



UNODC

United Nations Office on Drugs and Crime

Country Review Report of The Sultanate of Oman

Review by Saudi Arabia and Kiribati of the implementation by Oman of articles 15 – 42 of Chapter III. “Criminalization and law enforcement” and articles 44 – 50 of Chapter IV. “International cooperation” of the United Nations Convention against Corruption for the review cycle 2010 - 2015

I. Introduction

1. The Conference of the States Parties to the United Nations Convention against Corruption was established pursuant to article 63 of the Convention to, inter alia, promote and review the implementation of the Convention.
2. In accordance with article 63, paragraph 7, of the Convention, the Conference established at its third session, held in Doha from 9 to 13 November 2009, the Mechanism for the Review of Implementation of the Convention. The Mechanism was established also pursuant to article 4, paragraph 1, of the Convention, which states that States parties shall carry out their obligations under the Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and of non-intervention in the domestic affairs of other States.
3. The Review Mechanism is an intergovernmental process whose overall goal is to assist States parties in implementing the Convention.
4. The review process is based on the terms of reference of the Review Mechanism.

II. Process

5. The following review of the implementation by Saudi Arabia and Kiribati of the Convention is based on the completed response to the comprehensive self-assessment checklist received from Oman, and any supplementary information provided in accordance with paragraph 27 of the terms of reference of the Review Mechanism and the outcome of the constructive dialogue between the governmental experts from Saudi Arabia, Kiribati and Oman, by means of telephone conferences and e-mail exchanges in accordance with the terms of reference and involving from Oman: from the Council of Administrative Affairs for the Judiciary: Sheikh Dr./ Khalil bin Hamad Al Bousaidi, from the Public Prosecution: Assistant Attorney General/ Nasser bin Abdullah Al Riyami, Assistant Attorney General/ Saeed Bin Mohammed Al Kalbani, Assistant Attorney General/ Ahmed bin Saeed Al Shukaily, from the State Audit Institution: Senior supervisory expert/ Mohammed bin Khamis AL Hajri, Senior supervisory expert Sheikh/ Abdullah bin Nasser Al Nadabi, Senior supervisor/ Abdul Jalil bin Majid Al Farsi, Senior supervisor/ Abdullah bin Khalfan Al Abri, from the Royal Oman Police: Lt. Colonel/ Khalifa bin Hamed Al Farii, from the Ministry of Foreign Affairs: Minister Plenipotentiary/ Yousef Bin Abdullah Al-Afifi, from the Ministry of Justice: Chancellor Dr./ Mohammed bin Suleiman Al-Rashidi, Dr./ Ibrahim bin Yahya Al Abri, from the Ministry of Legal Affairs: Senior Assistant Counsel/ Ahmed bin Khalifa Al Hosni, Senior Assistant Counsel/ Ahmed Bin Ali Bani Araba, from the Ministry of Interior: Mr./ Talal bin Ahmed al-Saadi; from Saudi Arabia: from the Ministry of Interior: Legal Advisor/ Dhafer Kharsan, Legal Advisor/ Turki Altamimi, from the Bureau of Investigation and Public Prosecution: Investigator/ Ali Algarni, from the National Anti-corruption Commission: Legal Advisor/ Abdullah Alforihi; from Kiribati: from the Attorney General's Office: Director of Public Prosecution/ Pauline Beiatou; and from the Secretariat: Mr. Badr El Banna and Ms. Tanja Santucci.
6. A country visit, agreed to by Oman, was conducted in Muscat from 27 April to 1 May 2015.

III. Executive summary

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

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

Oman's legal system is based on the Royal Laws and Decrees issued by His Majesty the Sultan and which are based on the Basic Law of the State. The laws are issued by Royal Decrees after the approval of the Council of Oman (the Council of State and the Consultative Council). Regulations and decisions are issued by the State's administrative departments, each one in its respective areas of competence.

Oman follows the civil law system. The anti-corruption framework comprises provisions from several laws, notably the Criminal Code (CC), the Code of Criminal Procedure (CPC), the Law on the Protection of Public Funds and the Avoidance of Conflict of Interests and the Anti-Money Laundering and Terrorism Financing Law (AML Law).

With respect to international law, conventions and agreements come into force after their ratification by His Majesty the Sultan and are part of the law of the country, in accordance with Articles 76 and 80 of the Basic Law of the State.

Courts are divided into criminal and civil courts, at two levels, trial and appeals, and superseded by the Supreme Court. Criminal proceedings follow the accusatory system and consist of the investigation phase and the oral trial.

Oman has several anti-corruption authorities and bodies. Relevant institutions in the fight against corruption include the State Audit Institution (SAI), the Department of Public Prosecution for Public Funds Crimes, the Financial Intelligence Unit (FIU) in the Royal Omani Police and the Department for the Fight against Economic Crimes in the General Administration of Criminal Investigations within the Royal Omani Police.

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)

Article 155 of the CC criminalizes the acceptance of bribes by an official to perform, to refrain from performing or to delay the performance of a legal act within his or her duties. This article does not cover the solicitation of bribery.

Article 156 criminalizes the solicitation or acceptance of bribes by an official, in order to commit an act contrary to his or her functions or to refrain from an act within his or her duties. The sentence for articles 155 and 156 includes the briber and the intermediary if they commit such acts, which covers indirect bribery.

Article 157 criminalizes the acceptance of bribes by officials following the completion of the act expected by the briber.

Article 158 of the CC criminalizes the bribery of an official in case of refusal of the bribe.

Oman's legislation does not criminalize the bribery of foreign public officials or officials of public international organizations (active or passive).

Article 7 of the Law on the Protection of Public Funds and the Avoidance of Conflict of Interests criminalizes the abuse by a public official of his or her position or functions to obtain a benefit for himself or herself or for another person, or the abuse of his or her influence to facilitate for another person the obtention of a benefit or a privileged treatment. This article applies to the solicitation or acceptance of bribes by an official in order to abuse his or her influence, even when such influence is supposed. In this case, the briber is sanctioned based on the provisions of article 93 of the CC (instigation) even when the offer is refused. Oman's legislation does not cover active and passive trading in influence of persons other than officials.

Oman does not criminalize bribery in the private sector.

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

Oman criminalizes the laundering of proceeds of crime, pursuant to article 2 of the AML Law. Article 5 of the AML Law criminalizes the different aspects of criminal participation as well the attempt.

Oman adopted the all-offences approach; according to article 1 of the AML Law, predicate offences include "any act in violation of the law in Oman that allows its perpetrator to obtain criminal proceeds."

Predicate offences do not explicitly cover offences committed outside Oman. The AML Law doubles the sanction in case of self-laundering.

Article 97 of the CC criminalizes as a separate offence the concealment of proceeds of a crime or felony without prior agreement. In case of prior agreement, article 95 is applicable and the person who concealed the proceeds of crime is prosecuted as a secondary assistant in the original offence.

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

Article 159 of the CC criminalizes the embezzlement by a public official of anything entrusted to him by virtue of his or her position. Article 7 of the Law on the Protection of Public Funds and the Avoidance of Conflict of Interests is applicable when a public official diverts such assets.

The same article 7 criminalizes the abuse by a public official of his or her position or functions to obtain a benefit for himself or herself or for another person. Article 161 of the CC criminalizes the abuse by a public official of the powers of his or her functions to commit a personal offence that is unrelated to the duties of such functions.

Oman does not criminalize illicit enrichment.

Oman criminalizes embezzlement of property in the private sector under article 296 of the CC. However, this article does not cover immovable assets.

Obstruction of justice (art. 25)

Article 184 of the CC criminalizes the use of physical force, threats or intimidation or the promise, offering or giving of an undue advantage to induce false testimony or to interfere in the giving of testimony or the production of evidence in relation to an offence.

Article 172 of the CC criminalizes the act of hitting of an official or treating him or her violently during or in the course of the exercise of, or due to his or her duties. The sanction is aggravated if the subject of the violence is one of the members of the judiciary, security or military forces.

Although there is no special provision which criminalizes the use of threats or intimidation to interfere with the exercise of official duties by a justice or law enforcement official, such acts fall under the general provisions of article 287 of the CC, which criminalizes the threat to cause physical harm, reputational damage, financial prejudice or prejudice to the livelihood of any person, or to a person close to him or her, with a view to making such person perform an act not required of him or her by law or omit an act he or she is authorized to take by law.

Liability of legal persons (art. 26)

Except for the offence of money laundering, Oman's legislation does not provide for the criminal liability of legal persons with respect to offences under the Convention (art. 5 of the AML Law). Articles 49, 176 and 196 of the Law on Civil Transactions can be used as a basis for civil liability of a legal person if the prejudicial act was committed by a related person in the exercise of, or due to his or her functions.

Oman's legislation provides for the administrative liability of legal persons in several laws. However, such liability seems to be restricted to the violation of relevant laws (Law on Commercial Companies and Consumer Protection Law) and does not extend to corruption offences.

Except for the criminal sanctions foreseen for money laundering offences, Oman's legislation does not subject legal persons to effective, proportionate or dissuasive sanctions in case of participation in the offences established in accordance with the Convention.

Participation and attempt (art. 27)

Criminal participation is dealt with under articles 93 to 96 of the CC, and attempt is dealt with under articles 86 and 87 of the CC. The attempt to commit felonies is criminalized but the attempt to commit misdemeanors is not criminalized except in cases provided for by law. Accordingly, the attempt to commit some of the UNCAC offences criminalized in Oman cannot be sanctioned (embezzlement, misappropriation or diversion of property, trading in influence, abuse of functions, concealment and obstruction of justice).

The preparatory acts for an offence are not criminalized under Oman's legislation.

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

Oman adopted penalties for corruption offences that range from three months up to ten years of imprisonment, taking into account the gravity of the offence. In addition, fines, removal from office and confiscation are applicable for certain offences.

Immunities do not seem to constitute an impediment to the effective prosecution of UNCAC offences. Members of the Council of State and the Consultative Council benefit from immunity, except for when they are caught in the act. During the sessions of the Councils, the authorization of the Council which the suspect is part of is required before taking any penal action, and in intersessional periods, the authorization of the president of the relevant Council is required (art. 58 (bis) 23 of the Constitution). No investigative or penal action can be taken against judges without the authorization of the Council of Administrative Affairs, upon the request of the Prosecutor-General's Office (art. 88 of the Law of the Judiciary). No investigative or penal action can be taken against a member of the SAI without the authorization of the President of SAI, upon request by the Prosecutor-General's Office (art. 17 of the Law on SAI).

Prosecution in Oman follows the principle of legality (art. 4 of the CPC).

Preventive detention can be applied for corruption offences. Release pending trial is possible with bail, personal guarantee or seizure of the accused's identification documents. Bail is required when the crime involves assets. Early release is possible if two thirds of the prison sentence has been completed and all financial obligations adjudicated by the Court have been settled, unless it was impossible for the prisoner to honour such obligations.

Public officials can be suspended if the interest of the investigation requires such measures. Public officials are considered suspended while they are in preventive detention.

The CC contains the sanction of removal and disqualification from holding public functions, including in State-owned enterprises (arts. 50, 51 and 154).

Disciplinary sanctions can be taken under the Law on Civil Service (arts. 114-116) and can be imposed in addition to criminal sanctions in corruption cases.

Oman does not have a dedicated reintegration programme for convicted persons after their release from prison. However, these persons are involved in a number of educational, training and rehabilitation programmes during the period of their imprisonment. Under the CPC, the convicted person may be rehabilitated after a period following serving the sentence.

Oman has not adopted measures to grant immunity from prosecution to cooperating offenders nor to mitigate their punishment, though such cooperation may be taken into account in bribery and money-laundering cases only, where persons collaborating with justice can benefit from an exemption from punishment if they report the offence before a ruling is issued (art. 155 of the CC in relation to the briber and the intermediary in bribery offences) or before the offence comes to the knowledge of the authorities (art. 38 of the AML Law). In money-laundering cases, if the offence has been reported after it has come to the knowledge of the authorities, and that has led to the confiscation of the instrumentalities and the criminal proceeds or the arrest of any of the perpetrators, the court shall suspend the imprisonment sentence (art. 38 of the AML Law).

Oman has not adopted measures to provide effective protection to crime perpetrators who collaborate with justice.

Oman can enter into ad hoc agreements to provide for the possibility to exempt from punishment persons collaborating with justice located abroad, within the applicable legal conditions.

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

Oman did not adopt measures to provide effective protection for witnesses or experts who give testimony concerning offences established in accordance with the Convention.

Oman permits testimony to be given through the use of communications technology.

Oman did not enter into any agreements with respect to the relocation of persons.

Oman's legislation does not enable the views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings against offenders.

Oman does not foresee the legal protection of reporting persons.

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

Article 52 of the CC provides for the possibility to confiscate proceeds of crime and instrumentalities used or destined for use in the commission of the offence. Confiscation is conviction based.

The CPC (arts. 76-103) and the AML Law (arts. 8 and 20) provide for a wide range of investigative measures available for the identification, tracing, freezing or seizure of criminal proceeds and instrumentalities.

Oman has some procedures and legislative provisions relating to the administration of seized items. Seized items may be put in custody and necessary measures may be taken for their preservation, pursuant to article 101 of the CPC. Seized items may be sold if perishable or if their maintenance requires expenses that exceed their value, pursuant to article 103 of the CPC. The Directorate-General for the Execution and Follow-up on Decisions is the competent authority to decide on the disposal of confiscated items. The Prosecutor-General's Office has certain measures to administer proceeds of crime through special bank accounts opened for that purpose.

Oman allows for value-based confiscation, which allows for the possibility to seize and confiscate transformed, converted or intermingled property. Oman does not explicitly provide for the possibility to seize or confiscate income or other benefits derived from criminal proceeds except in money laundering offences.

It is possible to request that financial and commercial records be made available or seized (art. 88 of the CPC). As for bank records, only the FIU can request them to be made available in the context of analyzing suspicious transaction reports (STR) relating to money-laundering offences. Upon request by a Government agency, the Central Bank may set up a commission to decide on the disclosure of bank information or whether the requested measures should be taken. This mechanism does not seem to effectively fulfill the requirement of article 31 of the Convention.

Article 35 of the AML Law places the evidentiary burden on the accused to demonstrate the lawful source of assets for confiscation in money-laundering cases.

The CC (art. 52) and the AML Law (arts. 36 and 37) provide for the protection of the rights of bona fide third parties.

Bank secrecy, which can be lifted pursuant to a request submitted to the Central Bank, seems to be an obstacle to effective criminal investigations, except in money-laundering cases.

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

Article 16 of the CPC establishes a statute of limitations of ten years for crimes, three years for misdemeanours (embezzlement, misappropriation or diversion of property, trading in influence, abuse of functions, concealment and obstruction of justice) and one year for violations, starting from the date of the commission of the offence, except for bribery, embezzlement and abuse of functions in the public sector where the period only starts after the official leaves his or her position or after the end of his or her official capacity. There is no statute of limitations for money-laundering offences (article 36 of the AML Law).

The statute of limitations is interrupted by investigation, indictment or trial proceedings as well as by procedures on the collection of evidence, which are applied in cases where the alleged offender evades the administration of justice.

Article 13 of the CC establishes that foreign criminal convictions in cases of crimes and misdemeanours can be used when applying the provisions related to recidivism.

Jurisdiction (art. 42)

Oman has established its jurisdiction with regard to the circumstances referred to in article 42, with the exception of corruption offences committed against Oman or against an Omani citizen.

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

Oman has taken some measures to address the consequences of corruption, at the stage of tender awards. Article 41 of Law on Procurement provides for the disqualification of a tender made in violation of the provisions of the Royal Decree No. 112/2011 on the Protection of Public Funds and the Avoidance of Conflict of Interests. Outside the procurement process there are no provisions in place to address consequences of corruption, and Oman's legislation does not consider corruption a relevant factor in legal proceedings to annul or rescind a contract, withdraw a concession or other similar instrument or take any other remedial action.

Article 20 of the CPC establishes the right of the affected party to claim civil compensation for damage caused by the accused before the court hearing the criminal case or during the preliminary investigation.

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

Oman is endeavoring to establish an independent specialized commission to prevent and combat corruption. The SAI has been assigned to carry out the functions of that commission currently. In addition, there are several government agencies involved in several aspects of the fight against corruption, each one in its respective areas of competence. These agencies include: the Attorney General for Public Funds Crimes, the Financial Intelligence Unit (FIU) in the Royal Omani police and the Department for the Fight against Economic Crimes in the General Administration of Criminal Investigations within the Royal Omani Police. Specialized departments have been established in the Courts to deal with public funds cases.

The structure, which is composed of various law enforcement and criminal justice institutions, appears to be working effectively. Adequate training and resources, and sufficient independence of the institutions, appear to be provided for.

Regarding cooperation between national authorities, article 28 of the CPC establishes the obligation of any person to report offences they have witnessed or which have come to their knowledge. This article is a general rule that also applies to public officials. Article 5 of the Law on the Protection of Public Funds and the Avoidance of Conflict of Interests establishes the obligation of government officials to immediately report any violation related to public funds. The Law on State Financial and Administrative Supervision requires the institutions subject to the SAI supervision to report to the latter any financial or administrative violation, and to also notify the Public Prosecution whenever the violation constitutes a criminal suspicion or an offence (arts. 23 and 24).

Pursuant to article 73 of the CPC, all public authorities are obliged to respond to requests made by the Public Prosecution.

The AML Law establishes the obligation of a number of private sector entities, including banks, money-dealers, insurance companies, audit firms and lawyers, to report to the FIU any suspicious transactions and to provide it with any information, data and documents that the FIU may request. The FIU has also been engaged in trainings and awareness-raising activities addressed to the private sector.

Article 28 of the CPC creates an ethical duty of those who witness the commission of a crime or become aware of it to report it, although there are no corresponding sanctions for failure to report. The authorities indicated that they are working on rewarding those who cooperate in reporting offences and in assisting the investigation authorities.

2.2. Successes and good practices

In general, the following are highlights of the successful experiences and good practices in the implementation of Chapter III of the Convention:

- The explicit criminalization of the acceptance of bribes by public officials following the completion of the act expected by the briber (art. 15, para. b).*
- The statute of limitations for the offences of bribery, embezzlement and abuse of functions in the public sector only starts after the official leaves his or her position or after the end of his or her official capacity (art. 29).*
- Good cooperation among the domestic institutions engaged in anti-corruption (art. 38).*

2.3. Challenges in implementation

The following steps would allow further enhancement of existing anti-corruption measures:

- Criminalizing the solicitation of a bribe by a public official to perform or to refrain from performing a legal act within his or her duties (art. 15, para. (b));*
- Criminalizing the active bribery of foreign public officials and officials of public international organizations (art. 16, para. 1), and consider criminalizing the passive bribery of such persons (art. 16, para. 2);*
- Consider criminalizing active and passive trading in influence of persons other than public officials (art. 18, subparas. (a) and (b));*

- Consider criminalizing “illicit enrichment” (art. 20);
- Consider criminalizing active and passive bribery in the private sector (art. 21);
- Oman is encouraged to reconsider its legislation relating to embezzlement of property in the private sector to cover the embezzlement of immovable assets (art. 22);
- Explicitly provide that predicate offences cover offences committed outside Oman (art. 23, subpara. 2(c));
- Notwithstanding article 287 CC, Oman is encouraged to adopt a specific provision to criminalize the use of threats or intimidation to interfere with the exercise of official duties by a justice or law enforcement official (art. 25, subpara. (b));
- Oman is encouraged to consider establishing the criminal and administrative liability of legal persons for participation in the offences established in accordance with the Convention (art. 26, paras. 1 and 2);
- Subject legal persons to effective, proportionate and dissuasive sanctions for participation in the offences established in accordance with the Convention (beyond money-laundering offences) (art. 26, para. 4);
- Oman is encouraged to adopt additional measures to strengthen the reintegration into society of persons convicted of corruption offences (art. 30, para. 10);
- Adopt additional measures to improve the regulation of administration of frozen, seized and confiscated property (art. 31, para. 3);
- Explicitly provide for the possibility of seizure and confiscation of the income or benefits derived from proceeds of crime (beyond money-laundering offences) (art. 31, para. 6);
- Empower its courts or other competent authorities to order that bank records be made available for the purposes of articles 31 and 55 of the Convention (beyond money-laundering offence) (art. 31, para. 7);
- Oman might wish to provide for the possibility of requiring that an offender demonstrate the lawful origin of alleged proceeds of crime or other property liable to confiscation (beyond money-laundering cases) (art. 31, para. 8);
- Adopt measures to provide effective protection for witnesses and experts who give testimony concerning offences established in accordance with the Convention as well as for their relatives and other persons close to them. These measures should cover victims insofar as they are witnesses (art. 32, paras. 1, 2 and 4);
- Consider entering into agreements for the relocation of persons (art. 32, para. 3);
- Enable the views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings against offenders (art. 32, para. 5);
- Consider adopting the necessary measures to provide protection against any unjustified treatment for reporting persons (art. 33);
- Adopt additional measures to address consequences of acts of corruption, which could include considering corruption a relevant factor to annul or rescind a contract, withdraw a concession or other similar instrument or take any other remedial action (art. 34);
- Adopt appropriate measures to encourage the cooperation of persons who participate or who have participated in the commission of offences established in accordance with

the Convention, beyond bribery and money laundering, in accordance with article 37, para. 1, and consider providing for the possibility of mitigating punishment (art. 37, para. 2) and the possibility of granting immunity from prosecution to such persons (art. 37, para. 3);

- *Adopt measures to provide effective protection to perpetrators who cooperate with justice and to their relatives and people close to them (art. 37, para. 4);*
- *Adopt measures to encourage cooperation between national investigating and prosecuting authorities and entities of the private sector, beyond the anti-money laundering obligations (art. 39, para. 1);*
- *Oman is encouraged to adopt further measures to encourage its nationals and other persons with a habitual residence in its territory to report corruption (art. 39, para. 2);*
- *Ensure that, in the case of domestic criminal investigations of offences established in accordance with the Convention (beyond money-laundering offences), there are appropriate mechanisms available to overcome obstacles that may arise out of the application of bank secrecy laws (art. 40);*
- *Oman is encouraged to consider establishing its jurisdiction over corruption offences committed against Oman or an Omani citizen. (art. 42 paras. 2(a) and 2(d)).*

2.4 Technical assistance needs identified to improve implementation of the Convention

- *Summary of good practices/lessons learned on illicit enrichment (art. 20)*
- *Model legislation to criminalize illicit enrichment (art. 20)*
- *Model legislation on the protection of witnesses and reporting persons (arts. 32 and 33)*

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, 47)

The extradition system in Oman relies on several bases, including Oman's legislation, the Law on Extradition, extradition treaties, as well as the principles of reciprocity and international comity. Oman has concluded several regional and bilateral agreements and arrangements with regard to extradition and also considers this Convention as a basis for extradition. In 2014 Oman completed 45 extraditions in criminal matters.

Oman generally applies the dual criminality principle as well as a one-year minimum imprisonment term for an offence to be extraditable (Article 2, Law on Extradition). However, some of Oman's international agreements do not require dual criminality as a condition for extradition (i.e., the agreement with Egypt). Extradition is limited to the extent that Oman has not criminalized all offences under the Convention.

If the crimes for which extradition is sought are numerous, including offences which do not satisfy the minimum punishment threshold, Oman would grant extradition on the condition that the person sought is only prosecuted for the extraditable offences.

Oman would not extradite a person if the person sought has been granted political asylum in Oman, or if the related crime is a political one or has a political nature, or if the handing over is for a political purpose (Article 3, Law on Extradition).

Oman applies mandatory grounds for refusal, such as the non-extradition of its nationals. The principle of non-extradition of Omani nationals (Article 3, Extradition Law) can be overturned by bilateral agreements (for example, the extradition treaty with India, Article 6). Extradition will also be refused if the crime or any of its elements is committed in Oman or if the person requested to be extradited has immunity against legal measures in Oman.

Refusal on the grounds of the discriminatory purpose of the request is provided for, except in the case of race (article 17, the Basic Law). Moreover, grounds for refusal do not include the rejection of requests on the grounds that the offence relates to fiscal matters (article 3 Extradition Law).

Oman's legal system adopted the principle of extradition or prosecution if extradition is not possible because the person sought is of Omani nationality (article 10, Penal Code). Oman does not recognize the conditional extradition of its citizens or impose conditions when it accepts the extradition of one of its nationals.

The period of provisional custody of the wanted person shall not exceed two months (article 9, Extradition Law).

Fair treatment protections are in place under sections 22 to 24 and 35 of the Basic Law of the State. Moreover, Oman's legislation is applicable to persons who committed offences and are found in Oman, provided the law of the State where the offence is committed requires a sentence of three-years' imprisonment and extradition is not requested or accepted (article 12, Penal Code).

A basic provision to expedite the receipt of urgent extradition requests by telephone, telex, or fax is found in the Law on Extradition, article 4. Evidentiary requirements for processing extradition requests are found in articles 11 and 12 of the same law. Extradition requirements include, inter alia, various undertakings from requesting countries to provide the wanted person with fair trial and defense guarantees, not to try or punish the wanted person for any crime previous to the extradition, and not to hand over the wanted person to a third country.

Oman is party to several agreements and arrangements on the transfer of sentenced persons, including: the Convention on the Transfer of Persons Sentenced to Custodial Sentences among the Gulf Cooperation Council (GCC) countries and the Riyadh Arab Agreement for Judicial Cooperation.

Mutual legal assistance (art. 46)

Oman does not have a stand-alone law on mutual legal assistance (MLA) but provides assistance under the provisions of its domestic legislation, bilateral and multilateral agreements and arrangements, as well as on the principles of reciprocity and international comity. Oman entered into several regional and bilateral treaties dealing with MLA and also considers this Convention as a basis for MLA. From January 2014 to June 2015 Oman received 15 MLA requests in criminal matters, of which 12 were completed and 3 were ongoing at the time of review.

The international agreements to which Oman is party cover many forms of assistance, including MLA in order to conduct investigations, such as interrogating the accused, hearing witnesses, experts and victims, or exchanging exhibits supporting the accusation, files and other documents, in addition to procedures relevant to inspection or seizure of items. There are no apparent obstacles to the provision of MLA for offences involving legal persons. Oman is not precluded by its domestic legislation from conducting hearings of witnesses or experts by videoconference.

Dual criminality is not a formal requirement for purposes of MLA. Oman's international agreements related to MLA do not generally mention the absence of dual criminality as a ground for refusal. The agreement with Turkey (Royal Decree No. 102/2008) is an exception (article 32 paragraph 1 b).

Oman appears to take a flexible approach in applying the provisions of its domestic legislation in the consideration of requests, in accordance with its bilateral and multilateral agreements, as well as the principles of reciprocity and international comity. Moreover, Oman would not decline assistance in cases involving UNCAC offences on the basis of the absence of dual criminality where the assistance sought is non-coercive, in accordance with its international treaty obligations and in direct application of the Convention. No requests for MLA have been denied by Oman on the basis of dual criminality not being met.

According to Oman's domestic law and its international agreements, requests for MLA will not be refused on the grounds of bank secrecy or confidentiality requirements. Oman has never rejected any request for MLA on these grounds. Furthermore, the international agreements to which Oman is party do not stipulate that MLA requests can be refused on the sole ground that the offence is also considered to involve fiscal matters and no requests have been refused on this ground.

Oman does not have a central authority for MLA. Rather, the Ministry of Foreign Affairs receives MLA requests and forwards these to relevant authorities, including the Public Prosecution, the Ministry of Justice and the police. Requests can also be received directly by these agencies. There is no mechanism to ensure direct cooperation between the Omani authorities and the judicial and law enforcement authorities of a foreign jurisdiction other than through Interpol channels.

MLA requests need to comply with Omani law, and be on the basis of multilateral or bilateral agreements or reciprocity or international comity. These agreements generally set out the content and format requirements of requests. Oman has received more than one request for hearing the statements of witnesses through videolinks, and it has responded positively to such requests. Oman accepts requests in Arabic, as notified to the United Nations.

Oman could postpone assistance due to the existence of an ongoing investigation or proceeding, in accordance with Oman's agreements on MLA. Consultations are held as a matter of practice before assistance is refused or postponed, in accordance with Oman's international agreements. Moreover, information may be spontaneously shared in accordance with the relevant international agreements.

The transfer of criminal proceedings is possible in accordance with Oman's international treaties and a case example was provided.

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

Oman's judicial and law enforcement authorities cooperate with their foreign counterparts through a variety of channels under different bilateral and international mechanisms and agreements. Law enforcement cooperation with other countries is primarily effected through international cooperation and Interpol channels. Oman considers this Convention as the basis for mutual law enforcement cooperation, although there has been no experience in its application on that basis.

The AML/CFT Law requires the FIU to exchange information and coordinate with relevant authorities in foreign countries and international organizations in accordance with the provisions of Oman's international or bilateral agreements, or on the basis of reciprocity (article 7).

Joint investigations may be conducted on the basis of international agreements, including the Rules of Joint Cooperation between Prosecutors, Investigative Bodies, and the Public Prosecution of the GCC.

Oman is able to conduct special investigative techniques at the international level, in accordance with the Criminal Procedure Code and its international agreements.

3.2. Successes and good practices

- *Oman appears to take a flexible approach in applying the provisions of its domestic legislation in the consideration of international cooperation requests, in accordance with its bilateral and multilateral agreements, as well as the principles of reciprocity and international comity.*

3.3. Challenges in implementation

The following steps could further strengthen existing anti-corruption measures:

- *Ensure that all UNCAC offences are extraditable by virtue of the minimum period of imprisonment and the dual criminality principle;*
- *Adopt measures to expedite extradition procedures and simplify evidentiary requirements in law and practice;*
- *Eliminate the 3-year imprisonment threshold in article 12 of the Penal Code;*
- *Include race, among the grounds for refusing extradition based on the discriminatory purpose of the request;*
- *While the legal bases for MLA appear to be sufficient for purposes of rendering assistance in investigations, prosecutions, and judicial proceedings, it is recommended that Oman adopt relevant legislation on MLA for greater legal certainty also to requesting States;*
- *Establish a central authority to coordinate MLA and notify the United Nations of its name;*
- *Establish clear and efficient processes for the execution of MLA requests in a timely way and without undue delays and for communicating with foreign authorities. It is recommended that Oman consider adopting a manual and procedures or guidelines on MLA that would outline in greater detail the steps to be followed by authorities in*

executing and making MLA requests, as well as any requirements and timeframes to be followed;

- Ensure that requests for MLA are executed in a timely manner, taking into account any deadlines requested; relevant procedures should be included in the MLA guidelines or manual to be adopted;*
- Although consultations are held as a matter of practice before assistance is refused or postponed, it is recommended that Oman specify the matter in its domestic law or procedure.*

IV. Implementation of the Convention

A. Ratification of the Convention

7. Oman acceded to the Convention by Royal Decree No. 64/2013 of 20 November 2013, published in the Official Gazette No. 1035 of 24 November 2013. Oman deposited its instrument of accession to the Convention with the Secretary-General of the United Nations on 9 January 2014 (Depositary Notification C.N.13.2014.TREATIES-XVIII.14¹).

B. Legal system of Oman

8. The legal system of Oman is based on the rule of law, which is guaranteed by the Basic Law of the State, which stipulates in Article 59 thereof, "The rule of law is the basis of governance in the State. The honor of the judiciary, the impartiality and integrity of the judges are the safeguard of rights and freedoms." Oman's legal system is based on the Royal Laws and Decrees issued by His Majesty the Sultan and which are based on Basic Law of the State.
9. The Basic Law of the State (the Constitution) was issued in 1996 by Royal Decree No. 101/96. It emphasized the system of government in the State and the guiding principles of its policy, such as political, economic, social, cultural, and security principles. It also stipulated the rights, freedoms, and public duties and laid emphasis on closer cooperation and friendship ties with all nations and peoples. It highlighted the principles that govern the functioning of the State powers (Legislative, Judiciary, and Executive).
10. The laws are issued by Royal Decrees after the approval of the Council of Oman (the Council of State and the Consultative Council). Regulations and decisions are issued by the State's administrative departments, each one in its respective areas of competence.
11. With respect to international law, Oman indicated that conventions and agreements come into force after their ratification by His Majesty the Sultan and are part of the law of the country in accordance with Articles 76 and 80 of the Basic Law of the State.

¹ <https://treaties.un.org/doc/Publication/CN/2014/CN.13.2014-Eng.pdf>

C. Implementation of selected articles

Chapter III. Criminalization and law enforcement

Article 15 Bribery of national public officials

Subparagraph (a)

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) The promise, offering or giving, to a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties;

(a) Summary of information relevant to reviewing the implementation of the article

12. Reference was made to the following provisions:

Penal Code

Article 154 - Any person nominated by his Majesty the Sultan or the government as against a salary paid from the Public Treasury and any person delegated or elected to give a public service, either against payment or not, shall be deemed an official herein.

Any person who works in a private institution or association that is of public interest, or in a private company or undertaking in which a State administrative unit has a holding or contributes financially in any way whatsoever, shall be considered as an official.

Article 155 - Any official accepts a bribe for himself or on behalf of another person, be it either money, gift, promise or any other advantage, in order to accomplish a due act pertaining to his function, to abstain from accomplishing it or postpone its accomplishment shall be sentenced to imprisonment from three months to three years, to fine equalling at least the value of what he was given or promised to get, and to dismissal from function during a period subject to the judge's estimation.

If the briber or agent informs the authority of the bribery before the judgment is pronounced, he shall be exempted from punishment.

Article 156 - If an official accepts a bribe or demands it to carry out an act contrary to his duties or to abstain from implementing an act inherent to his function, he shall be sentenced to imprisonment for up to ten years and to a fine equalling at least the value of the bribe and to be dismissed from duty permanently.

The sentence shall include the briber, agent and legal representatives, if they commit such acts.

Article 158 - The briber or agent shall be sentenced to imprisonment from one month to two years if he attempts to bribe an official who refuses it.

13. Oman explained that the briber is punishable with the same penalty that applies to the bribed. This has been stated in the judgments of the Supreme Court, which stipulate that no distinction shall be made between the acts of the briber and those of the bribed (Supreme Court Rulings Annex). Annex I.

Appeals No. 349.350 / 2007 Supreme Court Ruling on Criminal Matters

Bribery Offence.

Establishment.

The bribed official needs not be the only person competent to perform all the acts linked to bribery. It is sufficient that he has a share of competence even if he only provides an advisory opinion.

The bribed official needs not be the only person competent to perform all the acts linked to bribery. It is sufficient that the work required to be done is performed jointly by several officials - as in this case - so that the bribed official has a share of competence even by simply giving an advisory opinion or has peddled with his share of competence. Indeed, the proper management of business requires the distribution of work on a number of persons and each one is competent to perform a specific task. Article 156 of the Penal Code states that an official is guilty of the offence of bribery, "If he accepts a bribe or requests it to carry out an act contrary to his duties or to abstain from performing an act in the exercise of his duties .. The term "act" in this provision is mentioned in absolute terms and is not restricted by a certain amount of work or by a specific type of work, provided that this act is part of the official's duties. Considering that the first appellant recognized that he is an official and considering the nature of his work, he is competent to perform part of the work required by his duties. His signing of land sale contracts starts when he enters data in the computer and ends when he records the transaction. Hence he is considered as a public official who performs public office that falls within his competence. Therefore, to say that his competence does not include the performance of the work related to bribery does not have a legal basis and it is not right to say that the appealed decision is illegal.

14. Oman also provided the following statistics on the number of investigations and prosecutions:

| Year | Suspended | Under Investigation | Referred for Trial | | | Total |
|------|-----------|---------------------|--------------------|-------------|------------|-------|
| | | | Under Deliberation | Convictions | Acquittals | |
| 2012 | 50 | 0 | 0 | 16 | 3 | 69 |
| 2013 | 49 | 12 | 4 | 8 | 2 | 75 |
| 2014 | 12 | 8 | 2 | 1 | 0 | 23 |

(b) Observations on the implementation of the article

15. Article 158 of the CC criminalizes the bribery of an official in case of refusal of the bribe. In case of acceptance, the briber will be punished pursuant to article 155 or article 156 of the CC which provide that the sentence includes the briber and the intermediary, which covers indirect bribery.

Article 15 Bribery of national public officials

Subparagraph (b)

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(b) The solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.

(a) **Summary of information relevant to reviewing the implementation of the article**

16. Reference was made to the following provisions:

Penal Code

Article 154 - Any person nominated by his Majesty the Sultan or the government as against a salary paid from the Public Treasury and any person delegated or elected to give a public service, either against payment or not, shall be deemed an official herein.

Any person who works in a private institution or association that is of public interest, or in a private company or undertaking in which a State administrative unit has a holding or contributes financially in any way whatsoever, shall be considered as an official.

Article 155 - Any official accepts a bribe for himself or on behalf of another person, be it either money, gift, promise or any other advantage, in order to accomplish a due act pertaining to his function, to abstain from accomplishing it or postpone its accomplishment shall be sentenced to imprisonment from three months to three years, to fine equalling at least the value of what he was given or promised to get, and to dismissal from function during a period subject to the judge's estimation.

If the briber or agent informs the authority of the bribery before the judgment is pronounced, he shall be exempted from punishment.

Article 156 - If an official accepts a bribe or demands it to carry out an act contrary to his duties or to abstain from implementing an act inherent to his function, he shall be sentenced to imprisonment for up to ten years and to a fine equaling at least the value of the bribe and to be dismissed from duty permanently.

The sentence shall include the briber, agent and legal representatives, if they commit such acts.

Article 157 . If an official accept a bribe, after implementing the act expected by the briber, he shall be sentenced to imprisonment from three months to three years and fine equalling the value of the accepted bribe.

Article 160 - If an official misuses his function just for benefiting a third party, he shall be sentenced to imprisonment from three months to three years or fine from twenty to one hundred Rials.

Law on the Safeguarding of Public Property

Article 7:

A government official shall not abuse his position or duties to obtain a benefit for himself or for others or to trade in influence to facilitate for others the obtaining of a benefit or preferential treatment.

In addition, a government official shall not perform any action that leads to a prejudice for or squandering of public funds.

Article 16:

Any person who breaches the provisions of Article 7 hereof shall be punished by imprisonment of at least one (1) year and at most three (3) years.

17. Oman also stated that the Draft Penal Code criminalizes a person who solicits a bribe even if he does not obtain it.

18. Oman indicated that several court rulings were issued in this respect and the Supreme Court enshrined some principles, including:

Appeals No. 500, 501, 502/2005. Acceptance or request by an official of a bribe to act or refrain from acting in the exercise of his duties is considered as an offence of bribery.

- Offence of Bribery. Elements. Acceptance or request by an official of a bribe to act or refrain from acting in the exercise of his duties.

Acts that an official is requested to perform.

It is not required that they are directly part of his duties and that the person who requests the bribe is the only person competent.

Sufficiency.

That the bribed has a share of competence that allows him to execute the act for which the bribe is requested, even by simply providing an advisory opinion likely to affect a decision-maker.

- Criminal intent to commit the offence of bribery. It exists if the bribed knows - when he requests or accepts money or a gift or promise, or any other benefit - that he does so in return for acting or refraining acting in the exercise of his duties or breaching his duties.

The intent is inferred from the circumstances that accompany the act or refraining from acting or the breach of duties.

- Accountability of the Briber. Conditions. Bribe. Exemption of the briber or the intermediary. Condition. Reporting an offence that the authorities are not aware of. Consequence. Reporting an offence after the authorities become aware of the occurrence of bribery does not exempt from punishment.

- The meaning of the provisions of Article 1 of Chapter II of Part II of the Penal Code is that the legislator wanted to protect public office from any breach, tampering, or deviation from the duties and work of public office and intended through the provisions relating to the offence of bribery to cover any violation that affects the acts of the official and any behavior linked to such work and limits the duty to perform them in the proper manner. These acts reflect the faithfulness of the official and are to be carried out without any trading in influence because any deviation from the duties of office or refraining from performing these duties is criminalized under those provisions. Therefore, if an official accepts a bribe or requests it to perform an act required by his duties or refrains from performing it, such behavior is considered as bribery. The establishment of the offence of bribery does not require that the acts performed by an official are directly part of his duties. It is sufficient that the official has a share of competence that allows him to execute the act for which the bribe is requested. Besides, it is not necessary that the person who requests the bribe is the only person competent to carry out all the acts connected with the bribery. It is sufficient that he has a relationship or a share of competence that allows him to implement the purpose of the request of bribery. He may simply play a role in preparing this decision even by simply giving a consultative opinion that may influence the decision maker. Therefore, and since the appellant is the Vice Minister of ... and in this capacity he presided over the Internal Tender Committee that decided to assign tenders No. 82/94 and 51/1992, subject of the lawsuit, according to the conclusions of the judgment, the appellant, albeit not alone competent in all the work related to bribery, had a share of competence that allowed him to perform the act. Therefore, the statement of the appellant that he was not competent to assign the tenders is unfounded.

- The Criminal intent in the offence of bribery exists by the mere fact that the bribed knew - when requesting or accepting money or a gift or promise, or any other benefit - that he did so in return for acting or refraining acting in the exercise of his duties or breaching his duties, and that it is a price for trading in influence. This element is inferred from the circumstances that accompanied the act or refraining from acting or the breach of duties. The judgment demonstrated that the amount of money provided by the company and the companyand the company was part of the execution of the

agreement between the appellant and the fourth defendant. This act materializes the trading in influence and the criminal intent. Therefore, the statement of the appellant concerning the absence of the elements of the offence is legally baseless.

[To establish the offence of bribery] it is not necessary that the briber - as another actor with the bribed official - has any specific capacity. Also, it is not required that the briber is the person who has an interest in the act or the refraining from acting or the breach he requests from the official. The act may be in the interest of another person. The briber is not the principal actor in the offence of bribery. He is considered as just another actor that is necessary for the establishment of the offence of bribery because he is not the one who commits trading in influence. To convict a briber, the offence of bribery must have been committed. In other terms, for bribery to be established, the official must have accepted or requested a bribe in return for acting or refraining from acting or breaching a professional duty. If none of that occurs, the briber must not be punished. The occurrence of the act is sufficient regardless of the liability of the bribed official. He may not be punished for the absence of criminal intent, for example. The occurrence of the offence is one thing and the establishment of the criminal liability of the official is another. The briber must have contributed with a material act by giving or promising: in other words, he must have acted. Such act can be a promise given by the briber and accepted by the official, or the offer by a briber after a request by the official. The type, name, or value of the object offered or promised are not important. Since it is not necessary that the offer or promise is explicit, it may take the form of a gift. Besides, it is not necessary that the offer is handed over to bribed official. He may receive it personally or through another person. To hold the briber for account, he must have had a criminal intent. In other word, in offering or promising he must have sufficiently known all the elements of the offence and that he had influenced the official to act or refrain from acting. Criminal intent is not established if the briber did not know the capacity of the official to whom he gave or promised something, or if he was unaware of the official's competence to work in exchange for a bribe.

- Reporting an offence of bribery assumes that such an offence must have occurred while the competent authorities were unaware of it. When an offence is still secret, reporting it enables the authorities to detect it and arrest the perpetrators. If the authorities knew of its occurrence, reporting it is ineffective and does not exempt from punishment. Therefore, since appears clearly from the documents that the appellant reported the offence to the authorities after the facts were detected, and he was confronted with them, and the documents were discovered following a search of his office. This is established by the investigator, Commanderwho declared on oath before the court, "I assert that collaboration came after the discovery of the facts," therefore he shall not be exempt from punishment and his statement is rejected.

Appeals No. 488 to 499/2005 Supreme Court Ruling on Criminal Matters: The offence of bribery is established once an official accepts a bribe. It is not conditional on the completion of the act of bribery and the execution of the subject matter of an agreement.

- Offence of bribery. Its elements. Sufficiency. The bribed has a share of competence even if he only expresses an advisory opinion that is likely to affect a decision-maker.

- Exemption of the briber or intermediary. Its Condition. Reporting an offence of which the authorities are unaware and the subject of the bribery is an official's act or refraining

from acting. The implications. If what is required is to perform an illegal act. The briber or the intermediary are not exempted from punishment. The arguments.

- Offence of bribery. The law does not make the prosecution of the offence of bribery contingent on a complaint and it is only subject to the statute of limitations after the expiration of the period established by law. Consequently, the State Audit Law stipulates that the administrative authorities shall inform the relevant authorities during a specific period of time. Effect.

- The offence of bribery is established when an official accepts a bribe. Effect. The completion of the bribery act is not dependent on the execution of the subject matter of the bribery agreement.

- It is sufficient that the official plays a role by merely participating in the preparation of the decision that achieves the interest of the briber, even if he only expresses [an opinion].

- Exemption of the defendant from punishment does not affect the offence, even if the conditions of exemption are met, because the provision on the exemption is stated in Article 155 of the Penal Code. The implication of this article is that in order for the briber or intermediary to be exempted from punishment, the subject of the bribery must be the performance by the official of a legal act or refrains from acting in addition to reporting the offence in all its details to the competent authority before a judgment is issued on the case. Since the first defendant was requested to perform an illegal act (refraining from performing an act in the exercise of his duties or a breach of duties) in return for a bribe, the legislator aggravated the punishment in this case and considered it as an offence in Article 156 of the Penal Code. It should be noted that the legislator, in this case, did not exempt the briber or intermediary from punishment if he reports the offence to the authorities before a judgment on the case is issued. Therefore, the intermediary in an offence of bribery incurs the punishment provided for the offense even if he reveals the details before the judgment on the case and informs the competent authorities about it.

- The law does not make the prosecution of the offence of bribery contingent on a complaint and it is only subject to the statute of limitations after the expiration of the period established by law on offences, misdemeanors, and infractions. Article 22 of the State Audit Law, promulgated by Royal Decree No. 55/2000, does not put a restriction on the institution of a criminal case. Its aims is that if the Audit institution suspects or establishes that an offence has been committed, a communication is sent to the relevant State administration to inform the security or judicial authorities of the matter. The object of this action is to regulate the relationship between the State audit authority and the administrative authorities and it is not related to actions that preceded the investigation.

- The offence of bribery is established when an official accepts a bribe because his acceptance reflects the meaning of trading in influence and abuse of functions. Therefore, the completion of the act of bribery is not contingent on the execution of the subject matter of the agreement.

19. Oman provided the following statistics on the number of investigations and prosecutions:

| Year | Suspended | Under Investigation | Referred for Trial | Total |
|-------------|------------------|----------------------------|---------------------------|--------------|
|-------------|------------------|----------------------------|---------------------------|--------------|

| | | | Under Deliberation | Convictions | Acquittals | |
|------|----|---|-------------------------------|--------------------|-------------------|-----|
| 2012 | 8 | 0 | 0 | 16 | 1 | 25 |
| 2013 | 25 | 0 | 3 | 103 | 13 | 144 |
| 2014 | 2 | 2 | 9 | 6 | 1 | 20 |

(b) Observations on the implementation of the article

20. Article 156 of the CC criminalizes the solicitation or acceptance of bribes by an official, in order to commit an act contrary to his or her functions or to refrain from an act within his or her duties. Article 155 criminalizes the acceptance of bribes by an official to perform, to refrain from performing or to delay the performance of a legal act within his or her duties. This article does not cover the solicitation of bribery. The offence covers the briber and the intermediary.
21. Article 157 criminalizes the acceptance of bribes by officials following the completion of the act expected by the briber.
22. To implement the provision under review, Oman should criminalize the solicitation of a bribe by a public official to perform or to refrain from performing a legal act within his or her duties.

(c) Successes and good practices

23. The explicit criminalization of the acceptance of bribes by public officials following the completion of the act expected by the briber.

Article 16 Bribery of foreign public officials and officials of public international organizations

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the promise, offering or giving to a foreign public official or an official of a public international organization, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties, in order to obtain or retain business or other undue advantage in relation to the conduct of international business.

2. Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the solicitation or acceptance by a foreign public official or an official of a public international organization, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.

(a) Summary of information relevant to reviewing the implementation of the article

24. Current Omani legislation does not criminalize this type of action. Oman is in the process of criminalizing such acts in accordance with the provisions of the UN Convention against Corruption and the Arab Anti-Corruption Convention. Besides, the Council of Ministers, at its meeting No. 15/2014 held on 20 May 2014, entrusted the State Financial and

Administrative Audit Institution (SFAAI) with the mission of considering the national legislation in force and harmonizing it with the provisions of the United Nations Convention against Corruption in coordination with the Technical Committee in charge of studying regional and international anti-crime agreements.

25. It should be noted that Oman is now considering accession to the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

(b) Observations on the implementation of the article

26. There is no provision in the Omani legislation that criminalizes the bribery of foreign public officials and officials of public international organizations.

27. To implement the provision under review, Oman should criminalize the active bribery of foreign public officials and officials of public international organizations, and consider criminalizing the passive bribery of such persons.

Article 17 Embezzlement, misappropriation or other diversion of property by a public official

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally, the embezzlement, misappropriation or other diversion by a public official for his or her benefit or for the benefit of another person or entity, of any property, public or private funds or securities or any other thing of value entrusted to the public official by virtue of his or her position.

(a) Summary of information relevant to reviewing the implementation of the article

28. Reference was made to the following provisions:

Penal Code

Article 159 - If an official embezzles the state or public funds or items entrusted to him to administer, tax or keep, due to his function, he shall be sentenced to imprisonment from three months to three years and fine amounting at least to the value of the embezzled funds or items.

If the embezzlement is committed through forgery or alteration, the official shall be sentenced to imprisonment for at least ten years and fine equalling three times the value of the embezzlement.

Article 162 - Any official who deliberately neglects his functional duties shall be punished to fine from five to one hundred Rials.

If the negligence results in a harm to the public interests, the offender shall be sentenced to imprisonment from one month to one year.

Law on the Safeguarding of Public Property and Preventing of Conflict of Interest

Article 1: In the application of the provisions of this Law, the followings terms shall have the meanings ascribed to them as under, unless the context otherwise dictates:

Public funds: All moveable and immovable assets whether they are privately or publicly owned by the State or any of the units of State Administrative Apparatus or the companies in which the government holds more than (40%) of its shareholding and the private funds managed or supervised by these units, such as the endowment, zakat and funds of the orphan and the minor.

Government Official: Every person that holds a governmental position or holds a job, either permanently or temporarily in any of the units of State Administrative Apparatus, with or without remuneration; the government officials include the members of Majlis Oman, representatives of the government in the

companies', and the employees of the companies fully owned by the government or in which the government has more than (40%) of its capital.

Benefit: The consideration received by the government official, whatever its form may be, and whether obtained directly or indirectly.

Article 7:

A government official shall not abuse his position or duties to obtain a benefit for himself or for other persons or trade in influence to facilitate for other persons the obtaining of a benefit or preferential treatment. Also, a government official shall not perform any act that leads to a prejudice for or squandering of public funds.

Article 16: Whoever violates the provisions of article (7) of this Law shall be punishable by imprisonment of not less than one year and not exceeding three years.

26. Oman also referred to the following examples:

Appeal No. 403/2004

Embezzlement, forgery

Proof that the appellant received amounts due to the public treasury from other persons and misappropriated them.

It is established that he committed the offence of embezzlement by using fraud. The implications: The fact that the received funds did not enter the Treasury before the embezzlement does not affect the establishment of the offence. Since the impugned judgment proved that the defendant (appellant) received from some persons amounts dues by them in the cases outlined in the annex and misappropriated for himself these amounts that were handed to him on account of his functions at the behest of the police station officer, and the appellant by doing so recorded in the documents - in which he records the amounts he received from those persons, because his work may be verified - a false event instead of a true one. This act is a fraud punishable by the law Therefore the judgment established the elements of the offence of embezzlement by using fraud and the fact that the received funds did not enter the Treasury before he misappropriated them does not affect the offense.

Resolution No. 132 on Appeal No. 59/2003

Official (definition)

The provisions of Article 154 of the Penal Code before its amendment do not include officials who work in companies in which the State has a holding.

Appeal No. 306/2008 Supreme Court Ruling on Criminal Matters:

Embezzlement, public official

Offence of embezzlement. Existence. Official as defined in Article 154 of the Penal Code. Any person who works in the administrative apparatus of the State or a private company or undertaking in which an administrative unit of the State has a holding or contributes with financial resources, in any capacity whatsoever. The National Bank of Oman is an Omani joint stock company in which the State has a holding. Effect. Its employees are considered as officials in accordance with the quoted text.

Considering Royal Decree No. 72/2001 of 27/06/2001, published in the Official Gazette No. 698, including a new paragraph that was added to Article 154 of the Omani Penal Code, which reads:

"Any person who works in the administrative apparatus of the State or a private company or undertaking in which an administrative unit of the State has a holding or contributes

with financial resources, in any capacity whatsoever, shall be considered as a public official.", and considering that the National Bank of Oman (civil plaintiff) is a joint stock company in which the State has a holding, and that public undertakings that have a holding in the civil plaintiff bank possess more than 28% of the capital of the bank, therefore the defendant is a public official and the funds are public funds as previously demonstrated, consequently, the Court rejects this defense and states that it has competence to consider the offence submitted to it ..."Whereas, the legislator expanded the definition of the term public official in accordance with the amendment of the article 154 of the aforesaid Penal Code to include person who were not originally officials and were appointed by His Majesty the Sultan or the Government and received a salary from the State Treasury or were delegated or elected to perform a public service with or without a compensation. Hence the importance of the distinction between, on the one hand, a public official as a representative of the public administration, and his legal relationship with this administration in terms of rights, obligations, and submission to its disciplinary authority, which means that the administrative theory is an organic theory that focuses most of its attention on the legal status of officials within the administrative apparatus and, on the other hand, the vision of the Penal Code, which establishes its theory on a different basis as it aims to protect the integrity of public service and public funds, which are deposited in private companies and undertakings, as their employees exercise some of the powers of the State in managing these funds. That is why, these funds are protected from assault and embezzlement by the imposition of severe penalties against public officials who work in government agencies and departments. Therefore, the statement that the appellant did not work in the administrative apparatus of the State - and that his work at the claimant bank, which is a public joint stock company - is not correct and is merely an attempt to avoid a legislation with an unacceptable and unpalatable interpretation.

27. Oman provided the following statistics on **the numbers** of investigations and prosecutions:

| Year | Under Investigation | Suspended | Referred to Disciplinary Trial | Referred to Criminal Trial | | | Total |
|------|---------------------|-----------|--------------------------------|----------------------------|-------------|------------|-------|
| | | | | Deliberated in sittings | Convictions | Acquittals | |
| 2012 | 0 | 6 | 0 | 1 | 6 | 1 | 14 |
| 2013 | 1 | 4 | 0 | 2 | 1 | 2 | 10 |
| 2014 | 1 | 1 | 0 | 1 | 0 | 0 | 2 |

Statistics on Embezzlement Offences at the Department of Public Funds

| Offence Type | Legal description | | Under Investigation and perusal | Public Prosecution Procedures | | | | | | | |
|--------------|-------------------|--------|---------------------------------|---|------------------|-------------|--------------------|------------------------|-----------------------|------------------|----------------------|
| | Misdemeanour | Felony | | Dismissal / Criminal instructions / Transfer to another authority | | | | | | | |
| | | | | Transferred to Court | Facts inaccuracy | Unimportant | No complaint filed | Against Unknown Person | Insufficient Evidence | Absence of Crime | Lack of jurisdiction |
| 2012 | 12 | 11 | 2 | 12 | 0 | 2 | 1 | 1 | 3 | 3 | 0 |
| 2013 | 3 | 8 | 3 | 5 | 0 | 2 | 1 | 0 | 0 | 0 | 0 |
| 2014 | 3 | 3 | 1 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |

(b) Observations on the implementation of the article

28. Article 159 of the CC criminalizes the embezzlement by a public official of anything entrusted to him by virtue of his or her position. Article 7 of the Law on the Protection of Public Funds and the Avoidance of Conflict of Interests is applicable when a public official diverts such assets.

Article 18 Trading in influence

Subparagraph (a)

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) The promise, offering or giving to a public official or any other person, directly or indirectly, of an undue advantage in order that the public official or the person abuse his or her real or supposed influence with a view to obtaining from an administration or public authority of the State Party an undue advantage for the original instigator of the act or for any other person;

(a) Summary of information relevant to reviewing the implementation of the article

36. Oman referred to Article 93 of the Penal Code (Incitement) read together with Articles 7 and 16 of the Law on the Safeguarding of Public Property and Preventing of Conflict of Interest that criminalizes such behavior.

Penal Code

Article 93 - Any person who realizes any element constituting the crime or directly contributing in its execution or instigates such crime shall be deemed an offender.

Instigation is the encouragement or the attempt to encourage, by any means whatsoever, another person to commit a crime.

If the instigations leads to no result, the penalty shall be reduced in the manner stipulated in paragraphs 2,3 and 4 of Article 96 above.

Law on the Safeguarding of Public Property and Preventing of Conflict of Interest

Article 7:

A public official shall not take advantage of his position and functions to achieve an advantage for himself or for another person or trade in influence to facilitate the obtaining of an advantage to another person or an advantageous treatment. Also, a public official shall not perform any act that leads to a prejudice to or squandering of public funds.

Article 16:

Any person who breaches the provisions of Article 7 hereof shall be punished by imprisonment of at least one (1) year and at most three (3) years.

37. Oman also referred to the following examples mentioned above:

Appeals No. 349, 350/2007 Supreme Court Rulings on criminal matters of 25/11/2007.
Appeals No. 500, 501, and 502/2005 of 3/1/2006.

(b) Observations on the implementation of the article

38. Article 7 of the Law on the Protection of Public Funds and the Avoidance of Conflict of Interests criminalizes the abuse by a public official of his or her position or functions to obtain a benefit for himself or herself or for another person, or the abuse of his or her influence to facilitate for another person the obtention of a benefit or a privileged treatment. This article applies to the solicitation or acceptance of bribes by an official in order to abuse his or her influence, even when such influence is supposed. In this case, the briber is sanctioned based on the provisions of article 93 of the CC (instigation) even when the offer is refused.
39. Oman's legislation does not cover active trading in influence of persons other than officials.
40. To implement the provision under review, Oman should consider criminalizing active trading in influence of persons other than public officials.

Article 18 Trading in influence

Subparagraph (b)

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(b) The solicitation or acceptance by a public official or any other person, directly or indirectly, of an undue advantage for himself or herself or for another person in order that the public official or the person abuse his or her real or supposed influence with a view to obtaining from an administration or public authority of the State Party an undue advantage.

(a) Summary of information relevant to reviewing the implementation of the article

41. Oman indicated that paragraph (b) of Article 18 provides for a form of bribery and criminalizes the bribed in the act of bribery.

Article 156 of the Penal Code of Oman criminalizes bribery and punishes the bribed:

If an official accepts a bribe or demands it to carry out an act contrary to his duties or to abstain from implementing an act inherent to his function, he shall be sentenced to imprisonment for up to ten years and to a fine equaling at least the value of the bribe and to be dismissed from duty permanently.

42. Also, some legal texts criminalize the offense of abuse of functions for the benefit of others. In addition, Article 160 of the Penal Law of Oman reads:

If an official misuses his function just for benefiting a third party, he shall be sentenced to imprisonment from three months to three years or fine from twenty to one hundred Rials.

43. The Law on the Safeguarding of Public Property and Preventing of Conflict of Interest emphasizes and details this matter as it prohibits the abuse of functions for one's benefit or for others: Article 7 thereof reads: "A government official shall not abuse his position or duties to obtain a benefit for himself or for other persons or trade in influence to facilitate for other persons the obtaining of a benefit or preferential treatment.". Article 16 of the same law stipulates, "Any person who breaches the provisions of Article 7 hereof shall be punished by imprisonment of at least one (1) year and not more than three (3) years." The Omani legislator mentioned the term "influence" in Article 7 of the Law on the Safeguard of Public Property and Preventing of Conflicts of Interest, which encompasses actual and assumed influence.

44. Article 8 of the Law on the Safeguarding of Public Property and Preventing of Conflict of Interest reads:

"A government official shall not act as an intermediary, agent, or sponsor of any company or organization whose activity falls within his sphere of work. His assistance to other persons aimed at facilitating the obtaining by the company or organization of an approval of the government shall be considered as intermediacy, which is prohibited".

Article 15 of the same law reads:

"Any person who violates the provisions of Articles 4, 5, 8, 9, 10, and 12 hereof shall be punishable by imprisonment of not less than six (6) months and not more than two (2) years."

45. Oman also referred to the following examples mentioned above:

Appeals No. 500, 501, and 502/2005 of 03/01/2006.

Appeals No. 488 - 499/2005 of 10/01/2006.

(b) Observations on the implementation of the article

36. Article 7 of the Law on the Protection of Public Funds and the Avoidance of Conflict of Interests criminalizes the abuse by a public official of his or her position or functions to obtain a benefit for himself or herself or for another person, or the abuse of his or her influence to facilitate for another person the obtention of a benefit or a privileged treatment. This article applies to the solicitation or acceptance of bribes by an official in order to abuse his or her influence, even when such influence is supposed.

37. Oman's legislation does not cover passive trading in influence of persons other than officials.

38. To implement the provision under review, Oman should consider criminalizing passive trading in influence of persons other than public officials.

Article 19 Abuse of Functions

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the abuse of functions or position, that is, the performance of or failure to perform an act, in violation of laws, by a public official in the discharge of his or her functions, for the purpose of obtaining an undue advantage for himself or herself or for another person or entity.

(a) Summary of information relevant to reviewing the implementation of the article

39. Reference was made to the following provisions:

Penal Code

Article 160 - If an official misuses his function just for benefiting a third party, he shall be sentenced to imprisonment from three months to three years or fine from twenty to one hundred Rials.

Article 161 - If an official abuses the powers of his function to commit a personal crime not falling within his duties, he shall be sentenced for imprisonment for up to three years or a fine not exceeding two hundred Rials.

The said official shall also be sentenced to the penalty applicable by law to the committed personal crime

Article 164 - If an official divulgates, with no lawful reason, a secret which he knows due to his function, he shall be sentenced to imprisonment for up to three years or fine from twenty to two hundred Rials.

Law on the Safeguarding of Public Property and Preventing of Conflict of Interest

Article 7:

A government official shall not abuse his position or duties to obtain a benefit for himself or for other persons or trade in influence to facilitate for other persons the obtaining of a benefit or preferential treatment.

Article 15:

In all cases mentioned in Articles 15, 16, and 17 [hereof], the government official is dismissed from his position or duties and the funds he received in violation of the provisions of this Law are confiscated.

Article 16:

Any person who violates the provisions of Article 7 hereof shall be punishable by imprisonment of at least one (1) year and not more than three (3) years.

40. Oman also referred to the following examples (aforementioned)

- Appeal No. 306/2008 of 4/11/2008 Supreme Court Ruling on criminal matters.
- Appeals No. 500, 501, and 502/2005 of 03/01/2006.
- Judicial Principle No. 84, Resolution No. 132 on Appeal No. 59/2003.
- Appeal No. 403/2004 Supreme Court Ruling on criminal matters 01/02/2005.

41. Oman also provided the following statistics on the number of investigations and prosecutions:

| Year | Under Investigation | suspended | Referred for Criminal Trial | | | Total |
|------|---------------------|-----------|-----------------------------|-------------|------------|-------|
| | | | Deliberated in Sitzings | Convictions | Acquittals | |
| 2012 | 0 | 20 | 0 | 11 | 1 | 32 |
| 2013 | 0 | 101 | 0 | 74 | 5 | 180 |
| 2014 | 14 | 33 | 10 | 18 | 2 | 77 |

(b) Observations on the implementation of the article

42. Article 7 of the Law on the Protection of Public Funds and the Avoidance of Conflict of Interests criminalizes the abuse by a public official of his or her position or functions to obtain a benefit for himself or herself or for another person. Article 161 of the CC criminalizes the abuse by a public official of the powers of his or her functions to commit a personal offence that is unrelated to the duties of such functions.

Article 20 Illicit Enrichment

Subject to its constitution and the fundamental principles of its legal system, each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, illicit enrichment, that is, a significant increase in the assets of a public official that he or she cannot reasonably explain in relation to his or her lawful income.

(a) Summary of information relevant to reviewing the implementation of the article

43. Oman indicated that it is compliant with the paragraph under review - even though there is no explicit provision criminalizing intentional illicit enrichment of a government official. This matter will be dealt with in a decision of the Council of Ministers that entrusts the State Financial and Administrative Audit Institution (SFAAI) with reviewing national legislation to harmonize it with the provisions of the Convention in coordination with the Technical Committee in charge of studying regional and international anti-crime agreements - and referred to the following provisions:

Law on the Safeguarding of Public Property and Preventing of Conflict of Interest

Article 12:

Every government officials shall submit a declaration of assets to the State Financial and Administrative Audit Institution according to a model developed for this purpose by this institution, which includes a statement of all movable and real estate owned by the government official and his or her spouse(s) and minor children and the source of such assets at the request of the Chair of the State Financial and Administrative Audit Institution, whenever necessary. These declarations are confidential and accessible only with the consent of the Chair of the said Institution.

Article 15:

In all cases mentioned in Articles 15, 16, and 17 [hereof], the government official shall be dismissed from his position or duties and the funds he received in violation of the provisions of this Law shall be confiscated.

Law on Civil Service

Article 105:

The official - at the request of the legally competent authority - shall submit a declaration including data on all movable and immovable property owned by him, or that are in his possession, either in his name or in the name of any member of his family, including his spouse and minor children, and reveal the ways in which he acquired or took possession of the said property or the sources of his ownership or possession.

44. The Chair of the State Financial and Administrative Audit Institution issued Decision No. 101/2012 on the model of the declaration of assets of government officials.

(b) Observations on the implementation of the article

45. There is no provision in the Omani legislation that criminalizes illicit enrichment.

46. To implement the provision under review, Oman should consider criminalizing illicit enrichment.

(c) Technical assistance needs

47. Oman indicated that the following form of technical assistance, if any, will help improve the implementation of the provision:

1. Summary of good practices / lessons learned
2. Model legislation

Oman did not receive any form of such technical assistance in the past.

Article 21 Bribery in the private sector

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally in the course of economic, financial or commercial activities:

(a) The promise, offering or giving, directly or indirectly, of an undue advantage to any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting;

(b) The solicitation or acceptance, directly or indirectly, of an undue advantage by any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting.

(a) Summary of information relevant to reviewing the implementation of the article

48. Oman indicated that the Omani legislator criminalized the bribery of officials in the Omani Penal Law issued by Royal Decree No. 7/74 and referred to its answer on Article 15 of the Convention, noting that the persons considered as officials are defined in Article 154 of Penal Code, which reads:

"Any person who works in a private institution or association that is of public interest, or in a private company or undertaking in which a public administrative unit has a holding or contributes financially in any way whatsoever, shall be considered as an official."

49. Besides, the Council of Ministers issued a decision that entrusts the State Financial and Administrative Audit Institution (SFAAI) with harmonizing national legislation with the provisions of UNCAC and measures have been taken by the competent authority (the Technical Committee in charge of studying regional and international anti-crime agreements.)

50. It should be noted that some officials working in companies in which the State has a holding have been brought to justice on bribery charges and have been convicted by courts. Besides, regulatory measures have been taken against those companies.

(b) Observations on the implementation of the article

51. Oman does not criminalize bribery in the private sector.
52. To implement the provision under review, Oman should consider criminalizing active and passive bribery in the private sector.

Article 22 Embezzlement of property in the private sector

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally in the course of economic, financial or commercial activities, embezzlement by a person who directs or works, in any capacity, in a private sector entity of any property, private funds or securities or any other thing of value entrusted to him or her by virtue of his or her position

(a) Summary of information relevant to reviewing the implementation of the article

53. Reference was made to the following provision:

Penal Code

Article 296

The following persons shall be sentenced, upon a complaint from the injured party, to imprisonment from three months to two years and fine from ten to three hundred Rials:

1. Anyone who receives money or any removable estate as a loan, trust, caution, rent or vadium and who conceals, embezzles, wastes or spoils it, by any means whatsoever, with a view to draw a benefit for himself or for another person or to cause damage to another person.
2. Any who has been appointed, by judicial order, custodian of money or any removable estate and who disposes thereof with a view to hinder the judicial procedures or resist the attachment or the execution order.

(b) Observations on the implementation of the article

54. Oman criminalizes embezzlement of property in the private sector under article 296 of the CC. However, this article does not cover immovable assets. Related court decisions have been submitted to the reviewers.
55. The reviewers encourage Oman to reconsider its legislation relating to embezzlement of property in the private sector to cover the embezzlement of immovable assets.

Article 23 Laundering of proceeds of crime

Subparagraph 1 (a) (i)

1. Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

- (a) (i) *The conversion or transfer of property, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the predicate offence to evade the legal consequences of his or her action;*

(a) Summary of information relevant to reviewing the implementation of the article

56. Reference was made to the following provisions.

Law of Anti-Money Laundering and Combating Financing Terrorism

Article (2): Any person shall be guilty of the crime of money laundering if he on purpose carries out any of the following acts:

- 1) Exchange, transfer, or move funds; carry out any transactions by the proceeds of the crime while being consciously aware they are obtained directly or indirectly from a crime, or any other act that constitutes a participation in a crime in order to whitewash or conceal the nature and source of these proceeds, help any accomplice(s) in a crime, hinder the exposure of a person who has committed the crime from which the proceeds have been obtained, or help a person escape the legal penalty fixed for his acts.
- 2) Whitewash or conceal the nature, source, location, movement and ownership of the proceeds of the crime and the related or resulting rights while being consciously aware that they are obtained directly or indirectly from a crime, or any other act that constitutes a participation in a crime.
- 3) Acquiring, owning, receiving, managing, investing, guaranteeing, or using the proceeds of the crime, holding or keeping the same while being consciously aware that they are obtained directly or indirectly from a crime, or any other act that constitutes a participation in a crime.

Article (1): For the purpose of this Law, the following phrases and words shall have the meanings hereby respectively assigned to them unless the context requires another meaning:

Funds: Local currency, foreign currencies, financial and commercial instruments, any property or physical or juristic immovables of value, and all the rights vested therein, proving deeds and documents of all the above of whatever nature including the electronic and the digital.

Proceeds of Crime: Funds and properties obtained from a crime whether directly or indirectly.

57. Oman provided the following statistics on the number of investigations and prosecutions:

| Year | Suspended | Under Investigation | Referred to Trial | | | Total |
|------|-----------|---------------------|--------------------|-------------|------------|-------|
| | | | Under Deliberation | Convictions | Acquittals | |
| 2012 | 4 | 3 | 0 | 1 | 0 | 8 |
| 2013 | 20 | 5 | 0 | 0 | 0 | 25 |
| 2014 | 26 | 0 | 0 | 0 | 1 | 27 |

Statistics on Money Laundering Offences at the Department of Public Funds

| Offence Type | Legal description | | Under Investigation and perusal | Public Prosecution Procedures | | | | | | | |
|--------------|-------------------|--------|---------------------------------|--|------------------|-------------|--------------------|------------------------|-----------------------|------------------|----------------------|
| | Misdemeanour | Felony | | Dismissal/ Criminal instructions / Transfer to another authority | | | | | | | |
| | | | | Transferred to Court | Facts inaccuracy | Unimportant | No complaint filed | Against Unknown Person | Insufficient Evidence | Absence of Crime | Lack of jurisdiction |
| 2012 | 0 | 24 | 6 | 1 | 1 | 0 | 1 | 0 | 13 | 3 | 0 |
| 2013 | 1 | 24 | 7 | 0 | 1 | 0 | 0 | 0 | 11 | 5 | 0 |
| 2014 | 2 | 8 | 3 | 2 | 0 | 0 | 1 | 0 | 2 | 0 | 3 |

(b) Observations on the implementation of the article

58. Oman has implemented the provision under review.

Article 23 Laundering of proceeds of crime

Subparagraph 1 (a) (ii)

1. Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) (ii) The concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of crime;

(a) Summary of information relevant to reviewing the implementation of the article

59. Oman indicated that the Law on Combating Money Laundering and Terrorist Financing criminalizes the forms of material behavior mentioned in this paragraph in Article 2, paragraph 2 thereof, whose text was previously mentioned.

(b) Observations on the implementation of the article

60. Oman has implemented the provision under review.

Article 23 Laundering of proceeds of crime

Subparagraph 1 (b) (i)

1. Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(b) Subject to the basic concepts of its legal system:

(i) The acquisition, possession or use of property, knowing, at the time of receipt, that such property is the proceeds of crime;

(a) Summary of information relevant to reviewing the implementation of the article

61. Oman indicated that the Law on Combating Money Laundering and Terrorist Financing criminalizes the forms of material behavior mentioned in this paragraph in Article 2, paragraph 3 thereof, whose text was previously mentioned.

(b) Observations on the implementation of the article

62. Oman has implemented the provision under review.

Article 23 Laundering of proceeds of crime

Subparagraph 1 (b) (ii)

1. Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(b) Subject to the basic concepts of its legal system:

(ii) Participation in, association with or conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the offences established in accordance with this article.

(a) Summary of information relevant to reviewing the implementation of the article

63. Reference was made to the following provisions.

Law of Anti-Money Laundering and Combating Financing Terrorism

Article (5): Any person who has initiated, participated, instigated, assisted, or agreed to commit money laundering or terrorism financing crime shall be considered as an original perpetrator. The financial institutions, the non-financial businesses, professions and associations and non-profit bodies shall be liable for that crime if committed in their name or on their behalf.

Penal Code

Article 93 - Any person who realizes any element constituting the crime or directly contributing in its execution or instigates such crime...

Article 94 - If many persons jointly commit a felony or misdemeanour, or if the felony or misdemeanour consist of many acts and each of the persons carries out one or more constituting acts, they shall all be deemed accomplices. Each of the accomplices shall be sentenced to the penalty decided by law, as if he was an independent offender...

Article 95 - Any person having committed any of the following acts shall be considered a secondary participant:

1. Assistance of the offender in preparing the means or accomplishing the execution, or encouragement or leading thereof to commit the crime.
2. Agreement with the offender or any participant prior to the committing of the crime, participation in concealing the crime traces or disposing of its resulting items, or hiding one or more offenders from justice...

Article 97 - Save the cases stipulated in paragraphs 2 and 3 of Article 95, any person hiding another person or assisting him to hide, after knowing that he has committed a crime, or knowingly conceals or disposes of items resulting from a crime shall not be deemed a participant but an initial offender to be sentenced for an independent crime punishable by imprisonment from three months to two years.

(b) Observations on the implementation of the article

64. Article 5 of the AML Law criminalizes the different aspects of criminal participation as well the attempt.

Article 23 Laundering of proceeds of crime

Subparagraphs 2 (a) and (b)

2. For purposes of implementing or applying paragraph 1 of this article:

(a) Each State Party shall seek to apply paragraph 1 of this article to the widest range of predicate offences;

(b) Each State Party shall include as predicate offences at a minimum a comprehensive range of criminal offences established in accordance with this Convention;

(a) Summary of information relevant to reviewing the implementation of the article

65. Oman indicated that the Law on Combating Money Laundering and Terrorist Financing adopted a comprehensive approach that criminalizes money laundering: the predicate offences of money laundering as defined by Article 1 thereof include, "every act that constitutes a violation of the law in Oman and enables its perpetrator to obtain proceeds of crime."

(b) Observations on the implementation of the article

66. Oman has implemented the provision under review.

67. Oman adopted the all-offences approach; according to article 1 of the AML Law, predicate offences include "any act in violation of the law in Oman that allows its perpetrator to obtain criminal proceeds."

Article 23 Laundering of proceeds of crime

Subparagraph 2 (c)

2. For purposes of implementing or applying paragraph 1 of this article:

(c) For the purposes of subparagraph (b) above, predicate offences shall include offences committed both within and outside the jurisdiction of the State Party in question. However, offences committed outside the jurisdiction of a State Party shall constitute predicate offences only when the relevant conduct is a criminal offence under the domestic law of the State where it is committed and would be a criminal offence under the domestic law of the State Party implementing or applying this article had it been committed there;

(a) Summary of information relevant to reviewing the implementation of the article

68. Oman indicated that Article 1 of the Law on Combating Money Laundering and Terrorist Financing defines the predicate offence as "every act that constitutes a violation of the law in Oman and enables its perpetrator to obtain proceeds of crime" and this law does not require that the predicate offence be committed within the jurisdiction of the Sultanate. Therefore, if the predicate offence committed abroad is an offence under Omani law, this article is enforced if the offence is committed locally.

69. There is no general provision in the Penal Code relating to the criterion of comprehensive jurisdiction.

Penal Code

Article 12- The Omani legislation shall be applicable to any foreigner, be it either an offender, instigator or participant, who commits abroad a felony or misdemeanour punishable by Omani laws and not stipulated in Article 8, 10 and 11 hereabove, and who is thereafter present in Oman.

In such event, it is necessary that:

1. The law of the state where the crime is committed requires a sentence amounting to three years imprisonment.

2. The extradition is not requested or accepted.
3. The foreigner has been finally sentenced abroad; and, in case of sentence, the pronounced penalty has not been executed or extinguished by general or special pardon or by prescription. In the event of conflict between the Omani legislation and that of the place where the crime is perpetrated, the Omani judge may take it into consideration to the defendant's benefit.

(b) Observations on the implementation of the article

70. Predicate offences do not explicitly cover offences committed outside Oman.
71. To implement the provision under review, Oman should explicitly provide that predicate offences cover offences committed outside Oman.

Article 23 Laundering of proceeds of crime

Subparagraph 2 (d)

2. For purposes of implementing or applying paragraph 1 of this article:

(d) Each State Party shall furnish copies of its laws that give effect to this article and of any subsequent changes to such laws or a description thereof to the Secretary-General of the United Nations;

(a) Summary of information relevant to reviewing the implementation of the article

72. Oman has furnished copies of its laws in accordance with the provision under review, pursuant to a Note Verbale sent by its Permanent Mission in Vienna “UNODC-2015RA15” dated 23 April 2015.

(b) Observations on the implementation of the article

73. Oman has furnished copies of its laws in accordance with the provision under review.

Article 23 Laundering of proceeds of crime

Subparagraph 2 (e)

2. For purposes of implementing or applying paragraph 1 of this article:

(e) If required by fundamental principles of the domestic law of a State Party, it may be provided that the offences set forth in paragraph 1 of this article do not apply to the persons who committed the predicate offence.

(a) Summary of information relevant to reviewing the implementation of the article

74. Oman indicated that the Omani legislator not only criminalized self-laundering, but went to double the penalty of the offender in this case, and that under paragraph (5) of Article (30) of the AML Law.

Law of Anti-Money Laundering and Combating the Financing of Terrorism

Article (30): The penalties stipulated in articles (27-28-29) of this Law shall be doubled in the following cases:

5) If the offender is an accomplice in the original crime from which the money the subject of money laundering crime has been obtained, whether being a perpetrator or an accomplice.

(b) Observations on the implementation of the article

75. Oman has implemented the provision under review. The AML Law doubles the sanction in case of self-laundering.

Article 24 Concealment

Without prejudice to the provisions of article 23 of this Convention, each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally after the commission of any of the offences established in accordance with this Convention without having participated in such offences, the concealment or continued retention of property when the person involved knows that such property is the result of any of the offences established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

76. Reference was made to the following provision:

Penal Code

Article 95 - Any person having committed any of the following acts shall be considered a secondary participant:
2. Agreement with the offender or any participant prior to the committing of the crime, participation in concealing the crime traces or disposing of its resulting items, or hiding one or more offenders from justice...

Article 97 - Save the cases stipulated in paragraphs 2 and 3 of Article 95, any person hiding another person or assisting him to hide, after knowing that he has committed a crime, or knowingly conceals or disposes of items resulting from a crime shall not be deemed a participant but an initial offender to be sentenced for an independent crime punishable by imprisonment from three months to two years.

(b) Observations on the implementation of the article

77. Oman has implemented the provision under review.

78. Article 97 of the CC criminalizes as a separate offence the concealment of proceeds of a crime or felony without prior agreement. In case of prior agreement, article 95 is applicable and the person who concealed the proceeds of crime is prosecuted as a secondary assistant in the original offence.

Article 25 Obstruction of Justice

Subparagraph (a)

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) The use of physical force, threats or intimidation or the promise, offering or giving of an undue advantage to induce false testimony or to interfere in the giving of testimony or the production of evidence in a proceeding in relation to the commission of offences established in accordance with this Convention;

(a) Summary of information relevant to reviewing the implementation of the article

79. Reference was made to the following provision:

Penal Code

Article 184 - Anyone who is called to testify before justice under oath, and who asserts a falsehood, denies the truth or hides his knowledge of the questioned case facts shall be sentenced to imprisonment from three months to three years and fine from ten to five hundred Rials, or to one of these two sentences.

If the false testimony is given during a criminal investigation or penal trial, the witness shall be sentenced to imprisonment for ten years in maximum.

If the false testimony results in sentencing the accused to death, the witness shall be sentenced to imprisonment for ten years at least; and if the sentence to death is executed, the witness shall be sentenced to death or life Imprisonment.

If the testimony is given without oath, the sentence to temporary imprisonment shall be reduced to the half, and the sentences to death and life imprisonment to imprisonment for ten years.

Any person who uses physical force, threat, intimidation, or promises an undue advantage, offers, or gives the same to incite to give false testimony or to interfere in a testimony or to provide evidence relating to an offence stipulated in this law, shall be punishable with the same penalty provided for herein.

Article 185 - The false witness shall be sentenced to imprisonment from six months to one year and fine from ten to two hundred Rials, if the testimony is given before a non-judicial authority.

(b) Observations on the implementation of the article

80. Oman has implemented the provision under review.

81. Article 184 of the CC, amended in 2009, criminalizes the use of physical force, threats or intimidation or the promise, offering or giving of an undue advantage to induce false testimony or to interfere in the giving of testimony or the production of evidence in relation to an offence.

Article 25 Obstruction of Justice

Subparagraph (b)

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(b) The use of physical force, threats or intimidation to interfere with the exercise of official duties by a justice or law enforcement official in relation to the commission of offences established in accordance with this Convention. Nothing in this subparagraph shall prejudice the right of States Parties to have legislation that protects other categories of public official.

(a) Summary of information relevant to reviewing the implementation of the article

82. Reference was made to the following provisions:

Penal Code

Article 128 - Anyone who uses force with a view to disable the authority from exercising its functions shall be sentenced to imprisonment for at least three years.

Article 171 - Any effective or negative resistance which hinders a lawful act carried out by an official shall be punished by imprisonment from ten days to one month and fine up to twenty Rials.

If resistance is violent or committed by many individuals, it shall be punishable by imprisonment from three months to three years and fine up to five hundred Rials, save the more severe sentence applicable according to the crime result.

Article 172 - Anyone who beats an official or treats him with violence, during the implementation of his duty or due to it, shall be sentenced to imprisonment from three months to one year and fine from ten to two hundred Rials.

If the assault committed on a judge, the sentence shall be imprisonment from six months to three years and a fine up to five hundred Rials.

If the assault is so threatening that it calls for a sentence more severe than those stipulated in this article, the sentence shall be increased according to Article 114 above.

Article 287 - Sentence to imprisonment from three months to three years and fine from ten to five hundred Rials shall be imposed on anyone who commits the following in order to draw an unlawful benefit either to himself or to another person:

1. Usurpation, by threatening, of a Signature or any other writing including an undertaking or quittance.
2. Threat of any person to inflict him physical harm or damage to reputation, property or source of living, or to a person interesting him, with a view to oblige him to carry out an act not imposed on him by law and neglect an act which implementation is conferred on him by law. The prosecution shall be conditioned by a complaint from the injured party.

If the offender carries a weapon with which he threatens the victim, he shall be sentenced to imprisonment for not less than five years.

(b) Observations on the implementation of the article

83. Article 172 of the CC criminalizes the act of hitting of an official or treating him or her violently during or in the course of the exercise of, or due to his or her duties. The sanction is aggravated if the subject of the violence is one of the members of the judiciary, security or military forces.

84. Although there is no special provision which criminalizes the use of threats or intimidation to interfere with the exercise of official duties by a justice or law enforcement official, such acts fall under the general provisions of article 287 of the CC, which criminalizes the threat to cause physical harm, reputational damage, financial prejudice or prejudice to the livelihood of any person, or to a person close to him or her, with a view to making such person perform an act not required of him or her by law or omit an act he or she is authorized to take by law.

85. Notwithstanding article 287 CC, the reviewers encourage Oman to adopt a specific provision to criminalize the use of threats or intimidation to interfere with the exercise of official duties by a justice or law enforcement official.

Article 26 Liability of legal persons

Paragraphs 1 and 2

1. Each State Party shall adopt such measures as may be necessary, consistent with its legal principles, to establish the liability of legal persons for participation in the offences established in accordance with this Convention.

2. Subject to the legal principles of the State Party, the liability of legal persons may be criminal, civil or administrative.

(a) Summary of information relevant to reviewing the implementation of the article

86. Oman indicated that its legislation criminalizes legal persons with regard to the offence of money laundering in the Law on Combating Money Laundering and Terrorist Financing and in the Penal Code.

87. Reference was made to the following provisions:

Law of Anti-Money Laundering and Combating Financing Terrorism

Article (5): Any person who has initiated, participated, instigated, assisted, or agreed to commit money laundering or terrorism financing crime shall be considered as an original perpetrator. The financial institutions, the non-financial businesses, professions and associations and non-profit bodies shall be liable for that crime if committed in their name or on their behalf.

Article (33): A fine of not less than (10.000) ten thousand Rials and not more than the equivalent amount of money the subject of money laundering or terrorism financing crime shall be applied to the financial institutions, non-financial businesses and professions, and non-profit associations and bodies whose liability is established in accordance with the provisions of Article (5) of this Law. In its ruling of conviction the court shall order the convicted to publish the decision through the written press at the expense of the juristic person. The court may revoke the license of the juristic person, stop its activities for a period not exceeding one year, bar it from practicing the activity, close the institution permanently or for a specified period, place a permanent or temporary ban on practicing any professional or social activity during or because of which the crime had been committed either directly or indirectly, put under judicial supervision for a specific period, prohibit the trading of securities in financial markets, either permanently or for a specific period, or prohibit the issuance of checks or using its own ATM cards for a specific period.

Article (34): The penalty of imprisonment for a term of not more than (6) six months and a fine not exceeding (5.000) five thousand Rials or either penalty shall be applied to any person who violates the provisions of Article (40) of this Law. The court may confiscate the juristic person, revoke its license, suspend its activity for not more than one year, deprive it from practicing the activity again, close the institution permanently or temporarily, or ban it from practicing any other activity if the violation has been committed in its name or favor.

Penal Code

Article 55 - Sentence to close any place where a felony or misdemeanour has been committed or especially prepared to commit such a crime may be pronounced.

A sentence to ban any person from practicing any art, profession, craft or any activity submitted to authority licensing or degree obtaining may be pronounced, if the said person has committed a felony or misdemeanour which infringes the duties of the profession or the activity's obligations.

With reserve of the bona fide owner's right, the closure of the place shall be for a period not less than one week and not exceeding one year.

The ban from practicing an activity shall be for a period equal to that stipulated in the paragraph above.

This period shall be doubled in case of recidivism or pronounced for life in the event a special legislation has been made thereon.

Article 56 - The judge may pronounce the following civil obligations:

1. Restitution;
2. Compensation;
3. Seizure to the injured party's benefit;
4. Allowances.

Civil Transactions Law (Royal Decree No. 29/2013)

Article (49):

1. Legal persons shall enjoy all rights except those inherent to the nature of a natural person, within the limits prescribed by law. Thus, they have:

- a. an independent estate;
- b. a legal personality as set out in their incorporation documents and as prescribed by law;
- c. the right to sue;
- d. an independent head office. The head office is where the centre of administration is located. For those companies whose head office is located abroad and do business in the Sultanate of Oman, their local office shall be deemed their centre of administration under Omani Law.

2. A legal person has a representative who expresses its will.

Article (176) :

1. Whoever causes a damage to others has the obligation to compensate for it, even if they lack discernment.
2. If a damage was caused by initiation, compensation is due even without infringement. If damage was caused intentionally, proof of infringement is required for compensation.

Article (196):

1. No one is responsible for the action of someone else. However the court may, upon request of the injured party, require compensation if it deems it to be justified from:
a. whoever, by law or agreement, has supervision over a person in need for supervision because of their minority or their mental or physical condition, unless he or she proves that he or she has fulfilled his or her duty of supervision, and that the damage was inevitable despite his or her carrying out his or her duty with due diligence.
b. whoever had effective control in his supervision and guidance over the author of the damage even he or she did not elect supervision, whenever the tort happened in the course of the performance of his duties or because of such duties.
2. Whoever paid compensation may bring a claim against the liable party.

(b) Observations on the implementation of the article

88. Except for the offence of money laundering, Oman's legislation does not provide for the criminal liability of legal persons with respect to offences under the Convention (art. 5 of the AML Law). Articles 49, 176 and 196 of the Law on Civil Transactions can be used as a basis for civil liability of a legal person if the prejudicial act was committed by a related person in the exercise of, or due to his or her functions.

89. Oman's legislation provides for the administrative liability of legal persons in several laws. However, such liability seems to be restricted to the violation of relevant laws (Law on Commercial Companies and Consumer Protection Law) and does not extend to corruption offences.

90. The reviewers encourage Oman to consider establishing the criminal and administrative liability of legal persons for participation in the offences established in accordance with the Convention.

Article 26 Liability of legal persons

Paragraph 3

3. Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offences.

(a) Summary of information relevant to reviewing the implementation of the article

91. Oman indicated that its legislation does not stipulate that the liability of a legal person, if applicable, affects the criminal liability of the natural person who committed the offense. It also referred to the following text:

Law of Anti-Money Laundering and Combating Financing Terrorism

Article (32): The penalty of imprisonment for a term of not less than (3) three months and not more than (2) two years and a fine of not less than (1.000) one thousand Rials and not more than (10.000) ten thousand Rials, or either of them, shall be applied to any of the chairmen and directors of the boards of financial institutions, non-financial businesses and professions, and non-profit associations and bodies, their owners, authorized representatives, employees or the employees who act under these capacities who violates any of the obligations set forth in any of the articles of Chapter Four of this Law.

(b) Observations on the implementation of the article

92. Oman has implemented the provision under review. The liability of a legal person, if applicable, does not affect the criminal liability of the natural person who committed the offense.

Article 26 Liability of legal persons

Paragraph 4

4. Each State Party shall, in particular, ensure that legal persons held liable in accordance with this article are subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions.

(a) Summary of information relevant to reviewing the implementation of the article

93. Oman referred to Article 33 of the Law on Combating Money Laundering and Terrorist Financing and the above mentioned Articles 55 and 56 of the Penal Code.

94. Reference was also made to the following provision:

Penal Code

Article 46 . Accessory or additional penalties shall be:

1. Residence ban;
2. Expulsion of foreigner;
3. Deprivation of civil rights;
4. Seizure;
5. Closure and ban from practice of an activity.

(b) Observations on the implementation of the article

95. Expect for the criminal sanctions foreseen for money laundering offences, Oman's legislation does not subject legal persons to effective, proportionate or dissuasive sanctions in case of participation in the offences established in accordance with the Convention. A legal person can be found liable to compensate for a tort caused in the course of the performance of duties or because of such duties by a person under their supervision and the criminal judge may declare a legal person liable for civil compensation, pursuant to article 56 of the Penal Code including: restitution, compensation, seizure for the benefits of the injured person ad expenses. However, such sanctions are not considered effective, proportionate or dissuasive.

96. Regarding money laundering, the financial institutions, non-financial businesses and professions, and non-profit associations and bodies whose liability is established for a money laundering offence, is punished by a fine of not less than (10.000) ten thousand Rials and not more than the equivalent amount of money the subject of the offence. The Court shall order the convicted to publish the decision at the expense of the juristic person. The Court may revoke the license of the juristic person, stop its activities for a period not exceeding one year, bar it from practicing the activity, close the institution permanently or for a specified period, place a ban on practicing any professional or social activity, prohibit the trading of securities in financial markets, or prohibit the issuance of checks or using its own ATM cards.

97. To implement the provision under review, Oman should subject legal persons to effective, proportionate and dissuasive sanctions for participation in the offences established in accordance with the Convention (beyond money-laundering offences).

Article 27 Participation and attempt

Paragraph 1

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as a criminal offence, in accordance with its domestic law, participation in any capacity such as an accomplice, assistant or instigator in an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

98. Oman indicated that its legislation provides for the liability of the accomplice in all forms of complicity and referred to the following provisions:

Penal Code

Article 93 - Any person who realizes any element constituting the crime or directly contributing in its execution or instigates such crime...

Article 94 - If many persons jointly commit a felony or misdemeanour, or if the felony or misdemeanour consist of many acts and each of the persons carries out one or more constituting acts, they shall all be deemed accomplices. Each of the accomplices shall be sentenced to the penalty decided by law, as if he was an independent offender...

Article 95 - Any person having committed any of the following acts shall be considered a secondary participant:
1. Assistance of the offender in preparing the means or accomplishing the execution, or encouragement or leading thereof to commit the crime.
2. Agreement with the offender or any participant prior to the committing of the crime, participation in concealing the crime traces or disposing of its resulting items, or hiding one or more offenders from justice...

Article 96 - The participant without which assistance the crime has never been committed shall be sentenced as if he were the offender himself...

Article 97 - Save the cases stipulated in paragraphs 2 and 3 of Article 95, any person hiding another person or assisting him to hide, after knowing that he has committed a crime, or knowingly conceals or disposes of items resulting from a crime shall not be deemed a participant but an initial offender to be sentenced for an independent crime punishable by imprisonment from three months to two years.

Law of Anti-Money Laundering and Combating Financing Terrorism

Article (5): Any person who has initiated, participated, instigated, assisted, or agreed to commit money laundering or terrorism financing crime shall be considered as an original perpetrator. The financial institutions, the non-financial businesses, professions and associations and non-profit bodies shall be liable for that crime if committed in their name or on their behalf.

| No. of Article in Convention | Criminalizing Provision | Attempt is Punishable |
|--|---|-----------------------|
| Article 23 (Laundering of proceeds of crime) | Money Laundering: Article 2 of the Law on Combating Anti-Money Laundering and Terrorist Financing No. 79/2010, punishable under Article 27. | Punishable |
| Article 27 (Participation and attempt) | Embezzlement: Article 86 and Article 96 of the Omani Penal Code | Punishable |
| Article 15 (Bribery of national public officials) | Bribery: Articles 156 and 158 of the Omani Penal Code | punishable |
| Article 17 (Embezzlement, misappropriation, or diversion) | Embezzlement: Article 159 of the Omani Penal Code (In the first paragraph of the article referred to, the legislator classified this crime as a misdemeanor, given the minimum penalty for the crime, but in the second paragraph the penalty is raised to ten (10) years without providing for a minimum. Therefore, the classification of the crime in this case takes the classification of the first paragraph) | Not punishable |
| | Neglect of professional duties: Article 162 of the Omani Penal Code. Articles 5 and 9 of the Law on the Safeguarding of Public Property and Preventing of Conflict of Interest No. 112/2011, punishable under Article 15 of the said Law, and Article 7 of the said Law, punishable under Article 16. | Not punishable |
| | Divulging secrets: Article 164 of the Omani Penal Code. | Not punishable |
| Article 19 (Abuse of functions) | Abuse of functions: Articles 160 and 161 of the Omani Penal Code. Article 7 of the Law on the Protection of Public Property... -above - Punishable under Article 16. | Not punishable |
| Article 20 (Illicit Enrichment) | Enrichment: Articles 10 and 12 of the Law on the Safeguarding of Public Property and Preventing of Conflict of Interest No. 112/2011, punishable under Article 15 and 11 of the same Law, punishable under Article 17. | Not punishable |
| Article 23 (Laundering of proceeds of crime) | Money Laundering: Article 5 of the Law on Combating Anti-Money Laundering and Terrorist Financing No. 79/2010, punishable under Articles 33 and 4 of the said Law, punishable under Article 28 | punishable |
| Article 24 (Concealment) | Participation in an offence (concealment): Article 97 of the Omani Penal Code | Not punishable |
| Article 25 (Obstruction of justice) | Resistance to officials: Articles 171, 172, and 173 of the Omani Penal Code. | Not punishable |
| | Perjury: Article 184 of the Omani Penal Code | Not punishable |
| | Bribery: Article 158 of the Omani Penal Code | Not punishable |

| No. of Article in Convention | Criminalizing Provision | Attempt is Punishable |
|---|---|-----------------------|
| Article 26 (Liability of a legal person) | Article 5 of the Law on Combating Anti-Money Laundering and Terrorist Financing No. 79/2010, punishable under Article 33. | Not punishable |
| Article 31 (Freezing, seizure, and confiscation) | Breach of Trust: Article 296-2 of the Omani Penal Code. | Not punishable |

(b) Observations on the implementation of the article

99. Oman has implemented the provision under review. Criminal participation is dealt with under articles 93 to 96 of the CC.

Article 27 Participation and attempt

Paragraph 2

2. Each State Party may adopt such legislative and other measures as may be necessary to establish as a criminal offence, in accordance with its domestic law, any attempt to commit an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

100. Omani legislation punishes the attempt to commit any offence or misdemeanor punishable if attempted. Therefore, under the Omani Penal Code, the attempt to commit any of the offenses set forth in the Convention and criminalized under Omani law is punishable, provided it is described as an offence or misdemeanor that is punishable if attempted. Reference was made to the following provisions:

Penal Code

Article 86 - An attempt to commit a felony shall be deemed as if accomplished even if hindered only by circumstances not depending on the offender's proper will..

Article 87 - The attempt to commit a misdemeanour shall not be punished unless in the cases explicitly stipulated by law.

Article 158 - The briber or agent shall be sentenced to imprisonment from one month to two years if he attempts to bribe an official who refuses it.

101. Oman provided the following data on punishment of attempts for UNCAC offences.

(b) Observations on the implementation of the article

102. Attempt is dealt with under articles 86 and 87 of the CC. The attempt to commit felonies is criminalized but the attempt to commit misdemeanours is not criminalized except in cases provided for by law. Accordingly, the attempt to commit some of the UNCAC offences criminalized in Oman cannot be sanctioned (embezzlement, misappropriation or diversion of property, trading in influence, abuse of functions, concealment and obstruction of justice).

Article 27 Participation and attempt

Paragraph 3

3. Each State Party may adopt such legislative and other measures as may be necessary to establish as a criminal offence, in accordance with its domestic law, the preparation for an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

103. Oman indicated that it had set up a committee, pursuant to a decision of the Council of Ministers, tasked with bringing domestic legislation in line with the provisions of the Convention. This committee will consider criminalizing the preparation of an offense that is criminalized under the Convention.

(b) Observations on the implementation of the article

104. The preparatory acts for an offence are not criminalized under Oman's legislation.

Article 28 Knowledge, intent and purpose as elements of an offence

Knowledge, intent or purpose required as an element of an offence established in accordance with this Convention may be inferred from objective factual circumstances.

(a) Summary of information relevant to reviewing the implementation of the article

105. Oman indicated that, as is the case for all crimes, the law allows a judge in Oman to infer from objective factual circumstances the existence of the element of knowledge, intent, or purpose as an element of an offense criminalized under the Convention, on the basis of Article 215 of the Penal Procedure Law.

THE PENAL PROCEDURE LAW

Article 215: A judge shall decree the case in accordance with his satisfaction with his full liberty.

However, he may not base his judgement on any testimony that was not given to the litigants before him at the session or on his personal information.

Penal Code

Article 78 - Incrimination conditions as follows:

1. Existence of a legislation providing a penal description for the act.
2. Existence of the crime elements consisting of the will and the material act.
3. Non-existence of justifiable reasons depriving the act from its penal character.

There are, however, reasons due to the age of the defendant (minors), his will (lunacy, idiocy or error) or the crime conditions (conditions and executions) which shall hinder his punishment or lead to reduce the penalty, in accordance with the provisions stated in Chapter III hereafter.

Article 79 - The moral crime element is:

I -Premeditated Crimes:

1. Criminal intent;
2. In cases stipulated in special legislation – the motive

II - Non-premeditated Crimes:

1 – Error

Article 80 - The criminal intent is the will to commit the crime in the manner it is defined by legislation. No one can invoke his ignorance or his misunderstanding of the penal law.

(b) Observations on the implementation of the article

106. Article 215 of the Penal Procedure Law provides that a judge shall decree the case in accordance with his satisfaction with his full liberty.

Article 29 Statute of limitations

Each State Party shall, where appropriate, establish under its domestic law a long statute of limitations period in which to commence proceedings for any offence established in accordance with this Convention and establish a longer statute of limitations period or provide for the suspension of the statute of limitations where the alleged offender has evaded the administration of justice.

(a) Summary of information relevant to reviewing the implementation of the article

107. Reference was made to the following provisions:

Penal Code

Article 70 - Prescription shall hinder the execution of penalties, save the residence ban and seizure stipulated in Article 53 above.

Article 71 - Penalties are prescribe according to the following conditions:

I - In Felonies:

Sentence to death and life imprisonment shall be prescribed after twenty five years. Any other coercive penalty shall be prescribed after ten years. The prescription shall come into force starting from the date of the issue of the sentence in judgments in absentia and from the convict's evasion of execution in judgments in presence. In the event the penalty is reduced for any legal reason, the new sentence shall be considered for executing the prescription provisions.

II - In Misdemeanours:

Disciplinary penalties shall be prescribed after five years commencing from the date of pronouncing the sentence in judgments in presence, and from the date of its notification to the convict in judgments in absentia.

III - In Contraventions:

Penalizing penalties shall be prescribed after two years and according to the rules set for disciplinary penalties.

Article 72 - If the convict is arrested, the period of prescription shall be calculated concerning all types of penalties, commencing from the date when he leaves the prison for any reason whatsoever.

Article 73 - The prescription concerning disciplinary and penalizing penalties shall be interrupted and the previous period deemed null and void, if:

1. The convict surrenders or the competent authority carries out any act to implement the execution.
 2. The convict commits another crime equal to or more serious than the one causing the previous penalty.
- However, and in all events, the prescription shall not last for twice the sentence period.

Criminal Procedure Code

Article (16)

A civil action shall lapse with the passage of twenty years in offences where the sentence is execution or life imprisonment, ten years in other offences, three years in acts of misdemeanour and one year in infractions, starting, in all cases, from the day of the commission of the offence.

This shall not apply to offences referred to in articles 155 to 161 of the Penal Law, where the period shall commence on the date on which an employee's service ends or his official capacity ceases.

Article (17)

Applicability of the period with the passage of which a civil action lapses shall not be suspended for any reasons whatsoever.

Article (18)

The period whose passage leads to the lapse of civil action shall be discontinued by proceedings of investigation, charge sheeting or trial and also by penal order or formalities for collection of evidences completed in the presence of the accused or those he is notified of officially.

The period shall start a new, starting from the date of discontinuation.

If the number of proceedings disrupting the period is more than one, it shall commence on the day of the last action.

Law of Anti-Money Laundering and Combating the Financing of Terrorism

Article (36): Money laundering and terrorism financing crimes shall be excluded from the provisions related to the extinguishment of the public lawsuit. In all cases, the court shall order the forfeiture of funds subject of money laundering and terrorism financing crimes or impose an additional fine equivalent to the value in the case they cannot be seized or in the case of disposing of the same to others in good faith.

(b) Observations on the implementation of the article

108. Oman has implemented the provision under review.

109. Article 16 of the CPC establishes a statute of limitations of ten years for crimes, three years for misdemeanours (embezzlement, misappropriation or diversion of property, trading in influence, abuse of functions, concealment and obstruction of justice) and one year for violations, starting from the date of the commission of the offence, except for bribery, embezzlement and abuse of functions in the public sector where the period only starts after the official leaves his or her position or after the end of his or her official capacity. There is no statute of limitations for money-laundering offences (article 36 of the AML Law).

110. The statute of limitations is interrupted by investigation, indictment or trial proceedings as well as by procedures on the collection of evidence, which are applied in cases where the alleged offender evades the administration of justice.

(c) Successes and good practices

111. The statute of limitations for the offences of bribery, embezzlement and abuse of functions in the public sector only starts after the official leaves his or her position or after the end of his or her official capacity.

Article 30 Prosecution, adjudication and sanctions

Paragraph 1

1. Each State Party shall make the commission of an offence established in accordance with this Convention liable to sanctions that take into account the gravity of that offence.

(a) Summary of information relevant to reviewing the implementation of the article

112. Reference was made to the following provisions:

Bribery: Articles 155-158 of the Penal Code

Article 155 - Any official accepts a bribe for himself or on behalf of another person, be it either money, gift, promise or any other advantage, in order to accomplish a due act pertaining to his function, to abstain from accomplishing it or postpone its accomplishment shall be sentenced to imprisonment from three months to three years, to fine equalling at least the value of what he was given or promised to get, and to dismissal from function during a period subject to the judge's estimation.

If the briber or agent informs the authority of the bribery before the judgment is pronounced, he shall be exempted from punishment.

Article 156 - If an official accepts a bribe or demands it to carry out an act contrary to his duties or to abstain from implementing an act inherent to his function, he shall be sentenced to imprisonment for up to ten years and to a fine equalling at least the value of the bribe and to be dismissed from duty permanently. The sentence shall include the briber, agent and legal representatives, if they commit such acts.

Article 157 . If an official accept a bribe, after implementing the act expected by the briber, he shall be sentenced to imprisonment from three months to three years and fine equalling the value of the accepted bribe.

Article 158 - The briber or agent shall be sentenced to imprisonment from one month to two years if he attempts to bribe an official who refuses it.

Embezzlement: Article 159 of the Penal Code

Article 159 - If an official embezzles the state or public funds or items entrusted to him to administer, tax or keep, due to his function, he shall be sentenced to imprisonment from three months to three years and fine amounting at least to the value of the embezzled funds or items.

If the embezzlement is committed through forgery or alteration, the official shall be sentenced to imprisonment for at least ten years and fine equalling three times the value of the embezzlement.

Abuse of functions: Articles 161-162 of the Penal Code and Article 18

Article 160 - If an official misuses his function just for benefiting a third party, he shall be sentenced to imprisonment from three months to three years or fine from twenty to one hundred Rials.

Article 161 - If an official abuses the powers of his function to commit a personal crime not falling within his duties, he shall be sentenced for imprisonment for up to three years or a fine not exceeding two hundred Rials. The said official shall also be sentenced to the penalty applicable by law to the committed personal crime

Law on the Safeguarding of Public Property and Preventing of Conflict of Interest

Article 18: In all cases mentioned in Articles 15, 16, and 17 [hereof], the government official is dismissed from his position or duties and the funds he received in violation of the provisions of this Law are confiscated.

Participation: Article 94 of the Penal Code

Article 94 - If many persons jointly commit a felony or misdemeanour, or if the felony or misdemeanour consist of many acts and each of the persons carries out one or more constituting acts, they shall all be deemed accomplices. Each of the accomplices shall be sentenced to the penalty decided by law, as if he was an independent offender...

Attempt: Article 85-88 of the Penal Code

Article 86 - An attempt to commit a felony shall be deemed as if accomplished even if hindered only by circumstances not depending on the offender's proper will..

Article 87 - The attempt to commit a misdemeanour shall not be punished unless in the cases explicitly stipulated by law.

113. Oman also referred to the following penalties in addition to imprisonment:

- Fine: at least equal to what was given to him or what he promised, or what was embezzled, or two hundred (200) Omani riyals in the event of abuse of functions;
- Removal from office, position, or functions: The duration of removal is determined by the judge and may be definitive;

- Confiscation of all funds received in violation of the provisions of the law;
- Expulsion of the foreigner from Oman: The judge decides the expulsion of a foreigner from Oman if the latter is convicted with one of the offences listed above and sentenced to imprisonment of three (3) years or more.

(b) Observations on the implementation of the article

114. Oman adopted penalties for corruption offences that range from three months up to ten years of imprisonment, taking into account the gravity of the offence. In addition, fines, removal from office and confiscation are applicable for certain offences.

Article 30 Prosecution, adjudication and sanctions

Paragraph 2

2. Each State Party shall take such measures as may be necessary to establish or maintain, in accordance with its legal system and constitutional principles, an appropriate balance between any immunities or jurisdictional privileges accorded to its public officials for the performance of their functions and the possibility, when necessary, of effectively investigating, prosecuting and adjudicating offences established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

115. Oman indicated that its legislation provides that if an official is suspected of having committed an offence, for purposes of investigation, the relevant authorities in Oman may request the lifting of his immunity by the competent authority. A Royal Decree (No. 3/2014) was issued to define the concept of immunity and the scope of application.

Royal Decree defining the concept of immunity and the scope of application No. 3/2014

Article 1: The concept of immunity granted by the legislator to some State officials and elected and appointed council members refers to a set of guarantees and privileges attached to their capacities not to their persons to enable them to perform their duties or the public service entrusted to them. These guarantees are not personal privileges granted to exempt them from liability without justification.

Article 2: The scope of the immunity granted to the categories mentioned in the first article of this Decree is limited to the statements they express and to the deeds they perform while they exercise their duties and within the prescribed spaces and periods of time and limits of their functions.

Article 3: An official or an elected or appointed council member shall not commit any abuse of the immunity granted to him in his capacity, and shall not take advantage of such immunity for purposes other than the prescribed ones. In case of violation of the above, the authority or council in which such official or member belongs shall respond to a request from the public prosecutor to lift immunity, allow the initiation of public action, and take penal accountability procedures leading to acquittal or the preparation for trial.

The Basic Law

Article (58)(bis 23) Except in the case of flagrante delicto, no punitive action shall be taken against a member of Majlis Al Dawla or Majlis Al Shura during the annual session except with the prior permission from the Majlis concerned. The permission shall be issued by the Chairman of the concerned Majlis when it is not in session.

The Judiciary Law

Article (87): In cases other than flagrante delicto, a judge may not be arrested or held in detention except after obtaining permission from the Council of Administrative Affairs.

In cases of flagrante delicto, the matter must be referred to the Council of Administrative Affairs within twenty four hours of arresting the judge.

The Council may decide after hearing the judge either to release him with or without bail or to keep him detained for a determined period of time, with the possibility to extend such detention period, based the previous procedure.

Article (88): The investigation or prosecution of a judge shall not be undertaken except with the permission of the Council of Administrative Affairs, upon request by the Public Prosecutor.

The Public Prosecution Law

Article 9- The provisions concerning judicial immunity and the procedures of the removal thereof, stipulated in the Judicial Authority Law, shall be applicable to the Public Prosecution members, save, the Public Prosecution Assistants.

The State Audit Law

Article 17: In other than the case of a member apprehended red handed in the act of committing a crime, no member of the Institution (State Audit Institution) shall be arrested or kept in preventive custody without permission from the Chairman.

Article 18: No investigations shall be initiated or public action filed against any member of the Institution unless permission of the Chairman is sought based on the request of the public prosecutor.

(b) Observations on the implementation of the article

116. Immunities do not seem to constitute an impediment to the effective prosecution of UNCAC offences.

117. Members of the Council of State and the Consultative Council benefit from immunity, except for when they are caught in the act. During the sessions of the Councils, the authorization of the Council which the suspect is part of is required before taking any penal action, and in intersessional periods, the authorization of the president of the relevant Council is required (art. 58 (bis) 23 of the Constitution). No investigative or penal action can be taken against judges without the authorization of the Council of Administrative Affairs, upon the request of the Prosecutor-General's Office (art. 88 of the Law of the Judicature). No investigative or penal action can be taken against a member of the SAI without the authorization of the President of SAI, upon request by the Prosecutor-General's Office (art. 17 of the Law on SAI).

Article 30 Prosecution, adjudication and sanctions

Paragraph 3

3. Each State Party shall endeavour to ensure that any discretionary legal powers under its domestic law relating to the prosecution of persons for offences established in accordance with this Convention are exercised to maximize the effectiveness of law enforcement measures in respect of those offences and with due regard to the need to deter the commission of such offences.

(a) Summary of information relevant to reviewing the implementation of the article

118. Oman indicated that, pursuant to article (64) of the Basic Law of the State and article (4) of the Criminal Procedure Code, under no circumstances is it possible to relinquish or halt or obstruct the public action except in cases prescribed by law. The basic principle is to directly initiate the public action and its procedures in preparation for its referral to the judiciary. The rationale of the legislator is to avoid overloading the caseload of tribunals with unimportant and futile cases, which referral could cause damage to the individual, his family and society, especially that the purpose of sanctions is not a revenge, but rather

reform, discipline and dissuasion. Based on this logic, the legislator granted the Public Prosecutor only, the discretionary power not to prosecute the case despite the existence of a crime and sufficient proof, pursuant to article 125 (CCP). However, the exercise of such power is subject to the following 3 conditions set out in the text of the law:

- 1- If warranted by the lack of importance of the crime, which means that after the investigation is complete and after the application of the law to the facts, it turns out to be useless to refer the case to trial. For instance, if the facts constitute the crime of issuing a check with no sufficient funds, and that the civil plaintiff forwent his claim, there is no point in putting the accused to the dock. Another example is the illegal entry into the country: whenever the illegal entrants are held because they illegally entered the Sultanate in search for employment, they are taken out of the country further to administrative measures and returned to their countries based on an administrative decision of the executive authority under the Law of the Residence of Aliens. Also in this case, there is no point in referring the case to trial.
 - 2- If warranted by the circumstances of the case. In such case, the Prosecutor reconciles between the conditions of the accused and the circumstances of the facts, and puts an end to the procedures in the interest of both the individual and society. Indeed, as mentioned earlier, the sanction is there to reform and discipline. For instance, if the accused is a minor in school and committed the crime of theft against someone who forwent their claim. The dismissal of the case in light of the circumstances of the accused in order to give him the opportunity to right his wrongs by undertaking not to repeat the crime and his guardians pledge to take care of him, is more reasonable than taking the minor to trial and sentencing him with a sanction that could destroy his future.
 - 3- The absence of civil right plaintiff. And in case such claim is made, it is required in order for the Public Prosecutor to exercise his discretion to dismiss the case under Article 125 (CCP) that the civil rights plaintiff voluntarily forgoes his claim.
119. It is noteworthy that the application of the abovementioned text is limited. It is only applied in a few types of crimes. This article is not applicable whatsoever in offenses related to public funds or corruption offences. For these crimes, the Public Prosecutor takes very strict legal actions.

120. Reference was made to the following provisions:

The Basic Law

Article (64) The public prosecution shall conduct legal proceedings on behalf of the community, shall oversee matters of judicial prosecution and shall be vigilant in the application of the penal code, the pursuit of the guilty and the execution of court judgements.

THE PENAL PROCEDURE LAW

Article Four

The Public Prosecution shall be competent to bring a civil action and proceed with it before the competent court. A civil action may be relinquished or suspended and its proceedings may be discontinued only in the cases specified in Law.

The Public Prosecution may, in cases of misdemeanor and infraction, order the accused to appear before the competent court if it finds that the action is fit for being brought on the basis of evidence collected.

Article Thirty One

Judicial control commissioners in their area of jurisdiction are:

1. Members of Public Prosecution.
2. Police officers and officers in other regular ranks starting from the rank of policeman.
3. Staff of public security organisations specified by a decision issued by the head of the organisation.
4. Walis and deputy Walis.
5. All those who are given such a capacity by Law.

By virtue of a decision from the Minister of Justice, with the agreement of the concerned minister, certain employees may be given extra-judicial authority in respect to the offences committed in their area of jurisdiction which pertain to their official duties.

Article One Hundred and Twenty One

The Public Prosecution may, after the conclusion of the preliminary investigation, issue a decision to withhold the investigation provisionally or finally and order the release of the accused unless he has been imprisoned for any other reason.

The decision to withhold shall be provisional if the accused is unknown or if the evidences are insufficient and final if the offences attributed to the accused are inaccurate or not punishable by Law.

Article One Hundred and Twenty Five

The Public Prosecution shall issue a decision withholding the investigation finally, notwithstanding the presence of the offence and sufficient evidences, if the offence or its circumstances are found irrelevant, justifying such a decision, unless there is a civil right claimant.

Article One Hundred and Twenty Six

The aggrieved party and the civil right claimant or their heirs may appeal against the decision to withhold the investigation within ten days from the date of notice.

Article One Hundred and Twenty Seven

The appeal shall be made to the Criminal Court or the Appellate Court of misdemeanour, as the case may be, meeting at the Consultation Chamber.

The court shall, if it deems fit to cancel the decision to withhold, return the case to the Public Prosecution, specifying the offence and the acts constituting it and the text of the Law applicable to it, for reference to the competent court.

Article One Hundred and Twenty Eight

The Public Prosecution or his representative shall cancel the decision to withhold within three months from its issuance, unless it has already been appealed.

State Financial and Administrative Audit Law

Article 23: The State Financial and Administrative Audit Institution may, if it detects a financial or administrative breach, request the authority of the jurisdiction in which the breach was committed to conduct an investigation with the official responsible for such breach and take provisional measures. The said authority shall undertake to carry out the requested investigation as soon as it is notified to do so. If the breach is a criminal suspicion or offence the said authority shall inform the public prosecutor so that he may take appropriate action thereon and inform the said Institution and the said authority within two (2) weeks of the notification. If a decision of suspension of the investigation is issued, the public prosecutor shall inform the said Institution and the said authority. The said Institution and the said authority may oppose the decision of suspension in accordance with the appropriate procedures.

In all cases, the Chair of the Institution shall inform the public prosecution of any breach that represents a criminal suspicion or offence.

Law of Anti-Money Laundering and Combating Financing Terrorism

Article (8): The Unit shall conduct analytic and investigative work regarding the reports and information it receives with respect to the transactions referred to in the previous article. In order to do that, the Unit shall have the right to demand and review any necessary information, data or documents from financial institutions, non-financial businesses and professions, non-profit association and bodies, and the competent entities.

The Unit shall notify Public Prosecution of the outcome of the analysis and intelligence when the evidence of the commission of any of the crimes of money laundering and terrorism financing, or any other crime is established.

The Unit may request Public Prosecution to take precautionary measures regarding the crimes referred to in this Law pursuant to the provisions prescribed in the Penal Procedure Code.

(b) Observations on the implementation of the article

121. Omani authorities noted that prosecution in Oman follows the principle of legality pursuant to article 4 of the CPC.
122. Article 125 of the CPC provides for two exceptions related to the non-importance of the offence or its circumstances.
123. The authorities confirmed that Article (125) had limited applications and is only applied in cases regarding limited type of offences. Authorities also confirmed that this article is never applied public funds or corruption offences cases.

Article 30 Prosecution, adjudication and sanctions

Paragraph 4

4. In the case of offences established in accordance with this Convention, each State Party shall take appropriate measures, in accordance with its domestic law and with due regard to the rights of the defence, to seek to ensure that conditions imposed in connection with decisions on release pending trial or appeal take into consideration the need to ensure the presence of the defendant at subsequent criminal proceedings.

(a) Summary of information relevant to reviewing the implementation of the article

124. Reference was made to the following provisions:

Penal Procedures Law

Article Sixty Three

A public prosecution member may, at any time, issue an order for the release of the accused if he believes that his detention is no longer justified or his release shall not affect the investigation and he is not feared to run away.

In all cases, the release shall take place after the submission of an undertaking to appear whenever asked to do so and not to escape the enforcement of a possible sentence against him. This shall be done with a personal guarantee or by submitting a financial guarantee in offences pertaining to funds.

Article Sixty Four

The amount of financial guarantee shall be assessed by the person who issues the release order.

The amount shall be a guarantee against the failure of the accused to appear during investigation or trial and non-abstention from the enforcement of the sentence and other liabilities imposed on him.

Article Sixty Five

The amount of guarantee may be paid by the accused or a third party. This shall be done by depositing it in the treasury of the Public Prosecution or the court as the case may be.

Article Sixty Six

If the accused fails, without a valid reason, to carry out any of the liabilities imposed on him, the financial guarantee shall become the property of the state without a need for an order to this effect.

The guarantee amount shall be reimbursed in full if the case is stayed or no conviction order issued.

Article Sixty Seven

An order issued for release shall not prevent a Public Prosecution member from issuing a new order for the arrest and preventive detention of the accused, if there is strong evidence against him, if he violates the obligations imposed on him or if there are reasons for doing so.

If the release order has been issued by a court, a new warrant for the arrest of the accused shall be issued by the same court at the request of the Public Prosecution.

125. Oman also indicated that in cases of investigation procedures the accused shall be informed of the incriminating acts attributed to him. The accused may take a lawyer to defend him and has the right to appeal the decisions of the public prosecution with the competent courts. During judicial proceedings, the trial shall be public and the accused has the right to defend himself with all means of proof, and has the right to appeal and contest penal judgments.

(b) Observations on the implementation of the article

126. Preventive detention can be applied for corruption offences. Release pending trial is possible with bail, personal guarantee or seizure of the accused's identification documents. Bail is required when the crime involves assets.

Article 30 Prosecution, adjudication and sanctions

Paragraph 5

5. Each State Party shall take into account the gravity of the offences concerned when considering the eventuality of early release or parole of persons convicted of such offences.

(a) Summary of information relevant to reviewing the implementation of the article

127. Reference was made to the following provisions:

Penal Procedures Law

Article Three Hundred and Nine

A judgement debtor, sentenced finally to punishment restricting liberty, may be released conditionally if he has spent in the prison two thirds of the period of sentence provided it is not below nine months and his behaviour, during his imprisonment, generates confidence that he wants to rehabilitate himself, unless his release presents a threat to public security. If the punishment is life imprisonment, release shall not be permissible unless the judgement debtor has spent at least twenty years in prison.

The person so released conditionally shall, during the remaining period of his sentence, shall be governed by the conditions and provisions contained in the Law of prisons.

Conditional release may be cancelled if the person released violates any of the conditions on the basis of which he has been released and he shall be re-imprisoned to complete the remaining part of his sentence.

The order for conditional release and its cancellation shall be issued by virtue of a decision by the Director General of Prisons after the approval of a committee set up by a decision of the Inspector General of Police and Customs.

Article Three Hundred and Ten

Conditional release shall not be permissible unless the judgement debtor has fulfilled the financial liabilities sentenced in the offence, unless doing so is impossible for him.

(b) Observations on the implementation of the article

128. Early release is possible if two thirds of the prison sentence has been completed and all financial obligations adjudicated by the Court have been settled, unless it was impossible for the prisoner to honour such obligations.

Article 30 Prosecution, adjudication and sanctions

Paragraph 6

6. Each State Party, to the extent consistent with the fundamental principles of its legal system, shall consider establishing procedures through which a public official accused of an offence established in accordance with this Convention may, where appropriate, be removed, suspended or reassigned by the appropriate authority, bearing in mind respect for the principle of the presumption of innocence.

(a) Summary of information relevant to reviewing the implementation of the article

129. Oman referred to the following provisions:

Civil Service Law

Article 110: The head of the unit, or the person authorized to represent him, may suspend from work the official under investigation, if this is in the interest of the investigation, while the full salary of the official concerned shall continue to be paid. The period of suspension from work shall not extend for more than three (3) months except by a decision of the relevant Accountability Council, and in this case, this Council may decide to discontinue the payment of half the salary of the official concerned. If the investigation is suspended or the official is acquitted or if he is punished by a warning or a salary deduction of not more than five (5) days of payment, the official is entitled to the amounts deducted from his salary.

Article 111: Any official detained on remand in a case is considered as suspended from his functions for the duration of his detention and the payment of half his salary shall be suspended for this period. If the investigation is suspended or the official is not convicted, he is entitled to receive the suspended amount of his salary.

The Judiciary Law

Article (90): The imprisonment of a judge inevitably leads to preventing him from performing his duties during the period of his imprisonment. The Council of Administrative Affairs, either on his own initiative or upon request by the Minister of Justice, may suspend the judge from performing his duties during the investigations or trial period...

(b) Observations on the implementation of the article

130. Public officials can be suspended if the interest of the investigation requires such measures. Public officials are considered suspended while they are in preventive detention.

Article 30 Prosecution, adjudication and sanctions

Paragraph 7

7. Where warranted by the gravity of the offence, each State Party, to the extent consistent with the fundamental principles of its legal system, shall consider establishing procedures for the disqualification, by court order or any other appropriate means, for a period of time determined by its domestic law, of persons convicted of offences established in accordance with this Convention from:

(a) Holding public office; and

(b) Holding office in an enterprise owned in whole or in part by the State.

(a) Summary of information relevant to reviewing the implementation of the article

131. Oman indicated that the competent authorities shall take appropriate measures to deprive the convict from exercising his civil rights under Omani Penal Law in the period during which he serves his sentence, which means that this period equals the duration of the executed penalty in accordance with the rights set forth in the said Law. Besides, for some offences such as bribery, the official is dismissed from his position for life (Article 165 of the Omani Penal Code)

132. Oman referred to the following provisions:

Civil Service Law

Article 12: Any person who is appointed to a permanent position shall:

Have Omani nationality, except when there is need to appoint non-Omani nationals;

Display good behavior and conduct.

Not have incurred a final sentence of imprisonment for an offence or a penalty for an offence affecting honor and integrity, unless he has been rehabilitated;

Nevertheless, if the sentence he incurred is the first and is a suspended one, appointment is permissible if the Personnel Committee deems, on the basis of the circumstances of the event and the judgment grounds, that this is not inconsistent with the requirements and the nature of the functions;

Not have incurred a decision of punishment by compulsory retirement or dismissal from service, unless a period of three (3) years has elapsed from the date of such decision;

Meet the requirements for the specific function and related job description.

The Council may, in case of need, and upon the request of the Head of the unit, make an exception to the minimum requirement for practical experience if there is a lack of persons who have the required experience. The Council of Ministers may also make an exception to this requirement if the candidate for the position has a rare scientific expertise.

Be at least eighteen (18) years of age, which shall be proven with a birth certificate or an identity card;

Pass the examination for the position; and

Be medically fit for service.

The Basic Law of the State

Article 58 bis (2): Without prejudice to the provisions of Article 58 bis (1), whoever is chosen for membership in the Council of State shall:

- Be of Omani nationality;

- Be aged not less than forty (40) years, according to the Gregorian calendar, on the date of his appointment;

- Not have been convicted for an offence involving moral turpitude or dishonesty, even if rehabilitated;

- Not be affiliated to a security or military authority;

- Not be interdicted by a court order; and

- Not suffer from mental illness.

Penal Code

Article 50 • Any person coercively sentenced to life imprisonment shall be permanently deprived of his civil rights.

Any person sentenced to temporary imprisonment, either coercive or disciplinary, shall be deprived of his civil rights during his sentence period and during a period equaling the executed sentence, provided it is no less than three years, unless he is rehabilitated.

Any person sentenced to penalizing penalty shall not be deprived from his civil rights.

Article 51. The civil rights of which the convict shall be deprived are:

1. The right to hold government positions;
2. The right to hold community or trade union positions;
3. The right to vote;
4. The right to own, publish and edit newspapers;
5. The right to manage public or private schools, or to teach therein;
6. The right to bear honorary decoration and titles.

Article 154 - Any person nominated by his Majesty the Sultan or the government as against a salary paid from the Public Treasury and any person delegated or elected to give a public service, either against payment or not, shall be deemed an official herein.

Any person who works in a private institution or association that is of public interest, or in a private company or undertaking in which a State administrative unit has a holding or contributes financially in any way whatsoever, shall be considered as an official.

(b) Observations on the implementation of the article

133. Oman has implemented the provision under review.

134. The CC contains the sanction of removal and disqualification from holding public functions, including in State-owned enterprises (arts. 50, 51 and 154).

Article 30 Prosecution, adjudication and sanctions

Paragraph 8

8. Paragraph 1 of this article shall be without prejudice to the exercise of disciplinary powers by the competent authorities against civil servants.

(a) Summary of information relevant to reviewing the implementation of the article

135. Oman indicated that this paragraph is implemented in the Omani legislation because the criminal offense is independent from the administrative one. Indeed, the penal authorities are responsible for effecting penal sanctions and the civil authorities (administrative party) are in charge of enforcing administrative accountability and administrative punishments.

136. Oman referred to the following provisions:

Civil Service Law

Article 111: Any official detained on remand in a case is considered as suspended from his functions for the duration of his detention and the payment of half his salary shall be suspended for this period. If the investigation is suspended or the official is not convicted, he is entitled to receive the suspended amount of his salary.

Article 112: Any official imprisoned as a result of a criminal judgment shall be considered as suspended from his position for the duration of his prison term, and deprived of his full salary for this period, without prejudice to the provisions of Articles 140 and 149 herein. If it is proven that the official supports persons legally under his custody and that his salary is these persons' only source of subsistence, under testimony of the Ministry of Social Development, the Unit shall provide to such persons in the manner specified by regulation half his full salary, to be divided equally among them if they are several, until a decision is issued to end his service or to return him to work in accordance with Article 140- f.

Article 113: Any official against whom a non-final criminal judgement is issued for an offence or crime involving moral turpitude or dishonesty, shall be considered as suspended from work and the payment of half his salary shall be suspended until the judgement becomes final. If the punishment is cancelled or he is not convicted he shall receive the part of his salary that was suspended.

Article 114: If an official faces a criminal charge, he shall not be held administratively accountable with respect to this charge until a final judgment is issued by a competent court. A verdict of acquittal shall not preclude administrative accountability if its elements are available. A criminal sentence is authoritative in terms of evidence. When administrative accountability is considered, this sentence or its reasons shall not be questioned and no evidence against it shall be accepted.

Article 115: Subject to the provisions of Article 117 herein, administrative accountability and the imposition of a sanction are within the competence of the Central Council of Administrative Accountability or the Council of Administrative Accountability of the unit in which the violation occurred, even if the offending official belonged when he was held to account or punished in another unit.

Article 116: The penalties that may be imposed on officials are as follows:

- a. Warning;
- b. Salary deductions for a period not exceeding three (3) months a year;
- c. Deprivation from the periodic allowance;
- d. Salary reduction within the limits of an allowance;
- e. Demotion to the directly lower position and grade while the person concerned is entitled to the salary he earned in the grade from which he was demoted including the bonuses and allowances of the grade to which he was demoted;
- f. Demotion to the directly lower position and grade while the person concerned is entitled to the salary he earned before his promotion in the grade from which he was demoted including the bonuses and allowances of the grade to which he was demoted;
- g. Forced retirement;
- h. Dismissal from service.

Article 140: An official's service shall be terminated for any of the following reasons:

- f. A final judgement is issued against him for a criminal offence or an offence involving moral turpitude or dishonesty.

Nevertheless, if the sentence received by the official is the first and is a suspended one, the head of the unit may keep the official in service if he deems from the circumstances of the event and the grounds for judgment that this is not inconsistent with the requirements of the job after submitting the case to the Personnel Committee.

Implementing Regulations of the Civil Service Law:

Article 129: If the investigator deems that the offence attributed to the official is a criminal one, he shall prepare a memorandum thereon and submit it to the head of the unit so that he may inform the police. In this case, the administrative investigation is suspended until the completion of the criminal investigation concerning the official. If the investigation leads to the referral of the official to criminal trial, the administrative investigation shall be stayed until the issue of a final judgment on the criminal case.

Article 150: The Personnel Unit shall prepare decisions for the termination of service for any of the other reasons set forth in Article 140 hereof immediately when the cause is established. The decision shall indicate the reason for termination of service and its effective date. The decision shall be issued within one (1) week from the date on which the cause was established.

The said unit shall notify the official of the decision to terminate his service and take other actions set forth in the previous article.

(b) Observations on the implementation of the article

137. Oman has implemented the provision under review. Disciplinary sanctions can be taken under the Law on Civil Service (arts. 114-116) and can be imposed in addition to criminal sanctions in corruption cases.

Article 30 Prosecution, adjudication and sanctions

Paragraph 10

10. States Parties shall endeavour to promote the reintegration into society of persons convicted of offences established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

138. Oman indicated that this paragraph is implemented in its legislation, particularly with regard to the rehabilitation of the convicted defendant after he serves a part of the sentence to allow him to reintegrate society. It referred to the following articles:

Penal Procedures Law

Article Three Hundred and Thirty Three

A judgement debtor shall be rehabilitated in an offence or act of misdemeanour involving indignity or dishonesty pursuant to the provisions of this Law.

Article Three Hundred and Thirty Four

Rehabilitation shall be done by virtue of Law after the completion of the enforcement of the original and complementary punishment or grant of an amnesty or its lapse after the passage of six years if the penalty is in an offence and three years if it is in a misdemeanour.

Article Three Hundred and Thirty Five

The criminal court, meeting in the consultation chamber, shall issue a rehabilitation sentence, if asked to do so, subject to the following conditions:

1. If the sentence imposed has been enforced or an amnesty has been granted or it has lapsed due to the passage of the period.
2. If three years have passed after the date of the completion of enforcement or grant of amnesty, if the penalty is in a crime and eighteen months if it is in a misdemeanour. The periods shall be doubled in cases of a reversal judgement and lapse of penalty due to the passage of period.

Article Three Hundred and Thirty Six

The rehabilitation application shall be submitted by virtue of a petition to the Public Prosecution under whose area the residence of the applicant is located. The application shall contain the necessary information for his identification and specify the date of judgement issued on him and the places where he has stayed since that time.

Article Three Hundred and Thirty Seven

The Public Prosecution shall conduct an investigation on the application to verify the date of the applicants stand at each place since the time he has been sentenced and period of such stay to inquire into his behaviour and sources of income and, in general, to collect all necessary information.

The investigation shall be attached to the application and forwarded to the court within two months following its submission, together with a report stating his opinion and specifying the grounds on which it is based.

The application shall be accompanied by:

1. A copy of the judgement issued about the applicant.
2. Document of precedents.
3. A report on his behaviour during the period of enforcement of penalty.

Article Three Hundred and Thirty Eight

For a rehabilitation judgement, it is necessary that the judgement debtor fulfills all financial liabilities he has been sentenced to, in respect to the state and individuals, unless such liabilities have lapsed or the judgement debtor has proved that he is in a situation that makes it impossible for him to fulfill them.

Article Three Hundred and Thirty Nine

If a number of sentences are passed against the applicant, rehabilitation may not be decreed unless the conditions, specified in the preceding articles, have been met in respect to each sentence, provided the calculation of the period is subject to its ascription to the latest sentence.

Article Three Hundred and Forty

The court shall consider the application, meeting in the consultation chamber. It shall hear the statements of the Public Prosecution and the applicant and complete all the necessary information. The applicant shall be served with a notice for appearance at least eight days before the session.

Article Three Hundred and Forty One

If the rehabilitation conditions are fulfilled, the court shall order the rehabilitation if it finds that the behaviour of the applicant since the issuance of the sentence on him generates confidence that he wants to mend himself. The sentence may not be appealed except through cessation for misapplication or misinterpretation of Law.

Article Three Hundred and Forty Two

If rehabilitation application is rejected on account of a reason related to the behaviour of the judgement debtor, it may not be reviewed before the passage of one year. In other cases, it may be reviewed subject to the fulfillment of the necessary conditions.

Article Three Hundred and Forty Three

A rehabilitation sentence may be cancelled if it appears that other sentences were issued against the judgement debtor which were not in the knowledge of the court or if he is convicted in an offence that took place before, after the rehabilitation. In this case, the sentence shall be issued by the court which decreed rehabilitation at the request of Public Prosecution.

Article Three Hundred and Forty Four

Rehabilitation of the judgment debtor may be decreed only once.

Article Three Hundred and Forty Five

If the penalty is accompanied by the sentencing of an action, the period shall commence from the date on which the action ends or lapses due to passage of period. If the judgement debtor has been released on condition, the period shall commence only from the date on which conditional release becomes [mal.

If the sentence is with the suspension of enforcement of penalty, the period shall commence on the date of issuance of sentence.

Article Three Hundred and Forty Six

Rehabilitation shall lead to cancellation of the conviction sentence for the future and of the resultant incompetence, deprivation from rights and all penal impacts. The Public Prosecution shall dispatch a copy of the judgement issued for rehabilitation to the court which issued the conviction sentence and to the concerned organisations for necessary endorsement.

Article Three Hundred and Forty Seven

Rehabilitation of a third party may not be contested, insofar as it relates to the rights resulting from conviction sentence.

Article Three Hundred and Forty Eight

Judgements issued in the following offences shall not be considered precedents for rehabilitation application:

1. First precedent in misdemeanour
2. Misdemeanour not affecting decency or honesty.
3. Juvenile offences unless the Law provides otherwise.
4. Infractions
5. Offences which are not to be considered as precedents under Law.

Juvenile Accountability Law

Article 26: The Department of Juvenile Affairs handles procedures of subsequent care to help the integration of juvenile offenders in the community after serving the period of measure, and to overcome the difficulties they may face in order to adapt to the new conditions in order to prevent him from returning to delinquency, and these actions take the following forms:

- a - Visit to family to prepare the family and social conditions for the juvenile;
- b - Help the juvenile achieve positive interaction with those around him;
- c - Help the juvenile create appropriate opportunities to complete his training and education and find a source of income for him.

Law on Prisons

Article 35:

There shall be established at the Directorate General of Prisons a Department of Social Welfare for inmates to be staffed with a sufficient number of experts and specialists. This Department shall have sections in prisons whenever necessary, and shall have the following missions:

1. Contribute to the preparation and implementation of programs to receive inmates to examine their personality and classify them;
2. Participate in the development of programs for dealing with inmates and ensuring their education, training, and rehabilitation and supervise the implementation of these programs and their amendment;
3. Conduct social research and psychological studies that help to rehabilitate inmates to be good members of society;
4. Follow-up the social activity of inmates, discuss their individual problems, and provide the necessary assistance to solve them.
5. Prepare inmates and rehabilitate them psychologically, socially, and professionally and coordinate with the competent authorities to facilitate their access to suitable work before being released; and
6. Coordinate with the competent authorities to take care of the families of inmates socially and financially while they serve their sentence.

(b) Observations on the implementation of the article

139. Oman does not have a dedicated reintegration programme for convicted persons after their release from prison. However, these persons are involved in a number of educational, training and rehabilitation programmes during the period of their imprisonment. Under the CPC, the convicted person may be rehabilitated after a period following serving the sentence.

140. The reviewers encourage Oman to adopt additional measures to strengthen the reintegration into society of persons convicted of corruption offences.

Article 31 Freezing, seizure and confiscation**Subparagraph 1 (a)**

1. Each State Party shall take, to the greatest extent possible within its domestic legal system, such measures as may be necessary to enable confiscation of:

(a) Proceeds of crime derived from offences established in accordance with this Convention or property the value of which corresponds to that of such proceeds;

(a) Summary of information relevant to reviewing the implementation of the article

141. Reference was made to the following provisions:

The Basic Law**Article (11)**

...

Confiscation of property is prohibited and the penalty of specific confiscation shall only be imposed by judicial order in circumstances defined by the Law.

Penal Code

Article 52 - In case of conviction, the judge may order the seizure of the held items which were used or prepared for use in a crime and those usurped due to or resulting from such a crime, with no prejudice to the bona fide third party.

Article 53 - In all events, the judge shall order the seizure of the items which manufacture, purchase or use are in themselves unlawful, even if they are not owned by the defendant or convict and if the prosecution does not lead to pronouncing a judgment.

Article 54 - If the items to be seized are not held, the defendant or convict shall be given a deadline to deliver them, at the risk of paying twice their value according to what is established by the judge directly or through an expert. The said value shall be paid in the same manner as fines.

Article (321): Without prejudice to the provisions of Articles 52-54 of this Law, the competent court shall order the confiscation of the property, equipment, or any instruments used or to be used in committing a transnational organized as well as the returns and revenues of these crimes or the benefits thereof.

Both the Public Prosecution and the competent court may issue an order for submitting bank, financial and commercial records and keep them in view of checking the returns and revenues of any transnational organized crime.

Article (322): The confiscated returns and property shall accrue to the States' treasury. Upon the request of another country – at whose territory a part of the criminal activity of the organized group has been committed – such confiscated returns and property may be divided pursuant to an agreement or arrangements with the requesting country.

Law on the Safeguarding of Public Property and Prevention of Conflicts of Interest

Article 18: In all cases mentioned in Articles 15, 16, and 17 [hereof], the government official shall be dismissed from his position or duties and the funds he received in violation of the provisions of this Law shall be confiscated.

Law of Anti-Money Laundering and Combating Financing Terrorism

Article (20): Public Prosecution may take all necessary precautionary measures, including the seizure and freezing of funds the subject of money laundering and terrorism financing crimes their proceeds, and any evidence which may make it possible to identify those funds and proceeds. This decision may be appealed before the Criminal Court held *in camera*.

The competent court may order freezing until a ruling is issued in the subject of the related lawsuit.

Article (22): Upon the request of the competent authority of another country with which the Sultanate has signed agreements or in accordance with reciprocity principle, Public Prosecution may order the tracking, seizing or freezing of funds, proceeds and instrumentalities involved in money laundering and terrorism financing crimes.

Article (34): The penalty of imprisonment for a term of not more than (6) six months and a fine not exceeding (5.000) five thousand Rials or either penalty shall be applied to any person who violates the provisions of Article (40) of this Law. The court may confiscate the juristic person, revoke its license, suspend its activity for not more than one year, deprive it from practicing the activity again, close the institution permanently or temporarily, or ban it from practicing any other activity if the violation has been committed in its name or favor.

Article (35): In case of conviction with money laundering or terrorism financing crime or attempted perpetration thereof, the court shall issue a ruling for the confiscation of:

- 1) Funds and properties subject of money laundering or terrorism financing crime and the means employed, income and other revenues derived from it that accrue to any person unless he proves that he has obtained the same legitimately and that he has been unaware it was the source of money laundering or terrorism financing crime.
- 2) Proceeds of the crime belonging to a person convicted with money laundering or terrorism financing crime or to his spouse, children, or any other person, unless the parties concerned establish they have acquired them from a legitimate source.
- 3) Funds and properties that have become a part of the assets of the perpetrator of money laundering or terrorism financing crime, wherever found, unless the parties concerned establish they have acquired them from a legitimate source.

When the funds subject of money laundering or terrorism financing crime are mixed with the funds that have been obtained from legitimate sources, the ruling of forfeiture shall apply only to the funds subject of money laundering or terrorism financing crime.

Article (36): Money laundering and terrorism financing crimes shall be excluded from the provisions related to the extinguishment of the public lawsuit. In all cases, the court shall order the forfeiture of funds subject of money laundering and terrorism financing crimes or impose an additional fine equivalent to the value in the case they cannot be seized or in the case of disposing of the same to others in good faith.

142. Oman also pointed out that other articles in the same law deal with confiscation provisions.

(b) Observations on the implementation of the article

143. Article 52 of the CC provides for the possibility to confiscate proceeds of crime and instrumentalities used or destined for use in the commission of the offence. Confiscation is conviction based.

144. Oman allows for value-based confiscation.

Article 31 Freezing, seizure and confiscation

Subparagraph 1 (b)

1. Each State Party shall take, to the greatest extent possible within its domestic legal system, such measures as may be necessary to enable confiscation of:

(b) Property, equipment or other instrumentalities used in or destined for use in offences established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

145. Oman referred to its previous answer and indicated that other articles in special laws, such as the law on weapons and ammunition and other laws, deal with the confiscation of instrumentalities.

(b) Observations on the implementation of the article

146. Article 52 of the CC provides for the possibility to confiscate proceeds of crime and instrumentalities used or destined for use in the commission of the offence. Confiscation is conviction based.

147. Oman allows for value-based confiscation.

Article 31 Freezing, seizure and confiscation

Paragraph 2

2. Each State Party shall take such measures as may be necessary to enable the identification, tracing, freezing or seizure of any item referred to in paragraph 1 of this article for the purpose of eventual confiscation.

(a) Summary of information relevant to reviewing the implementation of the article

148. Reference was made to the following provisions:

Penal Procedures Law

Article Eighty Eight

The judicial control commissioner may confiscate the articles which might have been used in committing the offence or resulted from the commission thereof or those on which the offence might have occurred, together with everything useful in unfolding the truth.

Such articles shall be described and presented to the accused and he shall be asked to make his comments on these articles. Such comments shall be entered in the record bearing his signature or specifying his abstention from signing.

The articles and the papers so confiscated shall be kept in a closed safe sealed officially. The date of the record prepared for the confiscation of these articles shall be written on the safe and the subject for which the confiscation was done shall be referred to.

Law of Anti-Money Laundering and Combating Financing Terrorism

Article (8): The Unit shall conduct analytic and investigative work regarding the reports and information it receives with respect to the transactions referred to in the previous article. In order to do that, the Unit shall have the right to demand and review any necessary information, data or documents from financial institutions, non-financial businesses and professions, non-profit association and bodies, and the competent entities.

The Unit shall notify Public Prosecution of the outcome of the analysis and intelligence when the evidence of the commission of any of the crimes of money laundering and terrorism financing, or any other crime is established.

The Unit may request Public Prosecution to take precautionary measures regarding the crimes referred to in this Law pursuant to the provisions prescribed in the Penal Procedure Code.

Article (20): Public Prosecution may take all necessary precautionary measures, including the seizure and freezing of funds the subject of money laundering and terrorism financing crimes their proceeds, and any evidence which may make it possible to identify those funds and proceeds. This decision may be appealed before the Criminal Court held *in camera*.

The competent court may order freezing until a ruling is issued in the subject of the related lawsuit.

Article (22): Upon the request of the competent authority of another country with which the Sultanate has signed agreements or in accordance with reciprocity principle, Public Prosecution may order the tracking, seizing or freezing of funds, proceeds and instrumentalities involved in money laundering and terrorism financing crimes.

(b) Observations on the implementation of the article

149. The CPC (arts. 76-103) and the AML Law (arts. 8 and 20) provide for a wide range of investigative measures available for the tracing and freezing of criminal proceeds and instrumentalities for the purpose of confiscation.

Article 31 Freezing, seizure and confiscation

Paragraph 3

3. Each State Party shall adopt, in accordance with its domestic law, such legislative and other measures as may be necessary to regulate the administration by the competent authorities of frozen, seized or confiscated property covered in paragraphs 1 and 2 of this article.

(a) Summary of information relevant to reviewing the implementation of the article

150. Reference was made to the following provisions:

Penal Procedures Law

Article Ninety Seven

Articles seized through search or through accidental confiscation shall be endorsed in a register signed by the seizing authority. He shall describe their names, specify the method, place and venue of their confiscation and record the statement of the person with whom they were confiscated or his replacement and the name of the confiscator.

The articles confiscated shall be retained in so far as they are necessary for investigation or decision of the case.

Article Ninety Eight

Articles seized during investigation may be returned unless they are necessary to proceed with the case, are to be confiscated or are disputed. A person who claims his right to the seized articles shall ask the Public Prosecution member to hand them over to him.

In case of refusal, he may appeal to the court of misdemeanour meeting at the consultation chamber and request that his statement be heard at the court.

Article Ninety Nine

Articles shall be returned to the person possessing them at the time of seizure.

If the seized items are articles on which the offence took place or from which it resulted, they shall be returned to the person who lost their possession as a result of the offence, unless the person from whom they have been seized has the right to detain them by virtue of Law.

Article One Hundred

The order for returning the articles shall be issued by the Public Prosecution, the court of misdemeanour or the competent court during the hearing of the civil action. An order for returning may be issued even without request.

A Public Prosecution member may not order the articles to be returned in case of dispute over or doubt about the right to receive the articles.

The concerned parties shall refer the matter to the Appellate Court of misdemeanour meeting at the consultation chamber.

Article One Hundred and One

While issuing a decision to stay the case, the Public Prosecution member shall decide on the fate of the seized items.

The court shall, while issuing a judgement on the civil action decide on the fate of the seized articles if the claim for returning them was made before it.

It may order that the litigants be referred to the competent civil court, if it deems this necessary.

In such a case, the articles seized may be placed under custody and necessary measures shall be taken for their protection.

Article One Hundred and Two

Seized items not claimed by their rightful owners within one year from the date on which the civil action has lapsed may be ordered to be sold by way of public auction and their value shall be retained for their rightful owners after the deduction of sale expenses. The right to claim shall lapse after the passage of five years.

Article One Hundred and Three

If an article seized is one that is liable to go bad with the passage of time or if keeping it involves expenses equivalent to its value, its sale may be ordered by way of public auction, if the exigencies of investigation so permit and the value of sale shall be retained after deducting the expenses. Its rightful owner may claim it pursuant to article 102 of this Law.

151. Oman also noted that the disposition of confiscated items is within the competence of the General Directorate for the implementation and follow-up of judgments as stipulated in Article 285 of the Code of Criminal Procedure. The Public Prosecution follows specific procedures to handle the proceeds of crime. There is a special account in banking institutions for this matter.

(b) Observations on the implementation of the article

152. Oman has some procedures and legislative provisions relating to the administration of seized items. Seized items may be put in custody and necessary measures may be taken for their preservation, pursuant to article 101 of the CPC. Seized items may be sold if perishable or if their maintenance requires expenses that exceed their value, pursuant to article 103 of the CPC. The Directorate-General for the Execution and Follow-up on Decisions is the competent authority to decide on the disposal of confiscated items. The Prosecutor-General's Office has certain measures to administer proceeds of crime through special bank accounts opened for that purpose.

153. To fully implement the provision under review, Oman should adopt additional measures to improve the regulation of administration of frozen, seized and confiscated property.

Article 31 Freezing, seizure and confiscation

Paragraph 4

4. If such proceeds of crime have been transformed or converted, in part or in full, into other property, such property shall be liable to the measures referred to in this article instead of the proceeds.

(a) Summary of information relevant to reviewing the implementation of the article

154. Reference was made to the following provisions:

Penal Code

Article 54 - If the items to be seized are not held, the defendant or convict shall be given a deadline to deliver them, at the risk of paying twice their value according to what is established by the judge directly or through an expert.

Law of Anti-Money Laundering and Combating Financing Terrorism

Article (35): In case of conviction with money laundering or terrorism financing crime or attempted perpetration thereof, the court shall issue a ruling for the confiscation of:

- 1) Funds and properties subject of money laundering or terrorism financing crime and the means employed, income and other revenues derived from it that accrue to any person unless he proves that he has obtained the same legitimately and that he has been unaware it was the source of money laundering or terrorism financing crime.
- 2) Proceeds of the crime belonging to a person convicted with money laundering or terrorism financing crime or to his spouse, children, or any other person, unless the parties concerned establish they have acquired them from a legitimate source.
- 3) Funds and properties that have become a part of the assets of the perpetrator of money laundering or terrorism financing crime, wherever found, unless the parties concerned establish they have acquired them from a legitimate source.

When the funds subject of money laundering or terrorism financing crime are mixed with the funds that have been obtained from legitimate sources, the ruling of forfeiture shall apply only to the funds subject of money laundering or terrorism financing crime.

155. Oman also reported a lack of statistics or case studies relevant to the implementation of this Article.

(b) Observations on the implementation of the article

156. Oman allows for value-based confiscation, which allows for the possibility to seize and confiscate transformed or converted property.

Article 31 Freezing, seizure and confiscation

Paragraph 5

5. If such proceeds of crime have been intermingled with property acquired from legitimate sources, such property shall, without prejudice to any powers relating to freezing or seizure, be liable to confiscation up to the assessed value of the intermingled proceeds.

(a) Summary of information relevant to reviewing the implementation of the article

157. Oman referred to paragraph 3 of Article 35 of the Law on Combating Money Laundering and Terrorist Financing, above-mentioned.

158. Oman also reported a lack of statistics or case studies relevant to the implementation of this Article.

(b) Observations on the implementation of the article

159. Oman allows for value-based confiscation, which allows for the possibility to seize and confiscate intermingled property.

Article 31 Freezing, seizure and confiscation

Paragraph 6

6. Income or other benefits derived from such proceeds of crime, from property into which such proceeds of crime have been transformed or converted or from property with which such proceeds of crime have been intermingled shall also be liable to the measures referred to in this article, in the same manner and to the same extent as proceeds of crime.

(a) Summary of information relevant to reviewing the implementation of the article

160. Reference was made to the following provisions:

Penal Code

Article 52 - In case of conviction, the judge may order the seizure of the held items which were used or prepared for use in a crime and those usurped due to or resulting from such a crime, with no prejudice to the bona fide third party.

Law of Anti-Money Laundering and Combating Financing Terrorism

Article (35): In case of conviction with money laundering or terrorism financing crime or attempted perpetration thereof, the court shall issue a ruling for the confiscation of:

- 1) Funds and properties subject of money laundering or terrorism financing crime and the means employed, income and other revenues derived from it that accrue to any person unless he proves that he has obtained the same legitimately and that he has been unaware it was the source of money laundering or terrorism financing crime.
- 2) Proceeds of the crime belonging to a person convicted with money laundering or terrorism financing crime or to his spouse, children, or any other person, unless the parties concerned establish they have acquired them from a legitimate source.
- 3) Funds and properties that have become a part of the assets of the perpetrator of money laundering or terrorism financing crime, wherever found, unless the parties concerned establish they have acquired them from a legitimate source.

When the funds subject of money laundering or terrorism financing crime are mixed with the funds that have been obtained from legitimate sources, the ruling of forfeiture shall apply only to the funds subject of money laundering or terrorism financing crime.

(b) Observations on the implementation of the article

161. Oman does not explicitly provide for the possibility to seize or confiscate income or other benefits derived from criminal proceeds except in money laundering offences.
162. To implement the provision under review, Oman should explicitly provide for the possibility of seizure and confiscation of the income or benefits derived from proceeds of crime (beyond money-laundering offences).

Article 31 Freezing, seizure and confiscation

Paragraph 7

7. For the purpose of this article and article 55 of this Convention, each State Party shall empower its courts or other competent authorities to order that bank, financial or commercial records be made available or seized. A State Party shall not decline to act under the provisions of this paragraph on the ground of bank secrecy.

(a) Summary of information relevant to reviewing the implementation of the article

163. Reference was made to the following provisions:

Penal Code

Article (321): Without prejudice to the provisions of Articles 52-54 of this Law, the competent court shall order the confiscation of the property, equipment, or any instruments used or to be used in committing a transnational organized as well as the returns and revenues of these crimes or the benefits thereof.

Both the Public Prosecution and the competent court may issue an order for submitting bank, financial and commercial records and keep them in view of checking the returns and revenues of any transnational organized crime.

Banking Law

ARTICLE 24. DECLARATION OF CONFIDENTIALITY

- (a) Members of the Board of Governors and all officials, employees, advisers, special experts or consultants appointed hereunder shall not disclose any information acquired in the performance of their functions except when such disclosure is necessary to the fulfillment of their duties and is made to other Central Bank personnel or other authorised representatives of the Central Bank, when such person is called to give evidence in a judicial or similar proceeding before a tribunal created under the laws of the Sultanate or when such disclosure is necessary to the fulfillment of obligations imposed by other laws of the Sultanate or to foreign

Central Banks or other regulators responsible for the supervision of any aspect of activities of banks in Oman or their branches or affiliates abroad.

ARTICLE 70 CONFIDENTIALITY OF BANKING TRANSACTIONS

(a) No Government Agency nor any person shall ask a licensed bank directly to disclose any information or to take any action relating to any customer. Such request in all cases shall be submitted to the Central Bank. A committee shall be established at Central Bank to decide on whether to release the information or to take the action requested or not. If the Central Bank finds the request acceptable, the licensed bank shall be informed to release such information or to take such action according to the way and method instructed by Central Bank. The decision of the Central Bank regarding the disclosure of information or taking the action shall be final.

(b) No licensed bank, nor any director, officer, manager or employee of such bank, shall disclose any information relating to any customer of the bank except when such disclosure is required under the laws of the Sultanate and as instructed by the Central Bank. In any case a licensed bank should inform its customer promptly of such disclosure.

(c) Except as provided by Article 70 (a) of this Law, disclosure of information relating to any customer of a licensed bank shall be made only with the consent of such person, provided, however that a customer of a licensed bank may give general consent to use of banker's advisements related to his banking business.

(d) Any former director, officer, manager or employee of a licensed bank shall be bound by this Article 70.

Law of Anti-Money Laundering and Combating Financing Terrorism

Article (8): The Unit shall conduct analytic and investigative work regarding the reports and information it receives with respect to the transactions referred to in the previous article. In order to do that, the Unit shall have the right to demand and review any necessary information, data or documents from financial institutions, non-financial businesses and professions, non-profit association and bodies, and the competent entities.

Article (12): Financial institutions, non-financial businesses and professions, and non-profit associations and bodies undertake to:

...

8) Provide the Unit directly with the information, data and documents it may require to conduct its functions.

Article (14): In exception from the provisions relating to the confidentiality of banking transactions and professional confidentiality, the financial institutions, non-financial businesses and professions, and non-profit associations and bodies undertake to notify the Unit regarding the transactions as soon as they are suspected of being related to the proceeds of crime proceeds, terrorism, terroristic crime or terroristic organization or involving money laundering or terrorism financing crimes, whether such transactions have or have not been conducted or at the time it is attempted to be conducted in accordance with controls and procedures specified in the regulation.

Article (19): Competent regulatory entities shall inform the Unit of the information it may receive on money laundering and terrorism financing crimes and the actions they may take in this regard and the results thereof. These entities shall provide the Unit with all the necessary data, information and statistics needed to conduct its functions.

Criminal Procedure Code

Article Eighty Eight

The judicial control commissioner may confiscate the articles which might have been used in committing the offence or resulted from the commission thereof or those on which the offence might have occurred, together with everything useful in unfolding the truth.

Such articles shall be described and presented to the accused and he shall be asked to make his comments on these articles. Such comments shall be entered in the record bearing his signature or specifying his abstention from signing.

The articles and the papers so confiscated shall be kept in a closed safe sealed officially. The date of the record prepared for the confiscation of these articles shall be written on the safe and the subject for which the confiscation was done shall be referred to.

Article Ninety Four

The judicial control commissioner shall order the person possessing an article, which he deems necessary to confiscate or go through, to produce it. The person violating this order shall be governed by the provisions pertaining to the offence of refusal to give evidence.

(b) Observations on the implementation of the article

164. It is possible to request that financial and commercial records be made available or seized (art. 88 of the CPC). As for bank records, only the FIU can request them to be made available in the context of analyzing suspicious transaction reports (STR) relating to money- laundering offences. Upon request by a Government agency, the Central Bank may set up a commission to decide on the disclosure of bank information or whether the requested measures should be taken. This mechanism does not seem to effectively fulfill the requirement of the provision under review.

165. To implement the provision under review, Oman should empower its courts or other competent authorities to order that bank records be made available for the purposes of articles 31 and 55 of the Convention (beyond money-laundering offence).

Article 31 Freezing, seizure and confiscation

Paragraph 8

8. States Parties may consider the possibility of requiring that an offender demonstrate the lawful origin of such alleged proceeds of crime or other property liable to confiscation, to the extent that such a requirement is consistent with the fundamental principles of their domestic law and with the nature of judicial and other proceedings.

(a) Summary of information relevant to reviewing the implementation of the article

166. Reference was made to the following provision:

Law of Anti-Money Laundering and Combating Financing Terrorism

Article (35): In case of conviction with money laundering or terrorism financing crime or attempted perpetration thereof, the court shall issue a ruling for the confiscation of:

- 1) Funds and properties subject of money laundering or terrorism financing crime and the means employed, income and other revenues derived from it that accrue to any person unless he proves that he has obtained the same legitimately and that he has been unaware it was the source of money laundering or terrorism financing crime.
- 2) Proceeds of the crime belonging to a person convicted with money laundering or terrorism financing crime or to his spouse, children, or any other person, unless the parties concerned establish they have acquired them from a legitimate source.
- 3) Funds and properties that have become a part of the assets of the perpetrator of money laundering or terrorism financing crime, wherever found, unless the parties concerned establish they have acquired them from a legitimate source.

When the funds subject of money laundering or terrorism financing crime are mixed with the funds that have been obtained from legitimate sources, the ruling of forfeiture shall apply only to the funds subject of money laundering or terrorism financing crime.

(b) Observations on the implementation of the article

167. Article 35 of the AML Law places the evidentiary burden on the accused to demonstrate the lawful source of assets for confiscation in money-laundering cases.

168. Oman might wish to provide for the possibility of requiring that an offender demonstrate the lawful origin of alleged proceeds of crime or other property liable to confiscation, beyond money-laundering cases.

Article 31 Freezing, seizure and confiscation

Paragraph 9

9. The provisions of this article shall not be so construed as to prejudice the rights of bona fide third parties.

(a) Summary of information relevant to reviewing the implementation of the article

169. Reference was made to the following provisions:

Penal Code

Article 52 - In case of conviction, the judge may order the seizure of the held items which were used or prepared for use in a crime and those usurped due to or resulting from such a crime, with no prejudice to the bona fide third party.

Law of Anti-Money Laundering and Combating Financing Terrorism

Article (36): Money laundering and terrorism financing crimes shall be excluded from the provisions related to the extinguishment of the public lawsuit. In all cases, the court shall order the forfeiture of funds subject of money laundering and terrorism financing crimes or impose an additional fine equivalent to the value in the case they cannot be seized or in the case of disposing of the same to others in good faith.

Article (37): Without prejudice to others' rights, each contract or conduct whose parties or one of them have been aware or have had reason to believe that the purpose of the same is to prevent the forfeiture of instrumentalities, revenues, or proceeds relating to money laundering or terrorism financing crimes shall be null and void.

(b) Observations on the implementation of the article

170. The CC (art. 52) and the AML Law (arts. 36 and 37) provide for the protection of the rights of *bona fide* third parties.

Article 32 Protection of witnesses, experts and victims

Paragraph 1

1. Each State Party shall take appropriate measures in accordance with its domestic legal system and within its means to provide effective protection from potential retaliation or intimidation for witnesses and experts who give testimony concerning offences established in accordance with this Convention and, as appropriate, for their relatives and other persons close to them.

(a) Summary of information relevant to reviewing the implementation of the article

171. Oman indicated that it does not have an independent system for the protection of witnesses, but some of its laws provide for the legal protection of witnesses, for example, the Omani Penal Code in its Article 186, which states that, “*the false witness shall be exempted from penalty if he is forcibly exposed, if he says the truth, to a serious threat menacing his freedom or honor, or menacing his wife, ascendants or descendants.*”

172. Besides, the Anti-Human Trafficking Law stipulates in Article 5 thereof that the following measures shall be taken during the investigation or prosecution of the crime of human trafficking: “... (c) *Ensuring the protection of the victim or witness when needed. It should be noted that Oman acceded to the Arab Convention for Combating Money Laundering and Terrorist Financing, which provides for the protection of witnesses under Articles 37 and 38 thereof.*”

(b) Observations on the implementation of the article

173. Oman did not adopt measures to provide effective protection for witnesses or experts who give testimony concerning offences established in accordance with the Convention.

174. To implement the provision under review, Oman should adopt measures to provide effective protection for witnesses and experts who give testimony concerning offences established in accordance with the Convention as well as for their relatives and other persons close to them.

Article 32 Protection of witnesses, experts and victims

Subparagraph 2 (a)

2. The measures envisaged in paragraph 1 of this article may include, inter alia, without prejudice to the rights of the defendant, including the right to due process:

(a) Establishing procedures for the physical protection of such persons, such as, to the extent necessary and feasible, relocating them and permitting, where appropriate, non-disclosure or limitations on the disclosure of information concerning the identity and whereabouts of such persons;

(a) Summary of information relevant to reviewing the implementation of the article

175. Oman referred to its previous answer, in addition to Article 22 of the Basic Law of the State (Constitution), which states that a defendant is innocent until proven guilty after a legal trial giving him the necessary guarantees for the exercise of the right of defence in accordance with the law, and that harming the defendant physically or morally is prohibited.

(b) Observations on the implementation of the article

176. Oman did not adopt measures to provide effective protection for witnesses or experts who give testimony concerning offences established in accordance with the Convention.

177. To implement the provision under review, Oman should adopt measures to provide effective protection for witnesses and experts who give testimony concerning offences

established in accordance with the Convention as well as for their relatives and other persons close to them.

Article 32 Protection of witnesses, experts and victims

Subparagraph 2 (b)

2. The measures envisaged in paragraph 1 of this article may include, inter alia, without prejudice to the rights of the defendant, including the right to due process:

(b) Providing evidentiary rules to permit witnesses and experts to give testimony in a manner that ensures the safety of such persons, such as permitting testimony to be given through the use of communications technology such as video or other adequate means.

(a) Summary of information relevant to reviewing the implementation of the article

178. Oman indicated that Article 9 of the Rules of Joint Cooperation between Prosecutors, Investigative Bodies, and the Public Prosecution of the Gulf Cooperation Council (GCC) explicitly approves this procedure, as it stipulates that "*when a person is to be heard as a witness or expert, it is possible, at the request of the requesting competent authority to use modern technical means if the person concerned cannot appear in person.*"

179. Oman has already received more than one request for legal assistance for hearing the statements of witnesses through video links, and it has responded positively to such requests, including one from Switzerland.

(b) Observations on the implementation of the article

180. Oman permits testimony to be given through the use of communications technology.

Article 32 Protection of witnesses, experts and victims

Paragraph 3

3. States Parties shall consider entering into agreements or arrangements with other States for the relocation of persons referred to in paragraph 1 of this article.

(a) Summary of information relevant to reviewing the implementation of the article

181. Oman indicated that it did not enter into such agreements, though nothing in the Omani legal system prevents that. Oman also acceded to the United Nations Convention against Transnational Organized Crime, which provides for the protection of witnesses by changing their place of residence, as well as the Arab Convention against Transnational Organized Crime.

(b) Observations on the implementation of the article

182. Oman did not enter into any agreements with respect to the relocation of persons.

183. To implement the provision under review, Oman should consider entering into agreements for the relocation of persons.

Article 32 Protection of witnesses, experts and victims

Paragraph 4

4. The provisions of this article shall also apply to victims insofar as they are witnesses.

(a) Summary of information relevant to reviewing the implementation of the article

184. Oman indicated that it does not have an independent system for the protection of witnesses, but some of its laws provide for the legal protection of victims if they are witnesses, for instance, Article 5 of the Anti-[Human] Trafficking Law.

Article 5. In the investigation or trial of a human trafficking crime, the following procedures shall be taken:

a. A victim shall be informed of their legal rights in a language that they understand, and be given a chance to state their legal, physical, psychological and social status.

b. Where a victim is in need of special care or accommodation, they shall be presented to the entity concerned, and shall be, as the case may be, lodged in a medical or psychological rehabilitation centre, a welfare house or a housing centre.

c. A victim or witness shall be provided with protection as necessary.

d. By order of the Public Prosecution or a court, as the case may be, a victim or witness shall be allowed to stay in Oman if deemed necessary for investigation or trial.

185. It should be noted that Oman acceded to the United Nations Convention against Transnational Organized Crime, which provides for the protection of the victims if they are witnesses.

(b) Observations on the implementation of the article

186. Oman did not adopt measures to provide effective protection for witnesses or experts who give testimony concerning offences established in accordance with the Convention.

187. To implement the provision under review, Oman should adopt measures to provide effective protection for witnesses and experts who give testimony concerning offences established in accordance with the Convention as well as for their relatives and other persons close to them. These measures should cover victims insofar as they are witnesses.

Article 32 Protection of witnesses, experts and victims

Paragraph 5

5. Each State Party shall, subject to its domestic law, enable the views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings against offenders in a manner not prejudicial to the rights of the defence.

(a) Summary of information relevant to reviewing the implementation of the article

188. Oman referred to the following provision:

Criminal Procedure Code

Article Eighty Eight

Article One Hundred and Eighty One

Litigants and their attorneys have the right to attend trial sessions, even if they are held in camera. None of them may be expelled unless he commits an act representing a violation of the dignity of the court or the discipline of the session.

(b) Observations on the implementation of the article

189. Oman's legislation does not enable the views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings against offenders.

190. To implement the provision under review, Oman should enable the views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings against offenders.

Article 33 Protection of reporting persons

Each State Party shall consider incorporating into its domestic legal system appropriate measures to provide protection against any unjustified treatment for any person who reports in good faith and on reasonable grounds to the competent authorities any facts concerning offences established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

191. Oman indicated that to harmonize the relevant domestic legislation with the requirements for implementation of the Convention, the Council of Ministers of Oman issued a decision to set up a committee of stakeholders, which is currently working, to review this legislation and consider the introduction of legal texts according to the requirements of the Convention, including those concerning the protection of whistleblowers who report corruption crimes.

(b) Observations on the implementation of the article

192. Oman does not foresee the legal protection of reporting persons.

193. To implement the provision under review, Oman should consider adopting the necessary measures to provide protection against any unjustified treatment for reporting persons.

(c) Technical assistance needs

194. Oman indicated that the following form of technical assistance, if any, will help improve the implementation of the provision under review:

1. Model legislation on the protection of witnesses and reporting persons.

Oman has not received any such technical assistance in the past.

Article 34 Consequences of acts of corruption

With due regard to the rights of third parties acquired in good faith, each State Party shall take measures, in accordance with the fundamental principles of its domestic law, to address consequences of corruption. In this context, States Parties may consider corruption a relevant factor in legal proceedings to annul or rescind a contract, withdraw a concession or other similar instrument or take any other remedial action.

(a) Summary of information relevant to reviewing the implementation of the article

195. Oman indicated that a judge may invalidate contracts that violate the laws and customs, pursuant to the following texts:

Law of Anti-Money Laundering and Combating Financing Terrorism

Article (37): Without prejudice to others' rights, each contract or conduct whose parties or one of them have been aware or have had reason to believe that the purpose of the same is to prevent the forfeiture of instrumentalities, revenues, or proceeds relating to money laundering or terrorism financing crimes shall be null and void.

Law on Tenders promulgated by Royal Decree No. 36/2008

Article 9: The Tender Board may decide to prevent the supplier, contractor, or consulting firm from dealing with the entities subject to the provisions of this law for a period to be determined in accordance with the circumstances of each case, and in the following cases:

- a. If they present data or information proven to be false;
- b. If they use fraudulent means to obtain a contract;
- c. If they fail to fulfill any fundamental condition or obligation under a previous contract with any entity subject to the provisions of this law.

Article 41: The Tender Board shall exclude a tender with a reasoned decision in any of the following cases:
h - If the tender concerned breaches the provisions of Royal Decree No. 112/2011 on the Safeguarding of Public Property and the Prevention of Conflict of Interest.

(b) Observations on the implementation of the article

196. Oman has taken some measures to address the consequences of corruption, at the stage of tender awards. Article 41 of Law on Procurement provides for the disqualification of a tender made in violation of the provisions of the Royal Decree No. 112/2011 on the Protection of Public Funds and the Avoidance of Conflict of Interests. Outside the procurement process there are no provisions in place to address consequences of corruption, and Oman's legislation does not consider corruption a relevant factor in legal proceedings to annul or rescind a contract, withdraw a concession or other similar instrument or take any other remedial action.

197. To implement the provision under review, Oman should adopt additional measures to address consequences of acts of corruption, which could include considering corruption a relevant factor to annul or rescind a contract, withdraw a concession or other similar instrument or take any other remedial action.

Article 35 Compensation for damage

Each State Party shall take such measures as may be necessary, in accordance with principles of its domestic law, to ensure that entities or persons who have suffered damage as a result of an act of corruption have the right to initiate legal proceedings against those responsible for that damage in order to obtain compensation.

(a) Summary of information relevant to reviewing the implementation of the article

198. Oman indicated that the Criminal Code imposes a civil obligation to the person who causes a prejudice in the form of reparations the injured party when so requested. This provision is general and may include parties affected by corruption cases. Oman referred to the following text:

Penal Code

Article 58 - Any offender subjecting a third party to a material or moral harm shall be sentenced to compensate the injured party upon his request.

The judge may pronounce, upon request of the injured party, to transfer to him the property of the items subject to seizure by virtue of Article 52 hereabove, as a part of the due compensation and within the limits thereof.

Criminal Procedure Code

Article Twenty

A person who has been caused direct personal injury on account of an offence may file a suit for his civil right with the court hearing a civil action in any condition whatsoever till the door of pleading is closed with his description as a co-plaintiff in a civil action, after the payment of prescribed fee. This shall not be acceptable from him before the Appellate Court.

A civil right claimant may claim his right during preliminary investigation by an application submitted to a member of the Public Prosecution. He may also include a Civil Right Officer in the suit filed by him or in preliminary investigation.

(b) Observations on the implementation of the article

199. Oman has implemented the provision under review. Article 20 of the CPC establishes the right of the affected party to claim civil compensation for damage caused by the accused before the court hearing the criminal case or during the preliminary investigation.

Article 36 Specialized authorities

Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies or persons specialized in combating corruption through law enforcement. Such body or bodies or persons shall be granted the necessary independence, in accordance with the fundamental principles of the legal system of the State Party, to be able to carry out their functions effectively and without any undue influence. Such persons or staff of such body or bodies should have the appropriate training and resources to carry out their tasks.

(a) Summary of information relevant to reviewing the implementation of the article

200. Oman indicated that the Council of Ministers, by a decision issued at its session No. 16/2014 of 1 June 2014, entrusted the State Financial and Administrative Audit Institution with the task of following up the implementation of the provisions of the United Nations Convention against Corruption. The attribution decision ruled that the SAI assumes the role of the commission, (which creation was suggested) in combatting and preventing corruption. The SAI took the initiative to adopt practical measures, including:

- 1- Set up a working group to inventory legislations and laws related to the implementation of the Convention and examine their compatibility with the provisions of the Convention;
- 2- Set up an expert group composed of 15 members and headed by the SAI, in application of the requirements of the Convention;
- 3- Create a financial disclosure service and an international organizations department.

201. The competences of the SAI are:

- Financial control, both legal and accounting.
- Administrative control.
- Performance audit.
- Oversight of decisions issued in relation to financial violations.
- Oversight of investments and the accounts of all entities subject to the control of SAI.
- Request and examination of financial disclosures of public officials.
- Any other tasks assigned to the SAI by His Majesty the Sultan.

202. It should be noted that the said Institution is in the process of setting up departments and units specialized in the fight against corruption to train specialists in this area as a prelude to the establishment of a specialized body.

203. It is worth noting that specialized departments have been established in the Courts to deal with public funds cases and there are currently government agencies concerned with the fight against corruption in their respective fields. They include:

- The Public Prosecution in charge of Public Property Crimes;
- The Financial Intelligence Unit (FIU) of the Royal Oman Police (ROP); and
- The State Financial and Administrative Audit Institution (SFAAI);
- The Department for the Fight against Economic Crimes in the General Administration of Criminal Investigations within the Royal Omani Police.

204. Oman also referred to the following provisions:

Public Prosecution Law issued by Royal Decree Law No. 99/92.

Royal Decree No. 25/2011 on the Independence of Public Prosecution

Article 1: The Public Prosecution enjoys administrative and financial independence.

Resolution No. 12/2012 on the regulations concerning the staff of the State Financial and Administrative Audit Institution and their financial remuneration.

Staff Selection Method

Article 18: Whoever is appointed to a permanent position at the Institution shall:

1. Be of Omani nationality, except if necessity requires the appointment of a non-Omani national;
2. Be aged at least eighteen (18) years and prove his age with a birth certificate or an identity card;
3. Fulfil the requirements specified in the Job Description. The Chair of the Institution may make an exception to the minimum requirement for practical experience if there is a lack of persons who have the required experience or a rare scientific expertise;
4. Display good behavior and conduct;
5. Be recorded in the workforce register;
6. Be medically fit for service;
7. Not have been convicted for an offence involving moral turpitude or dishonesty, even if rehabilitated;
8. Pass the exam and interview required for the position;
9. Not have incurred a decision of forced retirement or dismissal from service.

Article 20: Upon a decision by the Chair, one or more committees shall be set up to select applicants for advertised jobs and conduct personal interviews with them.

The Committee shall examine applications for appointment and exclude those that do not fulfil job requirements. Every member of the Committee shall assess each applicant and give him a specific score after the completion of the test taken by the candidate or the interview and shall record such score on a form prepared for this purpose and sign the said form.

After the completion of the tests and interviews with the job applicants, the Committee shall establish a record of results mentioning the names of the applicants arranged in descending order according to the scores obtained by each of them, and report the results of its work.

Article 21: If one of the members of the Committee provided for in Article 20 of these Regulations is a spouse or a relative up to the fourth degree of a job applicant, he shall disclose this information and step down from participating in the tests or the interview. The non-disclosure of such information constitutes a violation that exposes the member concerned to administrative accountability, and in such case, the appointment decision shall be null and void if it is proved that a member of the Committee committed fraud or colluded with the applicant when he was likely to select him for the job.

Article 22: Appointment to positions shall be made from among the job candidates according to the final order of the highest scores they obtained in the tests and personal interviews. In the event of a tie, the criteria for breaking a tie among candidates are: the highest qualification, seniority in graduation, seniority in obtaining the qualification, seniority in registering in the manpower register, and, finally, age seniority.

Article 30: The recruited members and staff shall be placed on probation for a period of six (6) months from the date of taking office. During such probation period, their performance is comprehensively assessed according to the model developed for this purpose by the competent department.

Article 31: The satisfactoriness or non-satisfactoriness of the appointed member or employee shall be determined in light of his performance assessment pursuant to Article 30 hereof. The direct supervisor shall prepare a detailed and reasoned report on the member or employee under probation in which he records his recommendations. The supervisor shall submit the report to the competent authority that transmits it to the Committee for consideration and recommendation of the following actions:

1. Confirmation of the member or employee;
2. Transfer of the member to a non-supervisory position; or
3. Termination of service.

Staff training

Article 90: Training is a professional right for all members and employees. It aims to enhance their efficiency and raise their administrative and technical standards. The Institution has the right to conduct it according to the requirements of the job and the training plans and programs of the Institution within the limits of available resources. It is the member's or employee's duty to follow training sessions in accordance with the plans to enhance their scientific and practical standards.

State Financial and Administrative Audit Law issued by Royal Decree No. 111/2011

Article 2: The Institution has legal personality and financial and administrative independence and directly reports to His Majesty the Sultan.

Law of Anti-Money Laundering and Combating Financing Terrorism

Article (6): Royal Oman Police shall establish an independent unit called 'Financial Intelligence Unit' under the supervision of the Assistant Inspector General of Police and Customs. The Inspector General of Police and Customs shall issue a resolution regarding the nomination of its director, work mechanism, and its financial and administrative system. A sufficient number of officers and staff shall be annexed to it and the Ministry of Finance shall provide the funds necessary for its work.

205. Referring to the above provisions, the relevant authorities have legal personality and administrative and financial autonomy as they are allocated their own budgets and conduct their affairs with full independence. Moreover, such authorities have enough number of staff which are trained on fighting economic crimes.

(b) Observations on the implementation of the article

206. Oman is endeavouring to establish an independent specialized commission to prevent and combat corruption. The SAI has been assigned to carry out the functions of that commission currently. In addition, there are several government agencies involved in several aspects of the fight against corruption, each one in its respective areas of competence. These agencies include: the Attorney General for Public Funds Crimes, the Financial Intelligence Unit (FIU) in the Royal Omani police and the Department for the Fight against Economic Crimes in the General Administration of Criminal Investigations within the Royal Omani Police. Specialized departments have been established in the Courts to deal with public funds cases.

207. The structure, which is composed of various law enforcement and criminal justice institutions, appears to be working effectively. Adequate training and resources, and sufficient independence of the institutions, appear to be provided for.

Article 37 Cooperation with law enforcement authorities

Paragraph 1

1. Each State Party shall take appropriate measures to encourage persons who participate or who have participated in the commission of an offence established in accordance with this Convention to supply information useful to competent authorities for investigative and evidentiary purposes and to provide factual, specific help to competent authorities that may contribute to depriving offenders of the proceeds of crime and to recovering such proceeds.

(a) Summary of information relevant to reviewing the implementation of the article

208. Reference was made to the following provisions:

Penal Code

Article 155 - Any official accepts a bribe for himself or on behalf of another person, be it either money, gift, promise or any other advantage, in order to accomplish a due act pertaining to his function, to abstain from accomplishing it or postpone its accomplishment shall be sentenced to imprisonment from three months to three years, to fine equaling at least the value of what he was given or promised to get, and to dismissal from function during a period subject to the judge's estimation.

If the briber or agent informs the authority of the bribery before the judgment is pronounced, he shall be exempted from punishment.

Article 320:

The court may mitigate a punishment incurred by a defendant who cooperates in the investigation and trial of any offence established overseas.

Law of Anti-Money Laundering and Combating Financing Terrorism

Article (38): Any of the perpetrators who inform the authorities on the crime and the persons involved before any prior knowledge of these authorities of the same shall be exempted from the penalties stipulated in this Law. If the report takes place after the authorities have been aware of the crime and leads to the forfeiture of the instrumentalities, proceeds and revenues related to the crime or the arrest of any of the perpetrators, the court shall suspend the implementation of the imprisonment sentence.

209. Oman indicated that no statistics relating to the implementation of this Article are available.

(b) Observations on the implementation of the article

210. Measures to encourage persons who participate in corruption offences to report such offences are limited to bribery and money-laundering cases, where persons collaborating with justice can benefit from an exemption from punishment if they report the offence before a ruling is issued (art. 155 of the CC in relation to the briber and the intermediary in bribery offences) or before the offence comes to the knowledge of the authorities (art. 38 of the AML Law). In money-laundering cases, if the offence has been reported after it has come to the knowledge of the authorities, and that has led to the confiscation of the instrumentalities and the criminal proceeds or the arrest of any of the perpetrators, the court shall suspend the imprisonment sentence (art. 38 of the AML Law).

211. To implement the provision under review, Oman should adopt appropriate measures to encourage the cooperation of persons who participate or who have participated in the commission of offences established in accordance with the Convention, beyond bribery and money laundering, in accordance with article 37, para. 1.

Article 37 Cooperation with law enforcement authorities

Paragraph 2

2. Each State Party shall consider providing for the possibility, in appropriate cases, of mitigating punishment of an accused person who provides substantial cooperation in the investigation or prosecution of an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

212. Reference was made to the previous answer.

(b) Observations on the implementation of the article

213. There is no provision in the Omani legislation that provides for the possibility of mitigating punishment of an accused person who provides substantial cooperation in the investigation or prosecution of an offence established in accordance with the Convention.

214. To implement the provision under review, Oman should consider providing for the possibility of mitigating punishment of an accused person who provides substantial cooperation in the investigation or prosecution of an offence established in accordance with the Convention.

Article 37 Cooperation with law enforcement authorities

Paragraph 3

3. Each State Party shall consider providing for the possibility, in accordance with fundamental principles of its domestic law, of granting immunity from prosecution to a person

who provides substantial cooperation in the investigation or prosecution of an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

215. Omani legislation does not grant immunity from prosecution to persons who help in the investigation of an offence criminalized under this Convention. Under Omani legislation, the defendant is only exempted from punishment in the cases specified by law, as in Article 155 of the Omani Penal Code.

(b) Observations on the implementation of the article

216. There is no provision in the Omani legislation that grants immunity from prosecution to a person who provides cooperation in the investigation or prosecution of an offence established in accordance with this Convention.

217. To implement the provision under review, Oman should consider providing for the possibility of granting immunity from prosecution to a person who provides substantial cooperation in the investigation or prosecution of an offence established in accordance with the Convention.

Article 37 Cooperation with law enforcement authorities

Paragraph 4

4. Protection of such persons shall be, mutatis mutandis, as provided for in article 32 of this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

218. Omani legislation does not include a law that protects witnesses.

(b) Observations on the implementation of the article

219. Oman has not adopted measures to provide effective protection to crime perpetrators who collaborate with justice.

220. To implement the provision under review, Oman should adopt measures to provide effective protection to perpetrators who cooperate with justice and to their relatives and people close to them.

Article 37 Cooperation with law enforcement authorities

Paragraph 5

5. Where a person referred to in paragraph 1 of this article located in one State Party can provide substantial cooperation to the competent authorities of another State Party, the States Parties concerned may consider entering into agreements or arrangements, in accordance with their domestic law, concerning the potential provision by the other State Party of the treatment set forth in paragraphs 2 and 3 of this article.

(a) Summary of information relevant to reviewing the implementation of the article

221. Omani legislation does not prevent the conclusion of such agreements according to legal and constitutional regulations in force in this regard.

222. Reference was made to the following provision:

Law of Anti-Money Laundering and Combating Financing Terrorism

Article (43): The Sultanate adopts the principle of international cooperation in combating money laundering and terrorism financing crimes in accordance with the laws of the Sultanate, the provisions of international conventions, bilateral agreements entered into or drawn by the Sultanate or application of reciprocity principle in the areas of legal assistance and joint international judicial cooperation.

(b) Observations on the implementation of the article

223. Oman can enter into ad hoc agreements to provide for the possibility to exempt from punishment persons collaborating with justice located abroad, within the applicable legal conditions.

Article 38 Cooperation between national authorities

Subparagraph (a)

Each State Party shall take such measures as may be necessary to encourage, in accordance with its domestic law, cooperation between, on the one hand, its public authorities, as well as its public officials, and, on the other hand, its authorities responsible for investigating and prosecuting criminal offences. Such cooperation may include:

(a) Informing the latter authorities, on their own initiative, where there are reasonable grounds to believe that any of the offences established in accordance with articles 15, 21 and 23 of this Convention has been committed; or

(a) Summary of information relevant to reviewing the implementation of the article

224. Reference was made to the following provisions:

Criminal Procedure Code

Article Twenty Eight

A person who has witnessed the commission of an offence or has come to know about it shall take initiative in informing the Public Prosecution or a judicial control commissioner about such an offence.

Criminal Code

Article 180 - Any official entrusted with automatically inquiring, investigating or prosecuting crimes, and who is informed about a crime but fails to carry out his duties shall be sentenced to imprisonment from one month to three years.

The provisions of this article shall not include the crimes which prosecution is conditioned by the complaint of the injured party.

Law of Anti-Money Laundering and Combating Financing Terrorism

Article (7): ...

The Unit shall establish a database of all available reports and information and develop enough means to make them available to the judicial authorities as well as the exchange of such information and coordination with the competent entities in the Sultanate, foreign countries and international organizations in accordance with the provisions of international or bilateral conventions and agreements to which the Sultanate is a party, or in application of reciprocity principle provided that the information is used for the purposes of combating money laundering and terrorism financing.

State Financial and Administrative Audit Law

Article 23: When the Institution detects a financial or administrative offence, it may request the entity where the violation occurred to conduct an investigation about the official responsible for such violation and take precautionary measures. The said entity shall conduct the required investigation as soon as it is notified about it. If the violation constitutes a suspicion or a criminal offence it shall inform the public prosecutor so that he may take procedures on the matter and inform the Institution within two (2) weeks of the date of notification. If a decision to suspend the investigation is taken, the public prosecutor shall inform the Institution and the entity where the violation took place. The Institution or the entity concerned may appeal against the suspension decision in accordance with the procedures in this regard. In any case, the Chair shall inform the public prosecutor of any violation that constitutes a suspicion or criminal offence.

Article 24: The entities that are under the supervision of the Institution shall notify the Institution within one (1) week from the date of detecting any financial or administrative offence or an incident resulting in a financial loss to the State or likely to lead to such loss without prejudice to other legal action it has to take.

Article 25: The entities that are under the supervision of the Authority shall provide this latter with investigation documents with regard to financial and administrative irregularities whether they were discovered by the Authority or by the said entities. The entities shall also inform the Institution about any decisions they take on the basis of the investigation results within two (2) weeks from the date of issuance of such decisions. The Institution may oppose those decisions within thirty (30) days from the date of notification of the same and return the said documents to the above entities so that they may take the necessary action.

Law on the Safeguarding of Public Property and Prevention of Conflicts of Interest

Article 5: A government official shall prevent any misuse of public property and shall immediately inform the competent authorities of any irregularities relating to public property of which he may have evidence.

(b) Observations on the implementation of the article

225. Article 28 of the CPC establishes the obligation of any person to report offences they have witnessed or which have come to their knowledge. This article is a general rule that also applies to public officials. Article 5 of the Law on the Protection of Public Funds and the Avoidance of Conflict of Interests establishes the obligation of government officials to immediately report any violation related to public funds. The Law on State Financial and Administrative Supervision requires the institutions subject to the SAI supervision to report to the latter any financial or administrative violation, and to also notify the Public Prosecution whenever the violation constitutes a criminal suspicion or an offence (arts. 23 and 24).

Article 38 Cooperation between national authorities

Subparagraph (b)

Each State Party shall take such measures as may be necessary to encourage, in accordance with its domestic law, cooperation between, on the one hand, its public authorities, as well as its public officials, and, on the other hand, its authorities responsible for investigating and prosecuting criminal offences. Such cooperation may include:

(b) Providing, upon request, to the latter authorities all necessary information.

(a) Summary of information relevant to reviewing the implementation of the article

226. Reference was made to the previous answer and to the following provision:

Law of Anti-Money Laundering and Combating Financing Terrorism

Article (8): The Unit shall conduct analytic and investigative work regarding the reports and information it receives with respect to the transactions referred to in the previous article. In order to do that, the Unit shall have the right to demand and review any necessary information, data or documents from financial institutions, non-financial businesses and professions, non-profit association and bodies, and the competent entities. The Unit shall notify Public Prosecution of the outcome of the analysis and intelligence when the evidence of the commission of any of the crimes of money laundering and terrorism financing, or any other crime is established. The Unit may request Public Prosecution to take precautionary measures regarding the crimes referred to in this Law pursuant to the provisions prescribed in the Penal Procedure Code.

Criminal Procedure Code

Article Seventy Three

Warrants issued by the Public Prosecution member shall be liable to be enforced in the entire territory of the Sultanate, its regional waters and its airspace and on board Omani ships and aircraft wherever they are found.

State Audit Law

Article (31)

The following are amongst the financial and administrative contraventions:

- 1) Non-compliance with the provisions of financial and administrative rules, regulations and system in force in the State;
- 2) Every action that results in unlawful disbursement of funds or loss of any financial right within the entities subject to the audit of the Institution, or causes harm or delays in accomplishing developmental projects or leads to such results;
- 3) Failure to provide the institution with closing accounts, internal audit reports, budgets, financial statements and balance sheets and external auditors' reports on time;
- 4) Failure to inform the institution with administrative judgements and decisions issued with regard to financial and administrative contraventions within the timelines stipulated in this law or negligence to take the appropriate actions thereto;
- 5) Delay, without any valid reasons, in informing the institution, within the specified timelines in this law and its regulation about financial and administrative contraventions along with actions taken thereto;
- 6) Preventing members of the institution from auditing any of the accounts, papers, instruments, documents or others which they are lawfully authorised to review or check as stipulated in this law or not disclosing information, data or documents or presenting them incorrectly to the members;
- 7) Failure to reply to the institution's reports, observations and correspondence related to its audit or delay in the reply without any valid reasons or justification.

Article (32)

Without prejudice to any tougher penalty stipulated by any other law, any person who contravenes clauses 6 and 7 of Article 31 of this law shall be punishable by imprisonment for a period not less than six months and not more than one year and a fine of not less than 1000 Omani Rials and not more than 2000 Omani Rials or by either of these two penalties.

(b) Observations on the implementation of the article

227. Pursuant to article 73 of the CPC, all public authorities are obliged to respond to requests made by the Public Prosecution.

(c) Successes and good practices

228. Good cooperation among the domestic institutions engaged in anti-corruption was observed.

Article 39 Cooperation between national authorities and the private sector

Paragraph 1

1. Each State Party shall take such measures as may be necessary to encourage, in accordance with its domestic law, cooperation between national investigating and prosecuting authorities and entities of the private sector, in particular financial institutions, relating to matters involving the commission of offences established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

229. Reference was made to the following provisions:

Law of Anti-Money Laundering and Combating Financing Terrorism

Article (12): Financial institutions, non-financial businesses and professions, and non-profit associations and bodies undertake to:

- 8) Provide the Unit directly with the information, data and documents it may require to conduct its functions.

Article (14): In exception from the provisions relating to the confidentiality of banking transactions and professional confidentiality, the financial institutions, non-financial businesses and professions, and non-profit associations and bodies undertake to notify the Unit regarding the transactions as soon as they are suspected of being related to the proceeds of crime proceeds, terrorism, terroristic crime or terroristic organization or involving money laundering or terrorism financing crimes, whether such transactions have or have not been conducted or at the time it is attempted to be conducted in accordance with controls and procedures specified in the regulation.

Criminal Procedure Code

Article Twenty Seven

All persons shall offer to the judicial control commissioners any possible assistance they require during the discharge of their legal duties in order to arrest the accused or prevent them from running away or committing offences.

Article Twenty Eight

A person who has witnessed the commission of an offence or has come to know about it shall take initiative in informing the Public Prosecution or a judicial control commissioner about such an offence.

(b) Observations on the implementation of the article

230. The AML Law establishes the obligation of a number of private sector entities, including banks, money-dealers, insurance companies, audit firms and lawyers, to report to the FIU any suspicious transactions and to provide it with any information, data and documents that the FIU may request. The FIU has also been engaged in trainings and awareness-raising activities addressed to the private sector.

231. To implement the provision under review, Oman should adopt measures to encourage cooperation between national investigating and prosecuting authorities and entities of the private sector, beyond the anti-money laundering obligations.

Article 39 Cooperation between national authorities and the private sector

Paragraph 2

2. Each State Party shall consider encouraging its nationals and other persons with a habitual residence in its territory to report to the national investigating and prosecuting authorities the commission of an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

232. Reference was made to the following provision:

Penal Procedures Law

Article Twenty Eight

A person who has witnessed the commission of an offence or has come to know about it shall take initiative in informing the Public Prosecution or a judicial control commissioner about such an offence.

(b) Observations on the implementation of the article

233. Article 28 of the CPC creates an ethical duty of those who witness the commission of a crime or become aware of it to report it, although there are no corresponding sanctions for failure to report. The authorities indicated that they are working on rewarding those who cooperate in reporting offences and in assisting the investigation authorities.

234. The reviewers encourage Oman to adopt further measures to encourage its nationals and other persons with a habitual residence in its territory to report corruption.

Article 40 Bank secrecy

Each State Party shall ensure that, in the case of domestic criminal investigations of offences established in accordance with this Convention, there are appropriate mechanisms available within its domestic legal system to overcome obstacles that may arise out of the application of bank secrecy laws.

(a) Summary of information relevant to reviewing the implementation of the article

235. Oman indicated that its legislation adopted the principle of bank secrecy under Article 70 of the Banking Law, but it also adopted a legal system for lifting bank secrecy in certain conditions. Oman also referred to the following provisions:

Banking Law

ARTICLE 70: CONFIDENTIALITY OF BANKING TRANSACTIONS

(a) No Government Agency nor any person shall ask a licensed bank directly to disclose any information or to take any action relating to any customer. Such request in all cases shall be submitted to the Central Bank. A committee shall be established at Central Bank to decide on whether to release the information or to take the action requested or not. If the Central Bank finds the request acceptable, the licensed bank shall be informed to release such information or to take such action according to the way and method instructed by Central Bank. The decision of the Central Bank regarding the disclosure of information or taking the action shall be final.

(b) No licensed bank, nor any director, officer, manager or employee of such bank, shall disclose any information relating to any customer of the bank except when such disclosure is required under the laws of the Sultanate and as instructed by the Central Bank. In any case a licensed bank should inform its customer promptly of such disclosure.

(c) Except as provided by Article 70 (a) of this Law, disclosure of information relating to any customer of a licensed bank shall be made only with the consent of such person, provided, however that a customer of a licensed bank may give general consent to use of banker's advisements related to his banking business.

(d) Any former director, officer, manager or employee of a licensed bank shall be bound by this Article 70.

Law of Anti-Money Laundering and Combating Financing Terrorism

Article (8): The Unit shall conduct analytic and investigative work regarding the reports and information it receives with respect to the transactions referred to in the previous article. In order to do that, the Unit shall have the right to demand and review any necessary information, data or documents from financial institutions, non-financial businesses and professions, non-profit association and bodies, and the competent entities.

Article (12): Financial institutions, non-financial businesses and professions, and non-profit associations and bodies undertake to:

...

8) Provide the Unit directly with the information, data and documents it may require to conduct its functions.

Article (14): In exception from the provisions relating to the confidentiality of banking transactions and professional confidentiality, the financial institutions, non-financial businesses and professions, and non-profit associations and bodies undertake to notify the Unit regarding the transactions as soon as they are suspected of being related to the proceeds of crime proceeds, terrorism, terroristic crime or terroristic organization or involving money laundering or terrorism financing crimes, whether such transactions have or have not been conducted or at the time it is attempted to be conducted in accordance with controls and procedures specified in the regulation.

(b) Observations on the implementation of the article

236. Bank secrecy, which can be lifted pursuant to a request submitted to the Central Bank, seems to be an obstacle to effective criminal investigations, except in money laundering cases.

237. To implement the provision under review, Oman should ensure that, in the case of domestic criminal investigations of offences established in accordance with the Convention (beyond money-laundering offences), there are appropriate mechanisms available to overcome obstacles that may arise out of the application of bank secrecy laws.

Article 41 Criminal record

Each State Party may adopt such legislative or other measures as may be necessary to take into consideration, under such terms as and for the purpose that it deems appropriate, any previous conviction in another State of an alleged offender for the purpose of using such information in criminal proceedings relating to an offence established in accordance with this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

238. Reference was made to the following provision:

Penal Code

Article 13 - The penal sentences pronounced by a foreign justice concerning acts determined by the Omani legislation as felonies or misdemeanours may be considered as grounds for:

- 1- Implementing [decisions] of disqualification and loss of rights, as long as they are consistent with Omani legislation, and implementing restitutions, compensation, and other civil consequences;
- 2- Ruling pursuant to the Omani legislation with regard to disqualification and loss of rights, or restitutions and other civil consequences;
- 3- Implementing Omani legislation with regard to repetition, combination of offences, suspension of unconditional sentences, and rehabilitation.

239. Oman also mentioned that criminal records and sentences are exchanged in accordance with the mechanisms set forth in the agreements in force, as the case may be (through the Ministries of Justice, the Arab police and Interpol). There is also the

Department of International Cooperation within the Office of Public Prosecution, which handles the exchange of criminal records through the coordination with the competent authorities in the State of which the perpetrator is a national.

(b) Observations on the implementation of the article

240. Article 13 of the CC establishes that foreign criminal convictions in cases of crimes and misdemeanours can be used when applying the provisions related to recidivism.

Article 42 Jurisdiction

Paragraph 1

1. Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when:

(a) The offence is committed in the territory of that State Party; or

(b) The offence is committed on board a vessel that is flying the flag of that State Party or an aircraft that is registered under the laws of that State Party at the time that the offence is committed.

(a) Summary of information relevant to reviewing the implementation of the article

241. Reference was made to the following provisions:

Penal Code

Article 3

The Omani penal legislation shall apply to all crimes committed in Oman or in the territories falling under its control.

Article 5

The Omani territory includes its covering air layers, which constitute the Omani airspace. With a view to apply this code, the following shall be deemed a part of the Omani territory:

3. The Omani ships and aircrafts wherever they exist.

(b) Observations on the implementation of the article

242. Oman has established its jurisdiction over offences committed in its territory (art. 3 of the CC) and offences committed on board a vessel that is flying its flag or an aircraft that is registered under its laws (art. 5 of the CC).

Article 42 Jurisdiction

Subparagraph 2 (a)

2. Subject to article 4 of this Convention, a State Party may also establish its jurisdiction over any such offence when:

(a) The offence is committed against a national of that State Party; or

(a) Summary of information relevant to reviewing the implementation of the article

243. Oman indicated that this case falls within its jurisdiction only in exceptional cases outside the framework of application of the Convention, as provided in Article 8 of the Omani Penal Law "*The provisions of the Omani legislation shall be applicable to any Omani or foreign person whether offender, instigator, or participant [who (...)] Kidnaps an Omani national, or trades or enslaves him.*"

(b) Observations on the implementation of the article

244. Oman does not adopt the passive personal jurisdiction.

245. The reviewers encourage Oman to consider establishing its jurisdiction over corruption offences committed against an Omani citizen.

Article 42 Jurisdiction

Subparagraph 2 (b)

2. Subject to article 4 of this Convention, a State Party may also establish its jurisdiction over any such offence when:

(b) The offence is committed by a national of that State Party or a stateless person who has his or her habitual residence in its territory; or

(a) Summary of information relevant to reviewing the implementation of the article

246. Reference was made to the following provision:

Penal Code

Article 10 - The Omani legislation shall be applicable to any Omani, be it an offender, instigator or participant, who commits abroad a felony or misdemeanour punishable by virtue of the national laws...

(b) Observations on the implementation of the article

247. Oman adopts the active personal jurisdiction pursuant to article 10 of the CC which provides that the Omani legislation is applicable to any Omani who commits abroad a felony or misdemeanour punishable by virtue of the national laws. This provision does not cover stateless persons who have their habitual residence in Oman, however Omani authorities pointed out that such persons are treated as foreigners and can be prosecuted based on the text of Article 12 of the Criminal Code.

Article 42 Jurisdiction

Subparagraph 2 (c)

2. Subject to article 4 of this Convention, a State Party may also establish its jurisdiction over any such offence when:

(c) The offence is one of those established in accordance with article 23, paragraph 1 (b) (ii), of this Convention and is committed outside its territory with a view to the commission of an

offence established in accordance with article 23, paragraph 1 (a) (i) or (ii) or (b) (i), of this Convention within its territory; or

(a) Summary of information relevant to reviewing the implementation of the article

248. Reference was made to the following provision:

Penal Code

Article 4

A crime shall be deemed committed in the Omani territory if:

1. Any element constituting a crime, any of the acts of an indivisible crime or any initial or accessory act of complicity are executed in Oman.
2. The crime result takes place or is supposed to take place in Oman.

(b) Observations on the implementation of the article

249. Oman establishes its jurisdiction regarding the case mentioned in the provision under review pursuant to article 4 of the CC.

Article 42 Jurisdiction

Subparagraph 2 (d)

2. Subject to article 4 of this Convention, a State Party may also establish its jurisdiction over any such offence when:

(d) The offence is committed against the State Party.

(a) Summary of information relevant to reviewing the implementation of the article

250. This case falls within the Omani jurisdiction only in exceptional cases outside the framework of application of the Convention, as provided in Article 8 of the Omani Penal Law, "*The provisions of the Omani legislation shall be applicable to any Omani or foreign person whether offender, instigator, or participant who commits outside Oman a crime harmful to the State's internal or external security*".

(b) Observations on the implementation of the article

251. Oman has not established its jurisdiction over offences committed against Oman, except in non-corruption related exceptional cases, such as national security offences (art. 8 of the CC).

252. The reviewers encourage Oman to consider establishing its jurisdiction over corruption offences committed against Oman.

Article 42 Jurisdiction

Paragraph 3

3. For the purposes of article 44 of this Convention, each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences established in

accordance with this Convention when the alleged offender is present in its territory and it does not extradite such person solely on the ground that he or she is one of its nationals.

(a) Summary of information relevant to reviewing the implementation of the article

253. Reference was made to the following provision:

Penal Code

Article 10 - The Omani legislation shall be applicable to any Omani, be it an offender, instigator or participant, who commits abroad a felony or misdemeanour punishable by virtue of the national laws unless he is finally suited abroad and the pronounced sentence against him is executed, or the sentence is extinguished either by general or special pardon or by prescription. The same shall be applicable even if the defendant loses the Omani nationality...

(b) Observations on the implementation of the article

254. Oman establishes its jurisdiction regarding the case mentioned in the provision under review based on the active personal jurisdiction (art. 10 of the CC).

Article 42 Jurisdiction

Paragraph 4

4. Each State Party may also take such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when the alleged offender is present in its territory and it does not extradite him or her.

(a) Summary of information relevant to reviewing the implementation of the article

255. Reference was made to the following provision:

Penal Code

Article 12- The Omani legislation shall be applicable to any foreigner, be it either an offender, instigator or participant, who commits abroad a felony or misdemeanour punishable by Omani laws and not stipulated in Article 8, 10 and 11 hereabove, and who is thereafter present in Oman.

In such event, it is necessary that:

2. The extradition is not requested or accepted.

...

(b) Observations on the implementation of the article

256. Oman has implemented the provision under review (art. 12 of the CC).

Article 42 Jurisdiction

Paragraph 5

5. If a State Party exercising its jurisdiction under paragraph 1 or 2 of this article has been notified, or has otherwise learned, that any other States Parties are conducting an investigation, prosecution or judicial proceeding in respect of the same conduct, the competent authorities of those States Parties shall, as appropriate, consult one another with a view to coordinating their actions.

(a) Summary of information relevant to reviewing the implementation of the article

257. Oman indicated that no provision in the Omani law prevents the competent authorities in Oman to conduct consultations. Besides, the Basic Law of the State (the Constitution) stipulates in Article 80 thereof that international conventions are part of the country's law. And since Oman acceded to the United Nations Convention against Corruption under Royal Decree No. 64/2013, it is considered as a legal basis for the implementation of paragraph 5 of Article 42 thereof. Moreover, Oman acceded to a number of bilateral and regional agreements that facilitate the application of this provision, including the Agreement on the Enforcement of Court Judgments, Letters of Rogatory, and Judicial Notes of the Gulf Cooperation Council (GCC) approved by Royal Decree No. 17/96.

(b) Observations on the implementation of the article

258. It seems that nothing prevent Omani authorities from, as appropriate, consulting with foreign authorities with a view to coordinating their actions.

Article 42 Jurisdiction

Paragraph 6

6. Without prejudice to norms of general international law, this Convention shall not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

(a) Summary of information relevant to reviewing the implementation of the article

259. Oman indicated that nothing prevents the extension of its criminal jurisdiction to include acts beyond the provisions of the Convention.

(b) Observations on the implementation of the article

260. This Convention does not exclude the exercise of any criminal jurisdiction established by Oman in accordance with its domestic law.

Chapter IV. International cooperation

Article 44 Extradition

Paragraphs 1 and 2

1. This article shall apply to the offences established in accordance with this Convention where the person who is the subject of the request for extradition is present in the territory of the requested State Party, provided that the offence for which extradition is sought is punishable under the domestic law of both the requesting State Party and the requested State Party.

2. Notwithstanding the provisions of paragraph 1 of this article, a State Party whose law so permits may grant the extradition of a person for any of the offences covered by this Convention that are not punishable under its own domestic law.

(a) Summary of information relevant to reviewing the implementation of the article

261. Reference was made to the following provisions:

Law on Extradition

Article (2): Extradition shall be allowed in the following cases:

- If the crime is committed on the lands of the requesting country, or if the perpetrator is one of its nationals.
- If the crime is committed outside the lands of the requesting country but it violates its security, affects its financial position or the conclusiveness of its official stamps.

In all cases, it is provided that the crime for which extradition is requested should be a felony or a misdemeanor punishable by imprisonment for not less than one year pursuant to the laws of the Sultanate. If the criminal requested to be extradited is a convict, the punishment should be an imprisonment for not less than six months or any harsher punishment.

262. Oman indicated that there could be an exception to this rule under a bilateral agreement. As a matter of fact, Oman concluded several bilateral and regional agreements.

263. Oman entered into several regional and bilateral agreements and arrangements with regard to extradition of offenders, including:

- Extradition Treaty between the Sultanate of Oman and the Republic of India (2004)
- The Agreement on Legal and Judicial Cooperation between Morocco and Oman (containing extradition provisions);
- The Legal and Judicial Cooperation Agreement with Egypt (Royal Decree No. 64/2002) (containing extradition provisions);
- The Agreement on Legal and Judicial Cooperation in Civil, Commercial, and Criminal Matters between Oman and Turkey (Royal Decree No. 102/2008) (containing provisions on extradition); and
- The Riyadh Arab Agreement for Judicial Cooperation (Part VI of which covers the extradition of accused or convicted persons).

264. The extradition system in Oman relies on several bases, including Oman's legislation, the Law on Extradition, extradition treaties, the principles of reciprocity and international comity.

265. Oman provided the following statistics on extradition:

Table of completed extraditions to other States (all crimes)

| No. | Nationality | Count | Requesting party | Extradition date |
|-----|--------------------|--|------------------|------------------|
| 1 | Pakistani | Issuance of Non-Sufficient Funds (NSF) cheques | Abu Dhabi | 5/1/2014 |
| 2 | Bangladeshi | Theft | Abu Dhabi | 16/1/2014 |
| 3 | Palestinian | Issuance of NSF cheques | Abu Dhabi | 27/1/2014 |
| 4 | Emirati | Impersonating a public office | Abu Dhabi | 30/1/2014 |
| 5 | Sri Lankan | Issuance of NSF cheques | Abu Dhabi | 2/2/2014 |
| 6 | Sri Lankan | Issuance of NSF cheques | Abu Dhabi | 2/2/2014 |
| 7 | Indian | Theft | Abu Dhabi | 4/2/2014 |
| 8 | Indian | Forgery | India | 9/2/2014 |
| 9 | Palestinian | Issuance of NSF cheques | Abu Dhabi | 10/2/2014 |
| 10 | Indian | Theft | Abu Dhabi | 10/2/2014 |
| 11 | Indian | Theft | Abu Dhabi | 10/2/2014 |
| 12 | Indian | Theft | Abu Dhabi | 10/2/2014 |
| 13 | Emirati | Possession of drugs | Abu Dhabi | 13/2/2014 |
| 14 | Bahraini | Promote and favour the overthrow and change of the regime by force | Manama | 15/2/2014 |
| 15 | Egyptian | Issuance of NSF cheques | Abu Dhabi | 13/3/2014 |
| 16 | Bangladeshi | Homicide | Abu Dhabi | 15/3/2014 |
| 17 | Bangladeshi | Homicide | Abu Dhabi | 15/3/2014 |
| 18 | Emirati | Theft | Abu Dhabi | 8/4/2014 |
| 19 | Pakistani (female) | Forgery | Abu Dhabi | 22/5/2014 |
| 20 | Pakistani | Homicide | Abu Dhabi | 29/5/2014 |
| 21 | Moroccan (F) | Attack on the physical integrity of others | Abu Dhabi | 15/6/2014 |
| 22 | Moroccan (female) | Attack on the physical integrity of others | Abu Dhabi | 15/6/2014 |
| 23 | Iraqi (F) | Theft | Abu Dhabi | 26/6/2014 |
| 24 | Pakistani | Theft | Abu Dhabi | 2/7/2014 |
| 25 | Pakistani | Theft | Abu Dhabi | 2/7/2014 |
| 26 | Jordanian | Issuance of NSF cheques | Abu Dhabi | 6/7/2014 |
| 27 | Indian | Embezzlement | Doha | 10/7/2014 |
| 28 | Jordanian | Issuance of NSF cheques | Abu Dhabi | 21/7/2014 |
| 29 | Emirati (F) | Absence from family's home | Abu Dhabi | 31/7/2014 |
| 30 | Iraqi | Issuance of NSF cheques | Abu Dhabi | 11/8/2014 |
| 31 | Afghani | Theft | Abu Dhabi | 20/8/2014 |
| 32 | Dutch | Breach of trust | Abu Dhabi | 16/9/2014 |
| 33 | Bangladeshi | Theft | Abu Dhabi | 18/9/2014 |
| 34 | Syrian | Theft | Abu Dhabi | 23/9/2014 |
| 35 | Jordanian | Theft | Abu Dhabi | 23/9/2014 |
| 36 | Egyptian | Theft | Abu Dhabi | 23/9/2014 |
| 37 | Pakistani | Theft with coercion | Abu Dhabi | 3/10/2014 |
| 38 | Tajikistani (F) | Theft with coercion | Abu Dhabi | 3/10/2014 |

| | | | | |
|----|-----------|-----------------------------|-----------|------------|
| 39 | Syrian | Theft with coercion | Abu Dhabi | 23/10/2014 |
| 40 | Egyptian | Issuance of NSF cheques | Abu Dhabi | 4/11/2014 |
| 41 | Egyptian | Seizure of others' property | Abu Dhabi | 11/11/2014 |
| 42 | Jordanian | Issuance of NSF cheques | Abu Dhabi | 16/11/2014 |
| 43 | Emirati | Possession of drugs / fraud | Abu Dhabi | 25/11/2014 |
| 44 | Pakistani | Fraud | Abu Dhabi | 1/12/2014 |
| 45 | Emirati | Fraud | Abu Dhabi | 16/12/2014 |

(b) Observations on the implementation of the article

266. Oman generally applies the dual criminality principle as well as a one-year minimum imprisonment term for an offence to be extraditable (Article 2 of the Law on Extradition).

267. Some of Oman's international agreements do not require dual criminality as a condition for extradition (i.e. the agreement with Egypt).

268. As noted below under paragraph 7 of this article, in accordance with the dual criminality requirement extradition is limited to the extent that Oman has not criminalized all offences under the Convention.

Article 44 Extradition

Paragraph 3

3. If the request for extradition includes several separate offences, at least one of which is extraditable under this article and some of which are not extraditable by reason of their period of imprisonment but are related to offences established in accordance with this Convention, the requested State Party may apply this article also in respect of those offences.

(a) Summary of information relevant to reviewing the implementation of the article

269. Oman indicated that no provision in the Omani law prevents extradition in such cases.

(b) Observations on the implementation of the article

270. The matter is not addressed in Oman's Extradition Law or its extradition treaties. As noted above, Oman generally applies the dual criminality principle. If the crime for which extradition is requested is not punishable under Oman's law by imprisonment for at least one year, extradition will not be granted.

271. Although the matter has not arisen in practice, it was confirmed by officials during the country visit that, if the crimes for which extradition is sought are numerous, including those crimes which do not satisfy the above stated minimum punishment threshold, Oman would grant extradition on the condition that the person sought is only prosecuted for the extraditable offences and not any other crimes.

Article 44 Extradition

Paragraph 4

4. Each of the offences to which this article applies shall be deemed to be included as an extraditable offence in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them. A State Party whose law so permits, in case it uses this Convention as the basis for extradition, shall not consider any of the offences established in accordance with this Convention to be a political offence.

(a) Summary of information relevant to reviewing the implementation of the article

272. Oman indicated that, after its ratification of the United Nations Convention against Corruption, published in the Official Gazette, Oman became bound by the obligation set forth in this paragraph to include extraditable offences covered by Article 44 of the Convention in any extradition treaty it concludes.

273. In addition, no corruption-related offence is considered as a political crime in the Omani legislation.

THE BASIC LAW OF THE SULTANATE OF OMAN

Article (80) No body in the State may issue rules, regulations, decisions or instructions which contravene the provisions of laws and decrees in force, or international treaties and agreements which constitute part of the law of the country.

(b) Observations on the implementation of the article

274. Oman has undertaken to include offences stipulated in the Convention in any subsequent treaties on the extradition of offenders.

275. Oman indicated that its authorities can consider the United Nations Convention against Corruption as a basis for extradition.

276. It was confirmed by officials during the country visit that, notwithstanding the dual criminality requirement, should a request be received for extradition of a person for an offence not recognized in the Omani legal system (e.g., transnational bribery) on the basis of an international treaty such as the Convention, Oman would entertain the request based on direct application of the Convention.

277. In accordance with Article 3 of the Law on Extradition, Oman would not extradite a person if the person requested to be extradited has been granted political asylum in the Sultanate, or if the related crime is a political one or has a political nature or if the handing over is for a political purpose.

Article 44 Extradition

Paragraphs 5 to 6

5. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention the legal basis for extradition in respect of any offence to which this article applies.

6. A State Party that makes extradition conditional on the existence of a treaty shall:

(a) At the time of deposit of its instrument of ratification, acceptance or approval of or accession to this Convention, inform the Secretary-General of the United Nations whether it will take this Convention as the legal basis for cooperation on extradition with other States Parties to this Convention; and

(b) If it does not take this Convention as the legal basis for cooperation on extradition, seek, where appropriate, to conclude treaties on extradition with other States Parties to this Convention in order to implement this article.

(a) Summary of information relevant to reviewing the implementation of the article

278. Oman indicated that its authorities can consider the United Nations Convention against Corruption as a basis for extradition.

279. It also reported that it does not make extradition conditional on the existence of a treaty. It has already been noted that the extradition system in Oman relies on several bases, including treaties, the principles of reciprocity and international comity.

(b) Observations on the implementation of the article

280. Oman does not make extradition conditional on the existence of a treaty, as the Omani legal system has other legal bases for extradition in addition to treaties. Indeed, extradition is possible under the principles of reciprocity and international comity. Extradition is effected on the basis of Oman's legislation, the Law on Extradition. Oman also considers this Convention as a basis for extradition.

Article 44 Extradition

Paragraph 7

7. States Parties that do not make extradition conditional on the existence of a treaty shall recognize offences to which this article applies as extraditable offences between themselves.

(a) Summary of information relevant to reviewing the implementation of the article

281. Oman indicated that, since Oman's accession to the United Nations Convention against Corruption, the provisions of this Convention have the force of law. Therefore, the offences covered by this article are extraditable between Oman and the States parties to the Convention.

(b) Observations on the implementation of the article

282. It was confirmed that corruption-related offences are punishable by at least one year under Oman's legislation and thus qualify for extradition under the dual criminality requirement.

283. In accordance with the dual criminality requirement extradition is limited to the extent that Oman has not criminalized all offences under the Convention.

29. It is recommended that Oman ensure that all UNCAC offences are extraditable by virtue of the minimum period of imprisonment and the dual criminality principle.

Article 44 Extradition

Paragraph 8

8. Extradition shall be subject to the conditions provided for by the domestic law of the requested State Party or by applicable extradition treaties, including, inter alia, conditions in relation to the minimum penalty requirement for extradition and the grounds upon which the requested State Party may refuse extradition.

(a) Summary of information relevant to reviewing the implementation of the article

284. Oman indicated that requests for extradition submitted to Oman are subject to the conditions prescribed in the Omani legal system and the conditions set forth in applicable extradition treaties, including conditions relating to the minimum penalty stipulated for extradition, and the reasons for refusing extradition.

285. Reference was made to the following provision:

Law on Extradition

Article (3): Extradition shall not be allowed in the following cases:

- 1) If the person requested to be extradited is an Omani national.
- 2) If the crime or any of its constituents is committed on the lands of the Sultanate.
- 3) If the person requested to be extradited has immunity against legal measures in the Sultanate of Oman unless he clearly assigns such immunity in the cases in which it may be assigned.
- 4) If the person requested to be extradited has been granted political asylum in the Sultanate and continues to enjoy such right after submitting the extradition request.
- 5) If the related crime is a political one or has a political nature or if the handing over is for a political purpose.
- 6) If the person requested to be extradited has been tried for the related crime or is under investigation or trial in the Sultanate for this crime.
- 7) If the penal case or penalty has extinguished due to any legal reason pursuant to the laws of the Sultanate, the requesting country, or the country on whose lands the crime has been committed.

(b) Observations on the implementation of the article

286. Based on the information provided, Oman applies conditions on extradition, including the dual criminality principle and a one-year minimum imprisonment threshold, as well as grounds for refusal, such as the non-extradition of its nationals. It is noted that the grounds for refusal are mandatory, not permissive.

287. During the country visit a case example was referred to where Omani authorities refused the extradition of a person on the grounds that there were reasons to believe that he would not be ensured with a fair trial and defense guarantees in the requesting State. In this context it is noted that article 10 of the Extradition Law requires requesting States to provide an undertaking to this effect when making a request.

Article 44 Extradition

Paragraph 9

9. States Parties shall, subject to their domestic law, endeavour to expedite extradition procedures and to simplify evidentiary requirements relating thereto in respect of any offence to which this article applies.

(a) Summary of information relevant to reviewing the implementation of the article

288. Oman indicated that it endeavours to expedite extradition procedures and to simplify evidentiary requirements, whether under its commitment to bilateral extradition treaties with various countries, under its commitment to this paragraph of the Convention, which has the force of law in Oman, or in accordance with the ways, customs, and practices in its judicial system.

289. Reference was made to the following provision:

Law on Extradition

Article (4): Any person requested by another country shall not be arrested until the receipt of his extradition request accompanied by the documents stipulated in Article (11) of this Law. However, in urgent cases, such requests may be received by phone, telex, or fax provided that they include the type of the crime, the legal text that indicates the penalty for it, the nationality and identity of the person to be handed over, and his location in the Sultanate, if possible.

Article (11): The extradition request shall be accompanied with copies of the following documents officially certified and stamped by the competent judiciary power in the requesting country:

- 1) A detailed statement on the identity and description of the wanted person accompanied by all that may help in determining his identity as precise as possible and his photo, if possible.
- 2) A writ of arrest or corpus issued by a competent authority if the person is not convicted and a copy of the judgment if he is convicted whether the judgment is self-executing or not.
- 3) A copy of the legal texts that indicate the penalty of the act and the evidence on the responsibility of the wanted person.
- 4) An undertaking from the requesting country not to track, trial, or punish the wanted person for any crime previous to the extradition except for the crime(s) the subject of the extradition request.
- 5) An undertaking from the requesting country not to hand over the wanted person to a third country without the prior approval of the Sultanate.
- 6) An undertaking from the requesting country to provide the wanted person with fair trial and defense guarantees.

Article (12) The Penal Court of Appeals shall reject any handing over request not accompanied with the documents mentioned in the previous Article and in case the requesting country does not complete them within the period stipulated in Article (9) of this Law.

The Penal Court of Appeals may reject the request if it considers that the legal conditions are not available or that the evidence mentioned in the extradition request or the investigations are not enough to prove the crime ascribed to the wanted person. In case the court issues an extradition order of the wanted person, it shall contain the crime for which he has been extradited.

(b) Observations on the implementation of the article

290. It was explained during the country visit that extradition requests are received by the Public Prosecution and reviewed by the Penal Court of Appeals in Muscat, in accordance with article 10 of the Extradition Law.

291. A basic provision to expedite the receipt of urgent extradition requests by telephone, telex, or fax is found in the Law on Extradition, article 4. Evidentiary requirements for processing extradition requests are found in articles 11 and 12 of the same law, which require the request to be accompanied by a number of officially certified documents and undertakings. Omani officials explained that the absence of the requisite supporting evidence would lead to requests being refused. Officials further indicated that the evidentiary requirements are currently under review to simplify these requirements.

292. Notwithstanding that the Convention assumes the force of law in Oman, it is recommended that Oman adopt measures to expedite extradition procedures and to simplify evidentiary requirements in its law and practice, in line with the provision under review.

Article 44 Extradition

Paragraph 10

10. Subject to the provisions of its domestic law and its extradition treaties, the requested State Party may, upon being satisfied that the circumstances so warrant and are urgent and at the request of the requesting State Party, take a person whose extradition is sought and who is present in its territory into custody or take other appropriate measures to ensure his or her presence at extradition proceedings.

(a) Summary of information relevant to reviewing the implementation of the article

293. Reference was made to the following provisions:

Law on Extradition

Article (8): The Public Prosecutor shall order the arrested person to be investigated, keep him under provisional custody, or release him on or without bail, as per the case. He may prevent him from leaving Oman until the extradition request is settled.

Article (9): The period of provisional custody of the wanted person shall not exceed two months. If his extradition file is not received within such period, he shall be released.

(b) Observations on the implementation of the article

294. Oman has legislatively implemented the provision. The period of provisional custody may not exceed two months (article 9, Extradition Law).

Article 44 Extradition

Paragraph 11

11. A State Party in whose territory an alleged offender is found, if it does not extradite such person in respect of an offence to which this article applies solely on the ground that he or she is one of its nationals, shall, at the request of the State Party seeking extradition, be obliged to submit the case without undue delay to its competent authorities for the purpose of prosecution. Those authorities shall take their decision and conduct their proceedings in the same manner as in the case of any other offence of a grave nature under the domestic law of that State Party. The

States Parties concerned shall cooperate with each other, in particular on procedural and evidentiary aspects, to ensure the efficiency of such prosecution.

(a) Summary of information relevant to reviewing the implementation of the article

295. Oman indicated that its legal system adopted the principle of extradition or prosecution if extradition is not possible in case the person whose extradition is sought is of Omani nationality, so that the perpetrator does not escape punishment. The Penal Code provides for the possibility of trial of an Omani citizen by the Omani criminal justice system for an offence committed abroad if he returns to Oman. This provision facilitates the possibility of trying such Omani citizen who cannot be extradited to the requesting State for being an Omani citizen.

Penal Code

Article 10 - The Omani legislation shall be applicable to any Omani, be it an offender, instigator or participant, who commits abroad a felony or misdemeanour punishable by virtue of the national laws unless he is finally suited abroad and the pronounced sentence against him is executed, or the sentence is extinguished either by general or special pardon or by prescription.

Law on Extradition

Article (3): Extradition shall not be allowed in the following cases:

- 1) If the person requested to be extradited is an Omani national.

(b) Observations on the implementation of the article

296. The Law on Extradition prohibits the extradition of Omani nationals (Article 3), but this principle can be overturned by bilateral agreements. For example, the extradition treaty with India states that extradition shall not be refused on the ground that the person sought is a national of the requested State (Article 6).

297. Oman has refused the extradition of its citizens in a number of cases. It was explained that in these cases, the authorities automatically investigate and refer the case for prosecution (article 10, Penal Code), without the need for a separate request for prosecution from requesting States.

298. Oman has legislatively implemented the provision.

Article 44 Extradition

Paragraph 12

12. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State Party to serve the sentence imposed as a result of the trial or proceedings for which the extradition or surrender of the person was sought and that State Party and the State Party seeking the extradition of the person agree with this option and other terms that they may deem appropriate, such conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 11 of this article.

(a) Summary of information relevant to reviewing the implementation of the article

299. Oman indicated that there is no exception to the principle of non-extradition of its citizens.

(b) Observations on the implementation of the article

300. Oman does not recognize the conditional extradition of its citizens or impose conditions when it accepts the extradition of one its nationals.

Article 44 Extradition

Paragraph 13

13. If extradition, sought for purposes of enforcing a sentence, is refused because the person sought is a national of the requested State Party, the requested State Party shall, if its domestic law so permits and in conformity with the requirements of such law, upon application of the requesting State Party, consider the enforcement of the sentence imposed under the domestic law of the requesting State Party or the remainder thereof.

(a) Summary of information relevant to reviewing the implementation of the article

301. Oman indicated that in its legal system, no criminal punishment is enforced if it is not imposed under Omani law. Notwithstanding this principle, a criminal punishment not imposed under Omani law may be enforced if there is a bilateral or multilateral treaty providing for it.

302. Oman also referred to the regional *Agreement on the Enforcement of Court Judgments, Letters of Rogatory, and Judicial Notes of the Gulf Cooperation Council* and to the following text:

Penal Code

Article 13

The penal sentences pronounced by a foreign justice concerning acts determined by the Omani legislation as felonies or misdemeanours may be considered as grounds for:

1. Executing the sentences to loss of capacity or deprivation of rights, as long as they are conform to the Omani legislation, and to restitution, compensation or other civil orders.
2. Issuing sentences stipulated in the Omani legislation to loss of capacity or deprivation of rights, or to restitution or other civil orders.
3. Executing the Omani legislation concerning recidivism, accumulation of offences, stay of execution, suspension of an enforceable judgment or rehabilitation.

The Omani judge may make sure, by referring to the case documents, that the pronounced foreign sentence is sound as to its form and merits.

(b) Observations on the implementation of the article

303. It was clarified that, in accordance with article 13 of the Penal Code, Oman can only enforce the non-penal elements of foreign judgments such as deprivation of rights as long these correspond to its domestic legislation.

304. However, Omani officials confirmed that they would not enforce a foreign sentence in the case of an Omani citizen who was sentenced in another country and the person's extradition was refused. Article 13 of the Penal Code would not be applied to recognize

the foreign sentence under these circumstances, but rather the person would be re-tried and sentenced in Oman.

Article 44 Extradition

Paragraph 14

14. Any person regarding whom proceedings are being carried out in connection with any of the offences to which this article applies shall be guaranteed fair treatment at all stages of the proceedings, including enjoyment of all the rights and guarantees provided by the domestic law of the State Party in the territory of which that person is present.

(a) Summary of information relevant to reviewing the implementation of the article

305. Reference was made to the following provisions:

THE BASIC LAW OF THE SULTANATE OF OMAN

Article (22) An accused person is innocent until proven guilty in a legal trial which ensures him the essential guarantee to exercise his right of defence according to the Law. It is prohibited to harm the accused either bodily or mentally.

Article (23) The accused has the right to appoint a person capable of undertaking his defence during the trial. The Law defines the cases where the appearance of a defence lawyer on behalf of the accused is imperative, and ensures for those financially unable the means to seek judicial redress and defend their rights.

Article (24) Any person who is arrested or detained shall immediately be informed of the reasons for his arrest or detention. He has the right to contact whoever he wants to inform of what has taken place or get assistance in the manner regulated by the Law. Such a person shall immediately be informed of the charges against him. He or his representative have the right to petition the court against the action restricting his personal freedom. The Law regulates the right of petition in a manner which ensures that disposal of petition will be within a specified period, failing which he must be released.

Article (35) Every foreigner who is legally resident in the Sultanate shall have the right to protection of his person and his property in accordance with the Law. Foreigners shall have regard for society's values and respect its traditions and customs.

Penal Code

Article 12- The Omani legislation shall be applicable to any foreigner, be it either an offender, instigator or participant, who commits abroad a felony or misdemeanour punishable by Omani laws and not stipulated in Article 8, 10 and 11 hereabove, and who is thereafter present in Oman.

In such event, it is necessary that:

1. The law of the state where the crime is committed requires a sentence amounting to three-years imprisonment.
2. The extradition is not requested or accepted.
3. The foreigner has been finally sentenced abroad; and, in case of sentence, the pronounced penalty has not been executed or extinguished by general or special pardon or by prescription.

In the event of conflict between the Omani legislation and that of the place where the crime is perpetrated, the Omani judge may take it into consideration to the defendant's benefit.

Law on Extradition

Article (10): The Penal Court of Appeals in Muscat shall decide whether to accept or reject the extradition request. Its decision in this regard shall be final.

306. Oman also noted that the Code of Criminal Procedure does not make any discrimination, in public action proceedings or trial of defendants, on grounds of nationality.

(b) Observations on the implementation of the article

307. It is noted that in the case of nationals, article 10 of the Penal Code (quoted above) is applicable. Moreover, in the case foreign persons who committed offences abroad and are found in Oman, the Omani legislation is also applicable, provided the law of the State where the crime is committed requires a sentence of three-years' imprisonment and extradition is not requested or accepted (article 12, Penal Code).

308. The rationale for the 3-year imprisonment requirement in article 12 was discussed during the country visit. It was agreed that this requirement was unnecessarily restrictive as it limited the application of Oman's legislation to foreign persons found in Oman only to certain cases and required Omani authorities to consider the foreign State's legislation as a pre-condition. It is recommended that Oman eliminate this restriction.

309. As noted above, a case example was referred to where Omani authorities refused the extradition of a person on the grounds that there were reasons to believe that he would not be ensured with a fair trial and defense guarantees in the requesting State. In this context it is noted that article 10 of the Extradition Law requires requesting States to provide an undertaking to this effect when making a request.

Article 44 Extradition

Paragraph 15

15. Nothing in this Convention shall be interpreted as imposing an obligation to extradite if the requested State Party has substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on account of that person's sex, race, religion, nationality, ethnic origin or political opinions or that compliance with the request would cause prejudice to that person's position for any one of these reasons.

(a) Summary of information relevant to reviewing the implementation of the article

310. Reference was made to the following provisions:

Law on Extradition

Article (3): Extradition shall not be allowed in the following cases:

- 1) If the person requested to be extradited is an Omani national.
- 2) If the crime or any of its constituents is committed on the lands of the Sultanate.
- 3) If the person requested to be extradited has immunity against legal measures in the Sultanate of Oman unless he clearly assigns such immunity in the cases in which it may be assigned.
- 4) If the person requested to be extradited has been granted political asylum in the Sultanate and continues to enjoy such right after submitting the extradition request.
- 5) If the related crime is a political one or has a political nature or if the handing over is for a political purpose.
- 6) If the person requested to be extradited has been trialed for the related crime or is under investigation or trial in the Sultanate for this crime.

7) If the penal case or penalty has extinguished due to any legal reason pursuant to the laws of the Sultanate, the requesting country, or the country on whose lands the crime has been committed.

THE BASIC LAW OF THE SULTANATE OF OMAN

Article 17: All citizens are equal before the Law and share the same public rights and duties. There is no discrimination between them on the ground of gender, origin, colour, language, religion, sect, domicile, or social status.

311. Oman also indicated that it has acceded to the United Nations Convention on the Elimination of all Forms of Racial Discrimination.

(b) Observations on the implementation of the article

312. The cited article does not address discrimination on the grounds of race.

313. It is recommended that Oman include in its legislation race, among the grounds for refusing extradition based on the discriminatory purpose of the request.

Article 44 Extradition

Paragraph 16

16. States Parties may not refuse a request for extradition on the sole ground that the offence is also considered to involve fiscal matters.

(a) Summary of information relevant to reviewing the implementation of the article

314. Oman indicated that the non-extradition cases stipulated in Article 3 of the Extradition Law do not include the rejection of an extradition request on the grounds that the offence relates to financial matters.

(b) Observations on the implementation of the article

315. There have been no cases where Oman granted extradition of a person in respect of an offence involving fiscal matters. The provision is legislatively implemented.

Article 44 Extradition

Paragraph 17

17. Before refusing extradition, the requested State Party shall, where appropriate, consult with the requesting State Party to provide it with ample opportunity to present its opinions and to provide information relevant to its allegation.

(a) Summary of information relevant to reviewing the implementation of the article

316. Oman indicated that there is no text in its legal system that prevents consultations, when necessary, with the State that requests extradition, or the presentation of its views, and the provision of supporting information.

(b) Observations on the implementation of the article

317. It was confirmed during the country visit that Omani authorities, as a matter of practice maintain coordination with requesting States and consult with them before refusing extradition. Moreover, the authorities do not refer cases to the court for prosecution before consultations are held. It was explained that few requests are refused and Oman endeavors to facilitate consultations to allow for extradition whenever possible and consistent with its legal system.

Article 44 Extradition

Paragraph 18

18. States Parties shall seek to conclude bilateral and multilateral agreements or arrangements to carry out or to enhance the effectiveness of extradition.

(a) Summary of information relevant to reviewing the implementation of the article

318. Oman indicated that it has entered into multilateral conventions in this area and is a party to a range of regional and bilateral agreements and arrangements in the field of extradition, including:

1. Extradition Treaty of Defendants and Convicts between the Sultanate of Oman and the Republic of India (2004);
2. The Agreement on Legal and Judicial Cooperation between Morocco and Oman (containing extradition provisions);
3. The Legal and Judicial Cooperation Agreement with Egypt (Royal Decree No. 64/2002) (containing extradition provisions);
4. The Agreement on Legal and Judicial Cooperation in Civil, Commercial, and Criminal Matters between Oman and Turkey (Royal Decree No. 102/2008) (containing provisions on extradition); and
5. Riyadh Arab Agreement for Judicial Cooperation (Part VI of which covers the extradition of accused or convicted persons).

(b) Observations on the implementation of the article

319. Oman is party to several bilateral and multilateral agreements and arrangements on extradition. Moreover, Oman does not make extradition conditional on the existence of a treaty, as extradition is possible under the principles of reciprocity and international comity.

Article 45 Transfer of sentenced persons

States Parties may consider entering into bilateral or multilateral agreements or arrangements on the transfer to their territory of persons sentenced to imprisonment or other forms of deprivation of liberty for offences established in accordance with this Convention in order that they may complete their sentences there.

(a) Summary of information relevant to reviewing the implementation of the article

320. Oman indicated that it has entered into regional, international, and bilateral agreements and arrangements on the transfer of sentenced persons, including:

- The Convention on the Transfer of Persons Sentenced to Custodial Sentences among the Gulf Cooperation Council countries;
- The Riyadh Arab Agreement for Judicial Cooperation;
- Agreement on Legal and Judicial Cooperation in Civil, Commercial, and Criminal Matters between Oman and Turkey (Royal Decree No. 102/2008) (containing provisions on the transfer of sentenced persons); and
- Judicial Cooperation Agreements with Egypt and Morocco (containing provisions on the transfer of sentenced persons).

321. Oman also indicated that it is seeking to enter into bilateral agreements with some States parties to the Convention.

(b) Observations on the implementation of the article

322. Oman is party to several agreements and arrangements on the transfer of sentenced persons. The article is implemented.

Article 46 Mutual legal assistance

Paragraphs 1 and 2

1. States Parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by this Convention.

2. Mutual legal assistance shall be afforded to the fullest extent possible under relevant laws, treaties, agreements and arrangements of the requested State Party with respect to investigations, prosecutions and judicial proceedings in relation to the offences for which a legal person may be held liable in accordance with article 26 of this Convention in the requesting State Party.

(a) Summary of information relevant to reviewing the implementation of the article

323. With regard to paragraph 1, Oman indicated that it provides legal assistance in investigations, prosecutions, and judicial proceedings relating to the offences covered by this Convention, especially that Oman upholds the principle of international cooperation in the fight against crime. Oman has joined several related agreements and arrangements, as listed under paragraph 30 of this article.

324. It also noted that its legal system on mutual legal assistance relies on several bases: one the hand, assistance can be provided under a bilateral or multilateral agreement, including through direct application of the Convention; in such case, assistance is provided in accordance with such agreements. On the other hand, if Oman has no treaty with a State, legal assistance can be provided according to the principles of reciprocity or international comity and the procedures prescribed by the Omani law.

325. Oman also indicated that it is compliant with paragraph 2 of article 46, as the legal system on mutual legal assistance does not make a distinction between the crimes committed by a legal person and those committed by another person with respect to the possibility of providing assistance to the fullest extent possible. In addition, the Omani law includes a definition of the principle of criminal responsibility of legal persons. There are many such forms of criminalization, which are explained above under article 26 of the Convention, particularly in the Law on Combating Money Laundering and Terrorist Financing, the Omani Penal Code (Articles 52, 55), the Law on Consumer Protection (Article 21), and the Law on Commercial Companies (Articles 170, 171, 172). Oman also noted that the conventions and treaties do not contain any provisions that restrict the provision of legal assistance with respect to these crimes. Indeed, the provisions of the relevant bilateral agreements signed by Oman do not make a distinction between legal assistance relating to an offence committed by a legal person or another person.

Law of Anti-Money Laundering and Combating Financing Terrorism

Article (43): The Sultanate adopts the principle of international cooperation in combating money laundering and terrorism financing crimes in accordance with the laws of the Sultanate, the provisions of international conventions, bilateral agreements entered into or drawn by the Sultanate or application of reciprocity principle in the areas of legal assistance and joint international judicial cooperation.

Article (33): A fine of not less than (10.000) ten thousand Rials and not more than the equivalent amount of money the subject of money laundering or terrorism financing crime shall be applied to the financial institutions, non-financial businesses and professions, and non-profit associations and bodies whose liability is established in accordance with the provisions of Article (5) of this Law. In its ruling of conviction the court shall order the convicted to publish the decision through the written press at the expense of the juristic person. The court may revoke the license of the juristic person, stop its activities for a period not exceeding one year, bar it from practicing the activity, close the institution permanently or for a specified period, place a permanent or temporary ban on practicing any professional or social activity during or because of which the crime had been committed either directly or indirectly, put under judicial supervision for a specific period, prohibit the trading of securities in financial markets, either permanently or for a specific period, or prohibit the issuance of checks or using its own ATM cards for a specific period.

Article (34): The penalty of imprisonment for a term of not more than (6) six months and a fine not exceeding (5.000) five thousand Rials or either penalty shall be applied to any person who violates the provisions of Article (40) of this Law. The court may confiscate the juristic person, revoke its license, suspend its activity for not more than one year, deprive it from practicing the activity again, close the institution permanently or temporarily, or ban it from practicing any other activity if the violation has been committed in its name or favor.

326. Concerning examples of enforcement, Oman indicated that cooperation exists between Oman and some States Parties with respect to mutual legal assistance in investigations, prosecutions, and judicial proceedings for offences, such as under the Agreement on the Enforcement of Court Judgements, Letters of Rogatory, and Judicial Notes of the Gulf Cooperation Council (GCC) and the Riyadh Arab Agreement on Judicial Cooperation and other bilateral agreements.

327. Oman provided the following statistics on mutual legal assistance.

**Mutual Legal Assistance Requests made by the Public Prosecution
of the Sultanate of Oman (all crimes)**

Dates: From 01 January 2014 to 25 May 2015

| No. | Addressee | Nature of count | Date of Request | Observations |
|-----|-----------|-----------------|-----------------|--------------|
|-----|-----------|-----------------|-----------------|--------------|

| | | | Dispatch | |
|-----------|---|--|-----------------|---|
| 1 | UK Central Authority | (Fraud misdemeanor) criminalized by art. 288 of Oman Criminal Code (CC) and art. 13 of the Law against Information Technology (IT) crimes. | 6/01/2014 | A notice was received from the judicial authorities in the UK on 8 December 2014 to obtain certain documents. |
| 2 | UK Central Authority | (Fraud misdemeanor) criminalized by art. 288 (CC) and art. 13 of the Law against IT crimes. | 8/01/2014 | A notice was received from the judicial authorities in the UK on 8 December 2014 to obtain certain documents. |
| 3 | UK Central Authority | (Fraud misdemeanor) criminalized by art. 288 (CC) and art. 13 of the Law against IT crimes. | 27/01/2014 | A notice was received from the judicial authorities in the UK on 8 December 2014 to obtain certain documents. |
| 4 | Office of the General Prosecutor in the Emirate of Dubai in the UAE | (Misdemeanor: forgery of private documents) criminalized by art. 205 (CC) | 25/01/2014 | No response received up to this date. |
| 5 | Office of the General Prosecutor in the Emirate of Dubai in the UAE | (Misdemeanor: forgery of private documents) criminalized by art. 205 (CC) | 6/03/2014 | MLA request received on: 31/3/2015 |
| 6 | Office of the General Prosecutor in the Emirate of Dubai in the UAE | (Fraud misdemeanor) criminalized by art. 288 (CC) and art. 13 & 30 of the Law against IT crimes. | 6/03/2014 | MLA request received on: 31/3/2015 |
| 7 | UK Central Authority | (Fraud misdemeanor) criminalized by art. 288 (CC) and art. 13 of the Law against IT crimes. | 11/03/2014 | No response received up to this date. |
| 8 | UK Central Authority | Fraud misdemeanor) criminalized by art. 288 (CC) and art. 13 of the Law against IT crimes. | 12/03/2014 | No response received up to this date. |
| 9 | Office of the General Prosecutor in the Republic of South Africa | (Fraud misdemeanor) criminalized by art. 288 (CC) and art. 13 of the Law against IT crimes. | 12/03/2014 | No response received up to this date. |
| 10 | Office of the General Prosecutor in the | (Fraud misdemeanor) criminalized by art. 288 (CC) and art. 13 of the | 12/03/2014 | No response received up to this date. |

| | | | | |
|----|--|---|------------|---|
| | Hashemite Kingdom of Jordan | Law against IT crimes. | | |
| 11 | UK Central Authority | (Fraud misdemeanor) criminalized by art. 288 (CC) and art. 13 of the Law against IT crimes. | 12/03/2014 | No response received up to this date. |
| 12 | UK Central Authority | (Fraud misdemeanor) criminalized by art. 288 (CC) and art. 13 of the Law against IT crimes. | 28/04/2014 | No response received up to this date. |
| 13 | UK Central Authority | (Fraud misdemeanor) criminalized by art. 288 (CC) and art. 13 of the Law against IT crimes. | 28/04/2014 | No response received up to this date. |
| 14 | UK Central Authority | (Fraud misdemeanor) criminalized by art. 288 (CC) and art. 13 of the Law against IT crimes. | 20/04/2014 | No response received up to this date. |
| 15 | The General Prosecution in the UAE | (Forgery misdemeanor) criminalized by art. 2805(CC) | 21/07/2014 | No response received up to this date. |
| 16 | The General Prosecution in the UAE | (Forgery misdemeanor) criminalized by art. 2805(CC) | 21/04/2014 | MLA request received on: 31/3/2015 |
| 17 | The General Prosecution in the UAE | (Misdemeanor: libel and slander) criminalized by art. 16 of the Law against IT crimes. | 14/09/2014 | MLA request received on: 31/3/2015 |
| 18 | The General Prosecution in Kuwait | (Money laundering offense) criminalized by art. 2 para. 1 of Oman AML/CFT Law. | 7/01/2015 | No response received up to this date. |
| 19 | The Investigation and Public Prosecution Commission in the KSA | (Misdemeanor: libel and slander) criminalized by art. 16 of the Law against IT crimes. | 10/02/2015 | No response received up to this date. |
| 20 | The Judicial Authorities in the Republic of Latvia | (Fraud misdemeanor) criminalized by art. 288 (CC) and art. 13 of the Law against IT crimes. | 25/02/2015 | On 4/6/2015, a notice was received from the judicial authorities in Latvia confirming receipt of the MLA request. |
| 21 | UK Central Authority | (Fraud misdemeanor) criminalized by art. 288 (CC) and art. 13 of the Law against IT crimes. | 7/04/2015 | No response received up to this date. |
| 22 | The Investigation and Public | (Misdemeanor: libel and slander) criminalized by | 27/04/2015 | No response received up to this date. |

| | | | | |
|----|-------------------------------------|---|------------|---------------------------------------|
| | Prosecution Commission in the KSA | art. 16 of the Law against IT crimes. | | |
| 23 | The Judicial Authorities in the UAE | (Fraud misdemeanor) criminalized by art. 288 (CC) | 20/05/2015 | No response received up to this date. |
| 24 | The Judicial Authorities in the UAE | (Misdemeanor: forgery of private documents) criminalized by art. 205 (CC) | 20/05/2015 | No response received up to this date. |

Mutual Legal Assistance Requests received by the Public Prosecution of the Sultanate of Oman (all crimes)

Dates: From 01 January 2014 to 25 May 2015

| No. | Sending Party | Request | Date of Request Receipt | Observation |
|-----|--|--|-------------------------|-------------|
| 1 | Ministry of Justice in the UAE | Exequatur | 19/01/2014 | Provided |
| 2 | Public Prosecution of the Federal Capital in the UAE | Clarification about vehicle data | 28/01/2014 | Provided |
| 3 | Public Prosecution of Ajman in the UAE | Declaration of in absentia | 8/03/2014 | Provided |
| 4 | Competent Court in Turkey | Interrogation of a Turkish citizen in the Sultanate | 11/04/2014 | Provided |
| 5 | Public Prosecution in the Republic of Turkey | Interrogation of a Turkish citizen in the Sultanate | 5/04/2014 | Provided |
| 6 | Public Prosecution in the Republic of Turkey | Interrogation of a Turkish citizen in the Sultanate | 21/07/2014 | Provided |
| 7 | Central Investigation Council in India | Clarification about the death of an Indian citizen (female) in the Sultanate | 20/04/2014 | Provided |
| 8 | Embassy of the People's Republic of China in Muscat | Fraud | 22/06/2014 | Ongoing |
| 9 | First Court of the Federal Republic of Germany | Witness interrogation | 17/07/2014 | Provided |
| 10 | Public Prosecution of the Republic of Egypt | Interrogation | 3/11/2014 | Provided |
| 11 | Public Prosecution in the UAE | Vehicle Recovery | 24/03/2015 | Provided |
| 12 | Prosecution in the Republic of Turkey | Interrogation of a Turkish citizen in the Sultanate | 9/02/2015 | Provided |
| 13 | Public Prosecution in | Interrogation of a Dutch | 21/03/2015 | Provided |

| | | | | |
|----|---|---|------------|---------|
| | the Kingdom of the Netherlands | citizen | | |
| 14 | Public Prosecution in the Republic of Egypt | Interrogation of an Egyptian citizen in the Sultanate | 20/04/2014 | Ongoing |
| 15 | Public Prosecution in the Republic of Egypt | Interrogation of an Egyptian citizen in the Sultanate | 13/04/2015 | Ongoing |

(b) Observations on the implementation of the article

328. Oman entered into several regional and bilateral treaties that are relevant to MLA, as noted under paragraph 30 below.

329. Oman does not have a stand-alone mutual legal assistance law but provides assistance under the provisions of its domestic legislation, bilateral and multilateral agreements and arrangements, including the direct application of the Convention, as well as on the principles of reciprocity or international comity. While these legal bases appear to be sufficient for purposes of rendering MLA in investigations, prosecutions, and judicial proceedings, it is recommended that Oman adopt relevant legislation on MLA for greater legal certainty also to requesting States. The reviewers welcome indications by the Omani authorities during the country visit that they were considering adopting a draft law on MLA.

330. It is further recommended that Oman consider adopting a manual and procedures or guidelines on MLA that would outline in greater detail the steps to be followed by authorities in executing and making MLA requests, as well as any requirements and timeframes to be followed. The reviewers welcome indications by the Omani authorities that they would consider adopting relevant procedures in this regard.

331. It was confirmed that dual criminality is formally only required for extradition (see paragraph 9 of this article below).

Article 46 Mutual legal assistance

Subparagraphs 3 (a) to (i)

3. Mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes:

(a) Taking evidence or statements from persons;

(b) Effecting service of judicial documents;

(c) Executing searches and seizures, and freezing;

(d) Examining objects and sites;

(e) Providing information, evidentiary items and expert evaluations;

(f) Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records;

(g) Identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes;

(h) Facilitating the voluntary appearance of persons in the requesting State Party;

(i) Any other type of assistance that is not contrary to the domestic law of the requested State Party;

(a) Summary of information relevant to reviewing the implementation of the article

332. Oman referred to its previous answer on the implementation of paragraph 1, and indicated that the legal system in Oman allows the provision of all forms of mutual legal assistance concerning the above provision.

(b) Observations on the implementation of the article

333. The international agreements to which Oman is party cover many forms of assistance, including mutual assistance in order to conduct investigations, such as interrogating the accused, hearing witnesses, experts and victims, or exchanging exhibits supporting the accusation, files and other documents, in addition to procedures relevant to inspection or seizure of items. The provision is legislatively implemented.

Article 46 Mutual legal assistance

Subparagraphs 3 (j) and (k)

3. Mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes:

(j) Identifying, freezing and tracing proceeds of crime in accordance with the provisions of chapter V of this Convention;

(k) The recovery of assets, in accordance with the provisions of chapter V of this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

334. Reference was made to the following provision:

Law of Anti-Money Laundering and Combating Financing Terrorism

Article (22): Upon the request of the competent authority of another country with which the Sultanate has signed agreements or in accordance with reciprocity principle, Public Prosecution may order the tracking, seizing or freezing of funds, proceeds and instrumentalities involved in money laundering and terrorism financing crimes.

335. Regarding the request for legal assistance on asset recovery, no provision in the legal system of Oman prevents it.

(b) Observations on the implementation of the article

336. Oman has legislatively implemented the provision.

Article 46 Mutual legal assistance

Paragraphs 4 and 5

4. Without prejudice to domestic law, the competent authorities of a State Party may, without prior request, transmit information relating to criminal matters to a competent authority in another State Party where they believe that such information could assist the authority in undertaking or successfully concluding inquiries and criminal proceedings or could result in a request formulated by the latter State Party pursuant to this Convention.

5. The transmission of information pursuant to paragraph 4 of this article shall be without prejudice to inquiries and criminal proceedings in the State of the competent authorities providing the information. The competent authorities receiving the information shall comply with a request that said information remain confidential, even temporarily, or with restrictions on its use. However, this shall not prevent the receiving State Party from disclosing in its proceedings information that is exculpatory to an accused person. In such a case, the receiving State Party shall notify the transmitting State Party prior to the disclosure and, if so requested, consult with the transmitting State Party. If, in an exceptional case, advance notice is not possible, the receiving State Party shall inform the transmitting State Party of the disclosure without delay.

(a) Summary of information relevant to reviewing the implementation of the article

337. Oman indicated that the provisions in the paragraphs above are effective in the Omani law taking into account Oman's ratification of the United Nations Convention against Corruption, which has the force of law in Oman, and its publication in the Official Gazette, and also taking into account the provisions of Article 6 of the Rules of Joint Cooperation between Prosecutors, Investigative Bodies, and the Public Prosecution of the Gulf Cooperation Council (GCC). Oman also referred to the following text:

Law of Anti-Money Laundering and Combating Financing Terrorism

Article (7): ...

The Unit shall establish a database of all available reports and information and develop enough means to make them available to the judicial authorities as well as the exchange of such information and coordination with the competent entities in the Sultanate, foreign countries and international organizations in accordance with the provisions of international or bilateral conventions and agreements to which the Sultanate is a party, or in application of reciprocity principle provided that the information is used for the purposes of combating money laundering and terrorism financing.

...

Rules of Joint Cooperation between Prosecutors, Investigative Bodies, and the Public Prosecution of the Gulf Cooperation Council (GCC)

Article 6, item 2: Any competent body may, subject to domestic law, and without prior request for assistance, transmit information relating to criminal matters to another competent body, whenever it believes that this information can help in inquiries and criminal proceedings or in completing them successfully or may help the competent body to submit a formal request for assistance.

The transmission of information, pursuant to this article, shall not prejudice inquiries and criminal proceedings in the State of the competent body that provides such information. The competent body that receives such information shall keep it confidential, even temporarily, or impose restrictions on its use, at the request of the authority that provided the said information.

(b) Observations on the implementation of the article

338. A case example was discussed during the country visit where the Criminal Investigation Department in the Royal Omani Police spontaneously provided case-related information to another State (Qatar), without a prior request. The matter related to drugs rather than corruption offences, but Omani authorities confirmed that they would proceed in the same manner in a corruption-related matter.

339. As a member of Interpol, Oman also engages in exchanges of information on international criminals and persons sought or prosecuted by other States.

Article 46 Mutual legal assistance

Paragraph 8

8. States Parties shall not decline to render mutual legal assistance pursuant to this article on the ground of bank secrecy.

(a) Summary of information relevant to reviewing the implementation of the article

340. Oman indicated that bank secrecy is not in itself a reason for refusing to provide mutual legal assistance, especially as the Omani law does not prevent the lifting of bank secrecy in cases prescribed by law. It also referred to the following provisions:

Law of Anti-Money Laundering and Combating Financing Terrorism

Article (14): In exception from the provisions relating to the confidentiality of banking transactions and professional confidentiality, the financial institutions, non-financial businesses and professions, and non-profit associations and bodies undertake to notify the Unit regarding the transactions as soon as they are suspected of being related to the proceeds of crime proceeds, terrorism, terroristic crime or terroristic organization or involving money laundering or terrorism financing crimes, whether such transactions have or have not been conducted or at the time it is attempted to be conducted in accordance with controls and procedures specified in the regulation.

(b) Observations on the implementation of the article

341. The international agreements to which Oman is party do not provide that requests for mutual legal assistance can be refused on the grounds of secrecy or confidentiality requirements. Moreover, the Omani authorities confirmed that they have never rejected any request for mutual legal assistance, on these grounds.

Article 46 Mutual legal assistance

Paragraph 9

(a) A requested State Party, in responding to a request for assistance pursuant to this article in the absence of dual criminality, shall take into account the purposes of this Convention, as set forth in article 1;

(b) States Parties may decline to render assistance pursuant to this article on the ground of absence of dual criminality. However, a requested State Party shall, where consistent with the basic concepts of its legal system, render assistance that does not involve coercive action. Such assistance may be refused when requests involve matters of a de minimis nature or matters for which the cooperation or assistance sought is available under other provisions of this Convention;

(c) Each State Party may consider adopting such measures as may be necessary to enable it to provide a wider scope of assistance pursuant to this article in the absence of dual criminality.

(a) Summary of information relevant to reviewing the implementation of the article

342. Oman indicated that it takes into account this provision, as the Convention has the force of law in Oman, in accordance with Article 80 of the Basic Law of the State (the Constitution). Dual criminality is formally only required for extradition. For Oman to be able to cooperate, MLA requests need to comply with Omani law and be on the basis of multilateral or bilateral agreements or reciprocity or comity. Apart from this, nothing prevents Oman from responding positively to requests for legal assistance, as Oman upholds the principles of international cooperation and reciprocity or comity.
343. Oman explained that coercive measures are mentioned in Chapter III of Title II of the Code of Criminal Procedure entitled precautionary measures, which include the arrest of the accused (Article 41 et seq.), remand (Article (53), and search (Article (77 et seq.). It should be noted that the Omani law does not provide a specific definition for coercive measures.
344. Nothing in the Omani law permits to consider certain requests as trivial and, therefore, all received requests are examined and handled according to legal requirements.

(b) Observations on the implementation of the article and good practices

345. It was confirmed that dual criminality is formally only required for extradition. In principle, Oman can render MLA in the absence of dual criminality, unless stated otherwise in a relevant treaty.
346. Oman's international agreements related to MLA do not generally provide that assistance may be refused on the grounds of the absence of dual criminality. The agreement with Turkey (Royal Decree No. 102/2008) is an exception (Article 32 paragraph 1 b).
347. Oman appears to take a flexible approach in applying the provisions of its domestic legislation in the consideration of requests, in order to provide a wide measure of assistance, as permitted under its bilateral and multilateral agreements, as well as on the principles of reciprocity or international comity. This was positively noted by the reviewers.
348. Oman would not decline assistance in cases involving UNCAC offences on the basis of the absence of dual criminality where the assistance sought is non-coercive, in accordance with its international treaty obligations and in direct application of the Convention.
349. Omani authorities confirmed that no requests for MLA have been denied by Oman on the basis of dual criminality not being met.

Article 46 Mutual legal assistance

Paragraphs 10 to 12

10. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for investigations, prosecutions or

judicial proceedings in relation to offences covered by this Convention may be transferred if the following conditions are met:

(a) The person freely gives his or her informed consent;

(b) The competent authorities of both States Parties agree, subject to such conditions as those States Parties may deem appropriate.

11. For the purposes of paragraph 10 of this article:

(a) The State Party to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State Party from which the person was transferred;

(b) The State Party to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State Party from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States Parties;

(c) The State Party to which the person is transferred shall not require the State Party from which the person was transferred to initiate extradition proceedings for the return of the person;

(d) The person transferred shall receive credit for service of the sentence being served in the State from which he or she was transferred for time spent in the custody of the State Party to which he or she was transferred.

12. Unless the State Party from which a person is to be transferred in accordance with paragraphs 10 and 11 of this article so agrees, that person, whatever his or her nationality, shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in the territory of the State to which that person is transferred in respect of acts, omissions or convictions prior to his or her departure from the territory of the State from which he or she was transferred.

(a) Summary of information relevant to reviewing the implementation of the article

350. Oman indicated that it is committed to the provisions of the United Nations Convention against Corruption, which has the force of Omani law, as well as to relevant bilateral or multilateral agreements that include these provisions to facilitate the appearance of detained persons to give evidence or assistance in investigations in the requesting State. In the absence of an agreement with the requesting State, these provisions are enforced pursuant to the principles of international comity and reciprocity.

351. Reference was made to the following provisions:

Riyadh Arab Agreement for Judicial Cooperation

Article 22 Immunity of witnesses and experts.

Any witnesses or experts - regardless of their nationality - served notice to attend in the territory of any contracting party, and doing so voluntarily for this purpose before the judicial bodies of the requesting party, shall enjoy immunity of penal action against them, or arrest, or imprisonment on the basis of previous actions in their part, or in the execution of convictions made prior to their entry to the territory of the requesting party.

The body serving a witness or an expert with a subpoena ad testificandum must inform them in writing of such immunity before their first appearance.

The immunity of the witness or expert shall lapse after 30 days of the date on which the judicial bodies of the requesting party dispense with his presence in the said party's territory - provided that no reasons beyond the person's control arise to prevent his departure - or if he voluntarily returns to such territory after having departed.

Article 24 Detained witnesses and experts.

Each contracting party undertakes to transport persons detained by them - if they are duly notified under the provisions of this agreement - to appear before a judicial body of any other contracting party requesting to hear their testimony or opinion as witnesses or experts, and the requesting party shall bear the costs of transporting such persons.

The requesting party undertakes to keep such persons in detention, and to return them as soon as possible or within the time period prescribed by the contracting party receiving such requests, subject to the provisions of Article 22 of this agreement.

(b) Observations on the implementation of the article

352. The provisions are implemented, but no examples of witness transfer for purposes of MLA were provided.

Article 46 Mutual legal assistance

Paragraph 13

13. Each State Party shall designate a central authority that shall have the responsibility and power to receive requests for mutual legal assistance and either to execute them or to transmit them to the competent authorities for execution. Where a State Party has a special region or territory with a separate system of mutual legal assistance, it may designate a distinct central authority that shall have the same function for that region or territory. Central authorities shall ensure the speedy and proper execution or transmission of the requests received. Where the central authority transmits the request to a competent Authority for execution, it shall encourage the speedy and proper execution of the request by the competent authority. The Secretary-General of the United Nations shall be notified of the central authority designated for this purpose at the time each State Party deposits its instrument of ratification, acceptance or approval of or accession to this Convention. Requests for mutual legal assistance and any communication related thereto shall be transmitted to the central authorities designated by the States Parties. This requirement shall be without prejudice to the right of a State Party to require that such requests and communications be addressed to it through diplomatic channels and, in urgent circumstances, where the States Parties agree, through the International Criminal Police Organization, if possible.

(a) Summary of information relevant to reviewing the implementation of the article

353. Oman indicated that there is no central authority solely responsible for receiving requests for legal assistance. Such requests are received through: diplomatic channels at the Foreign Ministry, the Departments of International Cooperation at the Ministry of Justice, the Public Prosecution, and the Royal Oman Police, taking into account the provisions of some bilateral or regional agreements that allow direct communication without requiring diplomatic channels. Oman established a Department for International Cooperation at the General Secretariat of the Council of Judiciary Administrative Matters, which is competent to receive requests for legal assistance and forward them to the Public Prosecution, which proceeds immediately upon their receipt to consider them and take appropriate decisions. Also, Oman set up a government think tank that represents all sectors involved in legal and judicial assistance, headed by the Royal Oman Police, to consider bilateral agreements in this area.

354. Oman noted that the implementation period depends on the type of request for assistance as there is no time frame set by law, but the laws and agreements call for responding to the request for assistance as soon as possible.

355. Oman referred to the following provision.

Riyadh Arab Agreement for Judicial Cooperation

Article 6 Civil, commercial, administrative, penal and personal statute cases.

Judicial and non-judicial documents and papers pertaining to civil, commercial, administrative and personal statute cases which are to be published or which are to be transmitted to persons residing in one of the contracting parties shall be dispatched directly from the judicial body or officer concerned to the court of the district in which the person to be notified resides.

Judicial and non-judicial documents and papers pertaining to penal cases shall be dispatched directly through the Ministry of Justice of each contracting party, without prejudice to the provisions of special articles on the extradition of persons alleged to have committed a crime or convicted thereof.

A dispute over the nationality of the addressee shall be determined in accordance with the law of the contracting party in whose territory the publication or notification is to take place.

Publication or notification occurring in the territory of any contracting party in accordance with the provisions of the present convention shall be considered as having occurred in the territory of the contracting party requiring the publication or notification.

(b) Observations on the implementation of the article

356. Oman does not have a central authority for MLA. Rather, Omani authorities stated that the Ministry of Foreign Affairs receives MLA requests and forwards these to the Public Prosecution, the Ministry of Justice and the police for execution. Requests can also be received directly by these agencies. It is noted that there is no mechanism to ensure direct cooperation between the Omani authorities and the judicial and law enforcement authorities of a foreign jurisdiction other than through Interpol channels.

357. It is recommended that Oman establish a central authority to coordinate mutual legal assistance and notify the United Nations accordingly, in accordance with the provision under review. Oman should also establish clear and efficient processes for the execution of mutual legal assistance requests in a timely way and without undue delays and for communicating with foreign authorities.

358. Oman is encouraged to send the aforementioned information to the Chief, Treaty Section, Office of Legal Affairs, Room M-13002, United Nations, 380 Madison Ave, New York, NY 10017 and copy the Secretary of the Conference of the States Parties to the United Nations Convention against Corruption, Corruption and Economic Crime Branch, United Nations Office on Drugs and Crime, Vienna International Centre, P.O. Box 500, 1400 Vienna, Austria (uncac.cop@unodc.org).

Article 46 Mutual legal assistance

Paragraph 14

14. Requests shall be made in writing or, where possible, by any means capable of producing a written record, in a language acceptable to the requested State Party, under conditions allowing that State Party to establish authenticity. The Secretary-General of the United Nations shall be notified of the language or languages acceptable to each State Party at the time it

deposits its instrument of ratification, acceptance or approval of or accession to this Convention. In urgent circumstances and where agreed by the States Parties, requests may be made orally but shall be confirmed in writing forthwith.

(a) Summary of information relevant to reviewing the implementation of the article

359. Oman indicated that it is committed to the United Nations Convention against Corruption, which has the force of law in Oman, as well as to relevant bilateral or multilateral agreements and the principles of reciprocity or comity.

360. Oman noted that the acceptable language is Arabic, and that requests for assistance sent by Oman to other countries are translated into the language of the requested State.

361. The Secretary General of the United Nations has been informed that Arabic is its official language and is the language accepted with regard to the implementation of the Convention.

362. As for oral requests in urgent cases, it is usual practice to accept such requests, which shall be confirmed in writing immediately.

(b) Observations on the implementation of the article

363. Oman made the requisite notification on 7 May 2015 informing the United Nations that Arabic is the acceptable language for mutual legal assistance.

Article 46 Mutual legal assistance

Paragraphs 15 and 16

15. A request for mutual legal assistance shall contain:

(a) The identity of the authority making the request;

(b) The subject matter and nature of the investigation, prosecution or judicial proceeding to which the request relates and the name and functions of the authority conducting the investigation, prosecution or judicial proceeding;

(c) A summary of the relevant facts, except in relation to requests for the purpose of service of judicial documents;

(d) A description of the assistance sought and details of any particular procedure that the requesting State Party wishes to be followed;

(e) Where possible, the identity, location and nationality of any person concerned; and

(f) The purpose for which the evidence, information or action is sought.

16. The requested State Party may request additional information when it appears necessary for the execution of the request in accordance with its domestic law or when it can facilitate such execution.

(a) Summary of information relevant to reviewing the implementation of the article

364. Oman indicated that it is committed to the United Nations Convention against Corruption and relevant bilateral and multilateral agreements. Applicable measures are determined in accordance with the provisions of the relevant conventions, which are not inconsistent with the information mentioned in paragraph 15. As for the additional information required, it is determined according to the papers and documents that are sent and the assessment of their adequacy.

365. Examples include the agreements and arrangements referenced under paragraph 30.

(b) Observations on the implementation of the article

366. For Oman to be able to cooperate, MLA requests need to comply with Omani law, and be on the basis of multilateral or bilateral agreements or reciprocity or international comity. These agreements generally set out the content and format requirements of requests.

Article 46 Mutual legal assistance

Paragraph 17

17. A request shall be executed in accordance with the domestic law of the requested State Party and, to the extent not contrary to the domestic law of the requested State Party and where possible, in accordance with the procedures specified in the request.

(a) Summary of information relevant to reviewing the implementation of the article

367. Oman indicated that it is committed to the United Nations Convention against Corruption and relevant bilateral and multilateral agreements. Also, it referred to the following text:

368. Reference was made to the following provision:

Riyadh Arab Agreement for Judicial Cooperation

Article 18 Method of carrying out rogatory commissions.

A rogatory commission shall be carried out in accordance with the legal procedures set by the law of the requested party.

Should the requesting contracting party wish, by virtue of an explicit demand to this effect, that the commission be carried out in a specific manner, the contracting party so requested shall respond to such wish so long as it does not contradict its laws or regulations.

Should the requesting party state its wish to be informed in a timely fashion of the date and place of carrying out the commission so that the parties concerned or their representatives could be present, this shall be done within the limits permissible by the laws of the requested party.

(b) Observations on the implementation of the article

369. For Oman to be able to cooperate, MLA requests need to comply with Omani law, and be on the basis of multilateral or bilateral agreements or reciprocity or comity.

370. Omani authorities indicated that they endeavor to provide assistance in accordance with any procedures stated in the request. However, no examples were available.

Article 46 Mutual legal assistance

Paragraph 18

18. *Wherever possible and consistent with fundamental principles of domestic law, when an individual is in the territory of a State Party and has to be heard as a witness or expert by the judicial authorities of another State Party, the first State Party may, at the request of the other, permit the hearing to take place by video conference if it is not possible or desirable for the individual in question to appear in person in the territory of the requesting State Party. States Parties may agree that the hearing shall be conducted by a judicial authority of the requesting State Party and attended by a judicial authority of the requested State Party.*

(a) Summary of information relevant to reviewing the implementation of the article

371. Oman indicated that no legal provision prevents this matter and these requests are fulfilled in coordination between both parties. In addition, Article 9 of the Rules of Joint Cooperation between Prosecutors, Investigative Bodies, and the Public Prosecution of the Gulf Cooperation Council (GCC) reads, "*When a person is to be heard as a witness or expert, it is possible, at the request of the requesting competent authority to use modern technical means if it is not possible for the person concerned to appear in person.*"

372. Oman added to that the draft amendment to the Criminal Procedure Code provides for hearings that use video (CCTV).

(b) Observations on the implementation of the article

373. Oman has received more than one request for legal assistance for hearing the statements of witnesses through videolinks, and it has responded positively to such requests, including one from Switzerland.

374. Oman is not precluded by its domestic legislation from conducting hearings of witnesses or experts by videoconference, as permitted also under its agreements on MLA.

Article 46 Mutual legal assistance

Paragraphs 19 and 20

19. *The requesting State Party shall not transmit or use information or evidence furnished by the requested State Party for investigations, prosecutions or judicial proceedings other than those stated in the request without the prior consent of the requested State Party. Nothing in this paragraph shall prevent the requesting State Party from disclosing in its proceedings information or evidence that is exculpatory to an accused person. In the latter case, the requesting State Party shall notify the requested State Party prior to the disclosure and, if so requested, consult with the requested State Party. If, in an exceptional case, advance notice is not possible, the requesting State Party shall inform the requested State Party of the disclosure without delay.*

20. *The requesting State Party may require that the requested State Party keep confidential the fact and substance of the request, except to the extent necessary to execute the request. If the requested State Party cannot comply with the requirement of confidentiality, it shall promptly inform the requesting State Party.*

(a) Summary of information relevant to reviewing the implementation of the article

375. Oman indicated that it is compliant with this provision as it is committed to the United Nations Convention against Corruption and relevant bilateral and multilateral agreements and also mentioned the following provisions:

Rules of Joint Cooperation between Prosecutors, Investigative Bodies, and the Public Prosecution of the Gulf Cooperation Council (GCC)

Article 6: ... The transmission of information, pursuant to this article, shall not prejudice inquiries and criminal proceedings taking place in the State of the competent body that provides such information. The competent body that receives such information shall keep it confidential, even temporarily, or impose restrictions on its use, at the request of the authority that provided the said information.

(b) Observations on the implementation of the article

376. The cited measures of Oman's agreements on mutual legal assistance address the confidentiality of information and materials exchanged through MLA and the limitation on use of such information or materials.

377. The international agreements to which Oman is party do not provide that requests for mutual legal assistance can be refused on the grounds of secrecy or confidentiality requirements. Moreover, the Omani authorities confirmed that they have never rejected any request for mutual legal assistance, on these grounds.

Article 46 Mutual legal assistance

Paragraph 21

21. Mutual legal assistance may be refused:

(a) If the request is not made in conformity with the provisions of this article;

(b) If the requested State Party considers that execution of the request is likely to prejudice its sovereignty, security, ordre public or other essential interests;

(c) If the authorities of the requested State Party would be prohibited by its domestic law from carrying out the action requested with regard to any similar offence, had it been subject to investigation, prosecution or judicial proceedings under their own jurisdiction;

(d) If it would be contrary to the legal system of the requested State Party relating to mutual legal assistance for the request to be granted.

(a) Summary of information relevant to reviewing the implementation of the article

378. Oman indicated that, in general, a request is refused because the terms of applicable treaties do not allow it, or because the fulfilment of the request would be contrary to public order or sovereignty, or because the principle of reciprocity is not applied. It also referred, to the following provisions:

Riyadh Arab Agreement for Judicial Cooperation

Article 17 Rejection of impracticability of carrying out requests for a rogatory commission.

The party requested to conduct such a rogatory commission is obliged to do so in accordance with the provisions of the present agreement, and shall not refuse to carry out such requests except in the following cases:

(a) If such implementation is not within the competence of the judicial authority requested to do so.

(b) If such implementation would prejudice the sovereignty of the contracting party requested, or public order in its territory.

(c) If the request concerns a crime considered by the contracting party requested to be a crime of a political nature...

(b) Observations on the implementation of the article

379. In accordance with the rules set out in bilateral and multilateral agreements with other jurisdictions, mutual legal assistance is not in principle subject to unreasonable, disproportionate or unduly restrictive conditions.

Article 46 Mutual legal assistance

Paragraph 22

22. States Parties may not refuse a request for mutual legal assistance on the sole ground that the offence is also considered to involve fiscal matters.

(a) Summary of information relevant to reviewing the implementation of the article

380. Oman indicated that it is committed to the United Nations Convention against Corruption and relevant bilateral and multilateral agreements, because no provision in the Omani law prevents the fulfilment of a request for mutual legal assistance because the offence relates to financial matters.

(b) Observations on the implementation of the article

381. The international agreements to which Oman is party do not stipulate that a request for mutual legal assistance can be refused on the sole ground that the offence is also considered to involve fiscal matters. However, the Convention is directly applicable in this regard, and Omani authorities confirmed that they have never rejected any request for mutual legal assistance on this ground.

Article 46 Mutual legal assistance

Paragraph 23

23. Reasons shall be given for any refusal of mutual legal assistance.

(a) Summary of information relevant to reviewing the implementation of the article

382. Oman indicated that it is compliant with this provision as it is committed to the United Nations Convention against Corruption and relevant bilateral and multilateral agreements, and also referred, to the following provisions:

Riyadh Arab Agreement for Judicial Cooperation

Article 17 Rejection of impracticability of carrying out requests for a rogatory commission.

... In the case of refusal to carry out the request or the impracticability thereof, the requested party shall promptly notify the requesting party to this effect, return the relevant papers, and set forth the reasons behind the refusal or impracticability of carrying out the request.

(b) Observations on the implementation of the article

383. The provision under review is generally addressed in Oman's agreements on MLA. It was explained that few requests are refused and Oman endeavors to provide the assistance

sought and to facilitate consultations whenever possible and consistent with its legal system. Moreover, the authorities would, as a matter of practice and in application of its agreements, give reasons for declining MLA.

384. As noted above, it is recommended that Oman adopt a manual and procedures or guidelines on MLA to address the provisions of this paragraph and other provisions under this article.

Article 46 Mutual legal assistance

Paragraph 24

24. The requested State Party shall execute the request for mutual legal assistance as soon as possible and shall take as full account as possible of any deadlines suggested by the requesting State Party and for which reasons are given, preferably in the request. The requesting State Party may make reasonable requests for information on the status and progress of measures taken by the requested State Party to satisfy its request. The requested State Party shall respond to reasonable requests by the requesting State Party on the status, and progress in its handling, of the request. The requesting State Party shall promptly inform the requested State Party when the assistance sought is no longer required.

(a) Summary of information relevant to reviewing the implementation of the article

385. Oman indicated that it is compliant with this provision as this paragraph is implemented in accordance with relevant bilateral and multilateral agreements, including the United Nations Convention against Corruption, which has the force of law in Oman. It also referred to the following provisions:

Riyadh Arab Agreement for Judicial Cooperation

Article 18 Method of carrying out rogatory commissions.

A rogatory commission shall be carried out in accordance with the legal procedures set by the law of the requested party.

Should the requesting contracting party wish, by virtue of an explicit demand to this effect, that the commission be carried out in a specific manner, the contracting party so requested shall respond to such wish so long as it does not contradict its laws or regulations.

Should the requesting party state its wish to be informed in a timely fashion of the date and place of carrying out the commission so that the parties concerned or their representatives could be present, this shall be done within the limits permissible by the laws of the requested party.

386. Oman also explained that there is no time frame set by law between the date of receipt of a request for mutual legal assistance and the date of responding to that request. In fact, the period for providing legal assistance depends on its type and the compliance of the required documents. The laws and agreements call for responding to the request for assistance as soon as possible.

(b) Observations on the implementation of the article

387. The observations under paragraph 13 are referred to. Oman should ensure that requests for mutual legal assistance are executed in a timely manner, taking into full account any deadlines requested; relevant procedures should be included in the MLA guidelines or manual to be adopted.

Article 46 Mutual legal assistance

Paragraph 25

25. Mutual legal assistance may be postponed by the requested State Party on the ground that it interferes with an ongoing investigation, prosecution or judicial proceeding.

(a) Summary of information relevant to reviewing the implementation of the article

388. Oman indicated that it is committed to the United Nations Convention against Corruption and relevant bilateral and multilateral agreements.

(b) Observations on the implementation of the article

389. The authorities explained that Oman could postpone assistance due to the existence of an ongoing investigation or proceeding, in accordance with Oman's agreements on MLA.

Article 46 Mutual legal assistance

Paragraph 26

26. Before refusing a request pursuant to paragraph 21 of this article or postponing its execution pursuant to paragraph 25 of this article, the requested State Party shall consult with the requesting State Party to consider whether assistance may be granted subject to such terms and conditions as it deems necessary. If the requesting State Party accepts assistance subject to those conditions, it shall comply with the conditions.

(a) Summary of information relevant to reviewing the implementation of the article

390. Oman indicated that it is committed to the United Nations Convention against Corruption and relevant bilateral and multilateral agreements. In practice, the above provision is complied with, and there is no legislative provision that prevents it.

(b) Observations on the implementation of the article

391. Omani authorities indicated that consultations are held as a matter of practice before assistance is refused or postponed, in accordance with Oman's agreements on MLA. It is recommended that Oman specify the matter in its domestic law or procedure.

Article 46 Mutual legal assistance

Paragraph 27

27. Without prejudice to the application of paragraph 12 of this article, a witness, expert or other person who, at the request of the requesting State Party, consents to give evidence in a proceeding or to assist in an investigation, prosecution or judicial proceeding in the territory of the requesting State Party shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in that territory in respect of acts, omissions or convictions prior to his or her departure from the territory of the requested State Party. Such safe conduct shall cease when the witness, expert or other person having had, for a period of fifteen consecutive days or for any period agreed upon by the States Parties from the date on which he or she has been officially informed that his or her presence is no longer required by the judicial

authorities, an opportunity of leaving, has nevertheless remained voluntarily in the territory of the requesting State Party or, having left it, has returned of his or her own free will.

(a) Summary of information relevant to reviewing the implementation of the article

392. Oman indicated that it is committed to the United Nations Convention against Corruption and relevant bilateral and multilateral agreements.

393. Reference was made to the following provisions:

Riyadh Arab Agreement for Judicial Cooperation

Article 22 Immunity of witnesses and experts.

Any witnesses or experts - regardless of their nationality - served notice to attend in the territory of any contracting party, and doing so voluntarily for this purpose before the judicial bodies of the requesting party, shall enjoy immunity of penal action against them, or arrest, or imprisonment on the basis of previous actions in their part, or in the execution of convictions made prior to their entry to the territory of the requesting party.

The body serving a witness or an expert with a subpoena ad testificandum must inform them in writing of such immunity before their first appearance.

The immunity of the witness or expert shall lapse after 30 days of the date on which the judicial bodies of the requesting party dispense with his presence in the said party's territory - provided that no reasons beyond the person's control arise to prevent his departure - or if he voluntarily returns to such territory after having departed.

(b) Observations on the implementation of the article

394. The provision is addressed in Oman's agreements on MLA, and no provision in Oman's legislation would preclude the transfer of witnesses for purposes of providing testimony or evidence.

395. No examples of witness transfer for purposes of MLA were provided.

Article 46 Mutual legal assistance

Paragraph 28

28. The ordinary costs of executing a request shall be borne by the requested State Party, unless otherwise agreed by the States Parties concerned. If expenses of a substantial or extraordinary nature are or will be required to fulfil the request, the States Parties shall consult to determine the terms and conditions under which the request will be executed, as well as the manner in which the costs shall be borne.

(a) Summary of information relevant to reviewing the implementation of the article

396. Oman indicated that it is committed to the United Nations Convention against Corruption and relevant bilateral and multilateral agreements. It also referred, to the following provisions:

Riyadh Arab Agreement for Judicial Cooperation

Article 21 Fees or costs of carrying out a rogatory commission.

No right to charge any fees or costs shall ensue from implementing a rogatory commission except for the fees of experts, if justified, and the costs of witnesses, which shall be borne by the requesting party, and a statement of which shall be dispatched with the dossier.

The requested party shall be entitled to receive in accordance with its laws the charges set for papers presented in the course of carrying out the commission.

Rules of Joint Cooperation between Prosecutors, Investigative Bodies, and the Public Prosecution of the Gulf Cooperation Council (GCC):

Article 12: The body that receives the request shall bear implementation costs, unless otherwise agreed by both bodies concerned.

397. Oman also indicated that, in bilateral agreements, it has adopted the principle of mutual understanding with the State party with regard to the costs and expenses.

(b) Observations on the implementation of the article

398. The provision is addressed in Oman's agreements on MLA, which generally provide that the costs of MLA will be determined by consultation among the States parties.

Article 46 Mutual legal assistance

Paragraph 29

29. The requested State Party:

(a) Shall provide to the requesting State Party copies of government records, documents or information in its possession that under its domestic law are available to the general public;

(b) May, at its discretion, provide to the requesting State Party in whole, in part or subject to such conditions as it deems appropriate, copies of any government records, documents or information in its possession that under its domestic law are not available to the general public.

(a) Summary of information relevant to reviewing the implementation of the article

399. Oman indicated that it is committed to the United Nations Convention against Corruption and relevant bilateral and multilateral agreements. Nothing in the law prevents the enforcement of this provision and in practice it is implemented, for example, extradition files include some government documents and information.

400. Reference was made to the following provision:

Riyadh Arab Agreement for Judicial Cooperation

Article 5 Exchange of criminal records.

The Ministry of Justice in each contracting party shall dispatch to the Ministry of Justice in any other contracting party the latest data on final legal judgements pronounced against its citizens or persons born or residing within its territory and entered in the criminal records (legal register) in accordance with the local legislation of the sender contracting party.

In the case of a charge being made by a judiciary body or other bodies of inquiry or prosecution in any contracting party, such bodies may obtain directly from the competent authorities the criminal record of the person charged.

In the absence of a charge, the judiciary or administrative bodies of any of the contracting parties may obtain from the competent authorities the criminal record in the possession of the other contracting party, subject to the conditions and limits contained in the legislation of the said party.

401. Oman also indicated that in practice this provision is implemented with other countries outside the Arab context.

(b) Observations on the implementation of the article

402. The exchange of records is possible on the basis of Oman's international agreements.

403. It was confirmed that Omani authorities could provide government records that are not publicly available in response to a request. Case examples were referred to during the country visit where Oman provided criminal investigation reports and criminal records that were not publicly available to requesting countries. Officials explained that nothing in Oman's legislation precludes the sharing of such records and information.

Article 46 Mutual legal assistance

Paragraph 30

30. States Parties shall consider, as may be necessary, the possibility of concluding bilateral or multilateral agreements or arrangements that would serve the purposes of, give practical effect to or enhance the provisions of this article.

(a) Summary of information relevant to reviewing the implementation of the article

404. Oman indicated that the government set up a team of experts from all stakeholders to provide legal assistance with regard to bilateral agreements. In actual practice, it has concluded several regional and bilateral agreements and arrangements relevant to MLA, including:

- Memorandum of Understanding on Joint Cooperation for Combating Crime between the Government of Oman and the Republic of India (1996) [in respect of organized crime];
- Legal and Judicial Cooperation Agreement with Egypt (Royal Decree No. 64/2002);
- Legal and Judicial Cooperation Agreement in terms of Civil, Commercial and Criminal matters with Turkey (Royal Decree No. 102/2008);
- Agreement on Legal and Judicial Cooperation between Oman and the Kingdom of Morocco (2010);
- Bilateral Agreement between the Government of the Sultanate of Oman and the Government of the Islamic Republic of Pakistan in the field of legal assistance;
- Riyadh Arab Agreement for Judicial Cooperation (Royal Decree No. 34/99);
- The Agreement on the Enforcement of Court Judgements, Letters Rogatory, and Judicial Notes of the Gulf Cooperation Council (GCC) countries (1995);
- The Rules of Joint Cooperation among Prosecutors, Investigative Bodies, and the Public Prosecution of the Gulf Cooperation Council (GCC) countries.

(b) Observations on the implementation of the article

405. Oman entered into several regional and bilateral treaties relevant to MLA and also considers this Convention as a basis for MLA. Moreover, Oman can render assistance under the principles of reciprocity and international comity in the absence of a treaty.

Article 47 Transfer of criminal proceedings

States Parties shall consider the possibility of transferring to one another proceedings for the prosecution of an offence established in accordance with this Convention in cases where such

transfer is considered to be in the interests of the proper administration of justice, in particular in cases where several jurisdictions are involved, with a view to concentrating the prosecution.

(a) Summary of information relevant to reviewing the implementation of the article

406. Concerning this provision, Oman implements relevant regional and bilateral agreements, including:

- The Agreement on the Enforcement of Court Judgments, Letters of Rogatory, and Judicial Notes of the Gulf Cooperation Council; and
- The Riyadh Arab Agreement for Judicial Cooperation of 1983.

(b) Observations on the implementation of the article

407. The transfer of criminal proceedings is possible in accordance with Oman's international treaties. A case example was provided during the country visit.

Article 48 Law enforcement cooperation

Paragraph 1

1. States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offences covered by this Convention. States Parties shall, in particular, take effective measures:

(b) To cooperate with other States Parties in conducting inquiries with respect to offences covered by this Convention concerning:

(i) The identity, whereabouts and activities of persons suspected of involvement in such offences or the location of other persons concerned;

(ii) The movement of proceeds of crime or property derived from the commission of such offences;

(iii) The movement of property, equipment or other instrumentalities used or intended for use in the commission of such offences;

(c) To provide, where appropriate, necessary items or quantities of substances for analytical or investigative purposes;

(d) To exchange, where appropriate, information with other States Parties concerning specific means and methods used to commit offences covered by this Convention, including the use of false identities, forged, altered or false documents and other means of concealing activities;

(e) To facilitate effective coordination between their competent authorities, agencies and services and to promote the exchange of personnel and other experts, including, subject to bilateral agreements or arrangements between the States Parties concerned, the posting of liaison officers;

(f) To exchange information and coordinate administrative and other measures taken as appropriate for the purpose of early identification of the offences covered by this Convention.

(a) Summary of information relevant to reviewing the implementation of the article

408. Oman indicated that there are some channels of communication between the Omani law enforcement authorities and their counterparts in other countries; cooperation with other countries with regard to crimes is effected through the channels of international cooperation, as Oman is a member of the International Criminal Police Organization (Interpol). In addition, Oman has an Anti-Money Laundering Unit.

409. Reference was made to the following provisions:

Law of Anti-Money Laundering and Combating Financing Terrorism

Article (7): The Unit shall receive the reports and information from financial institutions, non-financial businesses and professions, non-profit associations and bodies and other competent entities regarding the transactions suspected to involve the proceeds of any crime or to be related to terrorism, terroristic crime, or terroristic organization or money laundering, terrorism financing and the attempts to execute these transactions.

The Unit shall establish a database of all available reports and information and develop enough means to make them available to the judicial authorities as well as the exchange of such information and coordination with the competent entities in the Sultanate, foreign countries and international organizations in accordance with the provisions of international or bilateral conventions and agreements to which the Sultanate is a party, or in application of reciprocity principle provided that the information is used for the purposes of combating money laundering and terrorism financing.

The Unit shall develop an annual report on its activities in the fields of combating money laundering and terrorism financing crimes. This report shall include its work on the received reports, and its proposals regarding the activation of combating systems and mechanisms. The Minister shall submit that report to the Council of Ministers upon the recommendation of the Committee.

Article (22): Upon the request of the competent authority of another country with which the Sultanate has signed agreements or in accordance with reciprocity principle, Public Prosecution may order the tracking, seizing or freezing of funds, proceeds and instrumentalities involved in money laundering and terrorism financing crimes.

Article (43): The Sultanate adopts the principle of international cooperation in combating money laundering and terrorism financing crimes in accordance with the laws of the Sultanate, the provisions of international conventions, bilateral agreements entered into or drawn by the Sultanate or application of reciprocity principle in the areas of legal assistance and joint international judicial cooperation.

Riyadh Arab Agreement for Judicial Cooperation

Article 1 Exchange of information.

Ministries of Justice of the contracting parties shall regularly exchange the texts of legislations in force, legal and judicial publications, pamphlets and studies, and journals containing legal statutes and judgements, as well as information pertaining to judicial regulations;

they shall also take measures to reconcile legislative texts and coordinate legal systems in the contracting parties, as required by the special circumstances of each party.

410. Oman also indicated that it had joined several regional and bilateral agreements in the field of international law enforcement cooperation, including:

- The Joint Judicial Instructions for Prosecutors, Investigative Bodies, and Public Prosecutions of the Gulf Cooperation Council;
- The Rules of Joint Cooperation between Prosecutors, Investigative Bodies, and the Public Prosecution of the Gulf Cooperation Council (GCC);
- The Riyadh Arab Agreement for Judicial Cooperation of 1983.

411. Oman added that no provision in the Omani laws prevents the provision of items or quantities of substances for analytical or investigative purposes if they are required. Oman

also concluded anti-crime agreements, including the United Nations Convention against Transnational Organized Crime and other conventions dealing with investigation issues and the exchange of information on crimes, and this necessarily requires the provision of items or quantities of substances for analytical or investigative purposes.

412. In addition, the exchange of information and the coordination of administrative and other measures are conducted, as appropriate, for the purpose of early detection of offences covered by this Convention through the Oman Anti-Money Laundering Unit, which undertakes this role when it receives notifications on suspicion from institutions responsible for reporting.

(b) Observations on the implementation of the article

413. Oman's judicial and law enforcement authorities cooperate with their foreign counterparts through a variety of channels under different bilateral and international mechanisms and agreements.

414. The AML/CFT Law requires the FIU to exchange information and coordinate with relevant authorities in foreign countries and international organizations in accordance with the provisions of Oman's international or bilateral agreements, or on the basis of reciprocity or international comity (Article 7). The FIU is also a member of the Egmont Group of FIUs.

415. The Criminal Investigation Department in the Royal Omani Police also coordinates through Interpol channels.

Article 48 Law enforcement cooperation

Paragraph 2

2. With a view to giving effect to this Convention, States Parties shall consider entering into bilateral or multilateral agreements or arrangements on direct cooperation between their law enforcement agencies and, where such agreements or arrangements already exist, amending them. In the absence of such agreements or arrangements between the States Parties concerned, the States Parties may consider this Convention to be the basis for mutual law enforcement cooperation in respect of the offences covered by this Convention. Whenever appropriate, States Parties shall make full use of agreements or arrangements, including international or regional organizations, to enhance the cooperation between their law enforcement agencies.

(a) Summary of information relevant to reviewing the implementation of the article

416. Oman indicated that it has entered into bilateral and multilateral agreements and arrangements on international cooperation which provide a framework for direct cooperation with law enforcement agencies in other States Parties, including:

The Agreement on the Enforcement of Court Judgments, Letters of Rogatory, and Judicial Notes of the Gulf Cooperation Council (Muscat, December 1995):

Article 14:

a. Letters rogatory are sent in civil, commercial, administrative, and personal status cases, directly from the competent authority of the requesting State to the requested authority in any other Member State.

b. In criminal cases, letters rogatory are sent directly by the Ministry of Justice of the requesting State to the Ministry of Justice of the Requested State.

Article 20:

a. Judicial and non-judicial documents and papers, relating to civil, commercial, administrative, and personal status cases, requiring information or notification, are sent to persons residing in one of the Member States, directly by the Institution or the judicial officer concerned, to the court or the competent authority of the jurisdiction where the person required to be informed or notified in accordance with its laws resides.

b. Judicial and non-judicial documents and papers relating to criminal cases are sent directly by the Ministry of Justice of the requesting State to the Ministry of Justice of the Requested State.

The information or notification served in the territory of any of the Member States - in accordance with the provisions of this Convention - is deemed to have been served in the territory of the State requesting the information or notification.

Riyadh Arab Agreement for Judicial Cooperation

Article 6 Civil, commercial, administrative, penal and personal statute cases.

Judicial and non-judicial documents and papers pertaining to civil, commercial, administrative and personal statute cases which are to be published or which are to be transmitted to persons residing in one of the contracting parties shall be dispatched directly from the judicial body or officer concerned to the court of the district in which the person to be notified resides.

Judicial and non-judicial documents and papers pertaining to penal cases shall be dispatched directly through the Ministry of Justice of each contracting party, without prejudice to the provisions of special articles on the extradition of persons alleged to have committed a crime or convicted thereof.

A dispute over the nationality of the addressee shall be determined in accordance with the law of the contracting party in whose territory the publication or notification is to take place.

Publication or notification occurring in the territory of any contracting party in accordance with the provisions of the present convention shall be considered as having occurred in the territory of the contracting party requiring the publication or notification.

Agreement on Legal and Judicial Cooperation in Civil, Commercial, and Criminal Matters between Oman and Turkey (Royal Decree No. 102/2008)

Agreement on Legal and Judicial Cooperation between Oman and the Kingdom of Morocco (2010)

Article 6: The nationals of both countries within the territory of the other State are entitled to receive judicial assistance like the citizens of that State themselves provided that the laws of the requested State are complied with. Requests for judicial assistance are submitted with supporting documents either:

- Directly to the competent authority in the requested State if the applicant resides in that State; or to
- The central authority set forth in Article 4.

Agreement on Legal and Judicial Cooperation between Oman and the Republic of Egypt (2002)

Article 68: Requests for transfer are sent directly by the Ministry of Justice in the State Party to the other State Party.

417. In addition, Oman considers this Convention as the basis for mutual cooperation in the field of law enforcement with regard to the offences covered by this Convention.

(b) Observations on the implementation of the article

418. The reviewers noted that the cited provisions of the treaties focus on mutual legal assistance (UNCAC article 46) rather than direct law enforcement cooperation. However, they take note of the explanation that these channels can also be used for direct cooperation among law enforcement agencies, not involving formal MLA channels.

419. Omani authorities confirmed that the country considers this Convention as the basis for mutual law enforcement cooperation. There has been no experience in the application of this Convention on that basis.

Article 48 Law enforcement cooperation

Paragraph 3

3. States Parties shall endeavour to cooperate within their means to respond to offences covered by this Convention committed through the use of modern technology.

(a) Summary of information relevant to reviewing the implementation of the article

420. Oman indicated that it enacted an Anti-Cyber Crime Law (No. 12/2011) and is a party to the Arab Convention for the Suppression of Information Technology Crimes. There is a department at the Public Prosecution responsible for the fight against information technology crimes.

(b) Observations on the implementation of the article

421. Oman is able to cooperate with other countries in accordance with the provision under review.

Article 49 Joint investigations

States Parties shall consider concluding bilateral or multilateral agreements or arrangements whereby, in relation to matters that are the subject of investigations, prosecutions or judicial proceedings in one or more States, the competent authorities concerned may establish joint investigative bodies. In the absence of such agreements or arrangements, joint investigations may be undertaken by agreement on a case-by-case basis. The States Parties involved shall ensure that the sovereignty of the State Party in whose territory such investigation is to take place is fully respected.

(a) Summary of information relevant to reviewing the implementation of the article

422. Oman referred to the following provisions:

Rules of Joint Cooperation between Prosecutors, Investigative Bodies, and the Public Prosecution of the Gulf Cooperation Council (GCC):

Article 10: The competent organs may agree on the setting up of joint investigation committees on matters of investigations, prosecutions, or joint judicial proceedings. Relevant bodies shall ensure full respect for the sovereignty of States where that investigation is to be conducted.

(b) Observations on the implementation of the article

423. Joint investigations may be conducted on the basis of international agreements and arrangements, including the Rules of Joint Cooperation between Prosecutors, Investigative Bodies, and the Public Prosecution of the GCC. Examples were discussed during the country visit in which Omani authorities participated in joint investigations in cases not involving corruption offences, on the basis of MOUs among the authorities involved.

Article 50 Special investigative techniques

1. *In order to combat corruption effectively, each State Party shall, to the extent permitted by the basic principles of its domestic legal system and in accordance with the conditions prescribed by its domestic law, take such measures as may be necessary, within its means, to allow for the appropriate use by its competent authorities of controlled delivery and, where it deems appropriate, other special investigative techniques, such as electronic or other forms of surveillance and undercover operations, within its territory, and to allow for the admissibility in court of evidence derived therefrom.*

2. *For the purpose of investigating the offences covered by this Convention, States Parties are encouraged to conclude, when necessary, appropriate bilateral or multilateral agreements or arrangements for using such special investigative techniques in the context of cooperation at the international level. Such agreements or arrangements shall be concluded and implemented in full compliance with the principle of sovereign equality of States and shall be carried out strictly in accordance with the terms of those agreements or arrangements.*

3. *In the absence of an agreement or arrangement as set forth in paragraph 2 of this article, decisions to use such special investigative techniques at the international level shall be made on a case-by-case basis and may, when necessary, take into consideration financial arrangements and understandings with respect to the exercise of jurisdiction by the States Parties concerned.*

4. *Decisions to use controlled delivery at the international level may, with the consent of the States Parties concerned, include methods such as intercepting and allowing the goods or funds to continue intact or be removed or replaced in whole or in part.*

(a) Summary of information relevant to reviewing the implementation of the article

424. Reference was made to the following provision:

Penal Procedures Law **Article Thirty Seven**

Judicial control commissioners shall, during the collection of evidence, use the methods of examination and inquiry which do not cause injury to individuals or restrict their freedom. No one among them shall carry out any investigation.

425. Oman also indicated that no provision in the Omani laws prevents, in the absence of an agreement, the adoption of decisions regarding the use of such special investigative techniques at the international level, depending on the situation. It added that Oman actually enforces controlled delivery procedures on the basis of agreements in force.

(b) Observations on the implementation of the article

426. Oman is able to conduct special investigative techniques, including controlled delivery, electronic and other forms of surveillance and undercover operations, at the international level, in accordance with the provisions of the Criminal Procedure Code and its international agreements. It was confirmed that these measures can be taken without the prior authorization of the Public Prosecutor, so long as there is no injury to individuals or restriction of their freedom (article 37 of the Criminal Procedure Code). However, for certain search activities and wiretaps prior authorization of the Public Prosecutor is needed, unless the person is caught in flagrante delicto (see articles 90 and 91 of the Criminal Procedure Code).

Penal Procedures Law **Article Ninety**

Correspondence and cables may not be confiscated or perused, newspapers, publications and parcels may not be confiscated, conversation taking place at a private place may not be recorded, the telephone may not be tapped and the dialogue may not be recorded without the permission of the Public Prosecutor.

Article Ninety One

The permission specified in article 90 of this Law shall be issued if it is useful in unfolding the truth in an offence or act of misdemeanour punishable by imprisonment for a period exceeding three months. The permission shall be substantiated and its period shall not exceed thirty days subject to renewal for similar periods, if the exigencies of investigation so warrant.

427. The admissibility of such evidence in a court of law in Oman has not presented challenges in practice.

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