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to the United Nations
Convention against Corruption**

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

Executive summary

Note by the Secretariat

Addendum

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1. Introduction: Overview of the legal and institutional framework of Iraq in the context of UNCAC implementation

Iraq's legislature approved the United Nations Convention against Corruption through Law No. 35 of 2007, and formally acceded to the Convention on 17 March 2008.

The Constitution of 2005 is the supreme law of Iraq. Government power is divided between the legislative, executive and judicial authorities. Law No. 160 of 1979 lays down the structure of the judicial system. The Court of Cassation is the highest court, and is headed by the President of the Council of Judges. There are sixteen courts of appeal allotted to the courts, as well as first instance courts. The region of Kurdistan has a separate, parallel judicial system, with an independent Court of Appeal. Public prosecutors operate under the direction of the judicial authorities at every level of the judicial system.

Iraq is currently in a transition phase, and has significant technical assistance needs, which are set out below. In addition, Iraq is in the process of considering a comprehensive anti-corruption law, which, as noted below, would meet many of the requirements of the Convention. Iraq has several mechanisms and oversight bodies that specialize in combating corruption offences, misuse of public funds and other matters.

The Integrity Commission: Established in accordance with the Integrity Commission Law, No. 55 of 2004, the Commission has legal status and fiscal and administrative independence. The President of the Commission is appointed by Parliament. The main functions of the Commission are to prevent and combat corruption, and to promote integrity in the governmental sector by: (a) investigating cases of corruption; (b) developing a culture of integrity, transparency and accountability in the public and private sectors; (c) preparing draft laws to prevent and investigate corruption; (d) issuing rules and standards of ethical conduct; and (e) strengthening the trust of the Iraqi people in government by requiring public officials to disclose financial activities and outside interests.

Offices of the Inspectors-General: Established by the Inspectors-General, Law No. 57 of 2004, in each Iraqi Ministry, these offices conduct audits, investigations and performance reviews to increase the accountability, integrity and oversight of ministries, and to prevent, deter and identify corruption, fraud, abuse of power and illegal acts. The offices recommend improvements to ministry programmes, policies and procedures, as appropriate. They also conduct administrative investigations. Each Inspector-General has the authority to refer appropriate cases to the law enforcement agencies for further investigation and prosecution.

Audit Office: Established in 1927, under article 3 of the Audit Office Law, No. 31 of 2011, the Audit Office: (a) protects public funds in order to avoid loss, waste or abuse, and ensures their efficient use; (b) increases the efficiency of institutions subject to audit; (c) helps to achieve economic independence and supports economic growth and stability; (d) disseminates accounting and audit systems that meet local and international standards, and constantly improves management and accounting standards; and (e) develops the professions of accountant and auditor and accounting systems. The Office has financial and administrative independence and reports to Parliament. When the Audit Office discovers a violation, it refers the case to the Inspector-General or the Integrity Commission.

The Integrity Committee of Parliament: Provides monitoring and oversight to the various anti-corruption institutions listed above. Its membership consists of 13 representatives of Parliament chosen by the members of Parliament. This Committee is also responsible for oversight of anti-corruption legislation, and makes recommendations on amendments and policies.

Joint Council against Corruption in Iraq formed by the Cabinet Secretariat: Established by the Prime Minister in 2008, this Council is chaired by the Secretary-General of the Prime Minister's Office and includes members of the Integrity Commission and the Audit Office. It is responsible for coordination and information-sharing among national anti-corruption entities.

Integrity Committees were established pursuant to the Law on the Election of Provincial Councils, 2008, and are responsible for following up and investigating corruption cases in the framework of local governments.

2. Chapter III: Criminalization and law enforcement

2.1. Observations on the implementation of the articles under review

Bribery offences; trading in influence (articles 15, 16, 18, 21)

Under the Iraqi Criminal Code, Law No. 111 of 1969, it is an offence for any public official or person commissioned to perform a public service to request or accept for himself or for another person a gift, benefit, advantage or promise of such in order to carry out one of the duties of his office or to refrain from doing so or to breach the duties of his office. It is also an offence for any person to give, offer or promise a public official or person commissioned to perform a public service any such gift, benefit or promise. These provisions apply regardless of the intention of the public official to carry out or refrain from performing the act. It is a mitigating circumstance if the person offering the bribe reports the act to the law enforcement authorities before it is discovered.

Article 19(2) of the Criminal Code defines "public official or person commissioned to perform a public service" broadly to include any official, employee or worker who is entrusted with a public mission in the service of the government or an official or semi-official agency or office under its supervision or placed under its control. This includes the Prime Minister and his deputies, Ministers, members of Parliament, directorates and municipalities. It also includes members of organizations and associations partly funded by the Government.

Thus, offering bribes to public officials is an offence in Iraq, although provisions concerning this are included in the draft anti-corruption law.

At present, Iraq does not have legislation in place to address active and passive trading in influence, except with regard to the exploitation of influence by public officials exceeding the limits of their office under articles 329, 330, 334 and 335 of the Criminal Code, and the draft anti-corruption law does not include relevant provisions according to the language of article 18 of the United Nations Convention against Corruption.

Iraq reports that it has not adopted legislation addressing active and passive bribery in the private sector, although such provisions are included in the draft anti-corruption law.

Laundrying of proceeds of crime; concealment (articles 23, 24)

Money-laundering offences are addressed in Iraq under Law No. 93 of 2004, which makes it an offence for a person to conduct or attempt to conduct a financial transaction that includes the proceeds of unlawful activity knowing that the property includes such proceeds. It also makes it an offence for a person to transport, send or transfer a monetary instrument or funds that are the proceeds of unlawful acts knowing that they are such proceeds. Such acts must be done: (a) with intent to assist the execution of unlawful acts, to benefit from unlawful activity, or to protect from prosecution those who have engaged in unlawful acts; and (b) with the knowledge that the transaction is designed in whole or in part to conceal or disguise the nature, location, source, ownership or control of the proceeds of unlawful acts or in order to avoid a transaction or other reporting requirement. Property includes, but is not limited to, currency, monetary instruments and financial securities.

The penalty for money-laundering is a maximum sentence of four years' imprisonment and a fine of up to twice the amount of the funds laundered. In addition, all laundered funds may be confiscated and forfeited with due consideration for the rights of bona fide third parties.

Predicate offences are not enumerated in order to maximize the scope of the money-laundering provisions. Offences committed outside Iraq are considered predicate offences whether or not they would constitute offences in Iraq. A person can be convicted of both money-laundering and the underlying offence.

Iraq officially submitted copies of its money-laundering legislation to the Secretary-General of the United Nations in 2010.

Criminal concealment is addressed under articles 460 and 461 of the Criminal Code, and the provisions meet the requirements of the Convention.

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

Article 315 of the Criminal Code makes it an offence for any public official or person commissioned to perform a public service to embezzle or conceal funds, goods, documents establishing legal rights or other things that come into his possession. Article 316 makes it an offence for any public official or person commissioned to perform a public service to exploit his position in order to obtain funds, goods or documents establishing legal rights or other things to which he is not entitled and which belong to the State or to an establishment or organization in which the State has a financial interest. Article 320 makes it an offence for any public official or person commissioned to perform a public service who employs others to carry out the activities relating to his position to retain, in whole or in part, wages or other compensation for those employees.

Iraq has adopted criminal provisions to address abuse of functions in specific contexts, but has not as yet adopted a general statute in this regard. Such provisions have, however, been included in the draft anti-corruption law, and are in line with UNCAC article 19.

Iraq first prepared legislation to address illicit enrichment in 1958, and has updated it several times, including through the Integrity Commission Law, No. 30 of 2011, which includes mandatory financial disclosure measures. The investigation of illicit enrichment is driven primarily by the results of asset disclosures, which under

article 17 of the Integrity Commission Law are limited to certain categories of high-level public officials or “any person that the Commission considers should make financial disclosure”. Iraq has reported that this article has been invoked at the Commission’s request for public procurement officials and those responsible for public contracting (staff of contract divisions or departments).

Embezzlement of property in the private sector is addressed in part by article 453 of the Criminal Code pertaining to breach of trust in relation to movable property, although more expansive legislation is contained in the draft anti-corruption law.

Obstruction of justice (article 25)

Article 229 of the Criminal Code makes it an offence to insult or threaten a public official or person commissioned to perform a public service or a service of a council or official body during the performance of their duties. Article 230 makes it an offence to assault an official during the course of or on account of his official duties. These laws cover law enforcement officers and the judiciary.

Article 253 of the Criminal Code makes it an offence for anyone to offer a bribe to a person to give false testimony and for a witness to accept such a bribe. Article 254 of the Criminal Code makes it an offence for a person to: (a) force or induce by any means a witness not to testify or to give false testimony; or (b) refrain from testifying as a result of receiving a gift or promise. The draft anti-corruption law consolidates the offences and ensures that the language corresponds to that of article 25 of UNCAC.

Liability of legal persons (article 26)

Article 80 of the Criminal Code extends the scope of criminal liability to legal persons for criminal offences committed by their employees, directors or agents. Such liability is without prejudice to the criminal liability of the natural persons who have committed the same offence. The penalty is limited to fines or other financial penalties, which may include confiscation of property.

Participation and attempt; mental state (articles 27, 28)

Articles 47 to 50 of the Criminal Code criminalize participation in, or incitement to commit an offence and impose the same penalty as for the principal offender. Attempt to commit an offence is subject to similar penalties proportionate to the person’s role in the offence. Articles 55 to 58 of the Criminal Code make conspiracy to commit an offence a crime, as well as attempt to arrange a conspiracy. Preparation to commit a criminal offence is not criminalized. The draft anti-corruption law includes a provision to address preparation to commit an offence of corruption, treating it as an attempt to commit a crime.

Iraq reports that investigators may infer knowledge, intent or incitement to commit the agreed offence from the objective factual circumstances.

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

Under article 19 of the Constitution, punishment may be imposed only for an act that is an offence in law at the time when it was committed, and a penalty may not

be imposed that is more severe than the penalty in force at the time of commission of the offence.

Several statutes grant some privileges and immunities to certain public employees in the performance of their official duties. Immunity for such officials may be lifted by a majority vote in Parliament or if an official is caught in the act of committing a felony. Members of the judiciary may only be suspended with the permission of the Minister of Justice. Immunity protection does not extend to members of the Integrity Commission.

Under article 10 of the disciplinary code for public sector employees, alleged cases of corruption may result in the formation of an investigative committee to investigate. This committee may recommend that the official be referred to the competent court if it considers that the act constitutes a criminal offence. The committee may also suspend the public official pending investigation or upon arrest. A decision of the Revolutionary Command Council (disbanded, No. 19 of 1993) stipulates that an official convicted of receiving a bribe, embezzlement or theft may not be reappointed. If the offence committed is a felony, the disciplinary code prohibits the reappointment of that person in any public sector capacity. In addition, the sentencing court may, as part of the sentence, impose the withdrawal of numerous rights and privileges. The draft anti-corruption law includes specific consequences for public officials who commit corruption offences.

Article 30 of the Code of Criminal Procedure stipulates that public prosecution shall be undertaken by the Chief Prosecutor under the supervision of the Minister of Justice. In such cases, close coordination is required with the investigators of the Integrity Commission. Article 143 sets forth the measures to be taken by the presiding judge in order to ensure that the accused appears before the court, including the issuance of arrest warrants if the person fails to appear. Article 147 permits trial to proceed in absentia if the accused absconds, having been previously informed of the trial date.

Under article 331 of the Code of Criminal Procedure, the sentencing court may, at the request of the sentenced person, release him upon completion of at least three quarters of the prescribed term. The remainder of the term is suspended and may be reimposed as a consequence of subsequent criminal activity. Exceptions to early release apply to repeat offenders and especially serious crimes. Under the Law for the Rehabilitation of Inmates and Detainees, measures are outlined for the successful reintegration of prisoners into society.

With regard to cooperation with the law enforcement authorities, article 311 of the Iraqi Criminal Code provides for exemption from punishment if a person who has offered a bribe reports the offence to the law enforcement authorities before its detection, but excludes from this the person who has accepted the bribe. The draft anti-corruption law grants discretion to the investigating judge to suspend criminal proceedings against an accused person in a corruption offence if the person is willing to identify other perpetrators, gather evidence against them and give testimony. Under the draft law, punitive measures may be suspended permanently if the person cooperates with the Commission or the competent investigative authority, discloses relevant information, presents full and valid testimony, and furnishes sufficient evidence against other perpetrators.

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

Although Iraq has enacted provisions allowing for the granting of rewards to persons reporting corruption, such as a percentage of the property seized, there are no provisions providing for the physical protection of witnesses or their families or protection of their residence or employment. There are protection measures during investigation and trial through the concealment of identity and altering the voice during testimony. This may include placing the person behind a screen and the use of technology through video links and the Internet or by the investigating judge hearing testimony at the residence of the witness. The report notes that most of these provisions are not currently applied.

There are at present no provisions to facilitate changing a witness's identity or relocating witnesses or their families, nor are there any provisions to facilitate the presentation and consideration of the views and concerns of victims. Iraq has reported that draft legislation is under development and serious consideration as a matter of priority in order to enhance protection of persons reporting corruption in furtherance of UNCAC article 33.

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

Article 101 of the Criminal Code permits the court, upon conviction, to order the confiscation of seized items obtained as a result of the offence or used in the commission of the offence. This is without prejudice to the rights of bona fide third parties. The provisions include fining the offender an equivalent amount when confiscation is not possible.

Under article 183 of the Code of Criminal Procedure, during an investigation the investigating judge may seize the assets of a person accused of committing a felony, including movable or immovable property, and transferred assets. In addition, assets may be frozen pending the initiation of a criminal case if there is reason to believe that the assets were derived from criminal activity and are at risk of being transferred.

The draft anti-corruption law contains provisions that permit the court, of its own motion, to freeze assets pending completion of the investigation or trial. Furthermore, the draft law comprehensively enumerates the assets that may be frozen, seized and confiscated in relation to corruption offences at the request of a foreign State. The draft does not, however, contain provisions relating to confiscation of frozen assets or provisions that facilitate the identification and tracing of assets.

Procedures contained in the Code of Criminal Procedure facilitate the maintenance of impounded property pending a decision on forfeiture and disposition. The draft anti-corruption law addresses converted and intermingled property, allowing for its seizure and forfeiture up to the proceeds of the criminal activity.

Under the Money Laundering Law, No. 93 of 2004, and provisions of the Commercial Code, companies are required to keep and organize financial records. Such records may be obtained or their delivery to law enforcement authorities may be requested through a court order. Under article 49 of the Banking Code (2004), a bank or financial institution may not refuse to comply with such an order on the grounds of bank secrecy.

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

There is no statute of limitations for criminal cases. There are no exceptions to this except juvenile offences (10 years for felonies, 5 years for misdemeanours) and customs offences (from 3 to 10 years, depending on the type of case).

Article 5 of the Riyadh Agreement on Judicial Cooperation, to which Iraq is a party, provides for the transfer of criminal records to State parties in relation to persons born or resident in that State who have been convicted of committing any offence. Iraq has reported that it is pursuing the conclusion of further such agreements.

Jurisdiction (article 42)

Article 6 of the Criminal Code provides that offences committed in Iraq are within Iraq's jurisdiction, and this includes cases in which any of the constituent acts of the offence took place there or the results of the offence were achieved or were intended to be achieved in Iraq. In all circumstances, the law applies to all the parties to an offence all or part of which occurs in Iraq, even if any of those individuals are abroad, and regardless of whether they are a principal or accessory to the offence. Iraq's jurisdiction includes the territory of the Republic of Iraq and all areas under its sovereignty, including its coastal waters and airspace. Iraqi ships and aircraft are subject to its territorial jurisdiction, wherever they may be.

Any Iraqi citizen who commits an act abroad and does so as principal or accessory to an offence that is considered a felony or misdemeanour under the Criminal Code is punishable in accordance with its provisions if the person is in Iraq and the offence is punishable under the laws of the State in which it was committed. This provision is applicable whether or not the offender has obtained Iraqi citizenship after the commission of the offence or whether the person had Iraqi citizenship after the offence was committed and subsequently lost that citizenship. Under article 12, the Criminal Code is applicable to any public official or agent of the Republic of Iraq who commits abroad a felony or misdemeanour stipulated by this Code in the course of official duties or as a consequence thereof.

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

Under article 11 of the Public Contracts Law, the Government may cancel public contracts when it is in the Government's interest to do so. In the case of malfeasance in the implementation of public contracts, the company may be blacklisted and excluded from future contracts for a period of two years. Under articles 17, 20 and 21 of the Law on Public Investment in the Private and Industrial Sectors (1991), private contracts may be challenged and compensation awarded under the Civil Code when an act of corruption is committed by one of the parties. Under article 28, the licence may also be revoked.

The Civil Code allows a lawsuit to be brought to demand compensation for damage caused by an unlawful act committed by others, which includes corruption offences. The award of civil damages is without prejudice to the possible imposition of criminal penalties.

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

Iraq has several specialized offices that work in the area of combating corruption and enforcing the law, details of which are given below.

Cooperation among oversight institutions and between these institutions and judicial and investigation agencies is ongoing in order to prevent, detect and investigate cases of corruption. Under article 247 of the Criminal Code, there is a legal obligation to report to the law enforcement authority relevant information regarding criminal activity by public officials. In addition, the Code of Conduct for Civil Servants obliges them to report possible cases of corruption.

Article 12 of the Money Laundering Law requires banks and financial institutions to report cases of suspected money-laundering to the Money Laundering Reporting Office. The Law on Rewarding Informers (2008), aims to encourage people to report information that leads to the return of public and State-owned assets, or the disclosure of theft, embezzlement or forgery of official documents, or cases of corruption.

2.2. Successes and good practices

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

- The Integrity Commission operates under a clear and specific mandate, broad jurisdiction to investigate and prevent corruption, and with the necessary independence.
- Expansive and flexible jurisdiction for criminal cases, including with regard to public officials of Iraq who commit offences abroad in the conduct of their official duties, without regard to dual criminality.

2.3. Challenges in implementation, where applicable

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

- Adopt provisions of the draft anti-corruption law pertaining to the mandatory provisions of the UNCAC, including active bribery of foreign public officials, obstruction of justice (pertaining to witnesses and false testimony), and the seizure and forfeiture of converted and intermingled property.
- Consider adopting provisions of the draft anti-corruption law pertaining to passive bribery of foreign public officials, trading in influence, bribery in the private sector, abuse of functions, embezzlement of property in the private sector, participation and attempt (in relation to preparation to commit an offence), cooperation with law enforcement authorities and the Integrity Commission, and the protection of witnesses and reporting persons.
- Consider the potential benefits to investigative effectiveness of extending limited immunity, subject to its being lifted for involvement in criminal activity or misconduct, to senior management and investigators of the Integrity Commission acting in the course of their official duties.

- Consider adopting the provisions of the draft anti-corruption law pertaining to deprivation of rights and privileges of public officials convicted of corruption offences.
- Consider adopting legislation or procedures to facilitate changing a witness's identity or relocating the witness or his family, to facilitate the presentation and consideration of the views and concerns of victims, to consider victims to be witnesses for protection purposes; and to enhance protection of persons reporting corruption.
- Adopt provisions of the draft anti-corruption law pertaining to freezing and seizing of assets, and incorporate elements of confiscation, identification and tracing of assets in line with UNCAC article 31.

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

- Good practices/lessons learned with regard to articles 15 (Bribery of national public officials), 18 (Trading in influence), 19 (Abuse of functions), 20 (Illicit enrichment), 21 (Bribery in the private sector), 22 (Embezzlement of property in the private sector), 23 (Laundering of proceeds of crime), 32 (Protection of witnesses, experts and victims), 33 (Protection of witnesses and reporting persons), 34 (Consequences of acts of corruption), 35 (Compensation for damage), 36 (Specialized authorities), 37 (Cooperation with law enforcement authorities), 38 (Cooperation between national authorities), 39 (Cooperation between national authorities and the private sector), 40 (Bank secrecy), 41 (Criminal record) and 42 (Jurisdiction).
- Model legislation with regard to articles 15 (Bribery of national public officials), 18 (Trading in influence), 20 (Illicit enrichment), 21 (Bribery in the private sector), 22 (Embezzlement of property in the private sector), 23 (Laundering of proceeds of crime), 39 (Cooperation between national authorities and the private sector) and 41 (Criminal record).
- Development of an action plan for implementation with regard to articles 15 (Bribery of national public officials), 23 (Laundering of proceeds of crime), 34 (Consequences of acts of corruption), 35 (Compensation for damage), 36 (Specialized authorities), 38 (Cooperation between national authorities), 39 (Cooperation between national authorities and the private sector), 40 (Bank secrecy) and 42 (Jurisdiction).
- Drafting of legislation with regard to article 16 (Bribery of foreign public officials).
- Legal advice with regard to articles 16 (Bribery of foreign public officials), 18 (Trading in influence), 19 (Abuse of functions), 20 (Illicit enrichment), 21 (Bribery in the private sector) and 23 (Laundering of proceeds of crime).
- On-site assistance of an anti-corruption expert with regard to articles 22 (Embezzlement of property in the private sector), 23 (Laundering of proceeds of crime) and 41 (Bank secrecy).
- Capacity-building assistance to national authorities with regard to articles 31 (Freezing, seizure and confiscation), 32 (Protection of witnesses, experts and

victims), 39 (Cooperation between national authorities and the private sector) and 40 (Bank secrecy).

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 (articles 44, 45, 47)

Extradition is subject to both Iraqi national legislation and bilateral and multilateral extradition treaties. The general principles in domestic legislation are in broad compliance with the requirements of UNCAC as regards extradition, although there are limited examples of the practical implementation of these provisions.

Iraq has several bilateral and multilateral extradition treaties currently in force, including with Egypt, Germany, Hungary, Saudi Arabia, Turkey, United Arab Emirates, United States of America and Yemen, and is actively seeking to conclude additional agreements. Iraq considers UNCAC a basic treaty for the extradition and delivery of offenders, and has confirmed that, upon receipt of a request for extradition in relation to an UNCAC offence where no relevant bilateral or multilateral agreement is in place, the Convention will serve as the legal basis for cooperation. This was confirmed through a letter sent to the Secretary-General of the United Nations upon signature of the Convention.

Dual criminality is a prerequisite for extradition. Article 357 of the Code of Criminal Procedure (1971) states that offences for which extradition is sought must carry a prison sentence of at least two years under the laws of the requesting State and of Iraq. This requirement is reduced to six months where the person has already been convicted in the requesting State. Iraq is able to extradite for any criminal offence meeting the above specifications.

Extradition must be refused for political offences. Article 21 of the Code of Criminal Procedure defines political offences and also explicitly details a list of crimes that cannot be considered political offences, including several corruption-related offences. Consequently, extradition requests in relation to UNCAC offences may not be refused on such grounds. Requests cannot be refused on the ground that the offence involves fiscal matters.

Iraq does not extradite its own nationals. Where extradition is refused on these grounds, Iraq will prosecute in cooperation with the requesting State party. In accordance with article 9 of the Code of Criminal Procedure, foreign judgments may be executed in Iraq, provided that that is not inconsistent with public order. Under article 362 of the Code of Criminal Procedure, the Minister of Justice may, with the approval of the Minister of Foreign Affairs, refuse to extradite the person sought.

Due process is observed at all stages of extradition. An extradited individual may not be tried or punished except for the offence for which extradition has been sought. Under article 19 of the Iraqi Constitution of 2005, legislation ensures the protection of the right to a defence in judicial and administrative proceedings. A person subject to extradition may not appeal against that decision.

Iraq has established a legal basis for the transfer of sentenced persons for UNCAC offences through its ratification of the Riyadh Arab Agreement for Judicial Cooperation, as well as through bilateral memoranda of understanding, including with Iran and Tunisia.

There is nothing that prohibits the transfer of criminal proceedings, subject to judicial authorization.

Mutual legal assistance (article 46)

Mutual legal assistance is accorded to the fullest extent possible, based on the general principle of reciprocity. Dual criminality is not required for Iraq to provide assistance. Legislation outlines the format in which requests should be sent, as well as the types of information that can be provided through assistance requests. The Riyadh Arab Agreement and several bilateral agreements address diverse forms of cooperation; Iraq notes that in practice they are rarely applied, however, although Iraq is actively seeking to conclude additional assistance agreements, and considers the UNCAC a basis for mutual legal assistance.

The Integrity Commission is the central authority for receiving and processing mutual legal assistance requests on corruption-related matters. When necessary, the Commission coordinates with other authorities, such as INTERPOL, the Ministry of Interior, the Ministry of Justice and the courts, etc.

According to articles 49 and 50 of the Banking Law (2004), bank secrecy laws are not a barrier to the provision of mutual legal assistance by Iraq. The Integrity Commission has the authority to issue the necessary judicial orders requesting the disclosure of relevant information by financial institutions.

Iraq permits video testimony in relation to foreign criminal proceedings. When providing such testimony, the witness must appear in an Iraqi court in the presence of a judge. While video testimony has not been used specifically for corruption cases, it has been carried out in relation to other criminal offences [Arabic actually says "other corruption offences"].

According to article 354 of the Code of Criminal Procedure, the costs of mutual legal assistance are borne by the requesting State, unless otherwise agreed. While in principle States may agree that the costs of a request will be borne by the requested State, the presumption in current Iraqi legislation is the opposite, which is inconsistent with the UNCAC.

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

Law enforcement cooperation with foreign authorities is provided on the basis of bilateral assistance agreements and on an informal, ad hoc basis. There is no domestic framework for the provision of law enforcement cooperation.

There are no domestic legislative provisions to facilitate the establishment of joint investigations between law enforcement authorities.

3.2. Successes and good practices

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

- Iraq is a signatory to the Riyadh Arab Agreement for Judicial Cooperation, as well as several bilateral agreements outlining methods of cooperation, for both extradition and mutual legal assistance.
- The Integrity Commission has been granted direct authority to receive and process mutual legal assistance requests for UNCAC offences.
- The Integrity Commission has the legal authority to require financial institutions, by judicial order and without having to refer to the courts, to provide relevant information following receipt of a mutual legal assistance request.
- In view of the lack of practical implementation of several bilateral agreements, Iraq has drafted several memoranda of understanding in order to promote and encourage cooperation on criminal extradition and mutual legal assistance.

3.3. Challenges in implementation, where applicable

The following steps could further strengthen existing measures to combat corruption:

- Continue to develop legislation to establish a more complete and effective framework for extradition and mutual legal assistance.
- Consider legislation to amend the current presumption that the costs of the implementation of a mutual legal assistance request will be borne by the requesting State party.
- Consider entering into further bilateral and multilateral agreements in relation to extradition, and amending existing agreements to ensure that they cover all UNCAC offences.
- Consider clarifying with the United Nations the preferred language for communication of requests, as no specific language has been specified.
- Consider informing the Secretary-General of the United Nations whether Iraq will adopt the Convention as the legal basis for cooperation on extradition with other States parties or otherwise endeavour to enter into agreements or arrangements with other States to strengthen extradition mechanisms.
- Consider amending the domestic legal framework to allow more clearly for the provision of mutual legal assistance in special circumstances, even in the absence of dual criminality.
- Consider amending article 362 of the Code of Criminal Procedure to remove the provision that allows the Minister of Justice, with the approval of the Minister of Foreign Affairs, to prevent the execution of a court's decision to extradite.
- Continue to explore opportunities to engage actively in bilateral and multilateral extradition treaties with foreign countries with the aim of enhancing the effectiveness of extradition, mutual legal assistance, transfer of

criminal proceedings and other forms of international cooperation in criminal matters, with special emphasis on law enforcement cooperation and joint investigations.

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

- Assistance in developing a legal framework on international cooperation, provision of good practices/lessons learned with regard to article 44 (2) (Extradition) and article 46 (Mutual legal assistance).
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