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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

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

The Bolivarian Republic of Venezuela signed the Convention on 10 December 2003, ratified it on 23 May 2005 and deposited its instrument of ratification on 2 February 2009.

The Convention is an integral part of the national legal system, having the status of law, and can be applied directly.

The legal system follows the continental legal tradition. Criminal procedure is based on an accusatorial system and consists of a preparatory stage (culminating in prosecution), an intermediate stage and a trial stage.

The Constitution recognizes five public authorities (legislative, executive, judicial, electoral and civil). The organs of the civil authority are the Ombudsman's Office, the Public Prosecution Service and the Office of the Comptroller-General of the Republic. In addition, the Superintendency of Banking Sector Institutions fulfils an important function in the fight against corruption and assumes the role of financial intelligence agency.

Reforms in this area include the adoption of the Anti-Corruption Act in 2003, by which the offences established in that Act revoke their equivalent offences in the Criminal Code. The Organized Crime and Financing of Terrorism Act (2012) applies to offences expressly established therein and all offences committed by a criminal group. It therefore applies to some but not all offences established under the Convention (corruption offences).

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)

Active bribery of national public officials is regulated in articles 61 to 63, and passive bribery in articles 60 to 62 of the Anti-Corruption Act. Only the act of unbidden giving or promising, without solicitation by the public official, is a criminal offence. The provisions do not explicitly include "offering", although the Venezuelan authorities have explained that it can be considered under the concept of "promising". Indirect commission is only provided for in article 62. The concept of undue advantage is provided for by the term "benefit" (*utilidad*).

The definition of public officials or civil servants is given in article 3 of the Anti-Corruption Act and is in accordance with article 2, paragraph (a) of the Convention; with regard to public enterprises, it covers directors and administrators.¹

¹ Amendment subsequent to the meeting in Vienna: Official Gazette of the Bolivarian Republic of Venezuela, No. 6, 155 (special issue), 19 November 2014.

Active and passive bribery of foreign public officials and officials of public international organizations (transnational bribery) have not been established as criminal offences.²

The Bolivarian Republic of Venezuela has established trading in influence as a criminal offence under article 79 of the Anti-Corruption Act, which covers real but not supposed influence. With regard to the concepts of “offer” and “benefit” (*utilidad*), as well as the indirect commission of the offence, the same criterion applies as with regard to bribery.

The Bolivarian Republic of Venezuela does not have legislation on bribery in the private sector.³

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

The laundering of proceeds of crime is regulated in article 35 of the Organized Crime and Financing of Terrorism Act. All relevant conducts are regulated. The Organized Crime and Financing of Terrorism Act applies to organized crime offences; however, article 35 indicates as a predicate offence any “illicit activity” and therefore applies independently to all predicate offences. There exist final judgments of conviction for predicate offences related to matters other than those provided for in the Organized Crime and Financing of Terrorism Act, although not yet for predicate offences as regards corruption. “Illicit activity” includes offences committed abroad. So-called “self-laundering” (*autolavado*) is a criminal offence.

Article 470 of the Criminal Code provides for the offence of concealment.

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

Embezzlement is regulated in articles 52 to 59 of the Anti-Corruption Act.

Abuse of functions is established as a criminal offence under article 67 of the Anti-Corruption Act and requires that harm is caused to a person. Articles 60 and 68 of the Anti-Corruption Act contain related offences.

The Bolivarian Republic of Venezuela has established illicit enrichment as a criminal offence under articles 73, 46 and 47 of the Anti-Corruption Act.

Embezzlement in the private sector has not specifically been established as an offence, although there exists a related offence in article 216 of the Act on Banking Sector Institutions.

Obstruction of justice (art. 25)

Article 246 of the Criminal Code establishes as an offence bribery of a witness to induce false testimony. According to the Venezuelan authorities, the term “bribery” can cover acts of violence, threats and intimidation. Article 110 of the Judiciary Act contains a related offence. This legislation does not explicitly cover the obstruction of justice for the purpose of interfering in the giving of testimony or the production of evidence.

² Amendment subsequent to the meeting in Vienna: see footnote 1.

³ Amendment subsequent to the meeting in Vienna: Official Gazette of the Bolivarian Republic of Venezuela, No. 6,155 (special issue), 19 November 2014.

Article 215 of the Criminal Code establishes as a criminal offence the conduct described in article 25, paragraph (b).

Article 45 of the Organized Crime and Financing of Terrorism Act contains a related offence.

Liability of legal persons (art. 26)

Legal persons are criminally liable in cases of organized crime (art. 31 of the Organized Crime and Financing of Terrorism Act). In general, according to judgment No. 834 of the Constitutional Chamber, a rule that declares a legal person to be subject to criminal liability shall not violate the principle that penalties are personal and non-transferable (*principio de intrascendencia*).

The liability of legal persons is established civilly and, in certain laws, administratively, under articles 2, 45 (1), 45 (5), 45 (6) and 87 of the Anti-Corruption Act, article 1185 of the Civil Code, articles 31 and 32 of the Organized Crime and Financing of Terrorism Act, and articles 9, 84 and 93-111 of the Office of the Comptroller-General Act.

Although it has not been regulated explicitly, the liability of legal persons is without prejudice to that of natural persons.

Participation and attempt (art. 27)

The Criminal Code regulates participation (arts. 83 and 84) and attempt (art. 80).

The Bolivarian Republic of Venezuela has not established preparation for an offence as a criminal offence.

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

Corruption offences carry penalties of six months' to ten years' imprisonment, fines and disqualifications, and take into account the gravity of the offences.

Crimes committed by members of the National Assembly are heard privately by the Supreme Court of Justice, with the authorization of the National Assembly (arts. 200 and 282 of the Constitution). The Supreme Court of Justice also hears cases against the President and other senior officials of the State (art. 282 of the Constitution, arts. 376-381 of the Code of Criminal Procedure).

Criminal proceedings are mandatory. The principle of prosecutorial discretion (*principio de oportunidad*) does not apply to offences that cause serious damage to public property and public administration, or money-laundering (art. 38 of the Code of Criminal Procedure).

Article 242 of the Code of Criminal Procedure regulates a flexible system of alternatives to pretrial detention.

Parole is applied when the prisoner has served three quarters of the sentence (art. 488 of the Code of Criminal Procedure).

The Bolivarian Republic of Venezuela has established the suspension of accused public officials (art. 90 of the Civil Service Act) and may reassign the official in practice.

The Anti-Corruption Act provides for disqualification from public office for up to five years (art. 96 of the Anti-Corruption Act, see also art. 83). That applies to the leaders of enterprises owned in whole or in part by the State (art. 3 of the Anti-Corruption Act).⁴

Public officials are subject to civil, criminal, administrative and disciplinary liability for their crimes (art. 21 of the Anti-Corruption Act, art. 79 of the Civil Service Act).

The Bolivarian Republic of Venezuela facilitates social reintegration in accordance with its Prison Regime Act and through a project for the humanization of the prison system.

With regard to effective collaboration, the special case of the principle of prosecutorial discretion (art. 40 of the Code of Criminal Procedure) applies to violent or organized crime. The Anti-Corruption Act (art. 55) provides for a mitigating factor with respect to compensation for damage, and the Criminal Code (art. 74) provides for a general mitigating factor that could be applied to persons who cooperate with the law enforcement authorities, but no practical examples exist. Persons who cooperate with the law enforcement authorities are not explicitly provided for in the Act on the Protection of Victims, Witnesses and Other Parties to Judicial Proceedings, but may be considered as “other parties to judicial proceedings”.

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

In accordance with the Act on the Protection of Victims, Witnesses and Other Parties to Judicial Proceedings, various public bodies are obliged to cooperate in the protection of witnesses at the request of the Public Prosecution Service and its National Coordination Office for the Protection of Victims, Witnesses and Other Parties to Proceedings.

The Act includes a wide range of measures for physical protection and for the protection of identity, including testimony by videoconference (arts. 8 and 27 of the Act on the Protection of Victims, Witnesses and Other Parties to Judicial Proceedings). It is intended for witnesses, experts and officials of the Public Prosecution Service and the police, and for other parties to judicial proceedings, their relatives or family members. The Act provides for agreements for international relocation, and there are examples of this as regards organized crime.

The victim has the right, inter alia, to file a complaint, to be represented and to challenge certain decisions (art. 122 of the Code of Criminal Procedure).

There is no specific law for the protection of reporting persons. The reporting person's identity is protected in accordance with article 23 of the Public Property Act and article 22 of Regulations for Promoting Citizen Participation of the Office of the Comptroller-General. There exists a draft amendment to the Anti-Corruption Act, which includes protection for reporting persons.

⁴ Amendment subsequent to the meeting in Vienna: see footnote 1.

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

Confiscation (or forfeiture of property) is an accessory penalty (art. 33 of the Criminal Code) that necessarily applies to items and instrumentalities used to commit an offence. It does not refer to instrumentalities destined for use. Article 95 of the Anti-Corruption Code regulates the confiscation of the property of the perpetrators of the offence. While not explicitly regulated, the Venezuelan authorities explained that the concept of “confiscation” applies only to property “related” to the act and compensation for civil damage. With regard to offences against public assets, the confiscation of “property derived” from crime is enshrined in the Constitution (art. 271, para. 1 of the Constitution).

Article 94 of the Anti-Corruption Act regulates the securing of property up to twice the estimated amount of damage caused, by order of the supervisory judge. The seizure of documents, securities and money is regulated in article 204, paragraph 2 of the Code of Criminal Procedure. There exists a relevant regulation in the Organized Crime and Financing of Terrorism Act (art. 56).

The administration of seized property is the responsibility of the specialized service for the administration and disposal of property, but only with regard to organized crime (arts. 54 and 57 of the Organized Crime and Financing of Terrorism Act).

The confiscation (or forfeiture) of proceeds of crime that have been transformed or converted, in part or in full, into other property, up to the assessed value of the proceeds that have been intermingled with property acquired from legitimate sources, and of income or other benefits derived from proceeds of crime, is not regulated. The confiscation of such property is considered possible because it is “related” to the offence. The Organized Crime and Financing of Terrorism Act provides, inter alia, for the confiscation of the value of property intermingled with property acquired from legitimate sources (art. 89, paras. 4-6).

With the authorization of the supervisory judge, the Public Prosecution Service may seize bank records when there are grounds to infer that they relate to the offence under investigation (art. 204, para. 2 of the Code of Criminal Procedure).

The authorities confirmed that article 294 of the Code of Criminal Procedure protects the rights of third parties not only with regard to seizure, but also in the event of confiscation (forfeiture), through the interpretation of “items taken”.

The prosecutor (without a court order), the judiciary (art. 89 of the Act on Banking Sector Institutions, art. 291 of the Code of Criminal Procedure) and SUDEBAN (art. 252 of the General Act on Banks) can lift bank secrecy.

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

There is no statute of limitations for offences against public assets (art. 271 of the Constitution) or for the offences established in the Organized Crime and Financing of Terrorism Act (art. 30). The statute of limitations for the above-mentioned crimes established in the Criminal Code is mostly from three to seven years (art. 108 of the Criminal Code).

Judicial authorities may take into account international recidivism, although no practical examples have arisen in this respect.

Jurisdiction (art. 42)

The Bolivarian Republic of Venezuela has established its jurisdiction over most of the offences referred to in article 42 (arts. 3 and 4 of the Criminal Code). Under article 106 of the General Act on Shipping and Related Activities, all vessels must be registered in the ship register and are considered national territory, although the Criminal Code only mentions warships and merchant vessels.

The Bolivarian Republic of Venezuela has established its jurisdiction over offences committed by a national, offences against the State and in cases where the alleged offender is present in its territory and it does not extradite him or her solely on the ground that he or she is one of its nationals (art. 6 of the Criminal Code).

The Bolivarian Republic of Venezuela may use its communication channels for mutual legal assistance in order to consult with other States in cases where several States initiate proceedings in relation to the same offences, although no concrete examples have arisen.

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

The Bolivarian Republic of Venezuela may rescind public contracts (arts. 87 and 127. 7 of the Public Procurement Act), and has presented an example of this. The annulment of administrative acts is regulated in article 19 (3) of the Administrative Procedures Act.

Articles 50 to 54 of the Code of Criminal Procedure establish civil actions, which are brought after the final criminal judgment, without prejudice to the right of the victim to file a lawsuit before the civil courts. At the national level, the Counsel-General brings civil actions and the Public Prosecution Service conducts relevant proceedings ex officio (art. 87 of the Anti-Corruption Act).

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

The Public Prosecution Service is independent from all public authorities; it enjoys functional, organizational, budgetary, financial and administrative autonomy (art. 4 of the Public Prosecution Service Act). The Office of the Attorney General has established seven prosecutor's offices specialized in combating corruption, with 11 specialized prosecutor's offices in the Office of the Attorney General and 22 in the regions. The police may set up financial investigation units on issues related to organized crime.

The Public Prosecution Service has the National School of Prosecutors and the police have a monthly programme of training on the Anti-Corruption Act. The National Experimental University for the Security Services provides anti-corruption courses as part of the curriculum for police trainees.

Cooperation between national agencies is regulated, inter alia, by article 136 of the Constitution and article 49 of the Anti-Corruption Act. The Office of the Comptroller-General is obliged to inform the Public Prosecution Service of any suspicion of an offence, and the Public Prosecution Service may require any entity or public body to cooperate and provide information (art. 16 of the Public Prosecution Service Act).

The Bolivarian Republic of Venezuela is creating mechanisms for cooperation between the investigating authorities, the Public Prosecution Service and private sector entities.

The reporting of corruption offences is mandatory for public officials (art. 269 of the Code of Criminal Procedure). The Public Prosecution Service has duty prosecutors who receive complaints, and a free telephone line. Anonymous reports are not accepted (art. 268 of the Code of Criminal Procedure).

2.2. Successes and good practices

- Not only public officials can commit the offence of illicit enrichment, but also persons required to make a sworn statement of assets and those who illegally obtain a profit through contracts with public entities;
- Most of the offences established under the Convention are not time-barred, and in the other cases where the offender is a public official, the limitation period begins from the date the official ceases to hold office (art. 29);
- Witness protection includes a wide range of measures, such as physical protection, protection of identity, support for educational purposes, medical and psychological care (art. 32, paras. 1 and 2);
- Article 94 of the Anti-Corruption Act regulates the securing of property by the supervisory judge, at the request of the Public Prosecution Service, up to twice the estimated amount of damage caused (art. 31, para. 2).

2.3. Challenges in implementation

With regard to criminalization, it is recommended that the Bolivarian Republic of Venezuela:

- Amend its legislation to establish as a criminal offence active bribery that is solicited (art. 15, para. (a));
- Ensure that the definitions of active bribery and trading in influence apply to the “offer” of an undue advantage (art. 15, para. (a); art. 18, para. (a)); that articles 60, 61 and 79 of the Anti-Corruption Act apply to the indirect commission of the offence; and that the concept of “benefit” (*utilidad*) is interpreted to cover a wide range of material and non-material advantages. In the event that, in the future, the courts do not interpret the law in that way, it might be necessary to clarify the law through legislative reform (art. 15, paras. (a) and (b), art. 18, paras. (a) and (b));
- Include in its future legislative reforms the offence of active transnational bribery, and consider including the offence of passive transnational bribery (art. 16);⁵
- Consider including in its legislative reforms the element of supposed influence in the offence of trading in influence (art. 18, paras. (a) and (b));
- Consider removing the element of damage from the legislation on abuse of functions, and clarifying that abuse of functions may be committed for the benefit of third parties (art. 19);

⁵ Amendment subsequent to the meeting in Vienna: see footnote 2.

- Consider establishing bribery in the private sector as a criminal offence,⁶ and establishing an offence of general application of embezzlement in the private sector (arts. 21 and 22);
- Amend its legislation to explicitly establish as a criminal offence physical force, threats and intimidation to induce false testimony; and obstruction of justice to interfere in the giving of testimony and the production of evidence (art. 25, para. (a));
- Further develop the concept of criminal and administrative liability of legal persons, and further clarify its relationship with that of natural persons and sanctions for legal persons (art. 26);
- The Bolivarian Republic of Venezuela might establish preparation for an offence as a criminal offence (art. 27, para. 3).

Law enforcement

With regard to law enforcement, it is recommended that the Bolivarian Republic of Venezuela:

- Consider establishing procedures for the removal of accused public officials (art. 30, para. 6);
- With regard to forfeiture of property (art. 33 of the Criminal Code), include the confiscation of instrumentalities “destined for use”; with regard to confiscation (art. 94 of the Anti-Corruption Act), clarify in the legislation to which property it applies and include items and instrumentalities used and destined for use in corruption offences (art. 31, para. 1);
- Regulate the administration of secured and confiscated property for all corruption offences, taking into account experience with property linked to organized crime (art. 31, para. 3);
- Include in its future legislative reforms the confiscation of property and funds transformed or converted into other property, confiscation up to the assessed value of illicit property intermingled with property from legitimate sources and of the benefits derived from property, with respect to all offences established in accordance with the Convention; and explicitly regulate the same with regard to confiscation (art. 31, paras. 4-6);
- Consider further developing the protection of persons reporting acts of corruption in criminal, administrative and workplace matters (art. 33);
- Take further measures to promote effective cooperation with regard to corruption offences that are not organized crime offences or violent offences (art. 37, paras. 1-3); amend the Witness Protection Act to explicitly refer to persons cooperating with law enforcement authorities (art. 37, para. 4); the Bolivarian Republic of Venezuela might consider entering into agreements or arrangements on effective cooperation at an international level (art. 37, para. 5);

⁶ Amendment subsequent to the meeting in Vienna: see footnote 3.

- Consider further strengthening mechanisms for cooperation between investigating authorities and the private sector (art. 39, para. 1);
- Assess whether the acceptance of anonymous reporting could strengthen the system for receiving reports (art. 39, para. 2);
- Clarify in the Criminal Code the jurisdiction over offences committed on private vessels under the Venezuelan flag (art. 42, para. 1 (b));
- The Bolivarian Republic of Venezuela might establish its jurisdiction in general over offences committed by one of its nationals or by a stateless person who has his or her habitual residence in its territory (art. 42, para. 2 (b)); over acts of participation and attempt committed abroad in money-laundering offences (art. 42, para. 2 (c)); as well as over the offences established under the Convention when the alleged offender is present in its territory and it does not extradite him or her (art. 42, para. 4).

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

The Bolivarian Republic of Venezuela has expressed interest in receiving summaries of good practices and model legislation for the implementation of articles 16 and 21.

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)

Extradition is regulated by the Constitution, international agreements signed and ratified by the Bolivarian Republic of Venezuela, as well as by the Criminal Code and the Code of Criminal Procedure.

The Bolivarian Republic of Venezuela does not make extradition conditional on the existence of a treaty, but may extradite by applying the principles of reciprocity and international cooperation. The Bolivarian Republic of Venezuela may consider the Convention as the legal basis for extradition.

Dual criminality is a requirement for extradition without exception, but the Bolivarian Republic of Venezuela focuses on the underlying conduct.

The extradition of nationals is not permitted, but the *aut dedere aut judicare* principle applies. The enforcement of a foreign judgment is applied on the basis of treaties.

In domestic legislation, all offences are extraditable without a minimum penalty requirement. Some treaties provide for a minimum penalty, others have established a list system. Extradition is not granted for political offences, and the Bolivarian Republic of Venezuela does not consider corruption offences as political offences.

Extradition proceeds in accordance with the judicial system. The executive authority forwards any requests to the Supreme Court of Justice, which convenes an oral hearing. On the conclusion of the hearing, the Supreme Court of Justice issues a decision within 15 days. Its decisions are not subject to appeal. The Bolivarian Republic of Venezuela does not have a simplified extradition procedure.

Grounds for refusing an extradition request are not set out in the Criminal Code, nor is there a rule or regulation prohibiting the refusal of a request for extradition on the sole ground that the offence is also considered to involve fiscal matters.

The Bolivarian Republic of Venezuela has signed several bilateral agreements and treaties on extradition and on the transfer of sentenced persons.

The transfer of criminal proceedings is regulated in article 85 of the Organized Crime and Financing of Terrorism Act for organized crime offences. The Convention is directly applicable in other corruption offences. The Public Prosecution Service is the authority responsible for the procedure.

Mutual legal assistance (art. 46)

Mutual legal assistance is regulated in the eight bilateral treaties and in the international conventions to which the Bolivarian Republic of Venezuela is a party. Articles 111, 17 and 185 of the Code of Criminal Procedure contain rules for the attribution of powers to the authorities, and the Organized Crime and Financing of Terrorism Act regulates assistance within its scope of application. Although the Bolivarian Republic of Venezuela may provide assistance outside the scope of application of the Organized Crime and Financing of Terrorism Act and in the absence of a treaty, the authorities explained that the procedure in such cases is less fluid, through diplomatic channels, and is based on general principles of international law, in the absence of an established legal framework.

The Bolivarian Republic of Venezuela may facilitate a wide range of measures, including with regard to offences for which a legal person may be held liable. However, assistance for asset recovery could pose difficulties due to the lack of explicit regulation.

Although the transmission of information without prior request is not prohibited, no practice exists in this regard. Upon receiving information without prior request, it may be kept confidential in direct application of the Convention or bilateral treaties.

Bank secrecy or tax implications are not grounds for refusal to provide assistance.

The Bolivarian Republic of Venezuela requires dual criminality.

There is no legislation on the transfer of detained persons for testimony. Some treaties contain relevant provisions and the Convention may be applied directly, but as yet there are no examples in this regard.

The central authority for mutual legal assistance is the Public Prosecution Service. The Office of the Coordinator for International Affairs, which is attached to the Directorate-General for Legal Support, employs five lawyers and communicates directly with the central authorities of other States. Requests are accepted in Spanish or English. In urgent circumstances, requests may be received by fax, e-mail or orally, but not through the International Criminal Police Organization (INTERPOL).

The Bolivarian Republic of Venezuela may execute requests in accordance with the procedures specified in the request, insofar as they are not contrary to domestic law. On the basis of the principle of freedom of evidence (art. 198 of the Code of Criminal Procedure), testimony may be received by videoconference, although equipment is not always available in practice.

The Bolivarian Republic of Venezuela does not have legislative provisions on the principle of speciality; however, the Convention may be applied directly. Investigative acts are reserved for third parties (art. 286 of the Code of Criminal Procedure), and five bilateral treaties contain provisions on confidentiality.

The Organized Crime and Financing of Terrorism Act and several bilateral treaties set out the grounds for refusing requests for mutual legal assistance, the possibility of deferral if it interferes with ongoing investigations (art. 82 of the Organized Crime and Financing of Terrorism Act), the possibility of requesting additional information (art. 80, para. 3 of the Organized Crime and Financing of Terrorism Act), and safe conduct for witnesses (art. 83 of the Organized Crime and Financing of Terrorism Act). The opportunity to consult with the requesting State Party is not regulated, and there have been no examples of practice in this regard.

The Organized Crime and Financing of Terrorism Act (art. 84) provides that the ordinary expenses shall be borne by the requesting State, although treaties signed with six States contain provisions that confer this obligation on the requested State. Extraordinary expenses are subject to consultation between the two States.

The Bolivarian Republic of Venezuela provides a wide range of documents which it makes available to the public.

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

The bodies responsible for law enforcement maintain extensive cooperation with their international counterparts in the fight against corruption (see art. 74 of the Organized Crime and Financing of Terrorism Act) through organizations and networks such as INTERPOL, the Southern Common Market (MERCOSUR) and the Caribbean Financial Action Task Force (CFATF). The Bolivarian Republic of Venezuela is a member of the World Customs Organization. The Public Prosecution Service, the Supreme Court of Justice and the Ministry of People's Power for Internal Affairs, Justice and Peace cooperate with their counterparts through the Ibero-American Legal Assistance Network (IberRed).

SUDEBAN has signed memorandums of understanding with its counterparts in 28 States and is part of the Egmont Group. There is a continuous exchange system and a police cooperation agreement with Colombia, and a memorandum of police cooperation has been signed with Nicaragua, which includes training and staff exchanges. The Public Prosecution Service has a memorandum of understanding with its counterpart in Brazil.

The Bolivarian Republic of Venezuela considers the Convention as the legal basis for law enforcement cooperation.

Domestic legislation does not provide for the possibility of establishing joint investigation teams, except for the reference made thereto in article 78 of the Organized Crime and Financing of Terrorism Act. The Bolivarian Republic of Venezuela may apply the Convention directly in this matter, but to date it has not done so and has concluded agreements or arrangements with other States.

Telephone tapping is regulated in articles 205 to 207 of the Code of Criminal Procedure, undercover operations and controlled deliveries in the Organized Crime and Financing of Terrorism Act (arts. 66 and 69). All special investigative

techniques are subject to an order from the supervisory judge. The Bolivarian Republic of Venezuela may also perform an anthropometric analysis and an analysis of the movement of people. The Bolivarian Republic of Venezuela has not concluded international agreements on the use of these investigative techniques; however, the Convention may be applied in this regard. The evidence obtained from the use of such techniques is admissible in court proceedings.

3.2. Successes and good practices

Overall, the following points are regarded as successes within the framework of implementing chapter IV of the Convention:

- In Venezuelan legislation, all offences except political offences are considered extraditable offences (art. 44, para. 7);
- The Venezuelan central authority takes an active role in the coordination and monitoring of assistance cases (art. 46, para. 13);
- The Bolivarian Republic of Venezuela accepts requests for assistance in English (art. 46, para. 14);
- The Bolivarian Republic of Venezuela accepts urgent requests by fax, e-mail and orally (art. 46, para. 14);
- The Bolivarian Republic of Venezuela provides access to public documents in regard to mutual legal assistance (art. 46, para. 29).

3.3. Challenges in implementation

It is recommended that the Bolivarian Republic of Venezuela:

- Continue efforts to put in place and render fully operational an information system to compile in a systematic manner information on cases of international cooperation, including the length of procedures (arts. 44 and 46);
- To the extent that the legislation permits, the Bolivarian Republic of Venezuela might grant extradition in the absence of dual criminality (art. 44, para. 2);
- In cases where an applicable bilateral treaty includes requirements for a minimum penalty or lists, and does not contain a relevant rule, the Bolivarian Republic of Venezuela might also apply extradition in respect of ancillary offences that do not meet the minimum penalty (art. 44, para. 3);
- Consider each of the corruption offences as being included among the extraditable offences in its treaties (art. 44, para. 4, first sentence);
- Continue efforts to expedite extradition procedures and assess the possibility of creating a summary or simplified procedure, for example, in cases where the person sought consent to extradition (art. 44, para. 9);
- With regard to the right to a second hearing, assess the possibility of establishing comprehensive judicial control over all relevant rulings (art. 44, para. 14);
- Ensure that assistance can be provided with respect to all corruption offences (art. 46, para. 1);

- Assess whether the adoption of legislation on mutual legal assistance might clarify the scope of and procedures for assistance; such legislation could also cover aspects such as the transfer of detainees to cooperate in investigations, the principle of speciality, the use of videoconferencing, grounds for refusal, the obligation to give reasons for a decision, and the safe conduct of witnesses (art. 46, paras. 1, 10-12, 18, 19, 21, 23 and 27);
- Regulate explicitly the possibility of assistance for asset recovery (art. 46, para. 3 (j) and (k));
- Without prejudice to domestic law, the Bolivarian Republic of Venezuela might transmit information without prior request and consider including this in its future legislative reforms (art. 46, para. 4);
- Provide assistance that does not involve coercive action in the absence of dual criminality; the Bolivarian Republic of Venezuela might consider providing more comprehensive assistance (art. 46, para. 9);
- Update its notification to the Secretary-General with respect to the languages in which requests are accepted (art. 46, para. 14);
- Consult, before refusing assistance, in order to consider whether assistance may be granted under certain conditions (art. 46, para. 26);
- Regulate the issue of expenses in accordance with the provisions of the Convention (art. 46, para. 28);
- Consider clarifying in its legislation that its legal framework permits the transfer of criminal proceedings beyond the provisions of the Organized Crime and Financing of Terrorism Act (art. 47);
- Intensify its efforts to collaborate with other States in order to combat corruption offences committed through the use of modern technology (art. 48, para. 3);
- Consider entering into agreements and arrangements with other States Parties on establishing joint investigation teams (art. 49);
- Include in its future legislative reforms the possibility of using controlled delivery and undercover operations in investigations into corruption offences (art. 50, paras. 1 and 4). In the context of such reforms, consideration might be given to establishing agreements for the use of such techniques at the international level (art. 50, para. 2).