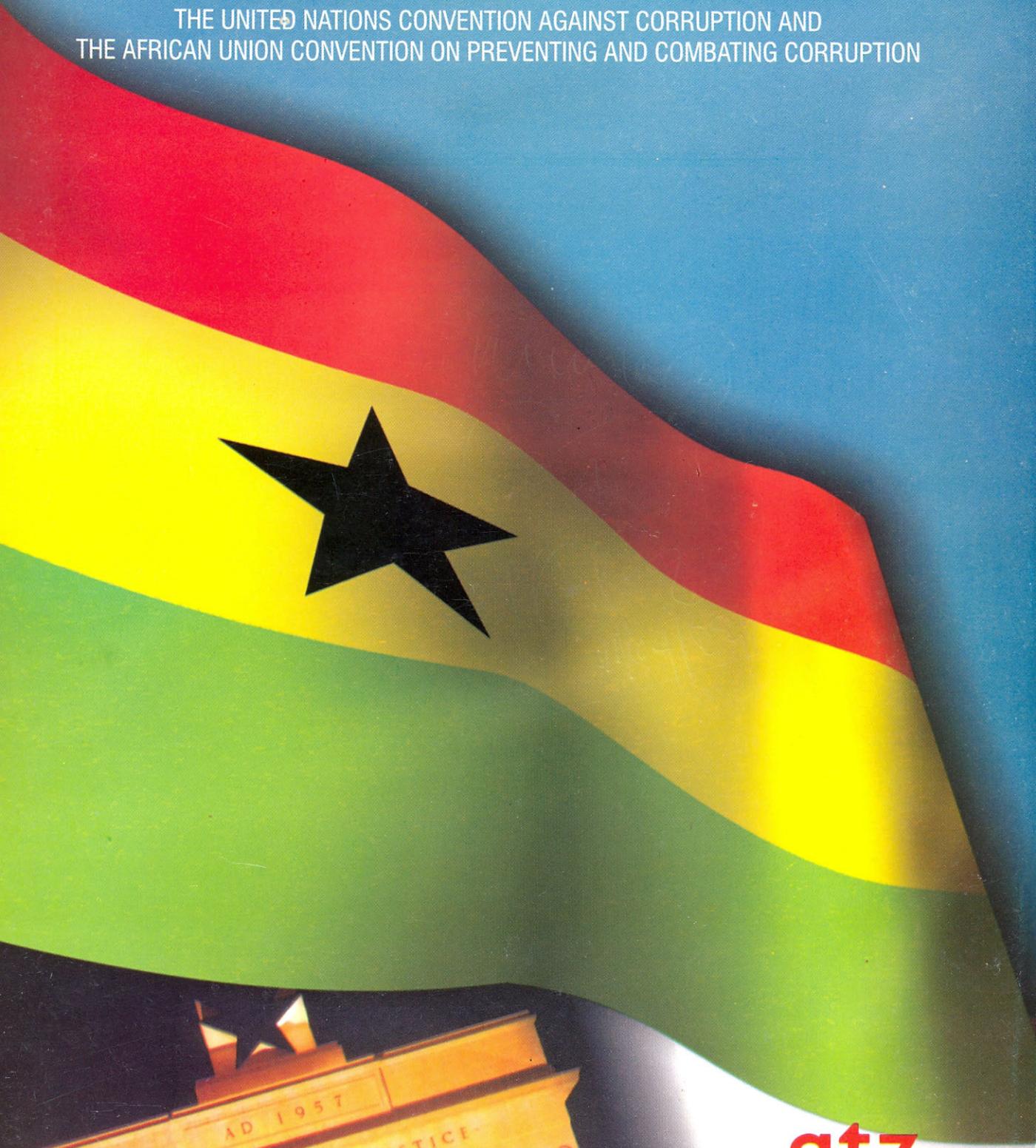


COMPARATIVE ANALYSIS OF ANTI-CORRUPTION LAWS OF GHANA COMPARED WITH

THE UNITED NATIONS CONVENTION AGAINST CORRUPTION AND
THE AFRICAN UNION CONVENTION ON PREVENTING AND COMBATING CORRUPTION



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**COMPARATIVE ANALYSIS OF ANTI-CORRUPTION LEGISLATION IN THE
REPUBLIC OF GHANA WITH THE UNITED NATIONS CONVENTION
AGAINST CORRUPTION AND THE AFRICAN UNION CONVENTION ON
PREVENTING AND COMBATING CORRUPTION**

FOREWORD

Corruption has no single definition. The Handbook on Fighting Corruption by the Centre for Democracy and Governance defines corruption as ‘the abuse of public office for private gain’. It encompasses unilateral abuses by Government officials such as embezzlement and nepotism as well as abuses that link public and private actors such as bribery, extortion, influence peddling and fraud. Corruption arises in both political and bureaucratic offices and may be petty or grand, organised or not organised.

Transparency International also defines corruption as ‘a behaviour on the part of officials in the public sector, whether politicians or civil servants, in which they improperly and unlawfully enrich themselves or those close to them, by the misuse of public power entrusted to them’. These include embezzlement of funds such as bribery, extortion or influence peddling.

One of the landmark developments in the fight against corruption around the world is the United Nations Convention against Corruption. Negotiations among member states on the Convention were concluded in Vienna on 30th September 2003, after two years of deliberation. One hundred nations signed the new instrument at an official opening ceremony in Mexico in December 2003. The Convention marks a major step forward in international cooperation.

Corruption can be prosecuted only when evidence of corrupt conduct is available. Prosecutions may however be time-consuming, costly and uncertain. It is for this reason that an entire chapter of the Convention is dedicated to preventive measures directed at both the public and private sectors. These include model preventive policies like the establishment of anti-corruption bodies and enhanced transparency

in the financing of election campaigns and political parties. States must endeavour to ensure that their public services are subject to safeguards that promote efficiency, transparency and recruitment based on merit. Once recruited, public servants should be subject to codes of conduct, financial and other disclosures as well as appropriate disciplinary measures.

In Ghana, anti-corruption laws are not found in one piece of legislation. The United Nations Convention against Corruption and the African Union Convention on Preventing and Combating Corruption were ratified by Parliament on 18th October 2002. The United Nations Convention is the international standard required from states that ratify it. An analysis of anti-corruption legislation of the country reveals that, to a large extent, they meet the international standard. Most of the gaps in the law will be filled after the enactment of Bills which are at different stages in the legislative drafting process. Of utmost importance in the country's compliance with the Convention will be the enactment of the Economic and Organised Crime Bill and the Mutual Legal Assistance Bill.

Ghana has made significant strides in the fight against corruption in recent times. The introduction of anti-corruption legislation with respect to financial administration, public procurement, internal audit and whistleblowing has been helpful in this fight. Parliament has also improved its watch-dog status with its Public Accounts Committee holding public sittings for the first time.

The Commission for Human Rights and Administrative Justice, the Judiciary and the media have also played their part. All said and done it is generally agreed that corruption is a cancer in the society that we must all work hard to reduce. It is hoped that this handbook will be seen as another milestone in our collective duty as a nation against corruption. God bless Ghana.

JOE GHARTEY, M.P.
ATTORNEY-GENERAL AND
MINISTER FOR JUSTICE

6th January, 2009

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References to legislation in brackets is to impending legislation proposed to be enacted in 2009. UNCAC means the United Nations Convention against Corruption AUC means the African Union Convention on Preventing and Combating Corruption.

Chapter I

General provisions

Article 1 - UNCAC

Statement of purpose

The purposes of this Convention are:

- (a) To promote and strengthen measures to prevent and combat.
- (b) To promote, facilitate and support international cooperation and technical assistance in the prevention of and fight against corruption, including in asset recovery;
- (c) To promote integrity, accountability and proper management of public affairs and public property.

Article 2 - UNCAC

Use of terms

For the purposes of this Convention:

- (a) "Public official" shall mean:
 - (i) any person holding a legislative, executive, administrative or judicial Office of a State Party, whether appointed or elected, whether permanent or temporary, whether paid or unpaid, irrespective of that person's niority;
 - (ii) any other person who performs a public function, including for a public agency or public enterprise, or provides a public service, as defined in the domestic law of the State Party and as applied in the pertinent area of law of that State Party; (iii) any other person defined as a "public official" in the domestic law of a State Party.

However, for the purpose of some specific measures contained in chapter II of this Convention, “public official” may mean any person who performs a public function or provides a public service as defined in the domestic law of the State Party and as applied in the pertinent area of law of that State Party;

(b) “Foreign public official” shall mean any person holding a legislative, executive, administrative or judicial office of a foreign country, whether appointed or elected; and any person exercising a public function for a foreign country, including for a public agency or public enterprise;

(c) “Official of a public international organization” shall mean an international civil servant or any person who is authorized by such an organization to act on behalf of that organization;

(d) “Property” shall mean assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to or interest in such assets;

(e) “Proceeds of crime” shall mean any property derived from or obtained, directly or indirectly, through the commission of an offence;

(f) “Freezing” or “seizure” shall mean temporarily prohibiting the transfer, conversion, disposition or movement of property or temporarily assuming custody or control of property on the basis of an order issued by a court or other competent authority;

(g) “Confiscation”, which includes forfeiture where applicable, shall mean the permanent deprivation of property by order of a court or other competent authority;

(h) “Predicate offence” shall mean any offence as a result of which proceeds have been generated that may become the subject of an offence as defined in article 23 of this Convention;

(i) “Controlled delivery” shall mean the technique of allowing illicit or suspect consignments to pass out of, through or into the territory of one or more States, with the knowledge and under the supervision of their competent authorities, with a view to the investigation of an offence and the identification of persons involved in the commission of the offence.

Article 3 - UNCAC

Scope of application

1. This Convention shall apply, in accordance with its terms, to the prevention, investigation and prosecution of corruption and to the freezing, seizure, confiscation and return of the proceeds of offences established in accordance with this Convention.

2. For the purposes of implementing this Convention, it shall not be necessary, except as otherwise stated herein, for the offences set forth in it to result in damage or harm to state property.

Article 4 - UNCAC

Protection of sovereignty

1. States Parties shall carry out their obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.

2. Nothing in this Convention shall entitle a State Party to undertake in the territory of another State the exercise of jurisdiction and performance of functions that are reserved exclusively for the authorities of that other State by its domestic law.

Chapter II

Preventive measures

Article 5 - UNCAC

Preventive anti-corruption policies and practices

1. Each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability.
2. Each State Party shall endeavour to establish and promote effective practices aimed at the prevention of corruption.
3. Each State Party shall endeavour to periodically evaluate relevant legal instruments and administrative measures with a view to determining their adequacy to prevent and fight corruption.
4. States Parties shall, as appropriate and in accordance with the fundamental principles of their legal system, collaborate with each other and with relevant international and regional organizations in promoting and developing the measures referred to in this article. That collaboration may include participation in international programmes and projects aimed at the prevention of corruption.

Article 35(8) of the 1992 Constitution

Article 35(8) of the 1992 Constitution forms part of the political objectives under the Directive Principles of State Policy. It provides that:

The State shall take steps to eradicate corrupt practices and abuse of power.

This provision authorises institutions to establish and promote effective practices aimed at the prevention of corruption.

Preventive anti-corruption body or bodies

1. Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies, as appropriate, that prevent corruption by such means as:

(a) Implementing the policies referred to in article 5 of this Convention and, where appropriate, overseeing and coordinating the implementation of those policies;

(b) Increasing and disseminating knowledge about the prevention of corruption.

2. Each State Party shall grant the body or bodies referred to in paragraph 1 of this article the necessary independence, in accordance with the fundamental principles of its legal system, to enable the body or bodies to carry out its or their functions effectively and free from any undue influence. The necessary material resources and specialized staff, as well as the training that such staff may require to carry out their functions, should be provided.

3. Each State Party shall inform the Secretary-General of the United Nations of the name and address of the authority or authorities that may assist other States Parties in developing and implementing specific measures for the prevention of corruption.

Commission on Human Rights and Administrative Justice Act, 1993 (Act 456)

Section 7 of Act 456 states the functions of the Commission. These include:

a) to investigate complaints of violations of fundamental human rights and freedoms, injustice, corruption, abuse of power and unfair treatment of a person by a public officer in the exercise of official duties;

e) to investigate allegations that a public officer has contravened or has not complied with a provision of Chapter Twenty-four (Code of Conduct for Public Officers) of the Constitution;

f) to investigate instances of alleged or suspected corruption, and the misappropriation of public moneys by an official and to take appropriate steps, including reports to the Attorney-General and the Auditor-General, resulting from that investigation.

The Commission is empowered also to take appropriate action to request a person to remedy, correct or reverse instances of corruption through means that are fair, proper and effective.

Serious Fraud Office Act, 1993 (Act 466)

The Serious Fraud Office was established as a specialised agency of the Government to monitor, investigate and on the authority of the Attorney-General, prosecute offences involving serious financial or economic loss to the Republic.

Section 3 (1) of Act 466 provides for the functions of the Serious Fraud Office as follows:

a) to investigate a suspected offence provided for by law which appears to the director on reasonable grounds to involve serious financial or economic loss to the Republic or a State organisation or any other institution in which the Republic has financial interest;

- b) to monitor the economic activities which the Director considers necessary with a view to detecting criminal offences likely to cause financial or economic loss to the Republic;*
- c) to take any other reasonable measures that the director considers necessary to prevent the commission of a criminal offence which may cause financial or economic loss to the Republic.*

Internal Audit Agency Act, 2003 (Act 658)

The Act seeks to establish a central agency of government to co-ordinate, monitor and supervise internal audit activities within Government Ministries, Departments and Agencies. The Act creates standards and procedures for the conduct of internal audit activities intended to secure transparency and avoid the incidence of corruption.

Anti-Money Laundering Act, 2008 (Act 749)

Section 4 of the Act establishes the Financial Intelligence Centre. The Centre is to assist in the identification of proceeds of unlawful activity and to combat money-laundering activities as well as make information available to investigating and intelligence authorities.

Office of Accountability

The Office of Accountability was established by the President in July, 2003 as a Watchdog Agency for close monitoring of Ministers and other executive appointees in the discharge of their duties. The office was set up as a body to make a decisive contribution towards achieving the avowed national objective for Good Governance. The mission of the Office is to formulate policies and practices of accountable stewardship, dignified self-comportment, and honest impartial service delivery. The Office is also to encourage selfless devotion to duty, transparency and zero tolerance for corruption. Problems encountered with government appointees can be referred to the Office.

Public sector

1. Each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, endeavour to adopt, maintain and strengthen systems for the recruitment, hiring, retention, promotion, and retirement of civil servants and, where appropriate, other non-elected public officials:

(a) That are based on principles of efficiency, transparency and objective criteria such as merit, equity and aptitude;

(b) That include adequate procedures for the selection and training of individuals for public positions considered especially vulnerable to corruption and the rotation, where appropriate, of such individuals to other positions;

(c) That promote adequate remuneration and equitable pay scales, taking into account the level of economic development of the State Party;

(d) That promote education and training programmes to enable them to meet the requirements for the correct, honourable and proper performance of public functions and that provide them with specialized and appropriate training to enhance their awareness of the risks of corruption inherent in the performance of their functions. Such programmes may make reference to codes or standards of conduct in applicable areas.

2. Each State Party shall also consider adopting appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to prescribe criteria concerning candidature for and election to public office.

3. Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles

of its domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties.

4. Each State Party shall, in accordance with the fundamental principles of its domestic law, endeavour to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest.

Article 7 – AUC

Fight Against Corruption and Related Offences in the Public Service

In order to combat corruption and related offences in the public service, State Parties commit themselves to:

1. Require all or designated public officials to declare their assets at the time of assumption of office during and after their term of office in the public service.
2. Create an internal committee or a similar body mandated to establish a code of conduct and to monitor its implementation, and sensitize and train public officials on matters of ethics.
3. Develop disciplinary measures and investigation procedures in corruption and related offences with a view to keeping up with technology and increase the efficiency of those responsible in this regard.
4. Ensure transparency, equity and efficiency in the management of tendering and hiring procedures in the public service.
5. Subject to the provisions of domestic legislation, any immunity granted to public officials shall not be an obstacle to the investigation of allegations against and the prosecution of such officials.

1992 Constitution of the Republic of Ghana.

Chapter 14 of the Constitution establishes the Public Services Commission which has powers and exercises the supervisory, regulatory and consultative functions prescribed by law. These functions include the supervision and regulation of entrance and promotion examinations, recruitment and appointment into or promotion within the public service and the establishment of standards and guidelines on the terms and conditions of employment in the public service.

Article 286 of the 1992 Constitution provides that :

(1) A person who holds a public office mentioned in clause (5) of this article shall submit to the Auditor- General a written declaration of all property or assets owned by, or liabilities owed by him, whether directly or indirectly-

- (a) within three months after the coming into force of this Constitution or before taking office, as the case may be,*
- (b) at the end of every four years; and*
- (c) at the end of his term of office.*

(2) Failure to declare or knowingly making a false declaration shall be a contravention of this Constitution and shall be dealt with in accordance with Article 287 of this Constitution.

The Auditor-General is required under clause 6

to make a written declaration of the Auditor-General's assets and liabilities to the president in the manner and subject to the conditions provided in clauses (1) to (3).

Article 287 provides that:

287 (1) An allegation that a public officer has contravened or has not complied with a provision of this chapter shall be made to the Commissioner of Human Rights and Administrative Justice, to the Chief Justice who shall, unless the person concerned makes a written admission of the contravention or non-compliance, cause the matter to be investigated.

(2) The Commissioner for Human Rights and Administrative Justice or the Chief Justice as the case may be, may take such action as he considers appropriate in respect of the results of the investigation or admission.

The provision in Chapter Twenty- Four of the Constitution is reflected in the Public Officers Holders (Declaration of Assets and Disqualification) Act, 1998 (Act 550).

Article 216 of the Constitution provides for the establishment by Act of Parliament of the Commission of Human Rights and Administrative Justice.

The Commission of Human Rights and Administrative Justice Act, 1993 (Act 456)

The Commission is mandated amongst others to

investigate all instances of alleged or suspected corruption and the misappropriation of public moneys by officials and to take appropriate steps, including reports to the Attorney-General and the Auditor-General, resulting from such investigations.

The Commission of Human Rights and Administrative Justice Act, 1993 (Act 456) established the Commission on Human Rights and Administrative Justice in accordance with article 216 of the 1992 Constitution.

The Commission organises lectures and symposia to educate both public and private officials on issues of corruption and fundamental human rights. The aim, among other things is to generate widespread awareness of the social and economic cost of corruption and foster a positive and non-partisan approach to combating corruption. It is also to support and strengthen society's commitment to combating corruption.

Serious Fraud Office Act, 1993(Act 466)

This Act established a specialised agency, the SFO, to monitor, investigate and prosecute, on authority of the Attorney-General, complex fraud and serious economic crimes which may affect the economic security of the state.

The functions of the SFO are such that a public officer can be investigated for economic crimes which would inevitably include corruption. Specific provision is given to the Director for investigative powers and to trace information. The Director of the Office may freeze accounts if necessary of any person being or about to be investigated, and officers in government departments, agencies and other public bodies are under a duty to co-operate with authorised officers of the SFO.

Civil Service Act, 1993 (PNDCL 327)

This Act amends and consolidates the law relating to the establishment and continued existence of the Civil Service.

Section 36 of the Act provides for the functions of the Civil Service Council.

Among others functions, the Council is to promote collaboration between institutions of higher education for training of civil servants for effective civil service performance.

Section 51-81 provides for the filling of vacancies and conditions of service. Vacancies may be filled by promotion, transfer or recruitment. The conditions of service are determined by Regulations and administrative instructions made under the Act.

Fair Wages and Salaries Commission Act, 2007(Act 737)

3. Functions of the Commission

To achieve its objects, the Commission shall

This Act establishes the Fair Wages Commission and provides for related matters. Section 3 of the Act provides for the functions of the Commission as follows:

(a) implement public service pay policy, except the determination of emoluments under article 71 of the Constitution.

(b) develop and monitor allowances and benefits of public servants and the consolidation of salaries of salaries of public servants,

(c) undertake job analysis and job evaluation,

(d) develop and ensure a consistent review of standard job evaluation methodology,

(e) develop and ensure implementation of grading and classification structures,

(f) review requests for the re-grading of positions,

(g) co-ordinate, manage and monitor collective bargaining processes in which Government is the direct or indirect employer,

(h) develop salary structures for the public service,

(i) ensure the balance of internal consistency, external competitiveness and employee

(j) advise on performance management processes and indicators performance are fully reflected in the public service pay system,

(k) develop a mechanism within the public service salary system to attract and retain critical skill,

(l) undertake research on salaries, benefits and allowances,

(m) review and propose changes to salary related components in enactments, ...”

Article 10 - AUC

Funding of Political Parties

Each State Party shall adopt legislative and other measures to:

(a) Proscribe the use of funds acquired through illegal and corrupt practices to finance political parties; and

(b) Incorporate the principle of transparency into funding of political parties

Political Parties Act, 2000(Act 574)

This Act deals mainly with the founding and registration of political parties, operation of political parties and the funding of political parties. Section 23-25 deal with the funding of political parties.

Section 23 states that:

“1) Only a citizen may contribute in cash or in kind to the funds of a political party.

2) A firm, partnership, or enterprise owned by a citizen or a company registered under the laws of the Republic at least seventy-five percent of whose capital is owned by a citizen is for the purposes of this Act a citizen.”

Section 24 provides as follows:

24. No contribution by non-citizens

A non- citizen shall not directly or indirectly make a contribution or donation or loan whether in cash or in kind to the funds held by or for the benefit of a political party and a political party or person acting for or on behalf of a political party shall not demand or accept a contribution, donation or loan from a non- citizen.”

According to section 25, a contravention of section 23 and 24 will result in the forfeiture to the Republic of the amount paid. The amount is recoverable from the political party as a debt owed to the Republic.

A non-citizen found guilty is considered to be a prohibited immigrant and is liable to deportation.

Article 8 - UNCAC

Codes of conduct for public officials

1. In order to fight corruption, each State Party shall promote, inter alia, integrity, honesty and responsibility among its public officials, in accordance with the fundamental principles of its legal system.
2. In particular, each State Party shall endeavour to apply, within its own institutional and legal systems, codes or standards of conduct for the correct, honourable and proper performance of public functions.
3. For the purposes of implementing the provisions of this article, each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, take note of the relevant initiatives of regional, interregional and multilateral organizations, such as the International Code of Conduct for Public Officials contained in the annex to General Assembly resolution 51/59 of 12 December 1996.

4. Each State Party shall also consider, in accordance with the fundamental principles of its domestic law, establishing measures and systems to facilitate the reporting by public officials of acts of corruption to appropriate authorities, when such acts come to their notice in the performance of their functions.

5. Each State Party shall endeavour, where appropriate and in accordance with the fundamental principles of its domestic law, to establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials.

6. Each State Party shall consider taking, in accordance with the fundamental principles of its domestic law, disciplinary or other measures against public officials who violate the codes or standards established in accordance with this article.

1992 Constitution of the Republic of Ghana

Chapter 24 of the Constitution provides for the Code of Conduct for Public Officers.

Article 284 of the Constitution states that:

“A public officer shall not put himself in a position where his personal interest conflicts or is likely to conflict with the performance of the functions of his office.”

Article 286 also enjoins a person who holds a public office to submit to the Auditor-General, a written declaration of all property or assets owned by, or liabilities owed by that person whether directly or indirectly within three months after taking office, at the end of every four years and at the end of the person is term of office.

The Commission on Human Rights and Administrative Justice is mandated to conduct investigation and appropriate action where a public officer fails to declare or make a false declaration.

Public Officers Holders (Declaration of Assets and Disqualification) Act 1998, (Act 553)

This Act provides for the declaration of assets and liabilities by public office holders in accordance with chapter Twenty-four of the Constitution, disqualification from holding specified public offices as a result of adverse findings made against or a criminal conviction of an individual.

Article 9 - UNCAC

Public procurement and management of public finances

1. Each State Party shall, in accordance with the fundamental principles of its legal system, take the necessary steps to establish appropriate systems of procurement, based on transparency, competition and objective criteria in decision-making, that are effective, inter alia, in preventing corruption. Such systems, which may take into account appropriate threshold values in their application, shall address, inter alia:

- (a) The public distribution of information relating to procurement procedures and contracts, including information on invitations to tender and relevant or pertinent information on the award of contracts, allowing potential tenderers sufficient time to prepare and submit their tenders;
- (b) The establishment, in advance, of conditions for participation, including selection and award criteria and tendering rules, and their publication;
- (c) The use of objective and predetermined criteria for public procurement decisions, in order to facilitate the subsequent verification of the correct application of the rules or procedures;

(d) An effective system of domestic review, including an effective system of appeal, to ensure legal recourse and remedies in the event that the rules or procedures established pursuant to this paragraph are not followed;

(e) Where appropriate, measures to regulate matters regarding personnel responsible for procurement, such as declaration of interest in particular public procurements, screening procedures and training requirements.

2. Each State Party shall, in accordance with the fundamental principles of its legal system, take appropriate measures to promote transparency and accountability in the management of public finances. Such measures shall encompass, inter alia:

(a) Procedures for the adoption of the national budget;

(b) Timely reporting on revenue and expenditure;

(c) A system of accounting and auditing standards and related oversight;

(d) Effective and efficient systems of risk management and internal control; and

(e) Where appropriate, corrective action in the case of failure to comply with the requirements established in this paragraph.

3. Each State Party shall take such civil and administrative measures as may be necessary, in accordance with the fundamental principles of its domestic law, to preserve the integrity of accounting books, records, financial statements or other documents related to public expenditure and revenue and to prevent the falsification of such documents.

Public Procurement Act, 2003 (Act 663)

This Act establishes the Public Procurement Authority which makes administrative and institutional arrangements for procurement and also stipulate tendering procedures. Thus, the Act deals with procurement structures, procurement rules, methods of procurement and tendering procedures. It also deals with submission of tenders and methods and procedures of engaging the services of Consultants.

Section 3 of Act 663 provides for the functions of the Authority.

The Authority is to:

- (a) make proposals for the formulation of policies on procurement;*
- (b) ensure policy implementation and human resource development for public procurement;*
- (c) develop draft rules, instructions, other regulatory documentation on public procurement and formats for public procurement documentation;*
- (d) monitor and supervise public procurement and ensure compliance with statutory requirements;*
- (e) have the right to obtain information concerning public procurement from contracting authorities;*
- (f) establish and implement an information system relating to public procurement;*
- (g) publish a monthly Public Procurement Bulletin which shall contain information germane to public procurement, including proposed procurement notices, notices of invitation to tender and contract award information;*

(h) assess the operations of the public procurement processes and submit proposals for improvement of the processes;

(j) facilitate the training of public officials involved in public procurement at various levels;

(k) develop, promote, and support training and professional development of persons engaged in public procurement, and ensure adherence by the trained persons to ethical standards;

(l) advise Government on issues relating to public procurement;

(m) organize and participate in the administrative review procedures in Part Seven;

(n) plan and co-ordinate technical assistance in the field of public procurement;

(o) maintain a register of procurement entities and members of and secretaries to tender committees of public procurement entities;

(p) maintain a data base of suppliers, contractors and consultants and a record of prices to assist in the work of procurement entities;

(q) investigate and debar from procurement practice under this Act, suppliers, contractors and consultants who have seriously neglected their obligations under a public procurement contract, have provided false information about their qualifications, or offered inducements of the kind referred to in section 32;

(r) maintain a list of firms that have been debarred from participating in public procurement and communicate the list to procurement entities on a regular basis;

(s) hold an annual forum for consultations on public procurement and other related issues;

(t) assist the local business community to become competitive and efficient suppliers to the public sector; and

(u) perform such other functions as are incidental to the attainment of the objects under this Act.

These functions ensure that the object of the Authority is met as stipulated in Section 2. The object in this section is to harmonise the processes of public procurement in the public service to secure a judicious, economic and efficient use of state resources in public procurement and ensure that public procurement is carried out in a fair, transparent and non- discriminatory manner.

Financial Administration Act, 2003(Act 654)

This Act regulates the financial management of the public sector, prescribes the responsibilities of persons entrusted with financial management in the Government, ensures the effective and efficient management of state revenue, expenditure, assets, liabilities, resources of the Government, the Consolidated Fund and other public funds.

Section 2 of the Act makes the Minister of Finance responsible for the management and control of the Consolidated Fund and other public funds. The Minister may also cause the inspection of books, records and offices of a department.

The Chief Justice is to establish a Financial Administration Court at the High Court level.

Internal Audit Agency Act, 2003 (Act 658)

This Act establishes an agency of Government to co-ordinate, monitor, supervise and facilitate internal audit activities within Ministries, Departments and Agencies and Metropolitan, Municipal and District Assemblies in order to ensure quality assurance of internal audit within these institutions of State.

Section 36 of the Act provides for the functions of the Agency as follows:

“(2) The Agency shall ensure that:

(a) financial, managerial and operating information reported internally and externally is accurate, reliable and timely,

(b) the financial activities of the Ministries and District Assemblies are in compliance with laws, policies, plans, standards and procedures,

(c) national resources are adequately safeguarded,

(d) national resources are used economically, effectively and efficiently, ...”

Article 10 - UNCAC

Public reporting

Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes, where appropriate. Such measures may include, inter alia:

(a) Adopting procedures or regulations allowing members of the general public to obtain, where appropriate, information on the organization, functioning and decision-making processes of its public administration and, with due regard for the protection of privacy and personal data, on decisions and legal acts that concern members of the public;

(b) Simplifying administrative procedures, where appropriate, in order to facilitate public access to the competent decision-making authorities; and

(c) Publishing information, which may include periodic reports on the risks of corruption in its public administration.

Article 9 - AUC

Access to Information

Each State Party shall adopt such legislative and other measures to give effect to the right of access to any information that is required to assist in the fight against corruption and related offences

(Right to Information Bill)

This Bill provides for the implementation of the Constitutional right to information held by a Government agency subject to the exemptions that are necessary for the protection of public interest in a democratic society to foster a culture of transparency and accountability in public affairs. The right to information is a fundamental human right guaranteed by the Constitution and is recognised as a right by International Conventions on human rights. The purpose of the Bill is to support and give substance to that Constitutional provision by the provision of access to official information held by Government agencies. The Bill also states the qualifications and conditions under which the access is to be obtained.

National Identity Register Act, 2008(Act 750)

This Act is to establish a national identity register to provide for a scheme of registration on the issue of identity cards, protection of personal information of individuals, recognition and protection of the privacy of individuals. The Bill emanates from the core principles around which the socio-economic fabric of the society revolves. These principles are enshrined in the Directive Principles of State Policy in Chapter six of the Constitution. These principles represent the fundamental objectives which Ghanaians expect all institutions to strive to achieve in order to achieve a just, free and humane society. The principles also provide goals for legislative programs and serve as indicators by which the performance of the Government can be assessed.

Article 11 - UNCAC

Measures relating to the judiciary and prosecution services

1. Bearing in mind the independence of the judiciary and its crucial role in combating corruption, each State Party shall, in accordance with the fundamental principles of its legal system and without prejudice to judicial independence, take measures to strengthen integrity and to prevent opportunities for corruption among members of the judiciary. Such measures may include rules with respect to the conduct of members of the judiciary.
2. Measures to the same effect as those taken pursuant to paragraph 1 of this article may be introduced and applied within the prosecution service in those States Parties where it does not form part of the judiciary but enjoys independence similar to that of the judicial service.

Article 12 - UNCAC

Private sector

1. Each State Party shall take measures, in accordance with the fundamental principles of its domestic law, to prevent corruption involving the private sector, enhance accounting and auditing standards in the private sector and, where appropriate, provide effective, proportionate and dissuasive civil, administrative or criminal penalties for failure to comply with such measures.
2. Measures to achieve these ends may include, inter alia:
 - (a) Promoting cooperation between law enforcement agencies and relevant private entities;
 - (b) Promoting the development of standards and procedures designed to safeguard the integrity of relevant private entities, including codes of conduct for the correct, honourable

and proper performance of the activities of business and all relevant professions and the prevention of conflicts of interest, and for the promotion of the use of good commercial practices among businesses and in the contractual relations of businesses with the State;

(c) Promoting transparency among private entities, including, where appropriate, measures regarding the identity of legal and natural persons involved in the establishment and management of corporate entities;

(d) Preventing the misuse of procedures regulating private entities, including procedures regarding subsidies and licences granted by public authorities for commercial activities;

(e) Preventing conflicts of interest by imposing restrictions, as appropriate and for a reasonable period of time, on the professional activities of former public officials or on the employment of public officials by the private sector after their resignation or retirement, where such activities or employment relate directly to the functions held or supervised by those public officials during their tenure;

(f) Ensuring that private enterprises, taking into account their structure and size, have sufficient internal auditing controls to assist in preventing and detecting facts of corruption and that the accounts and required financial statements of such private enterprises are subject to appropriate auditing and certification procedures.

3. In order to prevent corruption, each State Party shall take such measures as may be necessary, in accordance with its domestic laws and regulations regarding the maintenance of books and records, financial statement disclosures and accounting and auditing standards, to prohibit the following acts carried out for the purpose of committing any of the offences established in accordance with this Convention:

(a) The establishment of off-the-books accounts;

(b) The making of off-the-books or inadequately identified transactions;

- (c) The recording of non-existent expenditure;
- (d) The entry of liabilities with incorrect identification of their objects;
- (e) The use of false documents; and
- (f) The intentional destruction of bookkeeping documents earlier than foreseen by the law.

4. Each State Party shall disallow the tax deductibility of expenses that constitute bribes, the latter being one of the constituent elements of the offences established in accordance with articles 15 and 16 of this Convention and, where appropriate, other expenses incurred in furtherance of corrupt conduct.

Article 13 - UNCAC

Participation of society

1. Each State Party shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption.

This participation should be strengthened by such measures as:

- (a) Enhancing the transparency of and promoting the contribution of the public to decision-making processes;
- (b) Ensuring that the public has effective access to information;

(c) Undertaking public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including school and university curricula;

(d) Respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption. That freedom may be subject to certain restrictions, but these shall only be such as are provided for by law and are necessary:

(i) For respect of the rights or reputations of others;

(ii) For the protection of national security or order public or of public health or morals.

2. Each State Party shall take appropriate measures to ensure that the relevant anti-corruption bodies referred to in this Convention are known to the public and shall provide access to such bodies, where appropriate, for the reporting, including anonymously, of any incidents that may be considered to constitute an offence established in accordance with this Convention.

1992 Constitution

Article 35 (8) on political objectives under the Directive Principles of State Policy enjoins the State to take steps to eradicate corrupt practices and the abuse of power.

(Right to Information Bill)

The Bill provides for the implementation of the Constitutional right to information held by a Government agency. The right is subject to the exemptions that are necessary and for the protection of public interest in a democratic society, which fosters a culture of transparency and accountability in public affairs.

Clause 19 provides for the procedure for access to information. It requires among other things, that an application for access to information is to be in writing, should adequately describe the

information for which access is sought, disclose the nature of the access required, provide an address in the country to which a response should be sent and be accompanied with the relevant fee. In order to make access as universal as possible, the *clause* provides for oral application where the applicant cannot write and the application is to be reduced into writing by the receiving officer.

National Commission for Civic Education Act, 1993 (Act 452)

Article 231 of the 1992 of the Constitution establishes the National Commission on Civic Education to, among other things create and sustain within the society, the awareness of the principles and objective of the Constitution as the fundamental law, to educate and encourage the public to inculcate in the citizens an awareness of their civic responsibilities.

Article 14 - UNCAC

Measures to prevent money-laundering

1. Each State Party shall:

(a) Institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions, including natural or legal persons that provide formal or informal services for the transmission of money or value and, where appropriate, other bodies particularly susceptible to money-laundering, within its competence, in order to deter and detect all forms of money-laundering, which regime shall emphasize requirements for customer and, where appropriate, beneficial owner identification, record-keeping and the reporting of suspicious transactions;

(b) Without prejudice to article 46 of this Convention, ensure that administrative, regulatory, law enforcement and other authorities dedicated to combating money-laundering (including, where appropriate under domestic law, judicial authorities) have the ability to cooperate and exchange information at the national and international levels within

the conditions prescribed by its domestic law and, to that end, shall consider the establishment of a financial intelligence unit to serve as a national centre for the collection, analysis and dissemination of information regarding potential money-laundering.

2. States Parties shall consider implementing feasible measures to detect and monitor the movement of cash and appropriate negotiable instruments across their borders, subject to safeguards to ensure proper use of information and without impeding in any way the movement of legitimate capital. Such measures may include a requirement that individuals and businesses report the cross-border transfer of substantial quantities of cash and appropriate negotiable instruments.

3. States Parties shall consider implementing appropriate and feasible measures to require financial institutions, including money remitters:

(a) To include on forms for the electronic transfer of funds and related messages accurate and meaningful information on the originator;

(b) To maintain such information throughout the payment chain; and

(c) To apply enhanced scrutiny to transfers of funds that do not contain complete information on the originator.

4. In establishing a domestic regulatory and supervisory regime under the terms of this article, and without prejudice to any other article of this Convention, States Parties are called upon to use as a guideline the relevant initiatives of regional, interregional and multilateral organizations against money-laundering.

5. States Parties shall endeavour to develop and promote global, regional, subregional and bilateral cooperation among judicial, law enforcement and financial regulatory authorities in order to combat money-laundering.

Laundering of the Proceeds of Corruption

States Parties shall adopt such legislative and other measures as may be necessary to establish as criminal offences:

a) The conversion, transfer or disposal of property, knowing that such property is the proceeds of corruption or related offences 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 offence to evade the legal consequences of his or her action.

b) The concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property which is the proceeds of corruption or related offences;

c) The acquisition, possession or use of property with the knowledge at the time of receipt, that such property is the proceeds of corruption or related offences;

Anti- Money Laundering Act, 2007 (Act 749)

Sections 1 and 2 of the Anti-Money Laundering Act, 2008 (Act 749) criminalise money laundering in Ghana. The elements of money laundering include conversion disguise, acquisition, and use of transfer of property knowing that the property is or forms part of the proceeds of unlawful activity.

One of the measures taken under the Act to prevent money-laundering is the creation of the Financial Intelligence. The centre has as its core object, the identification of proceeds of unlawful activity, making information available to investigating authorities, intelligence agencies and revenue agencies to facilitate the administration and enforcement of laws of the Republic. The core function of the centre is to gather intelligence.

The Act also requires accountable institutions to identify their customers, keep records of identity and transactions and report suspicious transactions. (Anti-money laundering Regulations) provide for the regulatory framework for the Anti-Money Laundering Act.

Payment Systems Act 2003 (Act 662)

The Act sets out the establishment, operation and supervision of electronic and other payment, clearing and settlement systems to provide for the rights and responsibilities of transacting and intermediating parties; in order to check or prevent illegal electronic transactions or transfer of funds. The Bank of Ghana as a supervisory body may demand information on the operation of payment system from its operator.

Chapter III

Criminalization and law enforcement

Article 15 - UNCAC

Bribery of national public officials

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;
- (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.

Criminal Offences Act, 1960 (Act 29)

Section 240 states that:

Chapter Five of this Act deals with offences relating to Public Officers and Public Elections. Section 240 to 245 of this Act provides for corruption and bribery.

“A public officer, juror, or voter commits corruption in respect of the duties of office or the vote, if the public officer, juror or voter directly or indirectly, agrees or offers to permit the conduct of that person as a public officer, juror, or voter to be influenced by the gift, promise or prospect of a valuable consideration to be received by that person, or, any other person, from any other person.”

Section 241 Explanation as to corruption of public officer

“A person commits the criminal offence of corrupting a public officer, juror, or voter in respect of the duties of office or in respect of the vote, if that person endeavours, directly or indirectly, to influence the conduct of the public officer, juror or voter in respect of the duties of office or in respect of the vote, by the gift, promise or prospect of a valuable consideration to be received by the public officer, juror, or voter, or by any other person, from any other person.”

Section 242 Special explanation as to corruption of and by public officer

It is immaterial, for the purposes of section 240 or 241, that the person respecting whose conduct the endeavour, agreement or offer is made is not yet at the time of the making of the endeavour, agreement or offer, a public officer, juror, or voter, if the endeavour, agreement, or offer is made in the expectation that that person will or may become or act as a public officer, a juror, or a voter.

Section 243 Corrupt agreement for lawful consideration

It is immaterial, for the purposes of section 240, 241 or 242, whether the act to be done by a person in consideration or in pursuance of the gift, promise, prospect, agreement or offer is criminal or wrongful otherwise than by reason of the provisions of any of those sections.

Section 244 Acceptance of bribe by public officer, after doing the act.

“Where, after a person has done an act as a public officer, juror, or voter that person secretly accepts, or agrees or offers secretly to accept for personal gain or for any other person, a valuable consideration on account of the act, that person shall be presumed, until the contrary is shown, to have acted corruptly, within the meaning of this Chapter, in respect of that act before the doing of the act.”

Section 245 Promise of bribe by public officer, after act done

Where, after a public officer, juror, or voter has done an act as an officer, a juror or voter, any other person secretly agrees or offers to give or to procure for that person or any other person a valuable consideration on account of that act, the person agreeing or offering shall be presumed, until the contrary is shown, to have corrupted, before the doing of the act, that public officer, juror, or voter, in respect of that act.

Customs Excise and Preventive Service (Management) Act, 1993 (PNDCL 330)

The Act deals with the imposition of taxes and duties on goods penal provisions. As regards corruption, the Act provides as follows:

“Section 271 Bribery, extortion, by officer

(1) An officer who

- (a) demands or takes a bribe, gratuity, recompense or reward for the neglect or non performance of duty, or*

- (b) demands or takes an unauthorized fee, perquisite or reward, whether pecuniary or otherwise, directly or indirectly, on account of anything relating to this office or employment, or*

- (c) delivers up or agrees to deliver up or not to seize anything liable to forfeiture, or*

- (d) commits, or conspires or connives with a person for the purpose of committing an offence against this Act,*

shall on proof of any of the acts above to the satisfaction of the Board, be summarily dismissed from office.

(2) An officer who does any of the acts referred to in subsection (1) commits an offence and is liable on conviction to a fine not exceeding two hundred percent of the total loss that would have occasioned the officer’s neglect or non- performance of the offence or to a fine not exceeding three hundred thousand penalty units or to a term of imprisonment not exceeding ten years.

Section 272 Offering of bribes

A person who

- (a) gives, offers, or agrees to give or procure to be given, a bribe, gratuity, recompense or reward to an officer, or*

- (b) *gives, offers, or agrees to give an unauthorized fee, perquisite or reward to an officer, or*
- (c) *induces or attempts to induce an officer to connive at any evasion of this Act or otherwise to neglect duty,*

commits an offence and is liable on summary conviction to fine not exceeding two hundred percent of the total loss that would have occasioned the offence or to a fine not exceeding five hundred thousand cedis whichever is higher or to a term of imprisonment not exceeding ten years or both the fine and the imprisonment.”

Financial Administration Act, 2003 (Act 654)

According to the Section 62 (1) of the Act

An officer or a person acting in an office or employment connected with the collection, management or disbursement of public or trust moneys or with the control of government stores who

- (a) accepts or receives money or valuable consideration for the performance of official duties;*
- (b) conspires with another person to defraud the Government, or makes opportunity for another person to defraud the Government; or.....*
- (f) demands or accepts or attempts to collect, directly or indirectly, as payments or gifts or otherwise, a sum of money, or any other thing of value, for the compromise, adjustment or settlement of a charge or complaint for a contravention or alleged contravention of legislation relating to public finance commits an offence....’*

A person who also promises or gives money or any other valuable consideration to an officer with the intent to influence that person in official capacity commits an offence.

Value Added Tax Act 1998 (Act 546)

Section 63 deals with offences relating to officers

63. '(1) An officer of the Service who in connection with the functions under this Act takes or seeks, directly or indirectly a payment or any other reward, whether pecuniary or otherwise, on account of anything relating to the office or employment, including the failure to carry out proper duties, commits an offence.....'

Article 16 - UNCAC

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.

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.

Criminal Offences Act, 1960 (Act 29)

Section 179c Using public office for profit

“A person commits a criminal offence who

- (a) while holding a public office corruptly or dishonestly abuses the office for private profit or benefit; or*
- (b) not being a holder of a public office acts or is found to have acted in collaboration with a person holding a public office for the latter to corruptly or dishonestly abuse the public office for private profit or benefit.”*

Section 260 Withholding of public money by public officer

“Where a public officer who is bound in that capacity to pay or account for money or valuable things, or to produce or give up documents or any other things, fails as in duty bound to pay or account for, or to produce or give up, to any other officer or person lawfully demanding the same, commits a misdemeanour.”

Financial Administration Act, 2003 (Act 654)

Section 62 (1) (d) Offence

An officer or a person acting in an office or employment connected with the collection, management or disbursement of public or trust moneys or with the control of government stores who wilfully makes or signs a false certificate or return in a case in which it is the duty of that person to make an entry, a certificate or return, commits an offence...

Article 18 - UNCAC

Trading in influence

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;

(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.

Criminal Offences Act, 1960 (Act 29)

Section 239 Corruption of and by public officer or juror

“(1) A public officer or juror who commits corruption, or wilful oppression, or extortion, in respect of the duties of office, commits a misdemeanour.

(2) A person who corrupts any other person in respect of a duty as a public officer or juror commits a misdemeanour.”

Section 244 Acceptance of bribe by public officer, after doing the act.

“Where, after a person has done an act as a public officer, juror, or voter that person secretly accepts, or agrees or offers secretly to accept for personal gain or for any other person, a valuable consideration on account of the act, that person shall be presumed, until the contrary is shown, to have acted corruptly, within the meaning of this Chapter, in respect of that act before the doing of the act.”

Section 245 Promise of bribe by public officer, after act done

Where, after a public office, juror, or voter has done an act as an officer, a juror or voter, any other person secretly agrees or offers to give or to procure for that person or any other person a valuable consideration on account of that act, the person so agreeing or offering shall be presumed, until the contrary is shown, to have corrupted, before the doing of the act, that public officer, juror, or voter, in respect of that act.

Article 19 - UNCAC

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.

According to Article 284 of the 1992 Constitution,

“A public officer shall not put himself in a position where his personal interest conflicts or is likely to conflict with the performance of the functions of his office.”

Criminal Offences Act, 1960 (Act 29)

Section 239 Corruption of and by public officer or juror

“(1) A public officer or juror who commits corruption, or willful oppression, or extortion, in respect of the duties of office, commits a misdemeanour.

(2) A person who corrupts any other person in respect of a duty as a public officer or juror commits a misdemeanour.”

Article 20 - UNCAC

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.

Article 8 - AUC

Illicit Enrichment

1. Subject to the provisions of their domestic law, State Parties undertake to adopt necessary measures to establish under their laws an offence of illicit enrichment.
2. For State Parties that have established illicit enrichment as an offence under their domestic law, such offence shall be considered an act of corruption or a related offence for the purposes of this Convention.
3. Any State Party that has not established illicit enrichment as an offence shall, in so far as its laws permit, provide assistance and cooperation to the requesting State with respect to the offence as provided in this Convention.

Public Office Holders (Declaration of Assets and Disqualification) Act, 1998 (Act 550)

Section 9 Disqualification to hold specified offices

“(1) A person does not qualify to be appointed to a public office specified in the First Schedule if that person is a person in respect of whom a commission of inquiry has found that, whilst holding a public office to which subsection (2) applies, that person

- (a) acquired assets unlawfully, or*
- (b) defrauded the Republic, or*
- (c) wilfully and dishonestly or corruptly acted in a manner prejudicial to the interests of the Republic, or*
- (d) knowingly made a false declaration of the assets, properties or liabilities of that person.”*

The Commission on Human Rights and Administrative Justice has issued Guidelines on Conflict of Interest to assist public officials identify, manage and resolve conflicts of interest.

Article 21 - UNCAC

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.

Article 11- AUC

Private Sector

State Parties undertake to:

1. Adopt legislative and other measures to prevent and combat acts of corruption and related offences committed in and by agents of the private sector.
2. Establish mechanisms to encourage participation by the private sector in the fight against unfair competition, respect of the tender procedures and property rights.
3. Adopt such other measures as may be necessary to prevent companies from paying bribes to win tenders.

Government Contracts (Protection) Act, 1979 (AFRCD 58)

Section 1 Penalty for using false certificate

A person who is responsible for the issue of a certificate on the basis of which money is paid out of public funds to or for the benefit of a contractor or any other person in respect of a Government contract , is jointly or severally liable with that contractor or any other person for the refund of the money so paid, to the Government, the statutory corporation or any other agent of the Government by or on behalf of which the money was paid or to any other authority directed in writing by the Government.

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.

Representation of the People Act, 1992 (PNDCL. 284)

Section 33 Bribery

(1) A person commits the offence of bribery

- (a) if that person directly or acting through another person,
 - (i) gives money or obtains an office for a vote in order to induce the voter to vote or refrain from voting, or*
 - (ii) corruptly does an act on account of a voter having voted or refrained from voting, or*
 - (iii) makes a gift or provides something of value to a voter to induce the voter to vote in a certain way or to obtain the election of a candidate, or**

- (b) if that person advances or pays money or causes money to be paid to or for the use of a person with the intent that the money or part of it shall be expended in bribery at an election, or knowingly pays money or causes money to be paid to a person in discharge or repayment of money wholly or in part expended in bribery at an election, or*

- (c) if before or during an election that person directly or indirectly, or through another person acting on that person's behalf, receives, agrees or contracts for money,*

gift, a loan or valuable consideration or an office, place or employment for that person or for another person for voting or agreeing to vote or for refraining or agreeing to refrain from voting, or

- (d) *if after an election that person directly or through another person receives money or valuable consideration on account of a person having voted or refrained from voting or having induced another person to vote or to refrain from voting.*

Criminal Offences Act, 1960 (Act 29)

Section 140 of the Act states that a clerk, a servant or public officer of a partnership, company or corporation commits a second degree felony if the clerk, servant or public officer conceals, injures, alters or falsifies a book, or an account by or belonging or entrusted to the employer or to the partnership, company or corporation, or entrusted to the officer, or to which the officer has access, as an officer or omits to make full and true entry in an account of anything which the officer is bound to enter in the account.

Article 23 - UNCAC

Laundering of proceeds of crime

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;

(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;

(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;

(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.

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;

(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;

(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;

(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.

Anti-Money Laundering Act, 2008 (Act 749)

Sections 1 and 2 of the Anti-Money Laundering Act, 2008 (Act 749) provides for the requirements under article 23 (1) (a) and (b) of the Convention.

These sections lay emphasis on “a person who knows or ought to have known.....”

The elements of article 23 are also provided for in section 12 of the **Narcotic Drugs (Control, Enforcement and Sanctions) Act, 1990 (PNDCL 326)**. Section 12 (Laundering proceeds from a narcotic drugs offence) provides that:

12. A person shall not use, transfer the possession of, send or deliver to any person or place, transport, transmit, alter, dispose of or otherwise deal with, in any manner, any property or proceeds of property with the intent to conceal or convert that property or those proceeds knowing that all or part of that property was obtained or received directly or indirectly as a result of a commission of a drug offence.

This Act criminalises the laundering of proceeds of crimes related to the illicit trafficking in narcotic drugs and psychotropic substances in accordance with the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic substances, 1988(the Vienna Convention)

(Economic and Organised Crime Bill)

The purpose of this Bill is to establish an Economic and Organised Crime Office as specialised agency to monitor and investigate economic and organised crimes and on the authority of the Attorney-General, prosecute these crime. The Office is also to facilitate the seizure, freezing and

confiscating of proceeds of crime. The Economic and Organised Crime Office is to replace the Serious Fraud Office established by the Serious Faud Office Act, 1993 (Act 466).

This Bill provides for the widest range of predicate offences referred to as serious offences. The offences include:

- (a) *participation in an organised criminal group, terrorism and terrorist financing, money laundering, human trafficking, people smuggling, sexual exploitation, illicit trafficking in narcotic drugs, illicit arms trafficking, trafficking in stolen and other goods, corruption and products, smuggling, extortion, forgery, insider trading and market manipulation.*
- (b) *Murder, grievous bodily harm, armed robbery or theft where these are predicate offences of a serious offences and*
- (c) *Any other offence for which the penalty is imprisonment for a period of not less than twelve months.*

The offence may be in contravention of a law of a foreign state related acts or omissions which occurred in this country which would have constituted an offence where the penalty is imprisonment for a term of not less than twelve months.

Article 24 - UNCAC

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.

Financial Administration Act, 2003 (Act 654)

Section 62 (1) (e)

An officer or a person acting in an office or employment connected with the collection, management or disbursement of public or trust moneys or with the control of government stores who, having knowledge or information of the contravention of financial legislation by a person, or fraud committed by a person against the Government under legislation relating to public finance, fails to report the knowledge or information to that person's senior officer or a state security agency commits an offence...

Article 25 - UNCAC

Obstruction of justice

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;

(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.

Criminal Offences Act, 1960 (Act 29)

Section 253 Corrupt promise by judicial officer or juror

A person who, otherwise than in the due execution of duties as a judicial officer or juror, makes or offers to make an agreement with any other person as to the judgment or verdict which that person will or will not give as a judicial officer or juror in a pending or future proceeding, commits a misdemeanour.

Article 26 - UNCAC

Liability of legal persons

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

Criminal Offences Act, 1960 (Act 29)

Section 140 of the Act provides that a clerk, servant or a public officer of a partnership, company or corporation is guilty of a second degree felony where the clerk or public officer does an act with intent to cause or enable a person to be defrauded, or personally or by another person with intent to defraud facilitates the commission of a criminal offence. It is an offence where the person conceals, injures or falsifies a book or an account kept by or belonging to the employer or corporation or where the person publishes an account, a statement or prospectus relating to the public officer, the partnership, company or corporation which the officer knows to be false.

Companies Act 1963 (Act 179)

Section 209 Civil liabilities for breach of duty

Where a director commits a breach of duty,

- (a) the director and any other person who knowingly participated in the breach is liable to compensate the company for the loss it suffers as a result of the breach;*
- (b) the director shall account to the company for a profit made by the director as a result of the breach; and*
- (c) a contract or any other transaction entered into between the director and the company in breach of that duty may be rescinded by the company.*

Anti-Money Laundering Act, 2008 (Act 749)

The Anti Money Laundering Act, 2008(Act 749) applies to both individuals and legal persons. Section 39 (2), (4), and 5) of the Act provides for referral of convicted legal persons to their respective supervisory bodies to apply administrative sanctions.

Article 27 - UNCAC

Participation and attempt

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.
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.
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.

Criminal Offences Act, 1960 (Act 29)

Section 18 (1) Attempt to commit a criminal offence.

A person who attempts to commit a criminal offence shall not be acquitted on the ground that the criminal offence could not be committed according to the intent

- (a) *by reason of the imperfection or other condition of the means, or*
- (b) *by reason of the circumstances under which they are used , or*
- (c) *by reason of the circumstances affecting the person against whom, or the thing in respect of which the criminal offence is intended to be committed, or*

(d) *by reason of the absence of that person or thing.*

Section 20 (1) Abetment of a criminal offence.

A person who, directly or indirectly, instigates, commands, counsels, procures, solicits, or in any other manner purposely aids, facilitates, encourages, or promotes, whether by a personal act or presence or otherwise, and a person who does an act for the purposes of aiding, facilitating, encouraging or promoting the commission of a criminal offence by any other person, whether known or unknown, certain, or uncertain, commits the criminal offence, and of abetting the other person in respect of that criminal offence.

Article 28 - UNCAC

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

Criminal Offences Act, 1960 (Act 29)

Section 11 of the Act states that where a person does an act for the purpose of causing or contributing to cause an event, that person intends to cause that event, although in fact or in the person's belief or both, the act is unlikely to cause or contribute to cause the event.

Section 13 provides that a person, who intentionally causes an involuntary agent to cause an event, is deemed to have caused the event.

Article 29 - UNCAC

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.

Article 30 - UNCAC

Prosecution, adjudication and sanctions

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.
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.
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.
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.

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.

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.

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.

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

9. Nothing contained in this Convention shall affect the principle that the description of the offences established in accordance with this Convention and of the applicable legal defences or other legal principles controlling the lawfulness of conduct is reserved to the domestic law of a State Party and that such offences shall be prosecuted and punished in accordance with that law.

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

1992 Constitution of Ghana

Article 94 of the Constitution deals with qualifications and eligibility to be a member of Parliament. It provides among others that Clause (2):

(2) A person shall not be qualified to be a member of Parliament if he has been convicted

(i) For high crime under this Constitution or high treason or for an offence involving the Security of the State, fraud, dishonesty or moral turpitude....

(d) has been found by the report of a commission or committee of inquiry to be incompetent to hold public office or is a person in respect of whom a commission or committee of inquiry has found that while being a public officer he acquired assets unlawfully or defrauded that state or misused or disused his office, or willfully acted in a manner prejudicial to the interest of the state, and the findings have not been set aside on appeal or judicial review.....

Clause (5) of this article however dispenses with the disqualification and afford a person affected by clause, the opportunity to be a member of Parliament. Clause (5) provides that

(5) A person shall be not be taken to be disqualified to be a member under paragraph (c) or (d) of clause (2) of this article if

(a) ten years or more have passed since the end of the sentence or the date of the publication of the report of the Commission or Committee of inquiry, or

(b) he has been pardoned.

Clause (5) therefore provides for the reintegration of a person convicted of an offence established in accordance with the Convention.

Public Office Holders (Declaration of Assets and Disqualification) Act, 1998 (Act 550) This Act provides for the declaration of assets and liabilities by public office holders in conformity with chapter Twenty-Four of the Constitution, disqualification from holding specified public offices as a result of adverse finding made or a criminal conviction against an individual, among others.

Act 550 reiterates some of the provisions in article 94 and further disqualifies a person who knowingly made a false declaration of the assets, properties or liabilities of that person from holding a public office.

Section 9(2) of Act 550 defines “public office” to mean

“(a) an office of the Republic or the Government or an office in a capacity the emoluments, remuneration or allowances attached to which are paid from the consolidated Fund or a public fund provided by the Government or by Parliament or under an Act of Parliament; or

(b) an office in a statutory corporation, a corporation or on a board or council established by or under an enactment; or

(c) an office in a company wholly owned by the Republic.

Section 12 of Act 550 provides for dispensation of disqualification. This does not apply to a Presidential or Vice Presidential aspirant.

The public offices subject to Act 550 are specified in the First Schedule to Act 550.

Criminal Offences Act, 1960 (Act 29)

Section 252 Accepting or giving bribe to influence public officer or juror

(1) *A person who accepts, or agrees or offers to accept, a valuable consideration under pretence or colour of having unduly influenced or of agreeing or being able so to influence, any other person in respect of functions as a public officer or juror commits a misdemeanour.*

(2) *A person who gives, or agrees or offers to give, to a public officer a valuable consideration for the grant to that person or to any other person of benefit or an advantage, or for the exercise of influence in favour of that person or any other person commits a misdemeanour.*

Criminal and Other Offences (Procedure) Act 1960 (Act 30)

Section 1

(1) *A criminal offence under the Criminal Offences Act (Act 29), 1960 shall be enquired into, tried and dealt with in accordance with this Act.*

Thus, corruption which is a criminal offence under Act 29 is dealt with according to the above provision.

Article 31 - UNCAC

Freezing, seizure and confiscation

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;

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

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.

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.

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.

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.

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.

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.

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.

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

10. Nothing contained in this article shall affect the principle that the measures to which it refers shall be defined and implemented in accordance with and subject to the provisions of the domestic law of a State Party.

Section 47 of the Anti-Money Laundering Act, 2008 (Act 749)

The Anti-Money Laundering Act, 2008 (Act 749) empowers the Chief Executive Officer of the Financial Intelligence Centre to freeze transactions or accounts.

Section 13 of the Serious Fraud Office act, 1993(Act 466) provides for the freezing and seizure on the authority of the Director under certain circumstances

The (Economic and Organized Crime Bill) provides comprehensively for the seizure, freezing and confiscation of proceeds of crime.

Article 32 - UNCAC

Protection of witnesses, experts and victims

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.

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;

(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.

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.

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

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.

Evidence Act, 1975 (NRCD 323)

The Evidence Act provides for the protection of informants and particularly, witnesses, experts and victims. According to section 107, the Government has a privilege to refuse to disclose and to prevent any other person from disclosing the identity of a person who has supplied the Government with information purporting to reveal the commission of a crime or a plan to commit a crime. A court may on its own motion and on the motion of the accused dismiss an action in which there is a reasonable probability that the informant can give the necessary evidence for a fair determination of guilt or innocence in a criminal action

(Whistleblower (Amendment) Bill)

This Bill will improve protection for whistleblowers for the disclosure amongst other matters.

Article 33 - UNCAC

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.

Whistleblower Act, 2006 (Act 720)

This Act provides for the manner in which individuals may in the public interest disclose information that relates to unlawful or other illegal conduct or corrupt practices of others. It Act protects individuals who make reports to the Commission on Human Rights Administrative Justice against victimisation. The Act requires that a whistleblower who makes a disclosure of impropriety should be protected. The whistleblower is not to be dismissed, denied promotion, harassed or transferred the wish of the whistleblower his if the whistleblower is an employee. The whistleblower should not be subjected to discrimination, intimidation or harassment by an institution or another person if not an employee.

Article 34 - UNCAC

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.

Criminal Offences Act, 1960 (Act 29)

Section 239 Corruption of and by public officer or juror

(1) A public officer or juror who commits corruption, or wilful oppression, or extortion, in respect of the duties of office, commits a misdemeanour.

(2) A person who corrupts any other person in respect of a duty as a public officer or juror commits a misdemeanour.

Criminal and Other Offences (Procedure) Act, 1960 (Act 30)

Section 296 states that the public officer mentioned in the Criminal Offences Act is liable to a term of imprisonment of not more than twenty-five years for a corrupt practice.

(Economic and Organized Crime Bill)

The Bill will cater for proceeds of crime and how the proceeds should be handled. The Bill establishes an Economic and Organised Crime Office to combat organised crime in the country. The Attorney-General can authorise the prosecution of offences to recover the proceeds of crime. Currency suspected to be proceeds of crime may be seized by an authorised person. Property which has been used in the commission of a serious offence or derived as a result of the commission of an offence may also be seized and searched.

Article 35 - UNCAC

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.

Article 36 - UNCAC

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.

Statutory agencies and specialised authorities established to combat corruption are the Commission on Human Rights and Administrative Justice, the Serious Fraud Office, the office of the Auditor General and the Financial Intelligence Centre. The Office of Accountability is also a specialised authority set up as an administrative body with oversight responsibility for the fight against corruption.

Article 20 - AUC

National Authorities

1. For the purposes of cooperation and mutual legal assistance provided under this Convention, each State Party shall communicate to the Chairperson of the Commission at the time of signing or depositing its instrument of ratification, the designation of a national authority or agency in application of offences established under Article 4 (1) of this Convention.

2. The national authorities or agencies shall be responsible for making and receiving the requests for assistance and cooperation referred to in this Convention.

3. The national authorities or agencies shall communicate with each other directly for the purposes of this Convention.

4. The national authorities or agencies shall be allowed the necessary independence and autonomy, to be able to carry out their duties effectively.

5. State Parties undertake to adopt necessary measures to ensure that national authorities or agencies are specialized in combating corruption and related offences by, among others, ensuring that the staff are trained and motivated to effectively carry out their duties

Commission on Human Rights and Administrative Justice Act, 1993 (Act 456)

The Commission on Human Rights and Administrative Justice is an independent body set up under Article 218 of the 1992 Constitution. One of the functions of the Commission is under section (7) (f) of Act 456.

Section 7 Functions of the Commission

to investigate instances of alleged or suspected corruption, and the misappropriation of public moneys by an official and to take appropriate steps, including reports to the Attorney- General and the Auditor- General, resulting from that investigation.

(Economic and Organised Crime Bill)

The Bill establishes an Economic and Organised Crime Office as a specialised agency to monitor and investigate economic and organised crime. This is an innovation which will be beneficial to the State. The offences include money-laundering, corruption cyber offences, computer related offences and drug-trafficking. The Office will also facilitate the confiscation of proceeds of crime.

Anti-Money Laundering Act, 2007 (Act 749)

Section 4 of the Anti-Money Laundering Act, 2008(Act 749) establishes the Financial Intelligence Centre. The objects of the Centre are specified in section 5.

Section 5 Objects of the Centre

The objects of the Centre are to

- a) *assist in the identification of proceeds of unlawful activity and the combat of money laundering activities;*
- b) *make information available to investigating authorities, the intelligence agencies and the revenue agencies to facilitate the administration and enforcement of the laws of the Republic; and*
- c) *exchange information with similar bodies in other countries as regards money laundering activities and similar offences.*

The Centre does not investigate crimes. It is an intelligence gathering body that makes information available to investigating authorities which will also exchange information with similar bodies in other countries. It will help to combat economic and financial crime assist in the identification of proceeds of unlawful activity and the combat of money laundering activities. This is in line with the requirement of the Convention.

Financial Administration Act, 2003 (Act 654)

The Act sets up another specialized body under section 66 known as the Financial Administration Tribunal. Under **section 67 (Jurisdiction of the Tribunal)** of the Act, the Tribunal has the power to, among others,

- d) *make any orders as it considers appropriate for the recovery of moneys, assets or any other property due to the Republic;*
- e) *prohibit an individual whether a public officer or not from managing public accounts or funds if the individual is unqualified professionally or has been persistently negligent in the management of public funds; and*
- f) *prohibit a person from participating as a bidder in a government procurement or contract where that person has a record of defrauding the Republic.*

Article 37 - UNCAC

Cooperation with law enforcement authorities

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.
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.
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.
4. Protection of such persons shall be, *mutatis mutandis*, as provided for in article 32 of this Convention.

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.

Whistleblower Act, 2006 (Act 720)

The Act provides for the manner in which individuals may in the public interest disclose information that relates to unlawful or other illegal conduct or corrupt practices of others. It also provides to provide for the protection against victimization of persons who make these disclosures and for a fund to reward individuals who make the disclosures.

Section 12 Protection of Whistleblowers:

- (1) *A whistleblower shall not be subjected to victimization by the employer of the whistleblower or by a fellow employee or by another person because a disclosure has been made.*

- (2) *a whistleblower shall be considered as having been subjected to victimization if because of making the disclosure,*
 - a) *the whistleblower being an employee, is*
 - (i) *dismissed,*
 - (ii) *suspended,*
 - (iii) *declared redundant,*
 - (iv) *denied promotion,*
 - (v) *transferred against the whistleblower's will,*
 - (vi) *harassed,*
 - (vii) *intimidated,*
 - (viii) *threatened with any of the matters set out in subparagraph (i) to (vii), or*

- (ix) *subjected to a discriminatory or other adverse measure by the employer or a fellow employee, or*
- (b) *not being an employee, the whistleblower is subjected to discrimination, intimidation or harassment by a person or an institution.*
- 3) *A whistleblower shall not be considered as having been subjected to victimization if the person against whom the complaint is directed has the right in law to take the action complained of and the action taken is shown to be unrelated to the disclosure made.*

Under section 16, a whistleblower who needs legal assistance is to be given legal aid as may be specified by the Commission on Human Rights and Administrative Justice.

Section 17 provides that a whistleblower is to be accorded police protection at the request of the whistleblower by the Commission for Human Rights and Administrative Justice or the Attorney - General has reasonable cause to believe that the whistleblower's, property or a member of the family of the whistleblower is endangered as a result of a disclosure.

Section 18 provides protection against civil and criminal action by stating that:

Section 18 Protection against civil and criminal action

A whistleblower is not liable to civil or criminal proceedings in respect of the disclosure unless it is proved that that whistleblower knew that the information contained in the disclosure is false and the disclosure was made with a malicious intent.

A Fund is also set up under section 20. The Fund is to serve as a source of monetary reward for whistleblowers that make disclosures. According to section 24 of the Act, where a disclosure results in the recovery of money, the whistleblower is to be rewarded from this Fund.

Article 38 - UNCAC

Cooperation between national authorities

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

(b) Providing, upon request, to the latter authorities all necessary information.

Anti-Money Laundering Act, 2007 (Act 749)

The Act establishes a Financial Intelligence Centre. The object of the Centre is to help in the identification of proceeds of unlawful activity. The center will make information available to investigating authorities, intelligence agencies and revenue agencies to facilitate the administration and enforcement of the anti money laundering and counter financing of terrorism regime. The Centre is also empowered to exchange information with similar bodies in other countries concerning money-laundering activities and related offences.

There is a wide range of co-operation between public authorities and public officials as regards the investigation and prosecution of offences in the country generally. The public authorities include the Attorney-General's Office, the Serious Fraud Office, the Commission on Human Rights and Administrative Justice, Ghana Police Service, the Bank of Ghana, the Ministry for National Security amongst others.

Under section 6 of the Anti-Money Laundering Act, 2008 (Act 749) the Financial Intelligence Centre is to inform, advise and co-operate with investigating authorities, supervisory bodies, the revenue agencies, the intelligence agencies and foreign counterparts.

The Act also provides in section 49 that

(1) An officer of a public agency shall co-operate with officers of the Centre in the discharge of duties of the officers of the Centre under this Act.

(2) A public officer who refuses or fails without reasonable to co-operate with an authorised officer of the centre commits an offence.....”

Article 39 - UNCAC

Cooperation between national authorities and the private sector

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.

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.

Article 40 - UNCAC

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.

Article 17 – AUC

Bank Secrecy

1. Each State Party shall adopt such measures necessary to empower its courts or other competent authorities to order the confiscation or seizure of banking, financial or commercial documents with a view to implementing this Convention.
2. The Requesting State shall not use any information received that is protected by bank secrecy for any purpose other than the proceedings for which that information was requested, unless with the consent of the Requested State Party.
3. State Parties shall not invoke banking secrecy to justify their refusal to cooperate with regard to acts of corruption and related offences by virtue of this Convention.
4. State Parties commit themselves to enter into bilateral agreements to waive banking secrecy on doubtful accounts and allow competent authorities the right to obtain from banks and financial institutions, under judicial cover, any evidence in their possession.

Credit Reporting Act, 2007 (Act 726)

Under section 48, the Bank of Ghana may request a credit bureau to produce books or records to a person authorised by the bank. According to section 48(4), an action should not lie against a person who complies with a direction or requirement to produce books. This helps to overcome bank secrecy laws as stipulated in the Convention.

Anti-Money Laundering Act, 2007 (Act 749)

The Act ensures the existence of an effective monitoring system which will help to reduce bank secrecy and reduce the risk of money laundering. According to section 23 of the Act, a bank that establishes a business relationship with a person has to keep records of suspicious transaction reports made to the Financial Intelligence Centre.

.Section 28 Request for information

- (1) *The Centre or an authorised representative of the Centre may request an accountable institution to disclose whether*
 - a) *a person is or has been a client of the accountable institution,*
 - b) *a person is acting or has acted on behalf of a client of the accountable institution, or*
 - c) *a client of the accountable institution is acting or has acted on behalf of another person*
and the accountable institution shall comply.

- (2) *The Centre may request further information where the Centre is of the opinion that the information given to the Centre is not adequate.*

Section 29 Information held by supervisory bodies and revenue agencies

- (1) *Where a supervisory body or a revenue agency becomes aware or believes that an accountable institution, as a result of a transaction concluded by or with the accountable institution,*
 - a) *has received or is about to receive the proceeds of unlawful activity, or*
 - b) *has been used or may be used for money laundering or a suspicious transaction,*

the supervisory body or revenue agency shall advise the Centre of the fact and furnish the Centre with the information and records in respect of the knowledge or suspicion which the Centre may reasonably require.

(2) *Where the Centre believes that a supervisory body or revenue agency may have information indicating that an accountable institution*

a) *is about to receive proceeds of unlawful activity as a result of a transaction, or*

b) *has been used or may be used for money laundering or for the purpose of any suspicious transaction,*

the Centre may request the supervisory body or revenue agency to confirm or rebut the belief and the supervisory body or revenue agency shall comply.

Banking (Amendment) Act, 2007 (Act 738)

The Act amends the Banking Act, 2004 (Act 673) to facilitate the establishment of the International Financial Services Centre. The Centre provides international banking which involves the management of non-resident deposits, funds and transactions in a country other than the country of the depositor. The Anti- Money Laundering Act and Proceeds of Crime legislation have been referred to in the Banking (Amendment) Act, as legislation which should be relied on to curb any illegal use of the Centre.

Article 41 - UNCAC

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.

(Mutual Legal Assistance Bill)

The gap in our law concerning criminal record reporting between state parties will be filled when the Bill is passed. According to *clause 71*, the Minister for Justice may approve the request of a foreign state to produce a judicial record and the Minister is to apply to the Court for an order to execute the request. The order of the Court under *clause 72* is to specify the period of time at or before which the judicial record is required to be returned and indicate the conditions for the safe custody of the judicial record.

Article 42 - UNCAC

Jurisdiction

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.

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

(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

(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

(d) The offence is committed against the State Party.

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.

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.

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.

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.

Article 13 - AUC

Jurisdiction

1. Each State Party has jurisdiction over acts of corruption and related offences when:
 - (a) the breach is committed wholly or partially inside its territory;
 - (b) the offence is committed by one of its nationals outside its territory or by a person who resides in its territory; and
 - (c) the alleged criminal is present in its territory and it does not extradite such person to another country.
 - (d) when the offence, although committed outside its jurisdiction, affects, in the view of the State concerned, its vital interests or the deleterious or harmful consequences or effects of such offences impact on the State Party.
2. This Convention does not exclude any criminal jurisdiction exercised by a State Party in accordance with its domestic law.
3. Notwithstanding the provision of paragraph 1 of this Article, a person shall not be tried twice for the same offence.

Courts Act, 1993 (Act 459)

The Courts Act, 1993 (Act 459), in accordance with the requirement of the Convention, grants the High Court and the Regional Tribunal concurrent original jurisdiction in criminal matters subject to the Constitution. According to section 56 of the Act, the criminal jurisdiction of the Courts in criminal matters is exercisable only in respect of offences committed within Ghana. Where an act will constitute an offence if committed in Ghana, that act done partly within and outside the jurisdiction or a person within or outside the jurisdiction who commits, aids or abets a part of the act may be tried and punished as if the act had been done wholly within the jurisdiction. Also, a citizen who

carries out an act which if done in Ghana constitutes an offence involving misappropriation of public funds or government property, commits an offence and may be subject to prosecution and punishment in Ghana.

Chapter IV

International cooperation

Article 43 - UNCAC

International cooperation

1. States Parties shall cooperate in criminal matters in accordance with articles 44 to 50 of this Convention. Where appropriate and consistent with their domestic legal system, States Parties shall consider assisting each other in investigations of and proceedings in civil and administrative matters relating to corruption.

2. In matters of international cooperation, whenever dual criminality is considered a requirement, it shall be deemed fulfilled irrespective of whether the laws of the requested State Party place the offence within the same category of offence or denominate the offence by the same terminology as the requesting State Party, if the conduct underlying the offence for which assistance is sought is a criminal offence under the laws of both States Parties.

Article 19 - AUC

International Cooperation

In the spirit of international cooperation, State Parties shall:

1. Collaborate with countries of origin of multi-nationals to criminalise and punish the practice of secret commissions and other forms of corrupt practices during international trade transactions.

2. Foster regional, continental and international cooperation to prevent corrupt practices in international trade transactions.

3. Encourage all countries to take legislative measures to prevent corrupt public officials from enjoying ill-acquired assets by freezing their foreign accounts and facilitating the repatriation of stolen or illegally acquired monies to the countries of origin.
4. Work closely with international, regional and sub regional financial organizations to eradicate corruption in development aid and cooperation programmes by defining strict regulations for eligibility and good governance of candidates within the general framework of their development policy.
5. Cooperate in conformity with relevant international instruments on international cooperation on criminal matters for purposes of investigations and procedures in offences within the jurisdiction of this Convention.

The 1992 Constitution of Ghana

Article 73 of the Constitution provides that

The Government shall conduct its international affairs in consonance with the accepted principles of public international law and diplomacy in a manner consistent with the national interest of Ghana.

(Mutual Legal Assistance Bill)

The Bill seeks to provide international mutual legal assistance in criminal matters on the basis of a reciprocal agreement between the Republic and a foreign state, an international criminal tribunal or an international organisation. Mutual legal assistance is subject to the existence of a criminal procedure in the requesting state and criminality of the offence by Ghanaian law as well as the law of the requesting state in question. The Bill will help eliminate trans-national and organized crimes like money laundering, human trafficking and war crimes.

Extradition

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

16. States Parties may not refuse a request for extradition on the sole ground that the offence is also considered to involve fiscal matters.

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.

18. States Parties shall seek to conclude bilateral and multilateral agreements or arrangements to carry out or to enhance the effectiveness of extradition.

Article 15 - AUC

Extradition

1. This Article shall apply to the offences established by the State Parties in accordance with this Convention.

2. Offences falling within the jurisdiction of this Convention shall be deemed to be included in the internal laws of State Parties as crimes requiring extradition. State Parties shall include such offences as extraditable offences in extradition treaties existing between or among them.

3. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from a State Party with which it does not have such treaty, it shall consider this Convention as a legal basis for all offences covered by this Convention.

4. A State Party that does not make extradition conditional on the existence of a treaty shall recognize offences to which this Convention applies as extraditable offences among themselves.

5. Each State Party undertakes to extradite any person charged with or convicted of offences of corruption and related offences, carried out on the territory of another State Party and whose extradition is requested by that State Party, in conformity with their domestic law, any applicable

extradition treaties, or extradition agreements or arrangements existing between or among the State Parties.

6. Where a State Party in whose territory any person charged with or convicted of offences is present and has refused to extradite that person on the basis that it has jurisdiction over offences, the Requested State Party shall be obliged to submit the case without undue delay to its competent authorities for the purpose of prosecution, unless otherwise agreed with the Requesting State Party, and shall report the final outcome to the Requesting State Party.

7. Subject to the provisions of its domestic law and any applicable extradition treaties, a 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 into custody a person whose extradition is sought and who is present in its territory, or take other appropriate measures to ensure that the person is present at the extradition proceedings.

Extradition Act, 1960 (Act 22)

This Act relates to the extradition of persons accused or convicted of criminal offences committed within the jurisdiction of other states. Extradition offences under the Act include misappropriation and fraud as in the Criminal Offences Act, 1960 (Act 29). These are indictable offences under section 29 of Act 22.

Under section 1, where an arrangement has been made with respect to the surrender to that country of a fugitive criminal, the President may by legislative instrument, order that the Act apply in the case of that country, subject to the conditions, exceptions and qualifications specified in that order.

The country also subscribes to the Harare Scheme for extradition of nationals.

Anti- money Laundering Act, 2008 (Act 749)

Section 45 of the Anti- Money Laundering Act provides that money laundering is an extraditable offence under the Extradition Act, 1960 (Act 22)

Article 45 - UNCAC

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.

Transfer of Convicted Persons Act, 2007 (Act 743)

This Act facilitates the transfer of convicted persons from Ghana to another country and from another country to Ghana for the purpose of serving prison sentences.

Article 46 - UNCAC

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.

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;
- (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.

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.

6. The provisions of this article shall not affect the obligations under any other treaty, bilateral or multilateral, that governs or will govern, in whole or in part, mutual legal assistance.

7. Paragraphs 9 to 29 of this article shall apply to requests made pursuant to this article if the States Parties in question are not bound by a treaty of mutual legal assistance. If those States Parties are bound by such a treaty, the corresponding provisions of that treaty shall apply unless the States Parties agree to apply paragraphs 9 to 29 of this article in lieu thereof. States Parties are strongly encouraged to apply those paragraphs if they facilitate cooperation.

8. States Parties shall not decline to render mutual legal assistance pursuant to this article on the ground of bank secrecy.

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.

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.

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.

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.

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.

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.

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.

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.

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, order 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.

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.

23. Reasons shall be given for any refusal of mutual legal assistance.

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.

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.

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.

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.

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.

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.

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.

Article 18 - AUC

Co-operation and Mutual Legal Assistance

1. In accordance with their domestic laws and applicable treaties, State Parties shall provide each other with the greatest possible technical cooperation and assistance in dealing immediately with

requests from authorities that are empowered by virtue of their national laws to prevent, detect, investigate and punish acts of corruption and related offences.

2. If two or several State Parties have established relations on the basis of uniform legislation or a particular regime, they may have the option to regulate such mutual relations without prejudice to the provisions of this Convention.

3. State Parties shall co-operate among themselves in conducting and exchanging studies and researches on how to combat corruption and related offences and to exchange expertise relating to preventing and combating corruption and related offences.

4. State Parties shall co-operate among themselves, where possible, in providing any available technical assistance in drawing up programmes, codes of ethics or organizing, where necessary and for the benefit of their personnel, joint training courses involving one or several states in the area of combating corruption and related offences.

5. The provisions of this Article shall not affect the obligations under any other bilateral or multilateral treaty which governs, in whole or in part, mutual legal assistance in criminal matters.

6. Nothing in this Article shall prevent State Parties from according one another more favourable forms of mutual legal assistance allowed under their respective domestic law.

(Mutual Legal Assistance Bill)

The Bill, when enacted will enable the Government of Ghana provide for the implementation of agreements for mutual legal assistance in respect of criminal matters. Mutual legal assistance is subject to the existence of a criminal procedure in the requesting state and criminality of the offence by Ghanaian law as well as the law of the requesting state. It is mainly dependent on a mutual request between the Republic and a foreign state.

Article 47 - UNCAC

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.

(Mutual Legal Assistance Bill)

According to the Bill, a foreign state may request assistance in an investigation commenced or a proceeding instituted in Ghana relating to an offence. The Minister of Justice, if satisfied, will grant the request by authorising in writing the appropriate person to provide the assistance required. The Minister is then to authorise the transmission of an evidentiary material to the foreign state.

Law enforcement cooperation

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:

(a) To enhance and, where necessary, to establish channels of communication between their competent authorities, agencies and services in order to facilitate the secure and rapid exchange of information concerning all aspects of the offences covered by this Convention, including, if the States Parties concerned deem it appropriate, links with other criminal activities;

(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.

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.

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.

(Mutual Legal Assistance Bill)

Under *clause 58*, a foreign state may request for enforcement of a court order in Ghana through the Minister of Justice. Confiscation and restraint orders may also be enforced where the Minister is satisfied that the order is final, the order is in force in the foreign state concerned and the person against whom the order is made has been convicted of an offence within the jurisdiction of the foreign state.

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.

(Mutual Legal Assistance Bill)

Clause 57 states that

- (1) *In order to give effect to a request under this Act, the Minister may after consultation with the Minister for the Interior and the Minister responsible for Foreign Affairs set up a joint investigation team with the central authority of a foreign state for a specific purpose and for a fixed period to carry out criminal investigations within and outside this country.*
- (2) *The composition of the team shall be specified in the agreement with the central authority.*
- (3) *A joint investigative team may be set up where*
 - a) *investigations into a criminal offence requires complicated and demanding investigations which have a nexus with a foreign state, and*
 - b) *the conduct of investigations into a criminal offence by a foreign state necessitates co-ordinated and concerted action in this country.*

- (4) *Where a joint investigative team is established in this country, it shall operate under the following general conditions:*
- a) *the leader of the team shall be a representative of the authority authorized to participate in the criminal investigations and shall act in accordance with the law, and*
 - b) *the team members shall carry out operations in accordance with the law and under the leadership of the team taking into account conditions set by their own authorities in the agreement that established the team..*
- (5) *The central authority of foreign state in which a joint investigative team is established or the Minister, if the team is established in Ghana shall be responsible for the necessary organisational arrangements.*
- (6) *Members of a joint investigative team may carry out investigative measures which have been approved by the Minister responsible for the Interior.*
- (7) *Where a joint investigative team requires assistance from a foreign state, the Minister may make the relevant request on behalf of the team in accordance with the relevant arrangements of the team.*

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.

(Mutual Legal Assistance Bill)

Clause 55 deals with special investigative measures. The Bill provides for co-operation through disclosure of information in the possession of police in the country, to a foreign state for the purpose of investigations, prosecution or judicial proceedings. The Bill also provides for the use of covert investigation. This would cater for the hardened attitudes of criminals engaged in trans-national crimes. The Bill further provides for the creation of joint investigations teams to handle complicated and demanding investigations.

Chapter V

Asset recovery

Article 51 - UNCAC

General provision

The return of assets pursuant to this chapter is a fundamental principle of this Convention, and States Parties shall afford one another the widest measure of cooperation and assistance in this regard.

(Mutual Legal Assistance Bill)

According to *clause 67* of the Bill, the proceeds of crime obtained through a court order or the equivalent of those proceeds may be

- a) *returned to Ghana,*
- b) *returned to the legitimate owner*
- c) *share with the foreign state concerned in accordance with the proportion that the Republic in consultation with the foreign state considers appropriate in the circumstances.*

Where necessary, the Minister for Justice shall waive any requirement that is likely to impede the return of confiscated property which is the source of embezzled public funds or laundered embezzled public funds.

(Economic and Organised Crime Bill)

Economic and Organised Crime Bill provides for the tracking of tainted property where mutual legal assistance arrangements exist between the country and a foreign country.

Prevention and detection of transfers of proceeds of crime

1. Without prejudice to article 14 of this Convention, each State Party shall take such measures as may be necessary, in accordance with its domestic law, to require financial institutions within its jurisdiction to verify the identity of customers, to take reasonable steps to determine the identity of beneficial owners of funds deposited into high-value accounts and to conduct enhanced scrutiny of accounts sought or maintained by or on behalf of individuals who are, or have been, entrusted with prominent public functions and their family members and close associates. Such enhanced scrutiny shall be reasonably designed to detect suspicious transactions for the purpose of reporting to competent authorities and should not be so construed as to discourage or prohibit financial institutions from doing business with any legitimate customer.

2. In order to facilitate implementation of the measures provided for in paragraph 1 of this article, each State Party, in accordance with its domestic law and inspired by relevant initiatives of regional, interregional and multilateral organizations against money-laundering, shall:

(a) Issue advisories regarding the types of natural or legal person to whose accounts financial institutions within its jurisdiction will be expected to apply enhanced scrutiny, the types of accounts and transactions to which to pay particular attention and appropriate account-opening, maintenance and record-keeping measures to take concerning such accounts; and

(b) Where appropriate, notify financial institutions within its jurisdiction, at the request of another State Party or on its own initiative, of the identity of particular natural or legal persons to whose accounts such institutions will be expected to apply enhanced scrutiny, in addition to those whom the financial institutions may otherwise identify.

3. In the context of paragraph 2 (a) of this article, each State Party shall implement measures to ensure that its financial institutions maintain adequate records, over an appropriate period of time,

of accounts and transactions involving the persons mentioned in paragraph 1 of this article, which should, as a minimum, contain information relating to the identity of the customer as well as, as far as possible, of the beneficial owner.

4. With the aim of preventing and detecting transfers of proceeds of offences established in accordance with this Convention, each State Party shall implement appropriate and effective measures to prevent, with the help of its regulatory and oversight bodies, the establishment of banks that have no physical presence and that are not affiliated with a regulated financial group. Moreover, States Parties may consider requiring their financial institutions to refuse to enter into or continue a correspondent banking relationship with such institutions and to guard against establishing relations with foreign financial institutions that permit their accounts to be used by banks that have no physical presence and that are not affiliated with a regulated financial group.

5. Each State Party shall consider establishing, in accordance with its domestic law, effective financial disclosure systems for appropriate public officials and shall provide for appropriate sanctions for non-compliance. Each State Party shall also consider taking such measures as may be necessary to permit its competent authorities to share that information with the competent authorities in other States Parties when necessary to investigate, claim and recover proceeds of offences established in accordance with this Convention.

6. Each State Party shall consider taking such measures as may be necessary, in accordance with its domestic law, to require appropriate public officials having an interest in or signature or other authority over a financial account in a foreign country to report that relationship to appropriate authorities and to maintain appropriate records related to such accounts. Such measures shall also provide for appropriate sanctions for non-compliance.

(Economic and Organised Crime Bill)

The Bill makes provision for an authorised officer to apply to the court for an order for the delivery of a document to that officer or of the documents contents. This is in the situation where the officer has good reason to suspect that the document is required to identify or quantify property which is in

the possession of a person or entity and which is necessary for the transfer of the property. When the Bill becomes law, it would enhance our compliance with the Convention.

Article 53 - UNCAC

Measures for direct recovery of property

Each State Party shall, in accordance with its domestic law:

- (a) Take such measures as may be necessary to permit another State Party to initiate civil action in its courts to establish title to or ownership of property acquired through the commission of an offence established in accordance with this Convention;
- (b) Take such measures as may be necessary to permit its courts to order those who have committed offences established in accordance with this Convention to pay compensation or damages to another State Party that has been harmed by such offences; and
- (c) Take such measures as may be necessary to permit its courts or competent authorities, when having to decide on confiscation, to recognize another State Party's claim as a legitimate owner of property acquired through the commission of an offence established in accordance with this Convention.

(Mutual Legal Assistance Bill)

According to *clause 63*,

Where a person who claims an interest in property in respect of which a restraint order or confiscation order has been made, applies to the court for an order for the return of the property, the court may make an order

- a) *for the return of the property to the applicant*

- i) if the applicant proves possession of the property,*
 - ii) if the property does not constitute proceeds of the offence, or*
 - iii) if the person who is believed to have committed the relevant offence has no interest in the property; and*
- b) for the payment of damages or costs in relation to the registration or confiscation of the order.*

According to the Bill, proceeds of crime obtained through a court order may be returned to the legitimate owner or shared with a foreign state in the appropriate proportions.

Article 54 - UNCAC

Mechanisms for recovery of property through international cooperation in confiscation

1. Each State Party, in order to provide mutual legal assistance pursuant to article 55 of this Convention with respect to property acquired through or involved in the commission of an offence established in accordance with this Convention, shall, in accordance with its domestic law:

- (a) Take such measures as may be necessary to permit its competent authorities to give effect to an order of confiscation issued by a court of another State Party;

(b) Take such measures as may be necessary to permit its competent authorities, where they have jurisdiction, to order the confiscation of such property of foreign origin by adjudication of an offence of money-laundering or such other offence as may be within its jurisdiction or by other procedures authorized under its domestic law; and

(c) Consider taking such measures as may be necessary to allow confiscation of such property without a criminal conviction in cases in which the offender cannot be prosecuted by reason of death, flight or absence or in other appropriate cases.

2. Each State Party, in order to provide mutual legal assistance upon a request made pursuant to paragraph 2 of article 55 of this Convention, shall, in accordance with its domestic law:

(a) Take such measures as may be necessary to permit its competent authorities to freeze or seize property upon a freezing or seizure order issued by a court or competent authority of a requesting State Party that provides a reasonable basis for the requested State Party to believe that there are sufficient grounds for taking such actions and that the property would eventually be subject to an order of confiscation for purposes of paragraph 1 (a) of this article;

(b) Take such measures as may be necessary to permit its competent authorities to freeze or seize property upon a request that provides a reasonable basis for the requested State Party to believe that there are sufficient grounds for taking such actions and that the property would eventually be subject to an order of confiscation for purposes of paragraph 1 (a) of this article; and

(c) Consider taking additional measures to permit its competent authorities to preserve property for confiscation, such as on the basis of a foreign arrest or criminal charge related to the acquisition of such property.

(Mutual Legal Assistance Bill)

Till now, there has been no law on recovery of property through international co-operation but the Bill seeks to remedy that in *clause 67*. The *clause* deals with the disposal or release of property.

Clause 67,

- 1) *Subject to this Act, the domestic laws of Ghana apply to the determination of*
 - a) *disposal of property confiscated, or obtained as a result of the enforcement of a fine, and*
 - b) *the circumstances for the release of property which is the subject of an interim seizure or preservation order under this Act.*

- 2) *Subject to section 66, the proceeds of crime obtained through a court order under section 58 or the equivalent of the proceeds may be*
 - a) *returned to Ghana,*
 - b) *returned to the legitimate owner*
 - c) *shared with the foreign state concerned in accordance with the proportion that the Republic in consultation with the foreign state considers appropriate in the circumstances.*

- 3) *Where the Minister approves the request of a foreign state to return confiscated property to that state, the Minister shall*
 - a) *take the necessary measures to enable authorities return the property to the foreign state,*

- b) *where necessary waive any requirement that is likely to impede the return of confiscated property which is the source of embezzled public funds,*
 - c) *where necessary waive any requirement that is likely to prevent the return of confiscated property if the foreign state*
 - i) *establishes prior ownership of the confiscated property,*
 - ii) *recognizes damage to the foreign state is likely to occur if the property is not returned to the foreign state.*
- 4) *The Minister shall in considering a request for the return of property to a foreign state, take into account*
- a) *the need to return the property to its legitimate owner, and*
 - b) *the need to compensate victims of the crime.*
- 5) *The Minister may deduct expenses incurred in investigations, prosecution or judicial proceedings that lead to the return or disposition of confiscated property.*

Article 55 - UNCAC

International cooperation for purposes of confiscation

1. A State Party that has received a request from another State Party having jurisdiction over an offence established in accordance with this Convention for confiscation of proceeds of crime, property, equipment or other instrumentalities referred to in article 31, paragraph 1, of this Convention situated in its territory shall, to the greatest extent possible within its domestic legal system:

(a) Submit the request to its competent authorities for the purpose of obtaining an order of confiscation and, if such an order is granted, give effect to it; or

(b) Submit to its competent authorities, with a view to giving effect to it to the extent requested, an order of confiscation issued by a court in the territory of the requesting State Party in accordance with articles 31, paragraph 1, and 54, paragraph 1 (a), of this Convention insofar as it relates to proceeds of crime, property, equipment or other instrumentalities referred to in article 31, paragraph 1, situated in the territory of the requested State Party.

2. Following a request made by another State Party having jurisdiction over an offence established in accordance with this Convention, the requested State Party shall take measures to identify, trace and freeze or seize proceeds of crime, property, equipment or other instrumentalities referred to in article 31, paragraph 1, of this Convention for the purpose of eventual confiscation to be ordered either by the requesting State Party or, pursuant to a request under paragraph 1 of this article, by the requested State Party.

3. The provisions of article 46 of this Convention are applicable, *mutatis mutandis*, to this article. In addition to the information specified in article 46, paragraph 15, requests made pursuant to this article shall contain:

(a) In the case of a request pertaining to paragraph 1 (a) of this article, a description of the property to be confiscated, including, to the extent possible, the location and, where relevant, the estimated value of the property and a statement of the facts relied upon by the requesting State Party sufficient to enable the requested State Party to seek the order under its domestic law;

(b) In the case of a request pertaining to paragraph 1 (b) of this article, a legally admissible copy of an order of confiscation upon which the request is based issued by the requesting State Party, a statement of the facts and information as to the extent to which execution of the order is requested, a statement specifying the measures taken by the requesting State

Party to provide adequate notification to bona fide third parties and to ensure due process and a statement that the confiscation order is final;

(c) In the case of a request pertaining to paragraph 2 of this article, a statement of the facts relied upon by the requesting State Party and a description of the actions requested and, where available, a legally admissible copy of an order on which the request is based.

4. The decisions or actions provided for in paragraphs 1 and 2 of this article shall be taken by the requested State Party in accordance with and subject to the provisions of its domestic law and its procedural rules or any bilateral or multilateral agreement or arrangement to which it may be bound in relation to the requesting State Party.

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

6. If a State Party elects to make the taking of the measures referred to in paragraphs 1 and 2 of this article conditional on the existence of a relevant treaty, that State Party shall consider this Convention the necessary and sufficient treaty basis.

7. Cooperation under this article may also be refused or provisional measures lifted if the requested State Party does not receive sufficient and timely evidence or if the property is of a de minimis value.

8. Before lifting any provisional measure taken pursuant to this article, the requested State Party shall, wherever possible, give the requesting State Party an opportunity to present its reasons in favour of continuing the measure.

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

(Mutual Legal Assistance Bill)

The Bill puts in place measures that take the form of enforcement of restraint and confiscation orders. These coercive measures may be ordered in the execution of mutual legal assistance requests by foreign states. Confiscated property may be returned on request by a foreign state to the Minister of Justice in Ghana. The Minister would ensure that he waives any requirement that is likely to impede the return of confiscated property which is the source of embezzled funds or laundered embezzled funds.

Article 56 - UNCAC

Special cooperation

Without prejudice to its domestic law, each State Party shall endeavour to take measures to permit it to forward, without prejudice to its own investigations, prosecutions or judicial proceedings, information on proceeds of offences established in accordance with this Convention to another State Party without prior request, when it considers that the disclosure of such information might assist the receiving State Party in initiating or carrying out investigations, prosecutions or judicial proceedings or might lead to a request by that State Party under this chapter of the Convention.

Article 57 - UNCAC

Return and disposal of assets

1. Property confiscated by a State Party pursuant to article 31 or 55 of this Convention shall be disposed of, including by return to its prior legitimate owners, pursuant to paragraph 3 of this article, by that State Party in accordance with the provisions of this Convention and its domestic law.

2. Each State Party shall adopt such legislative and other measures, in accordance with the fundamental principles of its domestic law, as may be necessary to enable its competent

authorities to return confiscated property, when acting on the request made by another State Party, in accordance with this Convention, taking into account the rights of bona fide third parties.

3. In accordance with articles 46 and 55 of this Convention and paragraphs 1 and 2 of this article, the requested State Party shall:

(a) In the case of embezzlement of public funds or of laundering of embezzled public funds as referred to in articles 17 and 23 of this Convention, when confiscation was executed in accordance with article 55 and on the basis of a final judgement in the requesting State Party, a requirement that can be waived by the requested State Party, return the confiscated property to the requesting State Party;

(b) In the case of proceeds of any other offence covered by this Convention, when the confiscation was executed in accordance with article 55 of this Convention and on the basis of a final judgement in the requesting State Party, a requirement that can be waived by the requested State Party, return the confiscated property to the requesting State Party, when the requesting State Party reasonably establishes its prior ownership of such confiscated property to the requested State Party or when the requested State Party recognizes damage to the requesting State Party as a basis for returning the confiscated property;

(c) In all other cases, give priority consideration to returning confiscated property to the requesting State Party, returning such property to its prior legitimate owners or compensating the victims of the crime.

4. Where appropriate, unless States Parties decide otherwise, the requested State Party may deduct reasonable expenses incurred in investigations, prosecutions or judicial proceedings leading to the return or disposition of confiscated property pursuant to this article.

5. Where appropriate, States Parties may also give special consideration to concluding agreements or mutually acceptable arrangements, on a case-by-case basis, for the final disposal of confiscated property.

(Economic and Organised Crime Bill)

According to the Bill a person who claims an interest in seized property may apply to the court for an order that the property be returned to him. If the property was not realized as a result of the commission of a serious offence and if the person is entitled to possession of the property, the court shall order the return of the property to the applicant- *clause 30*.

(Mutual Legal Assistance Bill)

According to the Bill, the proceeds of crime obtained through a court order may be returned to the legitimate owner. This provision would be an innovation in the Ghanaian law when the Bill is passed. Where necessary, the Minister for Justice shall waive any requirement that is likely to impede the return of confiscated property which is the source of embezzled public funds or laundered embezzled public funds.

Article 58 - UNCAC

Financial intelligence unit

States Parties shall cooperate with one another for the purpose of preventing and combating the transfer of proceeds of offences established in accordance with this Convention and of promoting ways and means of recovering such proceeds and, to that end, shall consider establishing a financial intelligence unit to be responsible for receiving, analysing and disseminating to the competent authorities, reports of suspicious financial transactions.

Anti- Money Laundering Act, 2007 (Act 749)

Section 4 of the Act establishes the Financial Intelligence Centre. The Centre is to receive, analyse and disseminate information in financial intelligence. Preparatory works are on- going for the Centre to commence operations. The main objects of the Bill are to help in the identification of proceeds of crimes. It is independent from law enforcement and isolated from political interference.

Article 59 - UNCAC

Bilateral and multilateral agreements and arrangements

States Parties shall consider concluding bilateral or multilateral agreements or arrangements to enhance the effectiveness of international cooperation undertaken pursuant to this chapter of the Convention.

Article 21 - AUC

Relationship with other Agreements

Subject to the provisions of Article 4 paragraph 2, this Convention shall in respect to those State Parties to which it applies, supersede the provisions of any treaty or bilateral agreement governing corruption and related offences between any two or more State Parties.

(Mutual Legal Assistance Bill)

The Bill seeks to guarantee mutual legal assistance on the basis of a reciprocal agreement between Ghana and a foreign state, International Criminal Court, or an international organization. Mutual legal assistance is subject to the existence of a criminal procedure in the requesting state and criminality of the offence by Ghanaian law as well as the law of the requesting state in question.

Chapter VI

Technical assistance and information exchange

Article 60 - UNCAC

Training and technical assistance

1. Each State Party shall, to the extent necessary, initiate, develop or improve specific training programmes for its personnel responsible for preventing and combating corruption. Such training programmes could deal, inter alia, with the following areas:

- (a) Effective measures to prevent, detect, investigate, punish and control corruption, including the use of evidence-gathering and investigative methods;
- (b) Building capacity in the development and planning of strategic anticorruption policy;
- (c) Training competent authorities in the preparation of requests for mutual legal assistance that meet the requirements of this Convention;
- (d) Evaluation and strengthening of institutions, public service management and the management of public finances, including public procurement, and the private sector;
- (e) Preventing and combating the transfer of proceeds of offences established in accordance with this Convention and recovering such proceeds;
- (f) Detecting and freezing of the transfer of proceeds of offences established in accordance with this Convention;
- (g) Surveillance of the movement of proceeds of offences established in accordance with this Convention and of the methods used to transfer, conceal or disguise such proceeds;

(h) Appropriate and efficient legal and administrative mechanisms and methods for facilitating the return of proceeds of offences established in accordance with this Convention;

(i) Methods used in protecting victims and witnesses who cooperate with judicial authorities; and

(j) Training in national and international regulations and in languages.

2. States Parties shall, according to their capacity, consider affording one another the widest measure of technical assistance, especially for the benefit of developing countries, in their respective plans and programmes to combat corruption, including material support and training in the areas referred to in paragraph 1 of this article, and training and assistance and the mutual exchange of relevant experience and specialized knowledge, which will facilitate international cooperation between States Parties in the areas of extradition and mutual legal assistance.

3. States Parties shall strengthen, to the extent necessary, efforts to maximize operational and training activities in international and regional organizations and in the framework of relevant bilateral and multilateral agreements or arrangements.

4. States Parties shall consider assisting one another, upon request, in conducting evaluations, studies and research relating to the types, causes, effects and costs of corruption in their respective countries, with a view to developing, with the participation of competent authorities and society, strategies and action plans to combat corruption.

5. In order to facilitate the recovery of proceeds of offences established in accordance with this Convention, States Parties may cooperate in providing each other with the names of experts who could assist in achieving that objective.

6. States Parties shall consider using subregional, regional and international conferences and seminars to promote cooperation and technical assistance and to stimulate discussion on problems of mutual concern, including the special problems and needs of developing countries and countries with economies in transition.

7. States Parties shall consider establishing voluntary mechanisms with a view to contributing financially to the efforts of developing countries and countries with economies in transition to apply this Convention through technical assistance programmes and projects.

8. Each State Party shall consider making voluntary contributions to the United Nations Office on Drugs and Crime for the purpose of fostering, through the Office, programmes and projects in developing countries with a view to implementing this Convention.

Collaboration with other Agencies

The country also collaborates with anti- corruption agencies like the Centre for Democratic Development and the Ghana Integrity Initiative.

The Ghana Integrity Initiative has conducted research and provided the Auditor- General's Office with information on the weaknesses of the country's assets declaration law. It has proposed reforms in this direction

The Commission on Human Rights and Administrative Justice has organised several sensitisation workshops on corruption. It has also issued guidelines on corruption and prepared a code of ethics for public officers.

Article 61 - UNCAC

Collection, exchange and analysis of information on corruption

1. Each State Party shall consider analysing, in consultation with experts, trends in corruption in its territory, as well as the circumstances in which corruption offences are committed.

2. States Parties shall consider developing and sharing with each other and through international and regional organizations statistics, analytical expertise concerning corruption and information with a view to developing, insofar as possible, common definitions, standards and methodologies, as well as information on best practices to prevent and combat corruption.

3. Each State Party shall consider monitoring its policies and actual measures to combat corruption and making assessments of their effectiveness and efficiency.

Article 62 - UNCAC

Other measures: implementation of the Convention through economic development and technical assistance

1. States Parties shall take measures conducive to the optimal implementation of this Convention to the extent possible, through international cooperation, taking into account the negative effects of corruption on society in general, in particular on sustainable development.

2. States Parties shall make concrete efforts to the extent possible and in coordination with each other, as well as with international and regional organisations:

(a) To enhance their cooperation at various levels with developing countries, with a view to strengthening the capacity of the latter to prevent and combat corruption;

(b) To enhance financial and material assistance to support the efforts of developing countries to prevent and fight corruption effectively and to help them implement this Convention successfully;

(c) To provide technical assistance to developing countries and countries with economies in transition to assist them in meeting their needs for the implementation of this Convention. To that end, States Parties shall endeavour to make adequate and regular voluntary contributions to an account specifically designated for that purpose in a United Nations funding mechanism. States Parties may also give special consideration, in accordance with their domestic law and the provisions of this Convention, to contributing to that account a percentage of the money or of the corresponding value of proceeds of crime or property confiscated in accordance with the provisions of this Convention;

(d) To encourage and persuade other States and financial institutions as appropriate to join them in efforts in accordance with this article, in particular by providing more training programmes and modern equipment to developing countries in order to assist them in achieving the objectives of this Convention.

3. To the extent possible, these measures shall be without prejudice to existing foreign assistance commitments or to other financial cooperation arrangements at the bilateral, regional or international level.

4. States Parties may conclude bilateral or multilateral agreements or arrangements on material and logistical assistance, taking into consideration the financial arrangements necessary for the means of international cooperation provided for by this Convention to be effective and for the prevention, detection and control of corruption.

Chapter VII

Mechanisms for implementation

Article 63 - UNCAC

Conference of the States Parties to the Convention

1. A Conference of the States Parties to the Convention is hereby established to improve the capacity of and cooperation between States Parties to achieve the objectives set forth in this Convention and to promote and review its implementation.

2. The Secretary-General of the United Nations shall convene the Conference of the States Parties not later than one year following the entry into force of this Convention. Thereafter, regular meetings of the Conference of the States Parties shall be held in accordance with the rules of procedure adopted by the Conference.

3. The Conference of the States Parties shall adopt rules of procedure and rules governing the functioning of the activities set forth in this article, including rules concerning the admission and participation of observers, and the payment of expenses incurred in carrying out those activities.

4. The Conference of the States Parties shall agree upon activities, procedures and methods of work to achieve the objectives set forth in paragraph 1 of this article, including:

(a) Facilitating activities by States Parties under articles 60 and 62 and chapters II to V of this Convention, including by encouraging the mobilization of voluntary contributions;

(b) Facilitating the exchange of information among States Parties on patterns and trends in corruption and on successful practices for preventing and combating it and for the return of proceeds of crime, through, inter alia, the publication of relevant information as mentioned in this article;

(c) Cooperating with relevant international and regional organizations and mechanisms and non-governmental organizations;

(d) Making appropriate use of relevant information produced by other international and regional mechanisms for combating and preventing corruption in order to avoid unnecessary duplication of work;

(e) Reviewing periodically the implementation of this Convention by its States Parties;

(f) Making recommendations to improve this Convention and its implementation;

(g) Taking note of the technical assistance requirements of States Parties with regard to the implementation of this Convention and recommending any action it may deem necessary in that respect.

5. For the purpose of paragraph 4 of this article, the Conference of the States Parties shall acquire the necessary knowledge of the measures taken by States Parties in implementing this Convention and the difficulties encountered by them in doing so through information provided by them and through such supplemental review mechanisms as may be established by the Conference of the States Parties.

6. Each State Party shall provide the Conference of the States Parties with information on its programmes, plans and practices, as well as on legislative and administrative measures to implement this Convention, as required by the Conference of the States Parties. The Conference of the States Parties shall examine the most effective way of receiving and acting upon information, including, inter alia, information received from States Parties and from competent international organizations. Inputs received from relevant non-governmental organizations duly accredited in accordance with procedures to be decided upon by the Conference of the States Parties may also be considered.

7. Pursuant to paragraphs 4 to 6 of this article, the Conference of the States Parties shall establish, if it deems it necessary, any appropriate mechanism or body to assist in the effective implementation of the Convention.

Article 64 - UNCAC

Secretariat

1. The Secretary-General of the United Nations shall provide the necessary secretariat services to the Conference of the States Parties to the Convention.

2. The secretariat shall:

(a) Assist the Conference of the States Parties in carrying out the activities set forth in article 63 of this Convention and make arrangements and provide the necessary services for the sessions of the Conference of the States Parties;

(b) Upon request, assist States Parties in providing information to the Conference of the States Parties as envisaged in article 63, paragraphs 5 and 6, of this Convention; and

(c) Ensure the necessary coordination with the secretariats of relevant international and regional organizations.

Chapter VIII

Final provisions

Article 65 - UNCAC

Implementation of the Convention

1. Each State Party shall take the necessary measures, including legislative and administrative measures, in accordance with fundamental principles of its domestic law, to ensure the implementation of its obligations under this Convention. 2. Each State Party may adopt more strict or severe measures than those provided for by this Convention for preventing and combating corruption.

Article 66 - UNCAC

Settlement of disputes

1. States Parties shall endeavour to settle disputes concerning the interpretation or application of this Convention through negotiation. 2. Any dispute between two or more States Parties concerning the interpretation or application of this Convention that cannot be settled through negotiation within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.

3. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Convention, declare that it does not consider itself bound by paragraph 2 of this article. The other States Parties shall not be bound by paragraph 2 of this article with respect to any State Party that has made such a reservation.

4. Any State Party that has made a reservation in accordance with paragraph 3 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 67 - UNCAC

Signature, ratification, acceptance, approval and accession

1. This Convention shall be open to all States for signature from 9 to 11 December 2003 in Merida, Mexico, and thereafter at United Nations Headquarters in New York until 9 December 2005.

2. This Convention shall also be open for signature by regional economic integration organizations provided that at least one member State of such organization has signed this Convention in accordance with paragraph 1 of this article.

3. This Convention is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations. A regional economic integration organization may deposit its instrument of ratification, acceptance or approval if at least one of its member States has done likewise. In that instrument of ratification, acceptance or approval, such organization shall declare the extent of its competence with respect to the matters governed by this Convention. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

4. This Convention is open for accession by any State or any regional economic integration organization of which at least one member State is a Party to this Convention. Instruments of accession shall be deposited with the Secretary-General of the United Nations. At the time of its accession, a regional economic integration organization shall declare the extent of its competence with respect to matters governed by this Convention. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

Article 68 - UNCAC

Entry into force

1. This Convention shall enter into force on the ninetieth day after the date of deposit of the thirtieth instrument of ratification, acceptance, approval or accession. For the purpose of this paragraph, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.

2. For each State or regional economic integration organization ratifying, accepting, approving or acceding to this Convention after the deposit of the thirtieth instrument of such action, this Convention shall enter into force on the thirtieth day after the date of deposit by such State or organization of the relevant instrument or on the date this Convention enters into force pursuant to paragraph 1 of this article, whichever is later.

Article 69 - UNCAC

Amendment

1. After the expiry of five years from the entry into force of this Convention, a State Party may propose an amendment and transmit it to the Secretary-General of the United Nations, who shall thereupon communicate the proposed amendment to the States Parties and to the Conference of the States Parties to the Convention for the purpose of considering and deciding on the proposal. The Conference of the States Parties shall make every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted and no agreement has been reached, the amendment shall, as a last resort, require for its adoption a two-thirds majority vote of the States Parties present and voting at the meeting of the Conference of the States Parties.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote under this article with a number of votes equal to the number of their member States that are Parties to this Convention. Such organizations shall not exercise their right to vote if their member States exercise theirs and vice versa.

3. An amendment adopted in accordance with paragraph 1 of this article is subject to ratification, acceptance or approval by States Parties.

4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party ninety days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment.

5. When an amendment enters into force, it shall be binding on those States Parties which have expressed their consent to be bound by it. Other States Parties shall still be bound by the provisions of this Convention and any earlier amendments that they have ratified, accepted or approved.

Article 70 - UNCAC

Denunciation

1. A State Party may denounce this Convention by written notification to the Secretary-General of the United Nations. Such denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.

2. A regional economic integration organization shall cease to be a Party to this Convention when all of its member States have denounced it.

Article 71 - UNCAC

Depositary and languages

1. The Secretary-General of the United Nations is designated depositary of this Convention.

2. The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.