



**Conference of the States Parties  
to the United Nations  
Convention against Corruption**

Distr.: General  
5 September 2013  
Original: English

---

**Implementation Review Group**

**Resumed fourth session**

Panama City, 26-27 November 2013

Agenda item 2

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

**Executive summary**

**Note by the Secretariat**

**Addendum**

Contents

	<i>Page</i>
II. Executive summary . . . . .	2
United Arab Emirates . . . . .	2



## II. Executive summary

### United Arab Emirates

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

The United Arab Emirates signed the United Nations Convention against Corruption on 10 August 2005 and ratified it on 22 February 2006. Upon its ratification, the Convention became part of the domestic law. The Convention is self-executing and there is no need for implementing legislation. Nevertheless, ratification in itself was effected by a Decree issued by the Supreme Council of the Union (United Arab Emirates) in accordance with article 47, paragraph 4, of the Constitution. Although no specific provision in the Constitution exists as to the supremacy of the provisions of international conventions over national legislation, it is recognized that in cases of shortcomings in national legislation or contradiction with an international treaty or agreement, the latter prevails.

The legal framework against corruption of the United Arab Emirates includes provisions from the Constitution of 1971; the Penal Code (PC) (Federal Law No. 3 of 1987, as amended in 2005 and 2006); the Federal Law No 35 of 1992 on the Criminal Procedure Code (CPC); and the Federal Law No. 11 of 1992 on the Civil Procedure Code. Other specific laws which are of relevance include: the Federal Law No. 4 of 2002 on the Incrimination of Money Laundering; the Federal Law No. 5 of 1985 on Civil Transactions; the Federal Law No. 8 of 2011 on the Restructure of the State Audit Institution; the Federal Law No. 11 of 2008 on Human Resources in the Federal Government; the Federal Law No. 10 of 1973 concerning the Supreme Federal Court; the Federal Law No. 3 of 1983 on the Federal Judicial Corps; and the Federal Law No. 39 of 2006 on International Judicial Cooperation in Criminal Matters.

The following institutions are involved in anti-corruption policies or discharge anti-corruption functions: the Ministries of Justice, Interior, Foreign and Finance; the Public Prosecution; the State Audit Institution; and the Central Bank.

#### 2. Chapter III: Criminalization and law enforcement

##### 2.1. Observations on the implementation of the articles under review

###### *Bribery and trading in influence (articles 15, 16, 18, 21)*

Article 237 PC incriminates the promise or offering or giving of an privilege of any kind to a public official in return of performing or abstaining from doing an act in breach of the duties of office. The element of “giving” is not mentioned in the provision, but it is implicit. Article 5 PC provides for the definition of a “public servant”, which also contains the members of the judiciary on the understanding that they are “entrusted with public service” and “perform a work related to public service”.

While article 15(a) of the Convention refers to the “exercise of duties” of the public official, article 237 PC makes reference to “performing, or abstaining from doing an

act in breach of the duties of his Office”. The breach of duty is assumed as any act or failure to act in return for a bribe which is contrary to the duties of the function.

Contrary to article 234 PC on passive bribery, article 237 PC does not include an explicit reference to a third party beneficiary to whom a benefit is given. The authorities of the United Arab Emirates explained that the formulation in article 237 PC is general and should be understood in absolute terms to include the notion of third party beneficiary. The reviewers welcomed this explanation, but called the authorities of the United Arab Emirates to construe, mainly for purposes of legal certainty, the offence of active bribery in a way that expressly covers cases “third party beneficiary” cases.

Article 237, paragraph 2 PC criminalizes the conduct of an intermediary who “intercedes with the briber or the bribed person to offer a bribe, ask for, accept, take or promise it”.

Article 234 PC incriminates the conduct of any public official or person assigned to a public service, who solicits or accepts for himself or for another person, any gift or privilege of any kind, or any promise thereof in return for the performance of an act or its omission in breach of his duties. Moreover, article 70 of Federal Human Resources Code prohibits an officer from accepting any gifts except advertising gift.

No domestic legislation was found to be in place to criminalize the active and passive bribery of foreign public officials and officials of international organizations. During the country visit, the national authorities clarified that a draft law which would address the issue was under consideration.

Article 236/1, paragraph 1 PC<sup>1</sup> criminalizes bribery in the private sector. However, it covers only the passive form of bribery in the private sector, and not the active one. A draft law to address the issue is under consideration. The reviewing experts encouraged the authorities of the United Arab Emirates to continue ongoing considerations to put in place new legislation to address the issue of criminalization of active bribery in the private sector. The review team welcomed as a good practice that article 236/1, paragraph 1 PC does not require that the bribery is committed “in the course of economic, financial or commercial activities”.

Article 237/1 PC<sup>2</sup> is the applicable provision to criminalize domestically trading in influence. However, this provision covers the passive form of trading in influence, and not the active one. In response, the national authorities reported that the draft law under consideration would also address this issue. The reviewing experts encouraged the authorities of the United Arab Emirates to continue ongoing considerations to put in place new legislation to address the issue of criminalization of active trading in influence.

The national authorities argued that the issue of “supposed” influence falls within the concept of deception which is, in turn, a core element of the offence of “deceit” (fraud), as prescribed in article 399 PC.

---

<sup>1</sup> As appended to the PC pursuant to Federal Law No. 34 of 2005.

<sup>2</sup> Ibid.

*Money-laundering, concealment (articles 23, 24)*

Article 2, paragraph 1, of Federal Law No. 4 on the “Incrimination of Money Laundering” provides an adequate legal framework for the criminalization of the conducts foreseen in article 23 of the UNCAC. Self-laundering is criminalized in the United Arab Emirates.

The legislation of the United Arab Emirates defines the predicate offences in a broad manner (see article 2, paragraph 2, of the Federal Law No. 4 of 2002) to also include any crimes set forth in the international conventions to which the United Arab Emirates is a State party (including the UNCAC). However, there is no provision in the United Arab Emirates legislation specifying that extraterritorial offences can also be regarded as predicate offences for the purposes of money-laundering.

Article 407 PC entirely corresponds to article 24 of the UNCAC on the criminalization of concealment as it incriminates whoever knowingly possesses or conceals things resulting from a crime without taking part in commitment of the act.

*Embezzlement, abuse of functions and illicit enrichment (articles 17, 19, 20, 22)*

A number of provisions in the PC criminalize conducts relating to the embezzlement, misappropriation or diversion of property by a public official (articles 224-228 PC). The authorities of the United Arab Emirates clarified during the country visit that, according to article 95 of Federal Law No. 5 on Civil Transactions, “property is any object or right that has a negotiable value”.

Article 404 PC criminalizes embezzlement in the private sector.

Conducts related to the abuse of functions by a public official are criminalized through articles 226-228 and 246 PC.

Illicit enrichment has not been criminalized in the United Arab Emirates legal system.

*Obstruction of justice (article 25)*

Article 25(a) of the UNCAC is domesticated through article 259 PC. The provision makes reference only to keeping silence or giving untrue statements without including all forms of interference with the production of evidence. Such an approach leaves outside the scope of article 259 PC other forms of obstruction of justice such as hiding evidence. Taking into account that the provision of false statements is also covered by article 259 PC, the reviewers further recommended that the latter provision be interpreted in a broader manner to include elements of “concealing” evidence, as foreseen in other provisions of the domestic legislation (articles 266-267 PC).

The review team also noted that article 259 PC focuses on interference with the giving of testimony “before a judicial body”. Only the courts and public prosecution are considered to be judicial bodies. Hence, the review team argued in favour of expanding the scope of article 259 PC to also include pretrial proceedings and criminal investigations conducted by the police.

Articles 232 and 248 PC were found to totally correspond to article 25(b) of the UNCAC.

*Liability of legal persons (article 26)*

Article 65 PC establishes criminal liability for “juristic persons” for the crimes perpetrated by their representatives, directors and agents for their account or in their name.

Criminal liability is also established for financial, commercial and economic facilities involved in money-laundering (article 3 of Federal Law No. 4 on the Incrimination of Money Laundering).

Sanctions against legal persons include fines, confiscation and criminal measures, which are imposed at the judge’s discretion. The criminal liability of the legal person shall not prevent the criminal responsibility of the perpetrator of the crime.

*Participation and attempt (article 27)*

Participation and attempt are covered by articles 44-48 PC and articles 34-37 PC respectively. According to article 34 PC, neither the mere intention to commit a crime nor preparatory acts shall be considered an attempt to commit a crime unless the law provides otherwise.

*Prosecution, adjudication and sanctions; cooperation with law enforcement authorities (articles 30, 37)*

The review team noted that the sanctions for corruption-related offences appear to be adequate and dissuasive. Among the aggravating circumstances, one could also find the perpetration of a crime by a public servant exploiting the authority of his position or capacity, unless the law provides for a special sanction in consideration of this capacity (article 102(d) PC).

Only the members of the judiciary, including prosecutors, enjoy privileges and procedural immunities that prevent certain actions against them and do not preclude their prosecution if they commit crimes. The parliamentarians enjoy immunity for their vote or the content of a speech only during their term.

The criminal justice system in the United Arab Emirates is based on the principle of mandatory prosecution (article 9 CPC) and there is no provision enabling prosecutors to enter into plea agreements with the accused.

However, the legislation enables the public prosecutor to dismiss a crime report or abstain from prosecution in relation to a briber or an intermediary who takes the initiative to inform judicial or administrative authorities of the crime or who confesses his crime before the case is disclosed (article 239 PC). The authorities of the United Arab Emirates clarified that this provision reflects a legislative policy intended to encourage perpetrators of corruption crimes in the public sector to report their crimes before the exacerbation of the problem and to prevent the spread of corruption in this sector. The reviewing experts welcomed this explanation. They further noted that a more flexible application of the provision on a case-by-case basis would allow the public prosecutor to “weigh” in each case the level of cooperation of the perpetrator of the crime.

*Protection of witnesses and reporting persons (articles 32, 33)*

The authorities of the United Arab Emirates confirmed the lack of domestic legislation on the protection of witnesses and victims, insofar as they are witnesses, and reported that the adoption of such legislation is under consideration. Similar consideration will be given with regard to new legislation on the protection of reporting persons. For the moment, there are only scattered provisions in United Arab Emirates legislation, but none is dealing per se with the protection of reporting persons.

*Freezing, seizing and confiscation; bank secrecy (articles 31, 40)*

Articles 71-79 CPC provide for provisional measures (tracing, freezing or seizure) of proceeds or instrumentalities of crime, whereas article 82 PC stipulates that the court may, upon issuing a conviction for a crime or misdemeanour, confiscate the things seized as a result of the crime, or which have been used in the commission of such crime, without prejudice to the rights of bona fide third parties. In money-laundering cases, articles 4 and 13-14 of Federal Law No. 4 of 2002 on the Incrimination of Money Laundering are of relevance.

Article 199 CPC stipulates that the competent court shall appoint a guardian to adjudicated funds in absentia. The review team noted that the scope of application of this provision was narrow, as it refers to judgments rendered in absentia for felonies, and it is applicable after the trial. An expansion of the scope of application to cover cases beyond the above was recommended.

The authorities of the United Arab Emirates provided information on the implementation of article 31, paragraphs 4-6, of the UNCAC in relation to money-laundering cases. For other crimes, articles 82 and 230 PC are of relevance. The reviewers encouraged the authorities of the United Arab Emirates to broaden the scope of the latter provisions of the PC and, mainly for reasons of legal certainty and consistency, include the same — or similar — wording used in articles 13-14 of the anti-money-laundering legislation.<sup>3</sup>

Article 12 of the of the Federal Law No. 4 of 2002 on the Incrimination of Money Laundering was reported as an example to overcome obstacles arising from bank secrecy laws in domestic investigations of money-laundering cases. The reviewers welcomed this provision and advocated a similar approach in relation to the investigation of corruption offences other than money-laundering.

*Statute of limitations; criminal record (articles 29, 41)*

Based on what is stipulated in article 20 CPC, the review team concluded that the corruption-related crimes have a statute of limitations of twenty years, which becomes five years in cases of misdemeanors and one year in cases of contraventions. The statute of limitations period commences from the date of commission of the offence and shall be interrupted by the investigation or indictment procedures or trial, as well as by prosecution measures if taken in the presence of the accused or if officially notified.

---

<sup>3</sup> “Confiscation of the returns or properties whose value is equal to such returns, or whatever has the same value as said returns, should they be transferred or converted, partially or totally, to other properties or mixed with other properties acquired from legal sources”.

The authorities of the United Arab Emirates reported that only domestic prior convictions are taken into account in criminal proceedings relating to corruption offences.

*Jurisdiction (article 42)*

Jurisdiction principles are established in articles 16-22 PC. Jurisdiction based on the territoriality principle is expressly foreseen (articles 16-17 PC). Article 18, paragraph 4 PC establishes jurisdiction on the basis of the passive personality principle, but it has a narrow application, as it refers only to offences committed against United Arab Emirates nationals “on board a foreign ship in any of the United Arab Emirates ports or in its territorial waters”. Moreover, jurisdiction based on the principle of active personality (for offences committed abroad by United Arab Emirates nationals) is established in article 22 PC, subject to the double criminality requirement Article 20, paragraph 1 PC establishes jurisdiction over offences against the external or internal security of the state, its constitutional system or its legally issued financial securities.

*Consequences of acts of corruption; compensation for damage (articles 34, 35)*

As clarified during the country visit, several provisions of the Federal Law No. 5 of 1985 on Civil Transactions can be of partial relevance for the implementation of article 34 of the UNCAC regarding the consequences and the impact of acts of corruption on the validity of contracts.

The authorities of the United Arab Emirates referred to articles 282-298 of the Federal Civil Procedure Code as the applicable legal framework for regulating the right of parties that have suffered damage as a result of an act of corruption to claim compensation.

*Specialized authorities and inter-agency coordination (articles 36, 38, 39)*

The State Audit Authority (SAA) was identified as the specialized anti-corruption authority in the United Arab Emirates. It is responsible for the financial and administrative control in the State and has an independent financial status. Apart from its preventive functions, the body has the authorization to investigate financial violations. If such violations involve a crime, the SAA transfers the case to the federal public prosecutor with a view to conducting investigation. As reported by the United Arab Emirates authorities, there is constant coordination between the SAA and the public prosecutor.

Regarding the cooperation between national authorities, article 16 of the Federal Law No. 8 of 2011 stipulates that the bodies subject to the control of the SAA must notify the latter of the facts related to financial violations, as well as evidence of them, and procedures taken in their regard.

Articles 9 and 10 of the Federal Law No. 4 of 2002 on the Incrimination of Money Laundering provide for the formation of a national committee for combating money-laundering.

According to article 20 of the same law, financial, commercial and economic facilities and their representatives shall be exempted from criminal, civil or administrative liability arising from breaching any imposed restriction of

confidentiality, unless it is established that the notification is made in bad faith and in view of causing harm to the concerned party. The reviewers found this example to be a step in the right direction and encouraged the authorities of the United Arab Emirates to continue fostering cooperation with the private sector in the field of reporting and detecting corruption-related offences other than money-laundering.

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

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

- The robust legal regime against money-laundering;
- The clarity in the description of concealment in its criminalization provision;
- The lack of the requirement in article 236/1, paragraph 1 PC that the bribery in the private sector has to be committed “in the course of economic, financial or commercial activities”.

## **2.3. Challenges in implementation**

While noting the continuous and considerable efforts of the United Arab Emirates to harmonize the national legal system with the UNCAC criminalization and law enforcement provisions, the reviewers identified some challenges in implementation and/or grounds for further improvement and made the following remarks to be taken into account for action or consideration by the competent national authorities (depending on the mandatory or optional nature of the relevant UNCAC requirements):

- Construe, mainly for purposes of legal certainty, the offence of active bribery in the public sector in a way that expressly covers instances where the advantage is not intended for the official him/herself but for a third party (third-party beneficiary);
- Continue efforts to put in place domestic legislation to implement article 16 of the UNCAC;
- If necessary and subject to the fundamental principles of the domestic legal system, continue to explore the possibility of criminalizing illicit enrichment;
- While noting that the current United Arab Emirates legislation recognizes at least the mandatory UNCAC offences as predicate offences for money-laundering purposes, continue efforts to amend legislation with a view to expanding the general scope of predicate offences and increasing the number of predicate offences relating to conduct committed outside the jurisdiction of the United Arab Emirates;
- Expand the scope of application of article 259 PC (the domestic provision implementing article 25(a) of the UNCAC) to enable: first, the criminalization of obstruction of justice where all possible forms of interference with the production of evidence are involved; and, second, the application of the criminalization provision also in relation to pretrial proceedings and criminal investigations conducted by the police;



- Ensure that the sanction foreseen in article 259 PC takes into account the gravity of the offence;
- Put in place mechanisms to ensure the administration of seized assets during the investigation, as well as confiscated assets beyond existing cases of felonies and convictions rendered in absentia;
- Consider broadening the scope of articles 82 and 230 PC on confiscation issues and, mainly for reasons of legal certainty and consistency, including the same — or similar — wording used in articles 13-14 of the anti-money-laundering legislation;
- Ensure that bank secrecy is not an obstacle in domestic investigations not only for money-laundering, but also for other corruption-related offences;
- Continue ongoing efforts to put in place comprehensive domestic legislation on witness protection;
- Consider the possibility of enacting domestic legislation aiming at protecting reporting persons from retaliation or other unjustified treatment, in line with article 33 of the UNCAC;
- Explore the possibility of considering foreign convictions of an alleged offender for the purpose of using such information in domestic criminal proceedings relating to corruption offences;
- Consider the expansion of jurisdiction based on the principle of passive personality to cover all offences committed against United Arab Emirates nationals and not only those committed “on board a foreign ship in any of the United Arab Emirates ports or in its territorial waters”.

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

The following technical assistance needs were identified by the authorities of the United Arab Emirates:

- Assistance in implementing articles 32 and 33 of the UNCAC on the protection of witnesses and reporting persons.

### **3. Chapter IV: International cooperation**

The reviewing experts found that the United Arab Emirates put in place a comprehensive, well-articulated legal framework on international cooperation in criminal matters. The domestic law is a very coherent piece of legislation as it encompasses almost all forms of international cooperation and, as reported, it is efficiently implemented, in conjunction with existing treaties or arrangements, where applicable.

#### **3.1. Observations on the implementation of the articles under review**

*Extradition; transfer of sentenced persons; transfer of criminal proceedings (articles 44, 45, 47)*

The Federal Law No. 39 of 2006 on International Judicial Cooperation in Criminal Matters allows for extradition on a case-by-case basis and on the basis of reciprocity

(article 2), including with countries with which the United Arab Emirates has no extradition treaty. The United Arab Emirates does not make extradition conditional on the existence of a treaty, although a number of bilateral treaties have been concluded. Regional instruments on extradition to which the United Arab Emirates is a party include the Arab League Convention on Extradition (1952) and the Riyadh Arab Agreement for Judicial Cooperation (1983).

During the country visit, the authorities of the United Arab Emirates reported that in practice the UNCAC has already been used as a legal basis for extradition. The reviewing experts encouraged the authorities, despite the lack of obligation, to notify the Secretary-General of the United Nations of their use of UNCAC as a legal basis for extradition.

Extradition is subject to the double criminality requirement (article 7 of Federal Law No. 39). The application of the double criminality requirement is subject to an interpretative approach which focuses on the underlying conduct and not the legal denomination of the offence (article 7, paragraph 4). The review team considered this as a good practice.

Corruption offences are not considered as political crimes in the context of extradition and therefore extradition requested for such offences cannot be denied on the basis of their alleged political nature.

Other grounds for refusal of an extradition request are stipulated in article 9 of the Federal Law No. 39, including that of nationality. The extradition of United Arab Emirates citizens is also prohibited by article 38 of the Constitution. The fiscal nature of the offence is not a ground for refusal.

The average length of the extradition process was reported to be approximately 4-6 months depending on the complexity of the case and the adequacy of the documentation supporting the request. Articles 13-14 of the Federal Law No. 39 provide for an expedited extradition process. This practice was identified by the reviewing experts as a good practice.

The initiation of domestic prosecution in lieu of extradition when the latter is denied on the grounds of nationality is feasible by virtue of article 22 PC and through application of article 39 of the Riyadh Agreement.

The temporary surrender of a person sought to the requesting State is foreseen as an option in the domestic legislation (article 10), but it is not applicable in cases of United Arab Emirates citizens.

The enforcement of a sentence imposed abroad is feasible in the United Arab Emirates (article 23, paragraph 3 PC and articles 72-78 of the Federal Law No. 39).

The transfer of sentenced persons from and to the United Arab Emirates is regulated in Federal Law No. 39 (articles 64-71 and 72-78 respectively).

The review team noticed a lack of provisions in the domestic legislation regulating the transfer of criminal proceedings. The review team encouraged the authorities of the United Arab Emirates to consider making, where applicable, more extensive use of article 39 of the Riyadh Arab Agreement for Judicial Cooperation (transfer of “appropriate files, documents and information”).

*Mutual legal assistance (article 46)*

Mutual legal assistance is enabled through the application of Federal Law No. 39 (articles 43-63). Article 43 authorizes assistance “in carrying out a judicial procedure... in the requesting State”. The term “judicial procedure” is interpreted in a broad manner to cover investigations and prosecutions as well. Assistance may also be afforded for offences involving a legal person.

The UNCAC can be used as a legal basis for mutual legal assistance. In addition, the United Arab Emirates is a party to a number of bilateral and multilateral agreements on mutual assistance in criminal matters, such as the Riyadh Arab Agreement for Judicial Cooperation.

Article 53 of the Federal Law No. 39 lists the grounds for refusal of MLA requests. One of them is the non-fulfilment of the double criminality requirement, which, nevertheless, is an optional ground for refusal and therefore the authorities of the United Arab Emirates have flexibility in applying it. Bank secrecy cannot be an obstacle to the provision of assistance. Article 53 also provides that MLA requests may be denied if they are related to an absolute financial crime (such as taxation and customs crimes). The review team noted that this provision is not in compliance with article 46, paragraph 22, of the UNCAC, which stipulates that MLA requests may not be refused on the sole ground that the offence is also considered to involve fiscal matters.

The designated central authority to deal with MLA requests is the Department of International Cooperation of the Ministry of Justice. The accepted language for MLA requests and enclosed documents submitted to the authorities of the United Arab Emirates is Arabic, unless otherwise provided in international agreements or arrangements by which the United Arab Emirates is bound.

According to article 54 of Federal Law No. 39, the MLA request shall be executed “pursuant to the procedures in force in the State Laws. In addition, “it is allowed upon a clear request from the foreign judicial authority to enforce the request of judicial assistance in a certain form unless contradicting the Laws in effect”. The review team found that this provision allows for flexibility as to the applicable legal framework when executing MLA requests and therefore indicated its application as a good practice.

During the country visit, it was reported that the average time needed for responding to MLA requests was from 4 months to 6 months (for more complicated cases).

Although article 10, paragraph 1, of Federal Law No. 39 provides for the postponement of extradition if the person sought is subject of an ongoing investigation or trial in the United Arab Emirates, no similar provision exists for the MLA context.

*Law enforcement cooperation; joint investigations; special investigative techniques (articles 48, 49, 50)*

The authorities of the United Arab Emirates reported that they had taken measures to foster law enforcement cooperation particularly through strengthening communication channels with counterparts in other States parties. Article 7 of the Federal Anti-Money Laundering Law provides for the establishment of a financial

information unit to report suspicious transactions and cooperate with foreign authorities through information exchange.

In general, the Federal Law No. 39 of 2006 on International Judicial Cooperation in Criminal Matters can be used for purposes of law enforcement cooperation as well. Article 21 of the Federal Anti-Money Laundering Law is used for the tracking or freezing of proceeds derived from, or means used in, the crime of money-laundering.

The authorities of the United Arab Emirates confirmed that they are not involved in joint investigations. Taking into account the optional nature of article 49 of the UNCAC, the national authorities specified the need to consider and clarify in future the challenges encountered in this field. The review team encouraged the authorities to continue exploring opportunities for deepening international cooperation in this area, especially through the conclusion of bilateral and/or multilateral agreements.

Articles 41-42 of the Law on Judicial Cooperation in Criminal Matters regulate controlled delivery as a method of investigation and delineate the procedures to be followed. In practice, other methods of special investigation are also used such as electronic surveillance and video recording.

### **3.2. Successes and good practices**

Overall, the following points are regarded as successes and good practices in the framework of implementing Chapter IV of the UNCAC:

- The comprehensive and coherent Federal law on Judicial Cooperation in Criminal Matters which regulates in a detailed manner all forms of international cooperation used by the authorities of the United Arab Emirates;
- The interpretation of the double criminality requirement focusing on the underlying conduct and not the legal denomination of the offence;
- The simplified extradition process foreseen in the domestic legislation when the person sought consents to his/her surrender; and
- The flexibility in the use of the applicable legal framework for the execution of MLA requests.

### **3.3. Challenges in implementation**

The following points are brought to the attention of the authorities of the United Arab Emirates for their action or consideration (depending on the mandatory or optional nature of the relevant UNCAC requirements) with a view to enhancing international cooperation to combat offences covered by the UNCAC:

- Amend the legislation to ensure that the fiscal nature of the offences does not constitute a ground for refusal of MLA requests;
- Consider notifying the Secretary-General of the United Nations on the use of UNCAC as a legal basis for extradition;
- Consider amending the legislation to allow for the postponement of mutual legal assistance where such assistance interferes with an ongoing investigation, prosecution or judicial proceeding, in line with article 46, paragraph 25, of the UNCAC; and

- Continue to explore opportunities to actively engage in bilateral and/or multilateral agreements, with the aim to enhance the effectiveness of different forms of international cooperation, particularly cooperation to conduct joint investigations and transfer of criminal proceedings.

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

- Assistance in implementing effectively article 49 of the UNCAC on joint investigations.
-