for compensation for damage caused directly by an offence. Article 1382 of the previous version of the Civil Code also establishes the right of the victim to file a claim for damages suffered.

Specialized authorities and inter-agency coordination (arts. 36, 38 and 39)

Act No. 003/2003 defines the National Commission to Combat Illicit Enrichment as an independent administrative authority whose role consists of the detection, suppression, prevention and investigation of illicit enrichment. ANIF, established by decree in June 2006, operates under the authority of the Minister of Finance and transmits to the competent judicial authorities investigation reports setting out its recommendations with respect to the acts described in the suspicious transaction reports in question.

Gabonese legislation provides for cooperation between its public authorities and public officials and its authorities responsible for investigating and prosecuting criminal offences (arts. 28 and 31 of Act No. 003/2003).

Under article 15 of the CEMAC-UMAC Regulation, ANIF may request information and documents concerning any transaction that is the subject of a suspicious transaction report.

Act No. 003/2003 provides that the National Commission to Combat Illicit Enrichment may receive information from any person.

2.2. Successes and good practices

Overall, the following successes and good practices in implementing chapter III of the Convention are highlighted:

- Criminalization of money-laundering (article 23, para. 2 (e))

2.3. Challenges in implementation

In order to further strengthen existing anti-corruption measures, Gabon may wish to:

- Criminalize active bribery of foreign public officials and officials of public international organizations and consider criminalizing passive bribery of such officials;
- Amend the provisions of its Criminal Code to cover embezzlement and misappropriation of property by a public official for the benefit of third parties (article 17);
- Consider amending its legislative provisions on abuse of functions to cover the element of advantage for third parties (art. 19);

- Consider amending its legislation to cover all elements of bribery in the private sector (art. 21);
- Consider amending its legislation in line with article 22 of the Convention;
- Incorporate in its domestic law the provisions of article 23, paragraph 1 (a) (i) and (ii) and (b) (i) and (ii), of the Convention;
- Consider all of the offences established by the Convention as predicate offences to money-laundering (article 23, para. 2 (a), (b) and (c));
- Consider amending its legislation in line with article 24 of the Convention;
- Amend its legislation to refer more explicitly to the use of physical force or threats (art. 25 (b));
- Amend its legislation to cover all offences established by the Convention with respect to article 26, paras. 1, 2, 3 and 4;
- Amend its legislation to criminalize preparation for an offence as established by the Convention (art. 27, para. 3);
- Amend its legislation to provide explicitly for suspension of the statute of limitations where the alleged offender has evaded the administration of justice (art. 29);
- Provide for immunities or jurisdictional privileges applicable to other public officials responsible for investigating, prosecuting and adjudicating bribery, illicit enrichment or related offences for the performance of their functions (article 30, para. 2);
- Amend its legislation in line with article 30, paragraph 5, of the Convention;
- Consider amending its legislation in line with article 30, paragraph 6, of the Convention;
- Consider amending its legislation in line with article 30, paragraph 7, of the Convention;
- Endeavour to establish a broader range of measures for the reintegration into society of persons convicted of offences under the Convention (art. 30, para. 10);
- Amend its legislation to cover all offences established by the Convention with respect to article 31, para. 1 (a) and (b);
- Take the measures referred to in article 31, paragraph 2, of the Convention;
- Adopt further measures to regulate the administration by the competent authorities of frozen, seized or confiscated property covered in paragraphs 1 and 2 of article 31 of the Convention (article 31, para. 3);
- Adopt legislation in line with article 31, paragraph 4, of the Convention;
- Adopt legislation in line with article 31, paragraph 5, of the Convention;
- Amend its legislation in line with article 31, paragraph 6, of the Convention;
- Amend its legislation to cover all offences established by the Convention with respect to article 31, para. 8;

- Adopt appropriate measures to provide witnesses, experts and victims with adequate protection (art. 32);
- Consider adopting legislative measures to protect reporting persons from unjustified treatment (art. 33);
- Continue to train the staff of its specialized authorities and to strengthen their independence (art. 36);
- Adopt appropriate measures to encourage the cooperation of persons who participate or who have participated in the commission of an offence with law enforcement authorities (art. 37);
- Take further steps to encourage cooperation between national investigating and prosecuting authorities and entities of the private sector (art. 39, para. 1);
- Consider taking additional steps to encourage its nationals to report the commission of offences established in accordance with the Convention (art. 39, para. 2);
- Adopt legislative measures on the admissibility of foreign criminal records (art. 41);
- Adopt the organic law establishing the Civil Aviation Code as soon as possible (art. 42, para. 1 (b));
- Consider legislative measures to establish its jurisdiction over offences committed on board a vessel flying the flag of Gabon (art. 42, para. 1 (b)).

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

- Summary of good practices/lessons learned (arts. 15, 18, 19, 20 and 21);
- On-site assistance of an anti-corruption expert (arts. 15, 18, 20, 21, 23, 30, 31, 32, 33, 34, 36 and 41);
- Legal advice (arts. 16, 19, 30, 31, 32, 33, 34, 36, 37, 39 and 41);
- Elaboration of an action plan as provided for in the national strategy for combating corruption and money-laundering (arts. 20 and 21);
- Capacity-building of investigators through training in financial investigations (arts. 20 and 31);
- Examples of model agreements/arrangements (art. 37).

3. Chapter IV: International cooperation

3.1. Observations on the implementation of the articles under review

Extradition; transfer of sentenced persons; transfer of criminal proceedings (arts. 44, 45 and 47)

To date, Gabon has not legislated on extradition proceedings; however, in accordance with its Constitution (art. 115), it may directly apply bilateral and multilateral conventions and treaties to which it is party. The Extradition Agreement between the States members of CEMAC of 28 January 2004, the General

Convention on Judicial Cooperation (the Antananarivo Convention) of 1961 and the Agreement on Mutual Legal Assistance, Sentence Enforcement and Extradition between France and Gabon of 23 July 1963 (the France-Gabon Agreement) remain the treaties most frequently applied.

Offences for which a person may be extradited to or from Gabon must be punishable by a term of one year or more (arts. 2 and 3 of the CEMAC Extradition Agreement) or two years' imprisonment (art. 46 of the France-Gabon Agreement and art. 41 of the Antananarivo Convention); most of the offences established in accordance with the United Nations Convention against Corruption fulfil this requirement, but not all. The principle of dual criminality continues to apply (art. 4 of the CEMAC Extradition Agreement, art. 46 of the France-Gabon Agreement and art. 42 of the Antananarivo Convention).

Gabon may take the Convention as a legal basis for cooperation on extradition, but has not yet informed the Secretary-General of the United Nations of that fact.

The Antananarivo Convention (art. 51), the CEMAC Extradition Agreement (art. 16) and the France-Gabon Agreement (art. 51) provide for provisional custody with a view to extradition. A simplified procedure is provided for only by the Antananarivo Convention (part VIII). The nationality of the person sought is an admissible ground for refusal (art. 5 of the CEMAC Extradition Agreement and art. 45 of the Antananarivo Convention). The obligation to extradite or prosecute (*aut dedere aut judicare*) is applicable both under the above-mentioned treaties and as a principle of Gabonese law. Fair treatment is provided for in the Constitution of Gabon (art. 1, para. 23, on the presumption of innocence) and through application of the adversarial principle (arts. 22, 23 and 24 of the Code of Civil Procedure). Political offences are not extraditable (art. 4 (2) of the CEMAC Extradition Agreement and art. 44 of the Antananarivo Convention). The grounds for refusal to extradite are set out in the conventions and treaties applied by Gabon and include where the request for extradition is made for reasons relating to the sex, race or religion of the person sought (art. 4, para. 2, of the CEMAC Extradition Agreement and art. 48 of the Antananarivo Convention) or for political reasons (art. 44 of the CEMAC Extradition Agreement and arts. 47 and 49 of the France-Gabon Agreement). The obligation to consult with requesting States before refusing extradition is not provided for in those instruments, although the possibility of requesting further information is provided for (art. 14 of the CEMAC Extradition Agreement and art. 53 of the France-Gabon Agreement). Offences relating to fiscal matters are established as extraditable, in accordance with the agreements signed by Gabon (art. 4, para. 4, of the CEMAC Extradition Agreement, article 47 of the Antananarivo Convention and art. 48 of the France-Gabon Agreement).

The transfer of sentenced persons is provided for in the Antananarivo Convention (art. 56) and in the France-Gabon Agreement (art. 27). The transfer of criminal proceedings is not provided for in any of the agreements to which Gabon is party.

Mutual legal assistance (art.46)

Act No. 003/2003 of the National Commission to Combat Illicit Enrichment, multilateral and bilateral agreements on cooperation and mutual legal assistance, the Antananarivo Convention, the Judicial Cooperation Agreement of 2004 between the CEMAC member States (the CEMAC Cooperation Agreement), the France-Gabon

Agreement (1963) and the Agreement between Gabon and Mali (2008) constitute the legal basis for mutual legal assistance in Gabon. The CEMAC-UMAC Regulation is also directly applied as domestic law in Gabon (see above with regard to chapter III, article 23, of the United Nations Convention against Corruption). Gabon confirmed its application of the judicial assistance provisions established by the International Criminal Court to requests not related to the Court, in implementation of the provisions of article 46 of the Convention. Gabon indicated that the United Nations Convention against Corruption could also serve as a legal basis for mutual legal assistance, but has not informed the Secretary-General of the United Nations of that fact. The principle of reciprocity has been invoked and applied in the absence of a cooperation treaty (art. 39 of Act No. 003/2003 and art. 56 of the CEMAC-UMAC Regulation).

The central authority for mutual legal assistance in Gabon is the Ministry of Justice (art. 29, para. 1, of the CEMAC Cooperation Agreement). However, requests are usually received and sent through diplomatic channels. ANIF is the competent authority with respect to money-laundering (arts. 56 and 57 of the CEMAC-UMAC Regulation). Gabon is also part of the INTERPOL I-24/7 network, through which information is regularly transmitted, both formally and informally.

Mutual legal assistance encompasses most of the elements listed in paragraph 3 of article 46 of the Convention (arts. 19 to 22 of the CEMAC Cooperation Agreement, arts. 57 to 61 of the CEMAC-UMAC Regulation and arts. 14 to 29 of the Antananarivo Convention). Gabon mentioned cases in which requests made through letters rogatory had been executed in cooperation with the requesting States. The CEMAC-UMAC Regulation also provides for the execution of requests according to the law of the requesting State (arts. 57 to 59) and includes provisions that prohibit refusal on the ground of bank secrecy (art. 31, para. (b)). However, despite the fact that mutual legal assistance in relation to offences for which a legal person may be held liable is not provided for, Gabon referred to a number of cases in which the investigations carried out concerned the Bank of Central African States, including the *Ministère Public v N. Brice and others* case.

Matters relating to the form and substance of any request are provided for in the CEMAC Cooperation Agreement (arts. 26, 28 et seq) and the Antananarivo Convention (art. 21). Mutual legal assistance is limited to the extent that not all of the acts covered by the Convention have been established as criminal offences. Requests for additional information are provided for (art. 601 of the Code of Criminal Procedure, art. 21 of the France-Gabon Agreement and art. 7 of the Antananarivo Convention).

Confidentiality in relation to intelligence and information obtained through legal assistance is provided for (arts. 132, 133 et seq of the Code of Criminal Procedure), but Gabon has no provisions allowing the use of such information to exculpate the accused.

While to date the dual criminality requirement has not been applied in Gabon, the absence of dual criminality is an admissible ground for refusal (art. 58 of the CEMAC-UMAC Regulation). However, dual criminality is not absolute, and Gabon indicated that it was possible to waive that requirement in order to provide "the widest measure of assistance" (art. 2 of the CEMAC Cooperation Agreement). Other grounds for refusal are set out in the Criminal Code (arts. 61 to 67 on offences

against the external security of the State and arts. 68 to 75 on offences against the internal security of the State) and in the CEMAC-UMAC Regulation (art. 58). Before refusing assistance, Gabon must first consult with the requesting State (art. 610 of the Code of Criminal Procedure). Reasons must be given for any refusal of mutual legal assistance (art. 601 of the Code of Criminal Procedure and art. 33 of the CEMAC Cooperation Agreement). Bilateral and multilateral agreements relating to mutual legal assistance to which Gabon is party do not cover offences that also involve fiscal matters. During ongoing proceedings, Gabon may postpone the execution of or refuse a request for mutual legal assistance (art. 39, para. 2, of Act No. 003/2003 and art. 58 of the CEMAC-UMAC Regulation). Gabon indicated that, in practice, requests are dealt with as expeditiously as possible.

The transfer of witnesses who are being detained, as provided for by the Convention, is possible (art. 19 of the Antananarivo Convention, art. 25 of the CEMAC Cooperation Agreement and art. 619 of the Code of Criminal Procedure). Temporary immunity of witnesses is provided for by the Antananarivo Convention (art. 19) for a period of thirty days and by the France-Gabon Agreement (art. 7) for a period of 15 days. The hearing of witnesses and experts via videoconference is not permitted.

Gabon confirmed that it is able to share and provide copies of government records, documents or information that are available to the general public (art. 38 of Act No. 003/2003, art. 3 and 27 of the CEMAC Cooperation Agreement) and documents whose distribution is more limited (CEMAC-UMAC Regulation, art. 57).

Law enforcement cooperation; joint investigations; special investigative techniques (arts. 48, 49 and 50)

Gabon is part of the INTERPOL I-24/7 network, through the INTERPOL National Central Bureau in Libreville. The National Central Bureau reported that it had received almost 2,000 messages and sent 1,500 during the period 2014/2015. In that regard, Gabon is a State party to the Agreement on Cooperation in Criminal Police Matters among the Central African States of 1999 (INTERPOL). Gabon indicated that the United Nations Convention against Corruption could also serve as a legal basis for cooperation between law enforcement authorities.

Law enforcement cooperation is provided for in the various multilateral agreements to which Gabon is party and includes the exchange of information on criminal investigations, crime prevention and general police matters (art. 65 of the CEMAC-UMAC Regulation and part III of the Agreement on Cooperation in Criminal Police Matters among the Central African States). The exchange of information between financial intelligence units is provided for in article 56 of the CEMAC-UMAC Regulation.

Gabon has not concluded any agreements in implementation of article 49 on joint investigations, although such investigations have been carried out with the United States of America and Cameroon. Gabon has neither technical tools nor legislative provisions for the use of special investigative techniques. Gabon cited a case in which a controlled delivery operation had been carried out despite the absence of an agreement or arrangement for that purpose (the case was not related to corruption). Only the CEMAC-UMAC Regulation refers to controlled deliveries (art. 65 of the Regulation). Bilateral and regional agreements are currently being drafted.

3.2. Successes and good practices

Overall, the following may be highlighted as successes and good practices in implementing chapter IV of the Convention:

- Despite the limited number of formal agreements on international cooperation, Gabon has proven its capacity to work with requesting States with a view to being able to give favourable consideration to and execute requests.

3.3. Challenges in implementation

In order to further strengthen existing anti-corruption measures, Gabon may wish to:

- Consider expanding the scope of bilateral arrangements and increasing the number of countries designated for the purposes of extradition (art. 44, para. 18) and mutual legal assistance (art. 46, para. 30);
- Review the scope of the treaties to which it is party with a view to ensuring that all offences under the Convention are extraditable, particularly in order to harmonize qualifying terms of imprisonment (art. 44, para. 8);
- Inform the Secretary-General of the United Nations that it takes the Convention as the legal basis for cooperation on extradition, as provided for in article 44, paragraph 6, of the Convention;
- Apply the principle of *aut dedere aut judicare* and consider enforcing sentences imposed abroad when refusing to extradite its nationals (art. 44, paras. 11, 12 and 13);
- Clarify in its legislation that mutual legal assistance with respect to offences for which a legal person may be held liable is possible in view of the *Ministère Public v. N. Brice and others* case (art. 46, para. 2);
- Notify the Secretary-General of the United Nations of its designated central authority and the language to be used for requests for mutual legal assistance, in accordance with article 46, paragraph 13, of the Convention;
- Review its provisions relating to intelligence and information obtained through mutual legal assistance with a view to providing for the use of that information to exculpate the accused (art. 46, para. 5);
- Inform the Secretary-General of the United Nations that Gabon may consider the Convention as a legal basis for mutual legal assistance (art. 46, para. 13);
- Consider establishing provisions on the transfer of criminal proceedings in order to expand cooperation in that area outside the framework of CEMAC (art. 47);
- Consider establishing and expanding the scope of bilateral arrangements and increasing the number of countries designated for the purposes of cooperation between law enforcement authorities (art. 48, para. 2, and art. 49);
- Consider legislating on the use of special investigative techniques (art. 50, para. 1) and controlled deliveries (art. 50, para. 4);

- Consider expanding the scope of bilateral arrangements and increasing the number of countries designated for the purposes of investigations using special investigative techniques (art. 50, para. 2).

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

- A capacity-building programme for authorities responsible for cross-border cooperation in the areas of law enforcement (art. 44), criminal matters (arts. 46 and 47) and investigations (art. 50);
 - Preparation of an action plan (art. 44);
 - Legal advice (arts. 46, 47 and 50);
 - On-site assistance provided by a qualified expert (arts. 47 and 50);
 - Capacity-building programmes for authorities responsible for designing and managing the use of special investigative techniques (art. 50);
 - Examples of model agreements/arrangements (art. 50).
-