



UNODC

United Nations Office on Drugs and Crime

Country Review Report of Singapore

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

I. Introduction

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

II. Process

5. The following review of the implementation by Singapore of the Convention is based on the completed response to the comprehensive self-assessment checklist received from Singapore, and any supplementary information provided in accordance with paragraph 27 of the terms of reference of the Review Mechanism and the outcome of the constructive dialogue between the governmental experts from Lebanon, Swaziland and Singapore. The reviewing experts were Ms. Nada El Asmar from Lebanon; and Mr. Sabelo Khumalo from Swaziland. The staff members of the secretariat were Ms. Tanja Santucci and Ms. Sophie Meingast. Key institutions involved included the Corrupt Practices Investigation Bureau (“CPIB”), Attorney-General’s Chambers (“AGC”), Singapore Police Force, Commercial Affairs Department (“CAD”), Ministry of Home Affairs, Ministry of Law, Monetary Authority of Singapore (“MAS”), and the Public Service Division (“PSD”).
6. A country visit, agreed to by Singapore, was conducted in Singapore from 7 to 10 April 2015. During the on-site visit, meetings were held with representatives of CPIB, AGC, Singapore Police Force, CAD, Ministry of Home Affairs, Ministry of Law, MAS, PSD, as well as representatives of the private sector and academia.

III. Executive summary

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

Singapore is a republic operating on a Westminster system of unicameral parliamentary government. The Legislature, Executive and Judiciary make up the three constitutional pillars of Government.

Singapore's legal system follows the common law tradition; its sources of law are the Constitution, primary legislation, subsidiary legislation and jurisprudence. Singapore is a dualist country.

Singapore signed the Convention on 11 November 2005 and deposited its instrument of ratification on 6 November 2009. The Convention entered into force for Singapore on 6 December 2009.

The implementing legislation includes, inter alia: Prevention of Corruption Act (Chapter 241) ("PCA"), Penal Code (Chapter 224) ("PC"), Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) ("CDSA"), Criminal Procedure Code (Chapter 68) ("CPC"), Prisons Act (Chapter 247), Evidence Act (Chapter 97), Extradition Act (Chapter 103) and Mutual Assistance in Criminal Matters Act (Chapter 190A).

Relevant institutions in the fight against corruption include the Corrupt Practices Investigation Bureau ("CPIB"), Attorney-General's Chambers ("AGC"), Singapore Police Force, Commercial Affairs Department ("CAD"), Ministry of Home Affairs, Ministry of Law, Monetary Authority of Singapore ("MAS"), and the Public Service Division ("PSD").

2. Chapter III: Criminalization and law enforcement

2.1. Observations on the implementation of the articles under review

Bribery and trading in influence (arts. 15, 16, 18 and 21)

Active and passive bribery of public officials or any other persons is criminalized in sections 5 and 6 PCA. If the offence was committed in relation to a public contract or proposal, section 7 PCA increases the maximum imprisonment term from 5 to 7 years.

The PCA does not define the term "public official;" section 5 applies to any civil servant employed by the Government, as well as to employees of any organization that carries out a public function. This is a wide class of persons and is not tied to a statutory definition. Moreover, section 6 applies to corrupt transactions with agents. Higher sentences and imprisonment terms for "public officials" are routinely sought due to aggravating factors, including breach of public trust and abuse of authority.

With respect to "indirect" bribery, section 5 PCA provides that "any person who shall by himself or by or in conjunction with any other person" engage in bribery will be punished. This element covers acts of bribery through third party intermediaries (natural and legal) as well as acts of indirect bribery not involving third parties or any agreement, abetment or joint action. Persons who abet bribery are also liable under section 29 PCA.

Under section 2 PCA, "gratification" is widely defined to include any form of "service, favour or advantage of any description whatsoever".

Section 8 PCA creates a rebuttable presumption that when a gratification is paid, given to or received by public officials from a person or agent who has or seeks to have any dealing with the Government or any public body, that gratification shall be deemed to have been paid, given or received corruptly.

Sections 161 to 165, 213 and 215 PC supplement the PCA by criminalizing acts of corruption in various factual scenarios involving public servants.

Active and passive transnational bribery is criminalized under section 6 PCA, as well as section 5, which is applicable to bribery of or by any person, by virtue of section 37 PCA. Relevant case law was provided.

Singapore relies on the bribery provisions (sections 5 and 6 PCA) to cover trading in influence. Pursuant to section 9(2) PCA, in a prosecution under section 6 PCA, no proof is required that the person who received the bribe had the power, right or opportunity to exert influence. Relevant case law evidencing implementation was provided.

The offences under sections 5 and 6 PCA do not distinguish between public and private sector corruption and the punishments are identical: maximum fine not exceeding S\$100,000 per offence or imprisonment for a term not exceeding 5 years or both. Statistics and case law evidencing implementation were provided

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

Part VI CDSA criminalizes the acts of assisting a person who is involved in the commission of a predicate offence to retain benefits from criminal conduct obtained through various means, as well as the laundering of benefits of criminal conduct. Section 48 CDSA makes it an offence for a person who knows or has reasonable grounds to suspect that an investigation is underway or about to commence to tip-off or disclose relevant information. Sections 411 to 414 PC criminalize acts of receiving, retaining or assisting in the concealment or disposal of proceeds of crime.

Offenders who participate in money-laundering offences by way of abetment or criminal conspiracy are covered under Chapters V and VA PC, respectively. Attempts are covered under section 511 PC.

Singapore takes a list approach to defining predicate offences for money-laundering. The Schedule can be amended by way of an administrative process, and this has happened in 2005, 2006, 2007, 2008, 2009, 2010 and 2013, so as to include new predicate offences, including all UNCAC offences. The CDSA was amended most recently in 2014 to strengthen the regime in line with international standards.

Foreign predicate offences are covered and relevant cases have been prosecuted.

Between 2010 and 2013, 60 persons were convicted of both the predicate offence and money-laundering. Self-laundering is prosecuted under section 47(1) CDSA (PP v Koh Seah Wee and Lim Chia Meng [2012] 1 SLR 292).

Concealment and retention of proceeds of crime without having participated in the predicate offence are criminalized in Part VI CDSA and sections 410 to 414 PC. Case law evidencing implementation was provided.

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

The embezzlement or diversion of funds entrusted to a public official by virtue of his position is typically covered by the offence of criminal breach of trust (section 405 PC) and criminalized under sections 406 to 409 PC. There is no requirement that the property embezzled, misappropriated or diverted must benefit the public official personally. Depending on the nature of the criminal conduct, other PC offences may be established, for example theft (sections 378 to 381 PC) or cheating (sections 415 to 420 PC).

There is no distinction between embezzlement and misappropriation committed by public officials or private persons. Private persons who embezzle or misappropriate property commit offences of criminal breach of trust, theft or cheating. Relevant case law was provided.

The PCA is currently being reviewed and specific offences of misconduct in public office and illicit enrichment are under consideration.

Obstruction of justice (art. 25)

Obstruction of justice is comprehensively criminalized (sections 204A and 204B PC). Although the specified means (use of physical force, threats or intimidation) are not detailed, the cited provisions are broad enough to capture such acts. Bribery of any person including witnesses can be prosecuted under sections 5(b) PCA or 204B PC. Relevant case law was provided.

Sections 224 and 225 PC cover the resistance or obstruction of lawful apprehension of a person in line with the Convention. Where physical force was used, sections 332, 333 and 353 PC make it an offence for a person to cause hurt, grievous hurt, or use criminal force respectively to deter a public servant from discharging his duty. Sections 26(a) and (b) PCA further cover obstruction of CPIB officers in executing any duty or power conferred by the PCA. Section 57 CDSA is also relevant.

Liability of legal persons (art. 26)

Singapore has established criminal and administrative liability of legal persons for UNCAC offences, and the common law provides for civil remedies. MAS is authorized to impose a broad range of regulatory actions and supervisory measures in accordance with the Monetary Authority of Singapore Act.

There have been no cases where Singapore has prosecuted both a company and its officers for the same UNCAC offence, although there are no legal restrictions to doing so.

Singapore's laws provide for a range of criminal and non-criminal sanctions against legal persons which recognize the differences in the gravity of offences. The cases and statistics provided evidence of effective application of these measures in practice.

Participation and attempt (art. 27)

Attempts to commit PCA and PC offences are covered under sections 30 PCA and 511 PC. Offenders who participate in corruption offences by way of abetment or conspiracy would be caught under sections 29 and 31 PCA. Sections 116 and 120A to 120B PC criminalize acts of abetment in preparation of offences and the mere

agreement to commit offences, notwithstanding that the offence is not completed. Relevant case law and statistics were provided.

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

PCA offences recognize the differences in the gravity of offences and provide for a range of sanctions. A sentence of imprisonment is the norm for cases of public sector corruption and for appropriate private sector corruption cases such as those that involve large amounts or impinge on the public interest. Further, the gravity of the bribery offence is more severe when public contracts are involved (section 7 PCA). Section 13 PCA expressly provides for the disgorgement of corrupt proceeds from recipients of bribes. Singapore does not have published sentencing guidelines. However, the courts issue benchmark decisions which provide certainty and clarity on sentencing (PP v Ang Seng Thor [2011] SGHC 134). As such, there are sentencing norms for each offence which courts take into account in determining appropriate sentences.

There are no immunities or jurisdictional privileges accorded to domestic public officials in respect of UNCAC offences. Similarly, there is no immunity for the President of Singapore or for members of the judiciary.

The authority to prosecute corruption offences is constitutionally vested in the Attorney-General, acting in the capacity of the Public Prosecutor (article 35(8) Constitution, section 11(1) CPC). The exercise of this discretion is generally unfettered, except for the mala fide or ultra vires exercise thereof: (Ramalingam Ravinthran v AG [2012] 2 SLR 49; Quek Hock Lye v Public Prosecutor [2012] SGCA 25). The principles of general deterrence and public interest feature strongly in the Public Prosecutor's decision to prosecute. This decision is accordingly subject to scrutiny. Prosecution guidelines within the AGC provide a framework for decision-making and consistency, and are regularly reviewed and updated, coupled with a rigorous system of internal review. Almost all decisions made by prosecutors are reviewed by at least one more senior officer. Every prosecution under the PCA requires the written consent of the Public Prosecutor before it can be brought to court.

The attendance of accused persons at criminal proceedings is secured by way of a sufficient quantum of bail bond (Section 96 CPC). Section 104(1) CPC sets out the obligations of the surety, which include ensuring that the accused makes himself available for investigations or court hearings, keeping in daily contact with the accused and ensuring that the accused remains in Singapore unless otherwise permitted by the court.

Statutory criteria for determining the eligibility of convicted persons for early release or parole reflect the varying gravity of offences. Remission (i.e. early release) is available for most offences (including corruption), save for certain grave offences. Convicted persons serving life imprisonment may be considered for remission after serving 20 years of their sentence.

Where a criminal offence is disclosed against a public official, he will be prosecuted in court; disciplinary action (suspension, reassignment, removal) will be proceeded with if he is convicted. Public officers may also be similarly disciplined even if the Public Prosecutor decides not to prosecute them.

Convicted persons sentenced to at least one year imprisonment or fine of at least S\$2000 are disqualified from holding certain public offices (sections 37E, 45 and 72 Constitution). Any person convicted of offences involving fraud or dishonesty punishable with imprisonment for 3 months or more is automatically disqualified from being a director of a public or private company registered in Singapore for a period of 5 years or a period to be determined by the court (section 154 Companies Act).

Singapore has several programmes to support the reintegration of prisoners into society.

Sentences of collaborators with justice can be mitigated in accordance with the common law. In cases involving two or more persons, collaborators can also be granted indemnity (section 35(3) PCA). A system of extrajudicial plea bargaining is in place. Some protection can be provided to collaborators if they are also witnesses.

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

Singapore does not have a witness protection programme. This was not reported as a priority due to the small size of the country and the reported strong respect for the rule of law. However, CPIB is currently considering the possibility of establishing internal procedures and guidelines relating to witness protection. Witnesses and experts are to a certain extent protected from potential retaliation or intimidation by the criminalization of any obstruction, prevention, perversion or defeat of the course of justice (section 204A PC). The police or CPIB officers can accompany witnesses to court in cases of intimidation. While section 281(2)(e) CPC could allow for the use of videolink in trials, this is currently not applicable to corruption offences.

Singapore does not facilitate domestic relocation and has not concluded agreements and arrangements for the international relocation of witnesses, experts and victims. Singapore allows for the views and concerns of victims to be presented and considered in criminal proceedings through victim impact statements.

The non-disclosure of the identity of informants is established during investigations and court proceedings (sections 39 and 44 CDSA, 36 PCA). There are no further specific measures in place to protect reporting persons against unjustified treatment, although acts of retaliation and intimidation are criminalized under the PC.

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

Sections 13 PCA, 5 CDSA and 364(2) CPC provide for the confiscation of proceeds of crime, property, equipment and instrumentalities used or destined for use in the commission of corruption offences. Section 35 CPC allows for freezing and seizure by police and CPIB officers. Section 10 CDSA covers value-based confiscation (art. 31, paras. 4 to 6).

Each institution that conducts asset seizure and freezing is responsible for the management of property seized and frozen in the course of investigations.

An exception to banking confidentiality is where the disclosure is necessary for investigations or prosecutions into alleged offences (Third Schedule Banking Act). Sections 31 CDSA and 20(2) CPC explicitly provide for production orders against financial institutions.

Section 8(1)(a) CDSA establishes a rebuttable presumption regarding benefits derived from criminal conduct.

Sections 13 CDSA and 366, 369 and 371 CPC safeguard the rights of bona fide third parties in seizure and confiscation.

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

There is no limitations period for the institution of criminal proceedings against an offender in Singapore.

Singapore can take foreign criminal convictions into account during sentencing and during the determination of guilt in cases involving similar fact evidence in accordance with the common law.

Jurisdiction (art. 42)

Singapore has established jurisdiction over most circumstances referred to in article 42 (e.g., sections 37 PCA and, in cases involving prior agreement, 29(b) PCA, 108A and 108B PC).

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

Under section 14 PCA, gratification given to an agent can be recovered. As part of the post-case-management, notifications are issued to licensing and other authorities to allow for blacklisting companies, revoking licenses and other remedial measures. All government contracts contain standard clauses against corruption, which allow for rescinding contracts in the event of corruption.

Compensation for damages can be obtained under sections 359 CPC and the common law.

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

Relevant institutions in the fight against corruption and money-laundering include the CPIB, CAD and the Suspicious Transaction Reporting Office (STRO). CPIB reports directly to the Prime Minister's Office. Independence of CPIB investigations is ensured through art. 22G of the Constitution, which provides that even if the Prime Minister refuses to consent to an investigation, CPIB can proceed in investigations if the President concurs with Director, CPIB.

Regarding cooperation between national authorities, all public officers and selected persons exercising public functions are obliged to report corruption offences, and CPIB reaches out to government agencies to instill a culture of zero tolerance against corruption. Senior prosecutors are available at CPIB or "on-call" for consultation, to provide immediate advice to investigators and ensure that investigations are carried out in full compliance with applicable laws. Agencies such as CPIB and CAD have regular coordination meetings with other law enforcement agencies to keep abreast of latest developments and coordinate activities. Regarding the private sector, CPIB and STRO engage the business community, the banking and financial sectors as well as legal and accounting professionals through regular outreach, seminars and the development of anti-corruption programmes.

CPIB receives anonymous or non-anonymous complaints inter alia by email, mail or fax and has a 24-hour toll-free hotline, an e-Reporting Centre and runs a public outreach programme.

2.2. Successes and good practices

- *Singapore's legislation and operational practices evidence the effectiveness of its strict zero tolerance approach to corruption.*
- *The rebuttable presumption established in section 8 PCA was deemed conducive to the effective investigation and pursuit of corruption offences.*
- *The absence of a statute of limitations is positively noted.*
- *Singapore's laws provide for a range of criminal and non-criminal sanctions which recognize the differences in the gravity of offences. Sentencing benchmarks and norms are taken into account by courts in determining sentences. Cases and statistics provided evidence effective application of these measures in practice (art. 30 (1)).*
- *Singapore facilitates the reintegration of offenders into society through several aftercare initiatives (art. 30(10)).*
- *The competitive recruitment process and comprehensive training for officers of the CPIB and CAD ensure the availability of highly qualified investigators (art. 36).*
- *The efforts of CPIB, CAD and STRO in raising awareness and creating a culture of zero tolerance towards corruption through inter-agency cooperation and cooperation with the private sector were deemed effective measures in the fight against corruption (arts. 38. 39).*

2.3. Challenges in implementation

- *The reviewers welcome indications by Singapore that it is considering amending the PCA to establish specific offences on misconduct in public office, which would not be limited to the taking or acceptance of gratification, as well as illicit enrichment.*
- *The reviewers welcome indications by Singapore that it is considering amending the PCA to distinctly provide for, and increase, the maximum penalties applicable to legal persons in corruption cases, an indirect consequence of which would be to further clarify the separate liability of entities and principals engaging in acts of corruption.*
- *It is recommended that Singapore:*
 - *Adopt further measures to provide added protection from potential retaliation or intimidation for witnesses and experts who give testimony and, as appropriate, their relatives and other persons close to them. Such measures could include a witness protection programme, further measures for the physical protection of such persons and evidentiary rules (art. 32(1) and (2)).*
 - *Consider entering into agreements and arrangements with other States for the relocation of witnesses or experts (art. 32(3)) and in cases involving collaborators of justice providing substantial cooperation to other States (art. 37 (5)).*
 - *Consider further expanding measures to protect reporting persons against unjustified treatment (art. 33).*
- *Singapore could establish jurisdiction in cases other than abetment (including conspiracies) over offences committed against nationals or the State and the reviewers welcome indications by Singapore that it is*

considering establishing jurisdiction over persons habitually resident in Singapore (art. 42(2); it could also establish jurisdiction over offenders present in its territory where it does not extradite them (art. 42 (4)).

3. Chapter IV: International cooperation

3.1. Observations on the implementation of the articles under review

Extradition, transfer of sentenced persons; transfer of criminal proceedings (arts. 44, 45, 47)

The primary legislation governing extradition is the Extradition Act (Chapter 103). Under Singapore's laws, extradition is conditional on the existence of a treaty or arrangement with a requesting or requested country. Singapore has bilateral extradition treaties (with non-Commonwealth countries) and extradition arrangements (with declared Commonwealth countries) with more than 40 jurisdictions, and is party to a number of multilateral instruments which provide for extradition. Singapore is a member of the London Scheme for Extradition Within the Commonwealth, and has special extradition arrangements with Malaysia and Brunei based on endorsement of arrest warrants.

Dual criminality is a fundamental principle for extradition under Singaporean law. It is flexibly applied and considers the underlying conduct. Singapore adopts a list approach to defining extradition crimes. The lists are wide enough to allow UNCAC offences to be extraditable. Singapore has included UNCAC offences as extraditable offences in extradition treaties with other States parties.

Singapore does not consider the Convention as a legal basis for extradition (C.N.824.2009.TREATIES-37).

The conditions to extradition are found in the various extradition treaties, as well as Sections 7 and 8 (for treaty countries) and Sections 21, 22 and 31 (for countries with which Singapore has treaty arrangements under the London Scheme) of the Extradition Act.

Singapore's law does not place any restrictions on the extradition of its nationals (see Sections 7, 8, 21 and 22 Extradition Act). Singapore has extradited its nationals (see e.g., *Wong Yuh Lan & Ors v PP* [2012] SGHC 161; *Fatimah bte Kumin Lin v Attorney-General* [2013] SGHC 232). That said, nationality is a ground for refusal under the extradition treaties with Hong Kong SAR and Germany. In these cases, Singapore has an obligation to prosecute if the treaty requirements are met.

Fair treatment protections are in place under sections 6-13 (for treaty countries), 20-28 and 31 (London Scheme) and 35-38 (Malaysia) of the Extradition Act, as well as Article 12(1) of the Constitution.

Like other Commonwealth countries, Singapore requires the provision of prima facie evidence to enable extradition. The evidentiary requirements are applied in a flexible and reasonable manner. Case examples evidencing the expeditious surrender of persons were provided.

The AGC is the Central Authority for extradition. Requests are received either through the Ministry of Foreign Affairs or the AGC, and processed by the AGC. AGC will consider the legal aspects of the request before making a recommendation to the Minister for Law

who will, based on AGC's recommendation, determine whether to proceed with the request. If the determination is to proceed, the fugitive will be apprehended based on a warrant of apprehension issued by a magistrate, and a committal hearing will be conducted in the Singapore courts. The magistrate's findings in respect of extradition may be subject to legal challenge. The Minister for Law orders the surrender if the fugitive is committed and all legal requirements are met. Surrender is arranged with requesting States.

To date, Singapore has not refused any request for extradition relating to UNCAC offences.

Singapore has received and considered requests from other countries to enter into agreements on the transfer of sentenced persons but has thus far not concluded such agreements.

While no case has presented itself yet in respect of the transfer of criminal proceedings, Singapore will consider the matter if the need arises, and assess how best to proceed.

Mutual legal assistance (art. 46)

The Mutual Assistance in Criminal Matters Act (MACMA) provides the legal framework for mutual legal assistance (MLA). Singapore has concluded MLA treaties with Hong Kong SAR, India, and the United States. Singapore is also party to the Treaty on MLA in Criminal Matters Among like-minded ASEAN Member Countries and other multilateral treaties, as well as the Scheme for Mutual Assistance Within the Commonwealth (Harare Scheme). Singapore does not require a treaty for MLA and can provide assistance on the basis of reciprocity and on the basis of the Convention. Singapore received 211 MLA requests relating to UNCAC offences between 2012 and November 2014.

The MACMA allows Singapore to provide a wide range of MLA in respect of offences committed by both legal and natural persons. Singapore can share information spontaneously and has done so on a number of occasions. AGC utilizes a software, "Enterprise Legal Management System (ELMS)", which facilitates case management and record keeping. Workflows and procedures are established for processing and tracking requests.

Singapore does not require dual criminality when assisting with non-coercive measures and obtaining evidence for foreign tax evasion offences. Dual criminality is, however, required for coercive measures but is relaxed for foreign tax evasion offences.

AGC is the Central Authority for MLA. It can send and receive requests directly to and from other central authorities or through diplomatic channels, depending on the other country's preference. Singapore can also receive urgent requests through INTERPOL, by email or fax.

Persons detained or serving a sentence cannot be transferred to another country to give evidence (s. 26 MACMA), but Singapore could assist other countries to obtain voluntary statements from prisoners, take evidence before a Singaporean judge, or in appropriate circumstances, facilitate the giving of evidence by videolink.

Through telephone or videoconferences and email, Singapore regularly seeks additional information from requesting States where necessary to execute requests. Singapore provides assistance in accordance with procedures specified in the request to the extent that they are not contrary to domestic law. In its MLA templates, which are available online

(<https://www.agc.gov.sg>) to guide requesting countries, Singapore proactively asks requesting States which procedures they would like Singapore to follow when providing assistance.

Singapore may provide assistance in hearing witnesses present in Singapore by videolink, but does not accept evidence provided by videolink in domestic trials.

As a matter of practice, when requesting MLA, Singapore provides an undertaking not to use anything obtained pursuant to the request for matters other than those specified in the request, unless the requested State consents.

All MLA requests are treated confidentially, and reasons are provided for any refusal or postponement. Singapore regularly updates requesting countries on developments concerning requests.

The costs of executing requests are regularly borne by Singapore.

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

Singaporean law enforcement agencies cooperate informally with foreign counterparts and have designated liaison officers to facilitate cooperation. The authorities cooperate through the Economic Crime Agency Network, the Egmont Group, INTERPOL and the Southeast Asia-Parties against Corruption. Singapore has sent and received law enforcement officers for attachments and training with other States. Singapore does not require formal agreements or arrangements to render informal assistance to a foreign law enforcement agency. Notwithstanding, Singapore considers the Convention as a basis for law enforcement cooperation in respect of UNCAC offences.

Singapore has undertaken joint investigations concerning UNCAC offences and does so on a case-by-case basis notwithstanding that Singapore does not have agreements or arrangements on joint investigations.

There is no restriction under Singapore's laws for law enforcement agencies to exercise a wide range of investigative techniques (such as controlled delivery, continued surveillance, undercover operations, etc.), appropriate to the circumstances of each case, and in accordance with their internal procedures and guidelines. Singapore provided a case example to this effect. Singapore has not concluded agreements or arrangements on special investigative techniques at the international level.

3.2. Successes and good practices

- The review team noted the positive role of AGC in ensuring a cooperative working relationship among criminal justice authorities, especially in the efficient processing of international cooperation requests.
- The AGC's website provides information on international cooperation procedures, template forms for international cooperation and contact details. To strengthen internal coordination, AGC has created flowcharts and procedures to monitor processing of requests, which create greater legal certainty for processing requests. Singapore acknowledges all requests within days of their receipt and provides

guidance to requesting countries online and bilaterally (including reviewing advance copies of requests).

- *A unique feature of AGC is the dedicated case management database for international cooperation, which allows AGC to quickly provide status updates and ensures timely, accurate and efficient execution and tracking of requests, including remotely. This could be emulated by other countries. ELMS allows for the collection of disaggregated data on international cooperation based on the predicate offence and facilitates the monitoring of the execution of requests.*
- *The evidentiary requirements for extradition are applied in a flexible and reasonable manner. Case examples evidencing the expeditious surrender of persons to requesting States were provided.*
- *The review team positively noted Singapore's practice of flexibly interpreting the dual criminality requirement so as to render a wide measure of assistance.*
- *Singapore has not refused any requests for MLA or extradition in relation to UNCAC offences.*
- *Singapore has provided MLA on the basis of the Convention.*
- *Singapore is guided by the preferences of requesting States regarding the mode, channel, mechanism and form of assistance, and regularly consults with requesting States on this. It dedicates substantial resources and effort to executing requests in accordance with the manner of assistance sought.*
- *The active role of Singapore as an international training and assistance provider on international and law enforcement cooperation is positively noted.*
- *CPIB has established a Computer Forensics Unit that specializes in forensic examinations of computer-related evidence; Singapore has shared information acquired through such means with domestic and foreign counterparts to facilitate investigations (art. 48(3)).*

3.3. Challenges in implementation

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

- *Noting the optional nature of article 44(5) of UNCAC, Singapore may wish to consider applying this Convention as the legal basis for extradition in respect of UNCAC offences and, should this not be possible, Singapore may wish to consider concluding additional bilateral or multilateral treaties.*
- *Welcoming Singapore's availability to assist requesting States with videoconferencing and other forms of assistance for purposes of obtaining evidence in investigations, prosecutions or judicial proceedings, Singapore may wish to consider making arrangements so that detained persons can give evidence in appropriate cases (art. 46 para. 10);*
- *Taking into account the efforts to execute requests as soon as possible, and the practice of consulting with the requesting State party prior to postponing or refusing requests, Singapore may wish to document this position, e.g., by including it in the workflow or standard operating procedures of the AGC (arts. 44(17), 46(24) and 46(26)).*

IV. Implementation of the Convention

A. Ratification of the Convention

7. Singapore signed the Convention on 11 November 2005 (Depositary Notification C.N.1146.2005.TREATIES-39¹) and ratified it on 6 November 2009 (Depositary Notification C.N.824.2009.TREATIES-37²). The Convention entered into force for Singapore on 6 December 2009.
8. The implementing includes [*summary of ratification legislation to come*].
9. Singapore made the following depositary notifications at the time of ratification (C.N.824.2009.TREATIES-37).

“1. Pursuant to Article 6, paragraph 3 of the above mentioned Convention, the Government of the Republic of Singapore designates the Corrupt Practices Investigation Bureau of Singapore as the authority that may assist other States Parties in developing and implementing specific measures for the prevention of corruption. The Corrupt Practices Investigation Bureau of Singapore can be contacted through the following means:

Address: 2 Lengkok Bahru Singapore 159047

Tel: +(65)-6270-0141; Fax: +(65)-6270-0320

Email: cpib website email@cpib.gov.sg

2. Pursuant to Article 44, paragraph 6 of the above mentioned Convention, the Government of the Republic of Singapore declares that it does not take the above mentioned convention as the legal basis for cooperation on extradition with other States Parties.

3. Pursuant to Article 46, paragraph 13 of the above mentioned Convention, the Government of the Republic of Singapore designates the Attorney-General of Singapore as the central authority for the purposes of mutual legal assistance in accordance with Article 46 of the said Convention.

4. Pursuant to Article 46, paragraph 14 of the above mentioned Convention, the Government of the Republic of Singapore declares that requests and attachments thereto addressed to the central authority of Singapore should be in the English language, or a translation into the English language should be attached thereto.”

B. Legal system of Singapore

10. The practice and procedures of treaty negotiation, conclusion, ratification and implementation are not expressly provided for in the laws of Singapore i.e. the Constitution, legislation (primary or subsidiary), administrative orders or any other document.

¹ <https://treaties.un.org/doc/Treaties/2003/12/20031209%2002-50%20PM/Related%20Documents/CN.1146.2005-Eng.pdf>

² <https://treaties.un.org/doc/Publication/CN/2009/CN.824.2009-Eng.pdf>

11. Singapore is a dualist state. International treaties and international law do not automatically apply in Singapore unless and until incorporated into domestic law by legislation.
12. The Executive is the primary institution responsible for treaty-making. The Legislature (pursuant to Article 38 of the Constitution) is responsible for enacting the necessary legislation to incorporate international treaty and international law obligations into Singapore law.

C. Implementation of selected articles

Chapter III. Criminalization and law enforcement

13. As a general observation concerning the implementation of the chapter, it is noted that Singapore's legislation and operational practices evidence the effectiveness of its strict zero tolerance approach to corruption.

Article 15 Bribery of national public officials

Subparagraph (a)

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

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

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

14. The act of bribing a public official, in order that the official acts or refrains from acting in the exercise of his/her official duties, is criminalised in sections 5(b)(ii) and 6(b) of the Prevention of Corruption Act (Chapter 241) ("PCA") [\[Annex 1\]](#).
15. Briefly, section 6(b) criminalises the act of corruptly offering, agreeing to give or giving of bribes to any agent, which is defined to mean any person employed or acting for another, and specifically includes a person serving the Government.
16. The requirement that the corrupt act done by an agent be "in relation to his principal's affairs or business" under section 6 of the PCA has been observed by the High Court of Singapore in *Yusof Bin A Samad v PP* [2000] 3 SLR(R) 115 [\[Annex 2\]](#) to be broadly defined and not restricted in its application to acts done or forborne to be done by a person as an agent on behalf of his principal. So long as what the agent, which includes a person serving the Government or under any public body, did or forbears to do is in relation to his principal's affairs that would be sufficient for the purpose of section 6 of the PCA.
17. Section 5(b)(ii) of the PCA on the other hand extends the criminal reach of the PCA beyond the agent-principal paradigm. By virtue of section 5(b)(ii) of the PCA, the act of

corruptly offering, agreeing to give and giving of bribes to any member, officer or servant of a public body (see section 2 of the PCA) in respect of any matter or transaction whatsoever, actual or proposed in which such public body is concerned, is a criminal offence, regardless of whether a principal is identified and whether the public official does or forbears to do any act in relation to his principal's affairs.

18. If the corruption offence was committed in relation to a Government or public body contract or proposal or sub-contract, section 7 of the PCA increases the maximum imprisonment term from 5 to 7 years.
19. Section 8 of the PCA raises a rebuttable presumption that when a gratification is paid, given to or received by public officials from a person or agent of a person who has or seeks to have any dealing with the Government or any department thereof or any public body, that gratification shall be deemed to have been paid or given and received corruptly. When the presumption is invoked, the burden lies upon the accused to prove that the gratification was not paid, given or received corruptly, in order to rebut the presumption.
20. By definition, under section 2 of the PCA, "gratification" is widely defined to include any form of "other service, favour or advantage of any description whatsoever".
21. In addition, section 214 of the Penal Code (Chapter 224) [\[Annex 3\]](#), criminalises the offering or giving of gratification to a public official in exchange for screening an offender from legal punishment or assisting an offender to conceal an offence.
22. Singapore cited the following text.

Prevention of Corruption Act (Chapter 241) ("PCA") [\[Annex 1\]](#)

section 2: definitions of "agent", "public body" and "gratification"

sections 5(b)(ii), 6(b), 7 and 8

Penal Code (Chapter 224) ("PC") [\[Annex 3\]](#)

section 214

Singapore provided the following case example. *Yusof Bin A Samad v. PP* [2000] 3 SLR(R) 115 [\[Annex 2\]](#)

The accused, a police officer working as a hearse driver, was charged with 14 counts under section 6(a) of the PCA for accepting payments from an undertaker in exchange for giving him confidential information on the next of kin of deceased persons. He was sentenced to 9 months' imprisonment on each charge, with the first two sentences running consecutively. His appeal against conviction and sentence was dismissed by the High Court.

The High Court held that the accused fell squarely within the meaning of the word "agent", which is defined in section 2 of the PCA to mean any person employed by or acting for another, including, inter alia, a person serving the Government or under any public body. His acts of releasing confidential information obtained in the course of his official duties were clearly acts which were in relation to the Police Force's affairs. The test to be applied is that

the acts done by the accused were in relation to his principal's affairs. For a conviction under section 6(a) of the PCA, it need not be proved that the acts done by the accused were done by him as an agent on behalf of his principal.

Chua Tiong Tiong v. PP [2001] 2 SLR(R) 515 [Annex 4]

The accused, an infamous and well-known illegal moneylender known as "Ah Long San" was convicted on a charge under section 6(b) of the PCA of bribing a senior police officer to provide assistance and insider information relating to arrests arising from his illegal moneylending activities. The appellant was sentenced to 18 months' imprisonment. The senior police officer, one Lim, was convicted in the same trial on a corresponding corruption charge. Lim was sentenced to 30 months' imprisonment. His appeal against sentence was dismissed and his sentence was enhanced to 48 months' imprisonment and a fine of S\$100,000.

The High Court held that the present case involved serious public interest considerations. Eradicating corruption in our society was of primary concern, especially where public servants were involved, whose core duties were to ensure the smooth administration and functioning of the country. Any loss of confidence in those running the administration as a result of corruption would ultimately undermine the forces which sustain our democratic institutions. In the light of all the considerations, the accused's sentence was manifestly inadequate. The accused's elaborate bribery scheme had far-reaching consequences and if not stopped or deterred, would compromise the entire foundation of our criminal justice system. The accused's previous antecedents all demonstrated the need for a sentence which would sufficiently deter him from future criminal conduct. He was clearly a recalcitrant offender and his present conviction simply showed his increasing disregard of the law. The High Court noted that the PCA was enacted to provide for more effectual prevention of corruption in Singapore. To give effect to the punishment prescribed under section 6(b), a sentence of 48 months' imprisonment and a fine of \$100,000 (in default 24 months' imprisonment) would be appropriate.

PP v. Tay Sheo Tang Elvilin [2011] 4 SLR 206 [Annex 5]

The accused, a police officer holding the rank of Sergeant, claimed trial to 5 charges under section 6(b) of the PCA of which 4 were for corruptly giving gratification to 4 of his fellow police officers as inducement for forbearing to report him to his supervisor for misappropriating a wallet containing a stack of \$50 notes and a carton of cigarettes which were found during an unscheduled raid. The remaining charge was for corruptly offering gratification to another fellow police officer for the same purpose. The accused was convicted and sentenced to 3 months' imprisonment for each of the five charges, with the imprisonment sentences for 2 of these charges to run consecutively for a total of 6 months' imprisonment.

The Public Prosecutor's appeal against sentence was allowed; the sentence was enhanced to 6 months' imprisonment for each of the 5 charges. The imprisonment sentences for the 3 of these charges were ordered to run consecutively for a total sentence of 18 months' imprisonment.

The High Court held that corruption within the police force was no less serious than corruption involving the solicitation of gratification by a police officer from members of the public, and both had the effect of publicly undermining the integrity of the police force. Indeed, if anything, it was even more disturbing. The fact that the accused did not

compromise any police investigations or operations or interfere with the proper administration of justice did not mean that his conduct was less odious. Here, the accused had blatantly instigated his fellow police officers to commit several breaches of police procedure and to compromise their duties in the course of police operations. Such corrupt conduct by a police officer had to be unequivocally denounced as it would have an adverse effect on the discipline of the police force and the proper administration of justice. Case precedent has made it clear that stiff sentences would be imposed when police officers draw fellow officers into a web of corruption within the police force, an approach which was similar to that taken in other jurisdictions. Here, not only did the accused misappropriate the money and cigarettes while on duty as a police officer, he took the further step of corrupting the junior officers in his team who would have regarded him as a role model and also looked to him for guidance. The serious adverse impact of the accused's conduct in drawing his fellow police officers into this "web of corruption" could not be underestimated. A stiff custodial sentence was necessary so as to send a clear message to other serving officers that such transgressions would not be condoned and that there was no place for any form of corruption in our enforcement agencies. There was a clear pressing public interest concern in discouraging corruption within law enforcement agencies. This was an appropriate case whereby more than two sentences imposed on the accused ought to run consecutively. These sentences reflected society's particular condemnation for such offences, which if unchecked, could corrode the integrity and high standing of the police force.

23. Singapore provided the following additional information on implementation.

While there are cases where public officials are offered or given bribes, the statistics maintained do not distinguish between whether the recipient of a bribe is a public official or not.

(b) Observations on the implementation of the article

24. The reviewers note that Section 5 of the PCA applies to any person, but that public officials may be liable to increased punishment. Singapore clarified that public officials may be liable to increased punishment in one of two ways. First, where a public official faces a charge under section 5 of the PCA but where section 7 of the PCA does not apply (for example, where no government contract is involved, such as where a bribe is paid for the issuance of a license), a higher sentence is usually imposed by the courts due to the aggravating factors that there was (a) a breach of public trust, and (b) abuse of authority by the public official. Second, where a public official faces a charge under section 5 of the PCA and where section 7 of the PCA does apply (that is, where the abuse of authority relates to a government contract), a higher prescribed punishment and imprisonment term apply. It must be noted that the higher prescribed punishment under section 7 of the PCA applies even if the offender is not a public official, as long as the abuse of authority relates to a government contract.

25. Turning to the definition of "public official", as section 5 of the PCA applies equally to both public officials and non-public officials, the PCA does not define "public official". Within the context of article 15, section 5 would apply to any civil servant employed by the Government in any Ministry or Government department, as well as to employees of any organization that carries out a public function. This is a wide class of persons and is not tied to a statutory definition. Higher sentences for such 'public officials' would routinely be sought due to the aggravating factors cited above.

26. Singapore provided the following clarification of the term “corruptly”, as used in sections 5 and 6 of the PCA in relation to both passive and active bribery.

“Corruptly” does not only relate to intent, but also to the nature of the transaction for which the bribe is given or received. The courts in Singapore have interpreted “corruptly” in section 5 (and section 6) of the PCA as meaning that there must be (a) a corrupt element in the transaction itself, and (b) a corrupt intention on the part of the person giving or receiving the gratification (*Chan Wing Seng v PP* [1997] 1 SLR(R) 721). Applying the test laid down in this case, the intention of the giver or receiver must first be ascertained. Thereafter, it must be determined whether a transaction has a corrupt element, which is an objective inquiry that is essentially based on the ordinary standard of the reasonable man (*PP v Low Tiong Choon* [1998] 2 SLR(R) 119). Singapore’s courts have been hesitant in defining the term “corrupt” as each case must be examined on its own facts. Most recently, it has been held by the High Court that the interpretation of corrupt intention should be held to an objective standard and not a subjective standard. (*Tey Tsun Hang v PP* [2014] 2 SLR 1189).

27. With respect to indirect bribery as prescribed in UNCAC, Singapore explained that section 5 of the PCA provides that “any person who shall by himself or by or in conjunction with any other person” will be punished. As such, by virtue of “by any other person”, the issue of indirect bribery has been contemplated by section 5 of the PCA. Any person who abets the act of bribery is also liable under section 29 of the PCA.
28. Regarding third party beneficiaries (Section 5 PCA) and legal persons specifically, Singapore clarified that under section 5 of the PCA, any “person” who receives a bribe is liable. Section 2 of the Interpretation Act defines “person” to include any company or association or body of persons, corporate or unincorporate. As such, section 5 of the PCA would cover third party entities who are the beneficiaries of bribes.
29. Regarding sentences imposed for bribery under section 5, Singapore explained that it does not maintain statistics on sentences imposed under section 5 of the PCA. Given that public officials also fall within the definition of “agent”, they may also be prosecuted under section 6 of the PCA where appropriate, which carries the same prescribed punishment as section 5 of the PCA (up to 5 years imprisonment or \$100,000 fine, or both).

(c) Successes and good practices

30. The rebuttable presumption established in section 8 PCA was deemed conducive to the effective investigation and pursuit of corruption offences.

Article 15 Bribery of national public officials

Subparagraph (b)

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

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

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

31. A public official who solicits, attempts to solicit, accepts or agrees to accept an undue advantage, in order that he act or refrain from acting in the exercise of his official duties, would be caught by sections 5(a)(ii) and 6(a) of the Prevention of Corruption Act (Chapter 241) ("PCA") [Annex 1]. Sections 7 and 8 of the PCA, as described in answer to Subparagraph (a) of article 15, are also relevant.
32. There is also no requirement that the bribe or advantage must benefit the public official personally. Indeed, under sections 5(a)(ii) and 6(a) of the PCA, the bribe can be received "for any other person".
33. In addition, sections 161 to 165 of the Penal Code [Annex 3] supplement the PCA provisions by criminalising acts of corruption in various factual scenarios involving public servants. Sections 213 and 215 of the PC criminalise attempts to obtain, acceptance or agreements to accept by a person including a public official, any gratification in exchange for screening an offender from legal punishment or helping any person to recover stolen property that was seized.
34. Singapore cited the following text.

Prevention of Corruption Act (Chapter 241) ("PCA") [Annex 1]
sections 5(a)(ii), 6(a), 7 and 8

Penal Code (Chapter 224) ("PC") [Annex3]
sections 161 to 165
sections 213 and 215

35. Singapore provided the following case example. Hassan bin Ahmad v. PP [2000] 2 SLR(R) 567 [Annex 6]

The accused started receiving money from one Chua Tiong Tiong ("Chua") in 1993. The receipts of money from Chua continued even after the accused joined the police force in October 1997 upon graduating from the Police Academy. From the time he commenced training at the Police Academy till he was an Assistant Superintendent of the Singapore Police Force, the accused received 4 separate payments from Chua. These payments formed the basis for 4 charges of corruption under section 6(a) of the PCA that were brought against the accused. The accused claimed trial and was convicted on 4 charges by the district judge who concluded that the accused had received the moneys from Chua corruptly with the intention of being "bought over" by the latter. The accused was sentenced to 9 months' imprisonment on each charge, with 2 sentences to run consecutively for a total of 18 months' imprisonment. The accused's appeal against his conviction and sentence was dismissed by the High Court.

The High Court held that it was not necessary for the Prosecution to prove a nexus between each receipt and a particular act as the arrangement between Chua and the

accused was not transactional in nature but more akin to a monthly retainer for services from time to time. The evidence showed that the district judge had ample grounds on which to accept the Prosecution's theory that the accused intended to be bought over by Chua. From the time the accused entered the Police Force, he ceased to be an ordinary citizen and became dressed with the duties and responsibilities of office, including the duty to not only conduct himself honestly, impartially and with integrity, but to avoid all appearances that would suggest otherwise. Regardless of the character of the receipts in the past, by continuing to take money from Chua and soliciting information upon Chua's request, the correct and inexorable inference was that the accused made himself readily available to comply with Chua's instructions. The receipts of money from Chua by the accused were tainted with a corrupt element as the reciprocal acts performed by the accused were intended to impinge on his official duties as a police officer.

36. PP v Tang Eng Peng Alan [1995] 2 SLR(R) 672 [Annex 7]

The accused, a Singapore Armed Forces officer and chairman of the Khatib Camp canteen committee, claimed trial to a charge of corruptly obtaining a loan from one Quah Kim Peng ("Quah") under section 6(a) of the PCA. Public tenders were invited for the canteen stalls and at around the time of the tender, the accused provided information to Quah relating to the tender of the drinks stall. Quah succeeded in the tender and soon after, the accused obtained a SGD5,000 loan from him. The accused claimed that he had known Quah for 10 years and the loan was bonafide. Further, he argued that the information he provided to Quah was already known by the latter.

The accused was acquitted of the charge at the conclusion of the trial. The Prosecution's appeal against the acquittal was allowed by the High Court and the accused was sentenced to six months' imprisonment.

The High Court held that a public officer who, by virtue of his office or position, had the power and authority to make a decision affecting another person cannot allow himself to seek a favour from that other person. If he did so, he bore the onus of rebutting the presumption of corruption which applied to public servants under section 8 of the PCA on a balance of probabilities. The High Court also found that the circumstances of the case amply showed that the loan the accused took was impliedly linked to the provision of information to Quah.

Although the High Court observed that there was no evidence of an express reference to the contract or to the provision of information at or around the time of the request for the loan, it held that there is no necessity in law for an express request for a bribe or an express reference to a favour to be shown in order to establish a charge of corruption. To impose such a condition is undesirable and far too restrictive; the nets would not be cast wide enough to catch the often subtle and sophisticated forms of corruption. The lack of an express or overt reference to the provision of information or to the contract was immaterial. The High Court held that it could be inferred from the facts that the accused had first provided assistance to Quah, and then sought a reciprocal favour from him. In this regard, any intention on the part of the accused to repay the loan was irrelevant, and the accused had failed to rebut the presumption of corruption.

37. Singapore indicated that statistics are collated over the past four years (2010 to 2013) and pertain to offences disclosed in investigations which commenced in that given year.

In 2010, 5 out of 109 corruption offences were prosecutions under section 6(a) of the PCA involving public officials who accepted, obtained or agreed to accept or attempted to obtain bribes.

In 2011, 2 out of 43 corruption offences were prosecutions under section 6(a) of the PCA involving public officials who accepted, obtained or agreed to accept or attempted to obtain bribes.

In 2012, 4 out of 47 corruption offences were prosecutions under section 6(a) of the PCA involving public officials who accepted, obtained or agreed to accept or attempted to obtain bribes.

In 2013, 4 out of 41 corruption offences were prosecutions under section 6(a) of the PCA involving public officials who accepted, obtained or agreed to accept or attempted to obtain bribes.

(b) Observations on the implementation of the article

38. It is noted that 15 cases were prosecuted within a period of 4 years under Section 6 (bribery involving transaction with agents).

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

Paragraph 1

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.

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

39. Section 5(b)(ii) and 6(b) of the Prevention of the Corruption Act, (Chapter 241) ("PCA") [Annex 1], criminalises the act of corruptly offering, giving or agreeing to give gratification to an agent. A "foreign public official" is an "agent" within the meaning of section 2 of the PCA, which includes "any person employed by or acting for another". Section 5(b)(ii) and 6(b) thus captures all such acts of corruption by any person, if the act is committed in Singapore.

40. Section 37 of the PCA confers upon Singapore Courts the jurisdiction to try all combinations of corruption offences that are committed by citizens of Singapore overseas. If a Singapore citizen corruptly offers, agrees to give or gives gratification to a foreign public official outside Singapore, he can be prosecuted in Singapore Courts under the PCA as if he had committed the offence in Singapore.

41. Further, under section 29(b) of the PCA (read with section 108A of the Penal Code [Annex 3]), if anyone in Singapore abets the commission of any act of corruption outside Singapore (including bribery of foreign public officials overseas), Singapore Courts have jurisdiction over such a person regardless of his nationality.
42. By virtue of section 29(a) of the PCA (read with section 108B of the PC), Singapore Courts can exercise jurisdiction over a person located overseas who abets the promise, offering or giving of a bribe to a foreign public official who is in Singapore.
43. Singapore cited the following text.

Prevention of Corruption Act (Chapter 241) ("PCA") [Annex 1]
sections 5(b)(ii), 6(b), 29(a), 29(b) and 37

Penal Code (Chapter 224) ("PC") [Annex 3]
sections 108A and 108B

44. Singapore provided the following case example.

PP v. Taw Cheng Kong [1998] 2 SLR(R) 489 [Annex 8]

Although the facts of this case involved the acceptance (not giving) of bribes by a Singaporean overseas, it is significant for the Court of Appeal's interpretation of Section 37 of the PCA (including its application to acts of corruptly giving gratification, committed overseas by a Singaporean)

The accused, a Singapore citizen, was Regional Manager (Asia Pacific) of the Government of Singapore Investment Corporation ("GIC"), based in Hong Kong. He was alleged to have accepted "incentive fees" from one Kevin Lee ("Lee") of Rockefeller & Co Inc. New York to make GIC purchases of certain counters in Hong Kong and Australia under Lee's instigation. The accused was tried and convicted of eight offences under section 6 read with section 37 of the PCA which provided that where an offence under the Act was committed by a citizen of Singapore in any place outside Singapore, that person could be dealt with in respect of that offence as if it had been committed in Singapore. The accused's appeal against conviction was allowed by the High Court which found (a) that section 37(1) of the PCA was in constitutional violation of article 12(1) of the Constitution; (b) that section 37(1) was ultra vires the powers of the Legislature; and (c) that there was insufficient evidence for a conviction under the charges for corruption.

45. Pursuant to section 60 of the Supreme Court of Judicature Act (Chapter 322), the Attorney General and the Public Prosecutor applied for a criminal reference for two questions of law to be considered by the Court of Appeal, (1) whether section 37 of the PCA was ultra vires the powers of the legislature; and (2) whether section 37 of the PCA was inconsistent with article 12(1) of the Constitution of the Republic of Singapore.

The Court of Appeal answered both questions in the negative and held that the extraterritorial provision in section 37(1) of the PCA was not ultra vires the powers of the legislature. It was valid so long as it did not offend the Constitution.

The concept of equality under article 12 of the Constitution did not mean that all persons

were to be treated equally, but simply that all persons in like situations would be treated alike. The question was whether the classification in section 37(1) of the PCA on the grounds of citizenship was arbitrary or unreasonable. A classification was valid and did not offend the principle of equality if it was founded on an intelligible differentia and bore a rational or reasonable connection to the object of the impugned legislation.

The Court of Appeal noted that the language of section 37(1) was very wide, and the section was capable of capturing all corrupt acts by Singapore citizens outside Singapore, regardless of whether such corrupt acts had consequences within the borders of Singapore or not.

Under international law, a statute generally operated within the territorial limits of the Parliament that enacted it, and could not be construed as applying to foreigners outside its dominions. It was with this consideration that Parliament left non-citizens out of section 37(1) of the PCA. It was rational for section 37 to draw the line at citizenship and leave out non-citizens so as to observe international comity and the sovereignty of other nations.

The Court of Appeal also noted that it had been said to be settled law that any State might impose liabilities, even upon persons not within its allegiance, for conduct outside its borders that had consequences within its borders which the State reprehended. As Singapore becomes increasingly cosmopolitan, it might well have been more compelling and effective for Parliament to adopt the effects doctrine as the foundation of our extraterritorial laws in addressing potential mischief.

46. PP v Lim Chin Seng (unreported)

In 2004, Lim Chin Seng ("Lim"), a male Singaporean, operating vice activities in Geylang, Singapore was charged for 4 counts of corruptly giving a total amount of S\$1,000 to a foreign immigration officer based in Singapore under section 6(b) of the PCA. Lim employed female foreign nationals to work as prostitutes. When the Singapore-issued social visit passes of these female foreign nationals were expiring, Lim would help them apply for foreign visas to visit a foreign country for a short stay, and thereafter, to return to Singapore on fresh social visit passes to continue their prostitution in activities in Singapore. In order to expedite the issuance of foreign visas, Lim gave a bribe of S\$50 per visa application to the foreign immigration officer. Lim pleaded guilty to 1 charge and agreed to have the remaining 3 charges taken into consideration for the purpose of sentencing. He was sentenced to 4 months' imprisonment. Only the giver, Lim Chin Seng, was prosecuted.

47. No statistics were provided.

(b) Observations on the implementation of the article

48. Singapore provided the following additional case example involving bribes given to a foreign public official.

In 2014, one Tan Choon Kiat, a Singaporean tour bus driver gave S\$1,250 as a bribe to a Malaysian land public transport commission ("SPAD") enforcement officer, Asmadi Mat, at a café in a town called Taman Daya in Johor Bahru on 17 May 2013. The bribe was an inducement for the SPAD officer to release a tour bus that had been impounded by SPAD.

The SPAD officer had previously explained to Tan Choon Kiat that SPAD could not release the tour bus as the case involved three different offences which had to be brought to court for further action. Tan Choon Kiat was arrested by an officer from the Malaysian Anti-Corruption Commission at the said café. In October 2014, Tan Choon Kiat was charged in the Courts of Johor Bahru, Malaysia for the bribery offence. He pleaded guilty and was sentenced to a RM\$20,000 (S\$8,000) fine and one day in jail.

Singapore added that bribery of foreign public officials is transnational, and as such, cases involving Singaporean accused persons may have been prosecuted in other jurisdictions, for example, Singaporeans have been prosecuted in Malaysia for offering bribes to Malaysian traffic police officers.

49. The observations under article 15 above are referred to also in the context of the present article.

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

Paragraph 2

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

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

50. A foreign public official who corruptly solicits, attempts to solicit, accepts or agrees to accept an undue advantage from someone (regardless of nationality) in Singapore, will have committed an offence under section 5(a)(ii) or 6(a) of the Prevention of Corruption Act (Chapter 241) ("PCA") [Annex 1].
51. There is no requirement that the bribe or advantage must benefit the public official personally.
52. Singapore cited the following text.
Prevention of Corruption Act (Chapter 241) ("PCA") [Annex 1]
sections 5(a)(ii) and 6(a)
53. Singapore indicated that, other than the case of PP v Lim Chin Seng cited under paragraph 1 of the article above, there have been no other investigations or cases involving bribes given to a foreign public official. The foreign immigration officer in that case was not prosecuted as he was no longer in Singapore at the time of investigations.

(b) Observations on the implementation of the article

54. It was explained that there was an ongoing investigation against a US Navy employee who received bribes in Singapore in connection with the disclosure of confidential US

Navy information.

55. The observations under article 15 above are referred to.

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

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

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

56. The embezzlement or diversion of funds entrusted to the public official by virtue of his position is typically covered by the offence of criminal breach of trust which is defined under section 405 of the Penal Code and criminalized under sections 406 to 409 of the Penal Code. There is no requirement that the property embezzled, misappropriated or diverted must benefit the public official personally.

57. However, depending on the nature of the criminal conduct, other PC offences may be established, for example, theft (see sections 378 to 381 of the PC [Annex 3]) or cheating (see sections 415 to 420 of the PC [Annex 3]).

58. Singapore cited the following texts.

Penal Code (Chapter 224) ("PC") [Annex 3]
sections 405 to 409

sections 378 to 381

sections 415 to 420

59. Singapore provided the following case example.

PP v Koh Seah Wee and Lim Chia Meng [2012] 1 SLR 292 [Annex 9]

The accused persons were former colleagues in the Singapore Land Authority ("SLA"). At the material time, Koh Seah Wee ("Koh"), was the deputy director of the SLA's Technology and Infrastructure ("TI") department while Lim Chai Meng ("Lim"), was the said department's manager, a position subordinate to Koh's. Lim was a procurement/verifying officer responsible for the requisition of goods and services required by SLA's TI department. In the procurement process, vendors would be invited to quote for a contract and Lim would make recommendations to Koh on whom to award the contract to. Koh had authority to approve and award contracts of up to S\$60,000 in value.

In committing the cheating offences, Koh and Lim rigged the quotation results by arranging for their own "vendors" (the accomplices) to offer the lowest quotations which Lim would recommend and Koh would approve. Lim would also assist in preparing fictitious invoices for some of the "vendors" for submission to SLA's finance department.

Through this fraudulent scheme, contracts were awarded to the "vendors" which neither intended nor were able to fulfill in any case. Once payment was made by SLA to the accomplices, the money would be handed over to Koh. The accomplices would be given a share of the money but the bulk of it would go to Koh and Lim.

The criminal proceeds involved amounted to more than S\$12 million. Investigators recovered about S\$7.54 million from Koh and S\$1.43 million from Lim.

In addition to the above offences, Koh had also committed fraud against other government agencies he was previously working for by dishonestly concealing his financial interests in the vendors submitting quotations which were evaluated by him and submitted for approval by his superiors.

Koh was charged with 372 counts of cheating and money laundering offences. He pleaded guilty and was sentenced to 22 years' imprisonment. Lim was charged with 309 charges of cheating and money laundering offences. He pleaded guilty and was sentenced to 15 years' imprisonment. His accomplices, who owned or worked at the external vendors, were also jailed for a period between 18 months and 10 years.

60. Singapore indicated that offences of embezzlement or misappropriation are prosecuted under a number of different offences, and investigated by various agencies. Singapore was unable to collate statistics for these offences.

(b) Observations on the implementation of the article

61. Regarding statistics for offences of embezzlement and misappropriation, Singapore indicated that in the last three years (2012-2014), it has prosecuted 252 section 406 Penal Code cases (with a conviction rate of 100%), 199 section 408 Penal Code cases (with a conviction rate of 100%) and 25 section 409 Penal Code cases (with a conviction rate of 96%). In 2014, Singapore successfully prosecuted two public officials (one local, one foreigner). The case summaries of *PP v Yeo Seow Hiong Edwin* and *PP v Li Huabo* are set out below.

PP v Yeo Seow Hiong Edwin (unreported)

The accused, Yeo Seow Hiong Edwin (Edwin Yeo) was the ex-Assistant Director of the Corrupt Practices Investigation Bureau Field Research and Technical Support Branch during the material time. Investigations revealed that he had misappropriated about S\$1.7 million between August 2008 and August 2012 through various means, namely payments meant for vendors for equipment purchases and services rendered, monies meant for staff insurance payments and monies meant for the bureau. The misappropriated monies were mostly used for his personal use, such as paying his credit card bills and for gambling. Between 2010 and 2012, investigations revealed that Edwin Yeo's total estimated gambling losses at the Resorts World Singapore and Marina Bay Sands casinos were about S\$480,000. Investigations also revealed that between 2008 and 2012, he placed regular bets with Singapore Pools (Private) Ltd, which resulted in losses of more than S\$263,000. In addition, Edwin Yeo maintained several credit cards and credit lines during the material time. Between 2008 and 2012, his credit cards and credit lines payments amounted to more than S\$430,000. The expenses on these credit facilities were mostly for cash advances made to fund his gambling habits.

PP v Li Huabo [2014] 3 SLR 1308 [Annex 50]

Li Huabo was the Section Director of the Poyang Country Financial Bureau (the Bureau) in the Jiangxi Province since 2006. Together with his accomplices, the group allegedly embezzled RMB 94 million from the Bureau. In February 2011, the Commercial Affairs Department commenced investigation into the matter, pursuant to a request for assistance from Interpol Beijing.

Investigation revealed that the accused remitted his share of the criminal proceeds amounting to RMB 25 million (S\$5 million) to several Singapore bank accounts. Thereafter, he invested S\$1.5 million into the Singapore's Global Investor Programme. Part of the criminal proceeds was also used to invest in several properties in Singapore. Investigators managed to recover about SGD 3 million from the accused.

On 2 April 2013, the accused was convicted of three counts of Dishonestly Receiving Stolen Property under Section 411 of the Penal Code, and sentenced to 15 months imprisonment.

62. Singapore provided the following table of penalties for theft and criminal breach of trust under the Penal Code.

Provision (in Penal Code)	Penalty
379. Theft	Imprisonment for a term which may extend to 3 years, or with fine, or with both.
379A. Theft of a motor vehicle	Imprisonment for a term which may extend to 7 years, and shall also be liable to fine.
380. Theft in dwelling-house	
381. Theft by clerk or servant of property in possession of master	
382. Theft after preparation made for causing death or hurt in order to commit theft	Imprisonment for a term which may extend to 10 years, and shall also be punished with caning with not less than 3 strokes.
406. Criminal breach of trust	Imprisonment for a term which may extend to 3 years, or with fine, or with both.
407. Criminal breach of trust by carrier	Imprisonment for a term which may extend to 15 years, and shall also be liable to fine.
408. Criminal breach of trust by clerk or servant	
409. Criminal breach of trust by public servant, or by banker, merchant or agent	Imprisonment for life, or with imprisonment for a term which may extend to 20 years, and shall also be

	liable to fine.
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Article 18 Trading in influence

Subparagraph (a)

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

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

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

63. Where the bribe is offered to the public official or any person in relation to the exercise of his official duties, section 6(b) of the Prevention of the Corruption Act (Chapter 241) ("PCA") [Annex 1], will apply. Sections 7 and 8 of the PCA are also relevant: please refer to subparagraph (a) of article 15.
64. Where the bribe is offered to the public official or any person in order that he or she abuse his or her real or supposed influence which abuse is not carried out within the person's official duties, section 5(b)(ii) of the PCA extends the criminal reach of the PCA beyond the agent-principal paradigm. By virtue of section 5(b)(ii) of the PCA, the act of corruptly offering, promising and giving of bribes to any person or any member, officer or servant of a public body in respect of any matter or transaction whatsoever, actual or proposed in which such public body is concerned, is a criminal offence, regardless of whether a principal is identified and whether the person or the public official does or forbears to do any act in relation to his principal's affairs.
65. Pursuant to section 9(2) of the PCA, in a prosecution under section 6(b) of the PCA, no proof is required that the public official or the person who received the bribe had the power, right or opportunity to exert influence i.e. it does not matter that the receiver of the bribe possessed any real or supposed influence.
66. Singapore cited the following texts.
Prevention of Corruption Act (Chapter 241) ("PCA") [Annex 1]
section 2: definition of "public body"
sections 5(b)(ii), 6(b), 7, 8 and 9(2)
67. Singapore provided the following case example. PP v. Goh Choon Hee (unreported)

The accused was a director of a sole proprietorship in the business of apartment rentals. In June 2013, a Singapore Civil Defence Force Sergeant Samuel Anand ("Anand") witnessed a collision between a car driven by the accused and a taxi and asked for police backup. Sergeant Anand realised that Goh Choon Hee had a strong odour of alcohol on him and an unsteady gait. He repetitively told Sergeant Anand that he could not afford to have his driving license suspended as the nature of his job required him to drive a vehicle. The accused opened his wallet, showed Sergeant Anand a S\$1000 note and signalled Sergeant

Anand to let him flee the scene of accident so that there would be no police action against him. Sergeant Anand ignored the accused and reported the incident of bribery to his operations room and to the police officers who arrived shortly. The accused was subsequently arrested by the police for drunk-driving. The accused was charged with one count of corruptly offering gratification as an inducement to Sergeant Anand for forbearing to report him to the police for a traffic offence, under Sec 5b(i) of the PCA, Cap 241. The accused pleaded guilty and was sentenced to 3 months of imprisonment.

68. For statistics pertaining to the trading of influence within a public official's official duties, Singapore referred to subparagraph (a) of article 15.
69. For statistics pertaining to the trading of influence within a non-public official's official duties, Singapore referred to subparagraph (a) of article 21.
70. Singapore indicated that the statistics maintained do not identify whether trading of influence was done outside of a public official's or any person's official duties. Singapore referred to the example above of a recent case.

(b) Observations on the implementation of the article

71. Singapore explained that there is no requirement under section 5 or 6 of the PCA for the “abuse of real or supposed influence” to obtain an undue advantage from an administration or public authority (as per UNCAC article 18). Its laws are therefore wider as no actual or imputed favour needs to be proved (see section 9 of the PCA).
72. For an example of the abuse of real or supposed influence, Singapore cited the case of *Hassan bin Ahmad v. PP* [2000] 2 SLR(R) 567 [Annex 6] above and the case of *PP v Ong Thiam Hock* below.

PP v Ong Thiam Hock (unreported)

The accused, Ong Thiam Hock (“Ong”), was a Senior Staff Sergeant with the Singapore Police Force. He was attached to the Compliance Management Unit of Clementi Police Division during the material time.

Investigations revealed that Zhong Xiaoqin (“Zhong”), a female PRC citizen, first acquainted with Ong when she was arrested for working illegally in a massage establishment in November 2007. Thereafter, Zhong maintained contact with Ong and told him of her intention to operate an unlicensed massage establishment in Clementi. On numerous occasions, during their dinner dates, the two of them checked into hotels for sex on Zhong’s initiative. Zhong also handed a total of \$7,000 to Ong for him “to spend”. Ong admitted that he was aware that Zhong’s intention of giving him free sex and money was for him to provide tip-offs regarding raids on unlicensed massage parlours in Clementi.

On 19 Feb 2009, Ong was charged in Court for 12 counts of corruptly obtaining gratification from Zhong under section 6(a) of the PCA (5 counts related to sexual gratification, while the remaining 7 counts related to cash amounting to \$7,000). He also admitted that he had given tip-offs to Zhong on two occasions between May 08 and Jun 08 on impending raids to be conducted by the Police on massage parlours. Ong pleaded

guilty to 5 charges (with the remaining 7 charges taken into consideration for sentencing) and was sentenced to 30 months of imprisonment.

73. It was further explained that, although as stated above, sections 5 and 6 of the PCA are wide enough to cover conduct involving “trading in influence,” the PCA is currently being reviewed and a specific offence of misconduct in public office is under consideration.

Article 18 Trading in influence

Subparagraph (b)

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

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

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

74. Where the bribe is solicited or accepted by the public official or any person in relation to the exercise of his official duties, section 6(a) of the Prevention of the Corruption Act (Chapter 241) ("PCA") [Annex 1], will apply. Sections 7 and 8 of the PCA are also relevant: please refer to subparagraph (b) of article 15.
75. Where the bribe is solicited or accepted by the public official or any person in order that he or she abuse his or her real or supposed influence which abuse is not carried out within the person's official duties, section 5(a)(ii) of the PCA extends the criminal reach of the PCA beyond the agent-principal paradigm. By virtue of section 5(a)(ii) of the PCA, the act of corruptly soliciting, agreeing to receive and receiving of bribes by any person or any member, officer or servant of a public body in respect of any matter or transaction whatsoever, actual or proposed in which such public body is concerned, is a criminal offence, regardless of whether a principal is identified and whether the person or the public official does or forbears to do any act in relation to his principal's affairs.
76. Pursuant to section 9(1) of the PCA, in a prosecution under section 6(a) of the PCA, no proof is required that the public official or the person who obtained the bribe had the power, right or opportunity to exert influence or intended to exert influence or did in fact exert influence i.e. it does not matter that the receiver of the bribe possessed any real or supposed influence and/or abused that influence.

77. Singapore cited the following texts.

Prevention of Corruption Act (Chapter 241) ("PCA") [Annex 1]
Section 2: definition of "public body"

Sections 5(a)(ii), 6(a), 7, 8 and 9(1)

78. For cases pertaining to the abuse of functions or positions within a public official's official duties, please refer to subparagraph (b) of article 15.

79. For cases pertaining to the abuse of functions or positions within a non-public official's official duties, please refer to subparagraph (b) of article 21.
80. Where the abuse of functions or positions was outside of a public official's or any person's official duties, in the last four years (2010 to 2013), there were no cases.
81. For statistics pertaining to the abuse of functions or positions within a public official's official duties, please refer to subparagraph (b) of article 15.
82. For statistics pertaining to the abuse of functions or positions within a non-public official's official duties, please refer to subparagraph (b) of article 21.
83. Where the abuse of functions or positions was outside of a public official's or any person's official duties, in the last four years (2010 to 2013), there were no cases.

(b) Observations on the implementation of the article

84. The same observations made under paragraph (a) of this article are referred to.

Article 19 Abuse of Functions

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

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

85. Singapore referred to its answers to subparagraph (b) of article 15 and subparagraph (b) of article 18.
86. Singapore cited the following texts.

Prevention of Corruption Act (Chapter 241) ("PCA") [Annex 1]
section 2: definition of "public body"

sections 5(a)(ii) and 6(a), 7 and 8

Penal Code (Chapter 224) ("PC") [Annex 3]
sections 161 to 165
sections 213 and 215

87. Singapore provided the following case example. Hassan bin Ahmad v. PP [2000] 2 SLR(R) 567 [Annex 6]

The accused started receiving money from one Chua Tiong Tiong ("Chua") in 1993. The receipts of money from Chua continued even after the accused joined the police force in

October 1997 upon graduating from the Police Academy. From the time he commenced training at the Police Academy till he was an Assistant Superintendent of the Singapore Police Force, the accused received 4 separate payments from Chua. These payments formed the basis for 4 charges of corruption under section 6(a) of the PCA that were brought against the accused. The accused claimed trial and was convicted on 4 charges by the district judge who concluded that the accused had received the moneys from Chua corruptly with the intention of being “bought over” by the latter. The accused was sentenced to 9 months’ imprisonment on each charge, with 2 sentences to run consecutively for a total of 18 months’ imprisonment. The accused’s appeal against his conviction and sentence was dismissed by the High Court.

The High Court held that it was not necessary for the Prosecution to prove a nexus between each receipt and a particular act as the arrangement between Chua and the accused was not transactional in nature but more akin to a monthly retainer for services from time to time. The evidence showed that the district judge had ample grounds on which to accept the Prosecution’s theory that the accused intended to be bought over by Chua. From the time the accused entered the Police Force, he ceased to be an ordinary citizen and became dressed with the duties and responsibilities of office, including the duty to not only conduct himself honestly, impartially and with integrity, but to avoid all appearances that would suggest otherwise. Regardless of the character of the receipts in the past, by continuing to take money from Chua and soliciting information upon Chua’s request, the correct and inexorable inference was that the accused made himself readily available to comply with Chua’s instructions. The receipts of money from Chua by the accused were tainted with a corrupt element as the reciprocal acts performed by the accused were intended to impinge on his official duties as a police officer.

88. PP v Tang Eng Peng Alan [1995] 2 SLR(R) 672 [Annex7]

The accused, a Singapore Armed Forces officer and chairman of the Khatib Camp canteen committee, claimed trial to a charge of corruptly obtaining a loan from one Quah Kim Peng (“Quah”) under section 6(a) of the PCA. Public tenders were invited for the canteen stalls and at and around the time of the tender, the accused provided information to Quah relating to the tender of the drinks stall. Quah succeeded in the tender and soon after, the accused obtained a SGD5,000 loan from him. The accused claimed that he had known Quah for 10 years and the loan was bonafide. Further, he argued that the information he provided to Quah was already known by the latter.

The accused was acquitted of the charge at the conclusion of the trial. The Prosecution’s appeal against the acquittal was allowed by the High Court and the accused was sentenced to six months’ imprisonment.

The High Court held that a public officer who, by virtue of his office or position, had the power and authority to make a decision affecting another person cannot allow himself to seek a favour from that other person. If he did so, he bore the onus of rebutting the presumption of corruption which applied to public servants under section 8 of the PCA on a balance of probabilities. The High Court also found that the circumstances of the case amply showed that the loan the accused took was impliedly linked to the provision of information to Quah.

Although the High Court observed that there was no evidence of an express reference to

the contract or to the provision of information at or around the time of the request for the loan, it held that there is no necessity in law for an express request for a bribe or an express reference to a favour to be shown in order to establish a charge of corruption. To impose such a condition is undesirable and far too restrictive; the nets would not be cast wide enough to catch the often subtle and sophisticated forms of corruption. The lack of an express or overt reference to the provision of information or to the contract was immaterial. The High Court held that it could be inferred from the facts that the accused had first provided assistance to Quah, and then sought a reciprocal favour from him. In this regard, any intention on the part of the accused to repay the loan was irrelevant, and the accused had failed to rebut the presumption of corruption.

89. Singapore indicated that the statistics are collated over the past four years (2010 to 2013) and pertain to offences disclosed in investigations which commenced in that given year.

In 2010, 5 out of 109 corruption offences were prosecutions under section 6(a) of the PCA involving public officials who accepted, obtained or agreed to accept or attempted to obtain bribes.

In 2011, 2 out of 43 corruption offences were prosecutions under section 6(a) of the PCA involving public officials who accepted, obtained or agreed to accept or attempted to obtain bribes.

In 2012, 4 out of 47 corruption offences were prosecutions under section 6(a) of the PCA involving public officials who accepted, obtained or agreed to accept or attempted to obtain bribes.

In 2013, 4 out of 41 corruption offences were prosecutions under section 6(a) of the PCA involving public officials who accepted, obtained or agreed to accept or attempted to obtain bribes.

(b) Observations on the implementation of the article

90. The reviewers note that the cited measures and statistics deal with bribery and that there is not reference to an offence in Singapore's legislation on abuse of office. In this context Singapore clarified that the Penal Code provides for a list of offences committed by or relating to public servants in sections 161 to 171 of the Penal Code. This would include a public servant taking gratification, either by corrupt or illegal means, or in the exercise of personal influence, in the exercise of their official duties to show favour or disfavour to any person. The CPIB is currently considering the possibility of incorporating offences relating to misconduct in public office in the PCA. Such an offence would not require any gratification to be received.
91. The reviewers welcome indications by Singapore that it is considering amending the PCA to establish a specific offence on misconduct in public office, which would not be limited to the taking or acceptance of gratification.

Article 20 Illicit Enrichment

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

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

92. Having unexplained income is not an offence per se.

93. However, under sections 20 to 21 of the PCA[Annex 1], the investigating agencies are given wide powers to obtain information about a public servant's or his or her spouse's or children's bank accounts, property and possessions. With this information, commission of corruption or embezzlement offences by public servants can be detected more easily. In this regard, by virtue of section 24 of the PCA, in any court proceedings against a public servant, the fact that he or she is unable to satisfactorily account for pecuniary resources or property in his possession that are "disproportionate to his known sources of income" may be proved and used against him or her in the said proceedings.

94. Further, under section 8 of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) [Annex 10], in any assessment of the benefits derived by a person from criminal conduct that is liable for confiscation, a presumption operates that the said benefits shall consist of any property or interest held by the person at any time which are "disproportionate to his known sources of income" and the holding of which he cannot satisfactorily explain to the court.

95. In addition, under the Singapore Government Instruction Manual, a public official must disclose his investments annually, and any purchase of property within one week of purchase. In the event that the public official fails to make the disclosure, the public official may be subjected to disciplinary action.

96. Singapore cited the following texts.

Prevention of Corruption Act (Chapter 241) ("PCA") [Annex 1]
sections 20 to 21

Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) ("CDSA") [Annex 5]
section 8

97. No case examples or statistics were available.

(b) Observations on the implementation of the article

98. The article is not mandatory. It is noted, however, that attempts have been made to facilitate early detection of illicit enrichment.

99. It was explained that CPIB is currently considering the possibility of incorporating offences relating to criminalizing illicit enrichment in the PCA.

100. The reviewers welcome indications by Singapore that it is considering amending the PCA to establish a specific offence of illicit enrichment.

Article 21 Bribery in the private sector

Subparagraph (a)

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

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

101. This offence is covered under sections 5(b)(i) and 6(b) of Prevention of the Corruption Act (Chapter 241) ("PCA") [Annex 1]. The offences of corruption in Singapore under sections 5 and 6 of the PCA do not distinguish between public sector and private sector corruption, and the elements of the offences in both instances are similar (see answers to Subparagraph (a) of article 15 and Subparagraph (a) of article 18 for the elements of the offences). Similarly, the punishments for corruption offences under sections 5 and 6 of the PCA for both public sector and private sector corruption are identical: maximum fine of not exceeding S\$100,000 or imprisonment for a term not exceeding 5 years or both. Generally, the courts mete out harsher punishments for public sector corruption offences compared to private sector corruption offences.

102. Singapore cited the following texts.

Prevention of Corruption Act (Chapter 241) ("PCA") [Annex 1]

sections 5(b)(i) and 6(b)

103. Singapore provided the following case example. PP v Ang Seng Thor [2011] SGHC 134 [Annex 11]

The accused was the CEO and joint managing director of a company who gave a total of S\$147,158 in bribes on 2 occasions to agents of other companies as gratification for these companies ordering goods from the accused's company.

The accused pleaded guilty to 2 charges under s 6(b) of the PCA. 4 other charges were taken into consideration, including 2 similar charges under s 6(b).

On appeal to the High Court, the accused's sentence per proceeded charge was enhanced to 6 weeks' imprisonment and \$25,000 fine per charge, with the sentences for both charges ordered to run consecutively. The total imprisonment was 12 weeks' imprisonment and S\$50,000 fine. In sentencing the accused, the High Court treated the accused's position of seniority in his company as an aggravating factor. However, the High Court also noted that the accused's high degree of cooperation with CPIB during

investigations deserved “significant recognition”.

The High Court laid down the following sentencing principles in relation to corruption offences in general, and private sector corruption in particular:

- (i) The public service rationale referred to the public interest in preventing a loss of confidence in Singapore's public administration, and where there was a risk of that harm occurring, a custodial sentence was normally justified. The public service rationale was presumed to apply where the offender was a government servant or an officer of a public body, but it could also apply to private sector offenders where the subject matter of the offence involved a public contract or service, such as private sector offences which concerned regulatory or oversight roles. Although triggering the public service rationale was one way in which a private sector offender could be subject to a custodial sentence, it was not the only way: the custody threshold could be breached in other circumstances, depending on the applicable policy considerations and the gravity of the offence as measured by the mischief or likely consequence of the corruption. In addition, factors such as the size of the bribes, the number of people drawn into the web of corruption and whether such conduct was endemic would all be relevant to the consideration of whether a custodial sentence was justified.
- (ii) The main sentencing considerations in corruption cases are deterrence and punishment:
- (iii) The seriousness of the offence would increase considerably in cases involving corruption of managers, particularly senior managers, and where there was corrupt influence over large or otherwise important business transactions: Courts should then consider imposing custodial sentences to deter the establishment of a corrupt business culture in Singapore.
- (iv) It is an aggravating factor if the offences occurred over a long period of time, as opposed to one-off incidents.
- (v) The size of the bribe has a bearing on both the culpability of the offender and the harm occasioned by the offence. The larger the amount of the bribe, the greater is the corrupt influence on the recipient and, hence, the greater is the subversion of the public interest in ensuring fairness in transactions and decisions. The size of the bribe is also a good indicator of the culpability of the offender. In the case of the giver of the bribe, the size of the bribe demonstrates the amount of influence that the giver wanted to exert on the recipient. Hence, in general, the greater the bribe, the greater is the culpability of the giver.

104. Singapore indicated that the statistics are collated over the past four years (2010 to 2013) and pertain to offences disclosed in investigations which commenced in that given year.

In 2010, 72 out of 109 corruption offences were prosecutions under sections 5(b)(i) and 6(b) of the PCA involving persons in the private sector who gave, agreed to give or offered bribes.

In 2011, 34 out of 43 corruption offences were prosecutions under sections 5(b)(i) and 6(b) of the PCA involving persons in the private sector who gave, agreed to give or offered bribes.

In 2012, 34 out of 47 corruption offences were prosecutions under sections 5(b)(i) and 6(b) of the PCA involving persons in the private sector who gave, agreed to give or

offered bribes.

In 2013, 27 out of 41 corruption offences were prosecutions under sections 5(b)(i) and 6(b) of the PCA involving persons in the private sector who gave, agreed to give or offered bribes.

(b) Observations on the implementation of the article

105. The provision is implemented and the case law cited is relevant.

Article 21 Bribery in the private sector

Subparagraph (b)

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

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

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

106. This offence is covered under sections 5(a)(i) and 6(a) of the Prevention of the Corruption Act (Chapter 241) ("PCA") [Annex 1]. As explained in the answer to Subparagraph (a) of article 21, the offences of corruption in Singapore under sections 5 and 6 of the PCA do not distinguish between public sector and private sector corruption, and the elements of the offences in both instances are similar (see answers to Subparagraph (b) of article 15 and Subparagraph (b) of article 18 for the elements of the offences).

107. Singapore cited the following texts.

Prevention of Corruption Act (Chapter 241) ("PCA") [Annex 1]
sections 5(a)(i) and 6(a)

108. Singapore provided the following case example. PP v Ang Seng Thor [2011] SGHC 134 [Annex 11]

The accused was the CEO and joint managing director of a company who gave a total of S\$147,158 in bribes on 2 occasions to agents of other companies as gratification for these companies ordering goods from the accused's company.

The accused pleaded guilty to 2 charges under s 6(b) of the PCA. 4 other charges were taken into consideration, including 2 similar charges under s 6(b).

On appeal to the High Court, the accused's sentence per proceeded charge was enhanced to 6 weeks' imprisonment and \$25,000 fine per charge, with the sentences for both charges ordered to run consecutively. The total imprisonment was 12 weeks'

imprisonment and S\$50,000 fine. In sentencing the accused, the High Court treated the accused's position of seniority in his company as an aggravating factor. However, the High Court also noted that the accused's high degree of cooperation with CPIB during investigations deserved "significant recognition".

The High Court laid down the following sentencing principles in relation to corruption offences in general, and private sector corruption in particular:

(i) The public service rationale referred to the public interest in preventing a loss of confidence in Singapore's public administration, and where there was a risk of that harm occurring, a custodial sentence was normally justified. The public service rationale was presumed to apply where the offender was a government servant or an officer of a public body, but it could also apply to private sector offenders where the subject matter of the offence involved a public contract or service, such as private sector offences which concerned regulatory or oversight roles. Although triggering the public service rationale was one way in which a private sector offender could be subject to a custodial sentence, it was not the only way: the custody threshold could be breached in other circumstances, depending on the applicable policy considerations and the gravity of the offence as measured by the mischief or likely consequence of the corruption. In addition, factors such as the size of the bribes, the number of people drawn into the web of corruption and whether such conduct was endemic would all be relevant to the consideration of whether a custodial sentence was justified.

(ii) The main sentencing considerations in corruption cases are deterrence and punishment:

(iii) The seriousness of the offence would increase considerably in cases involving corruption of managers, particularly senior managers, and where there was corrupt influence over large or otherwise important business transactions: Courts should then consider imposing custodial sentences to deter the establishment of a corrupt business culture in Singapore.

(iv) It is an aggravating factor if the offences occurred over a long period of time, as opposed to one-off incidents.

(v) The size of the bribe has a bearing on both the culpability of the offender and the harm occasioned by the offence. The larger the amount of the bribe, the greater is the corrupt influence on the recipient and, hence, the greater is the subversion of the public interest in ensuring fairness in transactions and decisions. The size of the bribe is also a good indicator of the culpability of the offender. In the case of the giver of the bribe, the size of the bribe demonstrates the amount of influence that the giver wanted to exert on the recipient. Hence, in general, the greater the bribe, the greater is the culpability of the giver.

109. Singapore indicated that the statistics are collated over the past four years (2010 to 2013) and pertain to offences disclosed in investigations which commenced in that given year.

In 2010, 32 out of 109 corruption offences were prosecutions under sections 5(a)(i) and 6(a) of the PCA involving persons in the private sector who accepted, obtained or agreed to accept or attempted to obtain bribes.

In 2011, 7 out of 43 corruption offences were prosecutions under sections 5(a)(i) and 6(a) of the PCA involving persons in the private sector who accepted, obtained or agreed to accept or attempted to obtain bribes.

In 2012, 9 out of 47 corruption offences were prosecutions under sections 5(a)(i) and 6(a) of the PCA involving persons in the private sector who accepted, obtained or agreed to accept or attempted to obtain bribes.

In 2013, 7 out of 41 corruption offences were prosecutions under sections 5(a)(i) and 6(a) of the PCA involving persons in the private sector who gave, agreed to give or offered bribes.

(b) Observations on the implementation of the article

110. The provision is implemented and relevant case law was cited.

Article 22 Embezzlement of property in the private sector

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

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

111. There is no distinction drawn between embezzlement or misappropriation committed by public officials or private persons. Private persons who embezzle or misappropriate property entrusted to them by virtue of their position commit offences of criminal breach of trust under sections 406 to 409 of the Penal Code [Annex 3]. The offence of criminal breach of trust is defined in section 405 of the Penal Code.

112. However, depending on the nature of the criminal conduct, other Penal Code offences may be established, for example, theft (see sections 378 to 381 of the PC) or cheating (see sections 415 to 420 of the PC).

113. Singapore cited the following texts.

Penal Code (Chapter 224, 2008 Revised Edition) ("PC") [Annex 3]
sections 405 to 409

sections 378 to 381

sections 415 to 420

114. Singapore provided the following case example. PP v Kang Hock Chai Joachim (unreported)

In 1989, the accused was appointed the parish priest of the Church of St Teresa ("the Church"). Between 1994 and 2002, he misappropriated a total of about S\$5.1 million from the Church.

The accused transferred church funds to his personal bank accounts in Singapore and Malaysia. He also used church funds to purchase two residential properties in Singapore, and invested in unit trusts.

In 2004, he was charged with 19 counts of criminal breach of trust as an agent under section 409 of the Penal Code, Chapter 224, which he claimed trial to. Three weeks into the trial, he decided to plead guilty to 6 charges under reduced charges. He was convicted and sentenced to 7 years and 6 months' imprisonment.

115. PP v Chia Teck Leng [2004] SGHC 68 [Annex 12]

Between 1999 and 2003, the accused was the finance manager of Asia Pacific Breweries (Singapore) Pte Ltd ("APBS"). During his stint as the finance manager, it was found that the accused forged documents to swindle banks of S\$117 million over four years to feed his gambling addiction.

Investigation revealed that the accused, who had accumulated gambling debts of more than S\$1 million, forged documents, known as certified extracts of board resolutions which purportedly authorised him as the sole signatory of APBS, to deceive four banks into extending him credit and loan facilities in the name of his company. In order to do this, he forged the signatures of top APBS executives, by obtaining their signature specimens from the APBS's annual reports and other internal documents. By such means, the accused cheated the four banks collectively of about S\$117.1 million. Investigators recovered about S\$34.8 million from the accused.

He was charged with a total of 46 counts of cheating, forgery, criminal breach of trust and money laundering offences. He pleaded guilty and was sentenced to 42 years' imprisonment.

116. Singapore indicated that offences of embezzlement or misappropriation are prosecuted under a number of different offences, and investigated by various agencies. Singapore was unable to collate the statistics for these offences.

(b) Observations on the implementation of the article

117. The provision is implemented and the case law cited is relevant.

Article 23 Laundering of proceeds of crime

Subparagraph 1 (a) (i)

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

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

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

118. Part VI of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act [Annex 10] criminalizes the acts of assisting a person who is involved in the commission of the predicate offence to retain benefits from his criminal conduct whether by acquiring, possessing, using, concealing or transferring the benefits of the predicate offence, as well as the laundering of benefits of criminal conduct. Section 48 of the CDSA in particular, makes it an offence for a person, who knows or has reasonable grounds to suspect that an investigation is underway or about to commence, to tip-off or disclose to any other person information or any other matter which is likely to prejudice the investigation or proposed investigation.

119. Sections 411 to 414 of the Penal Code [Annex 3] also criminalizes the acts of receiving, retaining or assisting in the concealment or disposal of proceeds of crime in respect of which an offence of theft, extortion, robbery, criminal misappropriation, criminal breach of trust or cheating had been committed.

120. Singapore cited the following texts.

Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) ("CDSA") [Annex 10]

Pt VI

Penal Code (Chapter 224, 2008 Revised Edition) ("PC") [Annex 3]

sections 410 to 414

121. Singapore provided the following case example.

PP v Koh Seah Wee and Lim Chia Meng [2012] 1 SLR 292 [Annex 9]

The accused persons were former colleagues in the Singapore Land Authority ("SLA"). At the material time, Koh Seah Wee ("Koh"), was the deputy director of the SLA's Technology and Infrastructure ("TI") department while Lim Chia Meng ("Lim") was the said department's manager, a position subordinate to Koh's. Lim was a procurement/verifying officer responsible for the requisition of goods and services required by SLA's TI department. In the procurement process, vendors would be invited to quote for a contract and Lim would make recommendations to Koh on whom to award the contract to. Koh had authority to approve and award contracts of up to S\$60,000 in value.

In committing the cheating offences, Koh and Lim rigged the quotation results by arranging for their own "vendors" (the accomplices) to offer the lowest quotations which Lim would recommend and Koh would approve. Lim would also assist in preparing fictitious invoices for some of the "vendors" for submission to SLA's finance department. Through this fraudulent scheme, contracts were awarded to the "vendors" which neither intended nor were able to fulfill in any case. Once payment was made by SLA to the accomplices, the money would be handed over to Koh. The accomplices would be given a share of the money but the bulk of it would go to Koh and Lim.

The criminal proceeds involved amounted to more than S\$12 million. Investigators recovered about S\$7.54 million from Koh and S\$1.43 million from Lim.

In addition to the above offences, Koh had also committed fraud against other government agencies he was previously working for by dishonestly concealing his financial interests in the vendors submitting quotations which were evaluated by him and submitted for approval by his superiors.

Koh was charged with 372 counts of cheating and money laundering offences. He pleaded guilty and was sentenced to 22 years' imprisonment. Lim was charged with 309 charges of cheating and money laundering offences. He pleaded guilty and was sentenced to 15 years' imprisonment. His accomplices, who owned or worked at the external vendors, were also jailed for a period between 18 months and 10 years.

122. PP v Jeanette Ang [2011] 4 SLR 1 [\[Annex 13\]](#)

The accused claimed trial to 5 charges under section 44(1)(a) of the CDSA, for entering into arrangements knowing that they would facilitate the retention of the benefits of criminal conduct by Michael Walter ("Michael"), whom she knew was engaged in such conduct. The accused, had on the instructions of her brother (who was out of the country), taken a call from one "Mike", a stranger to her. On Mike's instructions, she then accepted large amounts of cash from another stranger known to her as Aloysious James, and remitted the money overseas. On three occasions, the money was remitted to Michael and on one occasion, to a company in China. These remitted amounts totalled S\$2,079,546.20. On another occasion, the accused received cash in Singapore dollars from Aloysious, changed it to US\$51,000, and handed the said cash to one Kessler, who was also a stranger to her.

At the conclusion of the trial, she was convicted and sentenced to 6 months' imprisonment on each of the 4 charges for remitting monies overseas and 3 months' imprisonment for handing the money to one Kessler, a stranger to her. One of the 6-month terms and the 3-month term were ordered to run consecutively, giving a total of 9 months' imprisonment.

123. PP v Sek Leong Seng [2010] SGDC 356 [\[Annex 14\]](#)

The accused pleaded guilty to a charge of assisting another to retain benefits of criminal conduct under section 44(1)(a) of the CDSA. He was sentenced to 4 months' imprisonment.

The accused received an email from one Rudolf Schneider ("Schneider") asking him for help to transfer US\$22.5 million to an offshore account in exchange for a share of the money. Schneider explained that he was acting on behalf of a Nigerian politician who had been arrested in London for money laundering and who needed help to transfer the money away from the "prying eyes of the Government". The accused agreed and opened a local bank account and gave the account details to Schneider. On 5 March 2009, Schneider emailed the accused to inform him that 4,870 Euros had been deposited into the account and asked him to send the money to someone in India via Western Union money transfers. The money belonged to one Ralf Humpert ("Humpert") who had lodged a police report stating that he did not authorise the transfer. The account was frozen and the money returned to Humpert.

124. There have been prosecutions under the CDSA for money-laundering offences in respect of financial fraud including offences of cheating, criminal misappropriation, criminal breach of trust and theft. However, the statistics maintained do not distinguish the manner in which proceeds of crime are laundered, whether by concealment, conversion, disguise or transfer.

Between 2010 and 2013, a total of 121 persons were prosecuted for money-laundering under the CDSA:

2010: 14
2011: 32
2012: 27
2013: 48

Between 2010 and 2013, a total of 111 persons were convicted for money-laundering offences under the CDSA:

2010: 18
2011: 26
2012: 28
2013: 39

(b) Observations on the implementation of the article

125. The reviewers note a commendable level of compliance and effective investigations and prosecutions.
126. It is noted that Singapore takes a list approach to defining predicate offences for money laundering. Singapore explained that the Schedule has been amended frequently by way of an Order published in the Government Gazette (Section 63 of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act provides that “The Minister, may, by order published in the *Gazette*, amend the First and Second Schedules.”) - in 2005, 2006, 2007, 2008, 2009, 2010 and 2013³ - so as to include new predicate offences. In short, the Schedule can be amended by way of an administrative process, without the need for Parliament to amend the Act. It is therefore relatively straightforward to include a new predicate offence in the Schedule.
127. It was further confirmed that all UNCAC offences constitute predicate offences for money laundering. Specifically regarding obstruction of justice and embezzlement, Singapore explained that obstruction of justice (i.e. section 204A of the Penal Code) was included in the Schedule as a predicate offence with effect from 1 February 2008. Embezzlement (criminal breach of trust) has been a predicate offence since 1999.

Article 23 Laundering of proceeds of crime

³ New offences were added with effect from 3 June 2015 (see second schedule of CDSA), which are not reflected in this report.

Subparagraphs 1 (a) (ii) and 1 (b) (i)

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

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

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

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

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

128. Singapore referred to subparagraph 1 (a) (i) of article 23, as the same provisions apply.

129. Singapore cited the following texts.

Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) ("CDSA") [Annex 10]

Pt VI

Penal Code (Chapter 224, 2008 Revised Edition) ("PC") [Annex 1]

sections 410 to 414

130. Singapore provided the following case examples.

For Subparagraph 1 (a) (ii)

131. PP v Koh Seah Wee and Lim Chia Meng [2012] 1 SLR 292 [Annex 9]

The accused persons were former colleagues in the Singapore Land Authority ("SLA"). At the material time, Koh Seah Wee ("Koh"), was the deputy director of the SLA's Technology and Infrastructure ("TI") department while Lim Chai Meng ("Lim") was the said department's manager, a position subordinate of Koh's. Lim was a procurement/verifying officer responsible for the requisition of goods and services required by SLA's TI department. In the procurement process, vendors would be invited to quote for a contract and Lim would make recommendations to Koh on whom to award the contract to. Koh had authority to approve and award contracts of up to S\$60,000 in value.

In committing the cheating offences, Koh and Lim rigged the quotation results by arranging for their own "vendors" (the accomplices) to offer the lowest quotations which Lim would recommend and Koh would approve. Lim would also assist in preparing fictitious invoices for some of the "vendors" for submission to SLA's finance department. Through this fraudulent scheme, contracts were awarded to the "vendors" which neither intended nor were able to fulfill in any case. Once payment was made by SLA to the accomplices, the money would be handed over to Koh. The accomplices would be given a share of the money but the bulk of it would go to Koh and Lim.

The criminal proceeds involved amounted to more than S\$12 million. Investigators recovered about S\$7.54 million from Koh and S\$1.43 million from Lim.

In addition to the above offences, Koh had also committed fraud against other government agencies he was previously working for by dishonestly concealing his financial interests in the vendors submitting quotations which were evaluated by him and submitted for approval by his superiors.

Koh was charged with 372 counts of cheating and money laundering offences. He pleaded guilty and was sentenced to 22 years' imprisonment. Lim was charged with 309 charges of cheating and money laundering offences. He pleaded guilty and was sentenced to 15 years' imprisonment. His accomplices, who owned or worked at the external vendors, were also jailed for a period between 18 months and 10 years.

132. PP v Kumaran a/l Subramaniam [2009] SGDC 220 [Annex 15]

The accused was convicted after trial on 4 charges for criminal breach of trust of S\$83,534.27 as an agent under section 409 of the PC, for removing that amount of money from the jurisdiction under section 47(6) of the CDSA, for making a false police report that he lost the money as a result of a snatch theft under section 182 of the PC, and for giving a false statement to the police thereafter concerning the snatch theft under section 182 of the PC. He was sentenced to 30 months imprisonment on the criminal breach of trust charge, 24 months imprisonment on the CDSA charge, and 2 months imprisonment on each on the false information charges. The sentences of imprisonment for the criminal breach of trust charge and one false information charge were ordered to run consecutively. The aggregate term of imprisonment imposed was thus 32 months.

The accused was a manager with a security company, and performed banking-escort duties in that capacity. His duties included collecting money from a client hotel and depositing it into a bank. He decided to misappropriate the money as he was having financial problems. He and an accomplice brought the money to Malaysia, where they exchanged it for Malaysian Ringgit and then deposited it into bank accounts there. They planned to bring the money back into Singapore after police investigations concluded.

For Subparagraph 1 (b) (i)

133. PP v Jeanette Ang [2011] 4 SLR 1 [Annex 13]

The accused claimed trial to 5 charges under section 44(1)(a) of the CDSA, for entering into arrangements knowing that they would facilitate the retention of the benefits of criminal conduct by Michael Walter ("Michael"), whom she knew was engaged in such conduct. The accused, had on the instructions of her brother (who was out of the country), taken a call from one "Mike", a stranger to her. On Mike's instructions, she then accepted large amounts of cash from another stranger known to her as Aloysious, and remitted the money overseas. On three occasions, the money was remitted to Michael and on one occasion, to a company in China. These remitted amounts totalled S\$2,079,546.20. On another occasion, the accused received cash in Singapore dollars from Aloysious James, changed it to US\$51,000, and handed the said cash to one Kessler, who was also a stranger to her.

At the conclusion of the trial, she was convicted and sentenced to 6 months' imprisonment on each of the 4 charges for remitting monies overseas and 3 months' imprisonment for handing the money to one Roland James Kessler, a stranger to her. One of the 6-month terms and the 3-month term were ordered to run consecutively, giving a total of 9 months' imprisonment.

134. PP v Ong Tian Soon [2008] SGDC 35 [\[Annex 16\]](#)

The accused pleaded guilty to one charge of assisting another to retain benefits of criminal conduct under section 44(1)(a) of the CDSA and one charge of cheating under section 420 of the Penal Code. Two charges were taken into consideration for the purpose of sentencing. He was sentenced to a total of 14 months' imprisonment being 12 months' imprisonment for the CDSA charge and 2 months' imprisonment for the cheating charge.

In August 2007, the accused had been released on police bail as he was under investigation for an offence of cheating. He claimed while he was walking around Geylang an unknown male Chinese asked him to open a bank account which would be used to facilitate the receipt of money from gamblers who lost their money to a syndicate that dealt with illegal online betting of ball games via the internet. In reality, the account was used as part of a "phone lottery scam" whereby victims were induced to transfer their money to the bank account. However, the accused did not care what the account was going to be used for and did not do any checks. As a result, a total of S\$8,340 was deposited into the account by victims of the scam and subsequently withdrawn. In early September 2007, the accused had convinced one Leung Shun Kit to open a bank account for the same purpose.

135. There have been prosecutions under the CDSA for money-laundering offences in respect of financial fraud including offences of cheating, criminal misappropriation, criminal breach of trust and theft. However, the statistics maintained do not distinguish the manner in which proceeds of crime are laundered, whether by concealment, conversion, disguise or transfer.

Between 2010 and 2013, a total of 121 persons were prosecuted for money-laundering under the CDSA:

2010: 14
2011: 32
2012: 27
2013: 48

Between 2010 and 2013, a total of 111 persons were convicted for money-laundering offences under the CDSA:

2010: 18
2011: 26
2012: 28
2013: 39

(b) Observations on the implementation of the article

136. The provision is implemented and the rate of investigations and prosecutions is commendable.

137. It was confirmed that the case cited under subparagraph 1 (a) (ii) (*PP v Koh Seah Wee*) is also applicable to subparagraph 1 (a) (i). Singapore provided the following explanation.

In *PP v Koh Seah Wee and Anor* [2012] 1 SLR 292 [Annex 9], the accused persons bought private properties in their wives' names, opened bank accounts in the names of family members and bought luxury goods and cars (some of which were in the names of their family members). This would come under the conversion or transfer of property, for the purpose of concealing or disguising the illicit origin of the property (article 23(1)(a)(i)) as well as the concealment or disguise of the true nature/source/ownership of or rights with respect to property (article 23(1)(a)(ii)).

Article 23 Laundering of proceeds of crime

Subparagraph 1 (b) (ii)

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

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

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

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

138. Offenders who participate in money-laundering offences by way of abetment or criminal conspiracy would be caught under Chapters V and VA of the Penal Code [Annex 3] respectively. Attempts to commit offences are covered under section 511 of the PC. It should be noted that these PC provisions apply generally to all legislation in Singapore where the offence-creating provision does not specifically provide for such.

139. Offenders who participate in corruption offences by way of abetment or conspiracy would be caught under sections 29 and 31 of the Prevention of the Corruption Act (Chapter 241) ("PCA") [Annex 1]. Attempts to commit corruption offences are covered by section 30 of the PCA.

140. Singapore cited the following texts.

Prevention of Corruption Act (Chapter 241) ("PCA") [Annex 1]
sections 29 to 31

Penal Code (Chapter 224) ("PC") [Annex 3]

Chapters V and VA

section 511

141. Singapore provided the following case example.

Kannan s/o Kunjiraman & anor v PP [1995] 3 SLR(R) 294 [Annex 17]

A bookmaker, Rajendran, offered Kannan s/o Kunjiraman ("Kannan"), to bribe David Lee ("Lee"), Singapore's national goalkeeper, to let in goals during a match. Kannan asked one Ong Kheng Hock ("Ong") to offer an S\$80,000 bribe to Lee. After the match, thinking that he had spoken to Lee, Rajendran gave Ong S\$80,000, as well as S\$5,000 as a reward for arranging the bribe. Ong had actually never spoken to Lee and kept the S\$80,000 for himself.

Kannan and Ong were convicted on a joint charge of conspiring with Rajendran to corruptly offer S\$80,000 to Lee. Kannan was also convicted on a charge of corruptly receiving from Rajendran S\$5,000 as a reward for arranging the bribe to Lee, while Ong was convicted of an additional charge of corruptly receiving S\$80,000 for Lee. Kannan was sentenced to one year's imprisonment and fined S\$40,000, (in default four months' imprisonment) on the conspiracy charge; and 18 months' imprisonment and ordered to pay S\$5,000 (in default two weeks' imprisonment) on the corruption charge. Ong was sentenced to one year's imprisonment and fined \$40,000, (in default four months' imprisonment) on the conspiracy charge; and sentenced to 30 months' imprisonment and ordered to pay \$80,000, (in default eight months' imprisonment) on the corruption charge. Their appeals against sentence were dismissed by the High Court.

142. In respect of money laundering offences, the statistics maintained do not distinguish whether the offence was attempted or committed in consequence of an abetment or a conspiracy.

143. For corruption offences, the statistics are collated over the past four years (2010 to 2013) and pertain to offences disclosed in investigations which commenced in that given year.

In 2010, 12 out of 109 offences were prosecutions involving persons who abetted the commission of corruption offences.

In 2011, 3 out of 43 offences were prosecutions involving persons who abetted the commission of corruption offences.

In 2012, 4 out of 47 offences were prosecutions involving persons who abetted the commission of corruption offences.

In 2013, 2 out of 41 offences were prosecutions involving persons who abetted the commission of corruption offences.

144. In respect of the statistics in relation to attempted corruption offences, do not identify cases where the offence was attempted (as opposed to completed). This is because the offence-creating provisions of the PCA can capture attempts (such as mere agreements, promises and offers) and completed offences.

(b) Observations on the implementation of the article

145. The provision is implemented.

Article 23 Laundering of proceeds of crime

Subparagraphs 2 (a) and (b)

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

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

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

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

146. The list of predicate offences under the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) ("CDSA") [Annex 10], as defined in section 2(1) means "doing can be found in the First and Second Schedule of the CDSA. The First Schedule deals specifically with drug trafficking offences. The Second Schedule covers a wide spectrum of offences, which includes offences of financial fraud under the PC and corruption offences under the PCA.

147. Singapore cited the following texts.

Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) ("CDSA") [Annex 10]

First and Second Schedules

148. Singapore provided the following case example. PP v Jeanette Ang [2011] 4 SLR 1 [Annex 13]

The accused claimed trial to 5 charges under section 44(1)(a) of the CDSA, for entering into arrangements knowing that they would facilitate the retention of the benefits of criminal conduct by Michael Walter ("Michael"), whom she knew was engaged in such conduct. The accused, had on the instructions of her brother (who was out of the country), taken a call from one "Mike", a stranger to her. On Mike's instructions, she then accepted large amounts of cash from another stranger known to her as Aloysious James, and remitted the money overseas. On three occasions, the money was remitted to Michael and on one occasion, to a company in China. These remitted amounts totalled S\$2,079,546.20. On another occasion, the accused received cash in Singapore dollars from Aloysious, changed it to US\$51,000, and handed the said cash to one Kessler, who was also a stranger to her.

At the conclusion of the trial, she was convicted and sentenced to 6 months' imprisonment on each of the 4 charges for remitting monies overseas and 3 months' imprisonment for handing the money to one Roland James Kessler, a stranger to her. One of the 6-month terms and the 3-month term were ordered to run consecutively, giving a total of 9 months' imprisonment.

149. No statistical data was available.

(b) Observations on the implementation of the article

150. The provision is implemented.

Article 23 Laundering of proceeds of crime

Subparagraph 2 (c)

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

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

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

151. The predicate offence, termed “criminal conduct” in the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) (“CDSA”) [Annex 10] as defined in section 2(1) means “doing or being concerned in, whether in Singapore or elsewhere, any act constituting (i) a serious offence or (ii) a foreign serious offence”. The rule of dual criminality is also incorporated in the definition of a “foreign serious offence” in section 2(1) of the CDSA.

152. Singapore cited the following texts.

Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) (“CDSA”) [Annex 10]
section 2(1): definitions of “criminal conduct” and “foreign serious offence”

153. Singapore provided the following case example.

PP v Jeanette Ang [2011] 4 SLR 1 [Annex 13]

The accused claimed trial to 5 charges under section 44(1)(a) of the CDSA, for entering into arrangements knowing that they would facilitate the retention of the benefits of criminal conduct by Michael Walter (“Michael”), whom she knew was engaged in such conduct. The accused, had on the instructions of her brother (who was out of the country), taken a call from one “Mike”, a stranger to her. On Mike’s instructions, she then accepted large amounts of cash from another stranger known to her as Aloysious James, and remitted the money overseas. On three occasions, the money was remitted to Michael and on one occasion, to a company in China. These remitted amounts totalled S\$2,079,546.20. On another occasion, the accused received cash in Singapore dollars from Aloysious, changed it to US\$51,000, and handed the said cash to one Kessler, who was also a stranger to her.

At the conclusion of the trial, she was convicted and sentenced to 6 months’ imprisonment on each of the 4 charges for remitting monies overseas and 3 months’ imprisonment for

handing the money to one Roland James Kessler, a stranger to her. One of the 6-month terms and the 3-month term were ordered to run consecutively, giving a total of 9 months' imprisonment.

154. PP v Lim Siew Cheng (unreported)

Lim Siew Cheng, a managing director of a secretarial services company in Singapore was charged under section 39(1)(c) of the CDSA for assisting Arafat Rahman, the son of Bangladesh's ex-Prime Minister, to launder the latter's corrupt payments received from Siemens AG and China Harbour Engineering Co Ltd which the latter had received in return for awarding certain contracts in Bangladesh to the said two companies. The total corrupt proceeds held in four bank accounts in Singapore were about S\$3.5m.

On 3 January 2011, the accused pleaded guilty to the charge and was sentenced to a fine of S\$12,000/-.

On 25 September 2012, the Singapore High Court ordered the return of approximately S\$2.2m, held in three bank accounts, to the Government of the Republic of Bangladesh pursuant to the enforcement of a United States of America Confiscation Order under sections 29 and 30 of the Mutual Assistance in Criminal Matters Act (Chapter 190A).

On 26 February 2013, the Singapore Subordinate Court ordered the remaining sum of US\$932,672.81 which had been seized pursuant to investigations against Lim, to be forfeited and disposed in favour of the Government of the Republic of Bangladesh.

155. Singapore provided the following statistics.

Number of Persons Prosecuted for money laundering, with breakdown by Domestic/Foreign Predicate Offence⁴

Predicate offence	2008	2009	2010	2011	2012	2013	2014
Domestic	7	12	11	42	47	48	63
Foreign	16	14	3	2	10	31	48
Total	23	26	14	44	57	79	111

Number of Persons Convicted for money laundering, with breakdown by Domestic/Foreign Predicate Offence⁵

	2008	2009	2010	2011	2012	2013	2014
Domestic	9	13	11	33	70	64	51
Foreign	15	13	7	0	1	18	38
Total	24	26	18	33	71	82	89

(b) Observations on the implementation of the article

156. It is noted that the definition of "foreign serious offence" in section 2(1) of the CDSA refers to a "certificate issued by the foreign government". Singapore provided the

⁴ Statistics are based on the year in which the offender was prosecuted

⁵ Statistics are based on the year in which the offender was convicted

following explanation of this provision, in order to clarify whether the issuance of such a certificate is a requirement for an investigation or prosecution involving a foreign predicate offence.

In order to *investigate* a foreign predicate offence, it has never been a requirement to have a certificate issued by the foreign government. However, up until very recently, such certificate was essential in order to mount a successful prosecution. Where the predicate offence was committed in a foreign jurisdiction, the prosecution had to obtain a certificate from the government of the foreign jurisdiction stating that the offence (other than a foreign drug trafficking offence) is an offence under the laws of that jurisdiction in order to establish a “foreign serious offence”.

This requirement presented some challenges in prosecutions because obtaining such certificates is not an internationally established practice. Many foreign jurisdictions do not have this requirement in their laws and thus have no designated authority or powers to issue such certificates. As such, with effect from 1 September 2014, Parliament removed the requirement for this foreign certificate in order to establish a “foreign serious offence”. A “foreign serious offence” now means an offence (other than a foreign drug dealing offence) against the law of a foreign country or part thereof that consists of or includes conduct which, if the conduct had occurred in Singapore, would have constituted a serious offence. A wider range of evidence can be adduced to prove the foreign law which gives rise to the predicate offence, including foreign court judgments, statements by experts and any statement from an appropriate foreign authority confirming that an offence has been committed under its laws.

These changes came into effect in September 2014, shortly after the self-assessment checklist was submitted in June 2014. The Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) has been revised to incorporate these changes. A copy of the revised CDSA is attached to this report, and should replace Annex 10 which was previously submitted.

The following is a summary of the relevant amendments.

Item	Link
CDSA Amendment Bill – Press Release	https://www.mha.gov.sg/news_details.aspx?nid=MzE4NA%3D%3D-mzBXxXkj4EQ%3D
Link to the new CDSA	http://statutes.agc.gov.sg/aol/search/display/view.w3p;page=0;query=Status%3Ainforce%20CapAct%3A%2265a%22%20Depth%3A0;rec=0;resUrl=http%3A%2F%2Fstatutes.agc.gov.sg%2Faol%2Fsearch%2Fsummary%2Fresults.w3p%3Bquery%3DStatus%253Ainforce%2520CapAct%253A%252265a%2522%2520Depth%253A0
CDSA Amendment Act	http://statutes.agc.gov.sg/aol/search/display/view.w3p;page=0;query=DocId%3A%220adabab2-6441-4b95-be18-01efbde199bf%22%20Status%3Apublished%20Depth%3A0%20TransactionTime%3A20150408000000;rec=0

Article 23 Laundering of proceeds of crime

Subparagraph 2 (d)

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

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

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

157. Singapore has submitted copies of its laws that give effect to this article to the Secretary-General of the United Nations.

(b) Observations on the implementation of the article

158. It was confirmed that copies of the relevant legislation were submitted to the Secretary-General on 18 June 2014.

Article 23 Laundering of proceeds of crime

Subparagraph 2 (e)

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

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

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

159. A person who commits the predicate offence may also subsequently launder the proceeds of the predicate offence. Charging him or her for both offences subsequently will not offend the principle of double jeopardy because these are distinct acts that give rise to two different offences.

160. Singapore provided the following case example.

PP v Koh Seah Wee and Lim Chia Meng [2012] 1 SLR 292 [Annex 9]

The accused persons were former colleagues in the Singapore Land Authority ("SLA"). At the material time, Koh Seah Wee ("Koh"), was the deputy director of the SLA's Technology and Infrastructure ("TI") department while Lim Chai Meng ("Lim") was the said department's manager, a position subordinate of Koh's. Lim was a procurement/verifying officer responsible for the requisition of goods and services required by SLA's TI department. In the procurement process, vendors would be invited to quote for a contract and Lim would make recommendations to Koh on whom to award the contract to. Koh had authority to approve and award contracts of up to S\$60,000 in value.

In committing the cheating offences, Koh and Lim rigged the quotation results by arranging for their own "vendors" (the accomplices) to offer the lowest quotations which Lim would recommend and Koh would approve. Lim would also assist in preparing fictitious invoices for some of the "vendors" for submission to SLA's finance department. Through this fraudulent scheme, contracts were awarded to the "vendors" which neither intended nor were able to fulfill in any case. Once payment was made by SLA to the accomplices, the money would be handed over to Koh. The accomplices would be given a share of the money but the bulk of it would go to Koh and Lim.

The criminal proceeds involved amounted to more than S\$12 million. Investigators recovered about S\$7.54 million from Koh and S\$1.43 million from Lim.

In addition to the above offences, Koh had also committed fraud against other government agencies he was previously working for by dishonestly concealing his financial interests in the vendors submitting quotations which were evaluated by him and submitted for approval by his superiors.

Koh was charged with 372 counts of cheating and money laundering offences. He pleaded guilty and was sentenced to 22 years' imprisonment. Lim was charged with 309 charges of cheating and money laundering offences. He pleaded guilty and was sentenced to 15 years' imprisonment. His accomplices, who owned or worked at the external vendors, were also jailed for a period between 18 months and 10 years.

161. PP v Kumaran a/l Subramaniam [2009] SGDC 220 [Annex 15]

The accused was convicted after trial on 4 charges for criminal breach of trust of S\$83,534.27 as an agent under section 409 of the PC, for removing that amount of money from the jurisdiction under section 47(6) of the CDSA, for making a false police report that he lost the money as a result of a snatch theft under section 182 of the PC, and for giving a false statement to the police thereafter concerning the snatch theft under section 182 of the PC. He was sentenced to 30 months imprisonment on the criminal breach of trust charge, 24 months' imprisonment on the CDSA charge, and 2 months imprisonment on each on the false information charges. The sentences of imprisonment for the criminal breach of trust charge and one false information charge were ordered to run consecutively. The aggregate term of imprisonment imposed was thus 32 months.

The accused was a manager with a security company, and performed banking-escort duties in that capacity. His duties included collecting money from a client hotel and depositing it into a bank. He decided to misappropriate the money as he was having financial problems. He and an accomplice brought the money to Malaysia, where they exchanged it for Malaysian Ringgit and then deposited it into bank accounts there. They planned to bring the money back into Singapore after police investigations concluded.

162. Between 2010 and 2013, a total of 121 persons were prosecuted for money-laundering under the CDSA:

2010: 14
2011: 32
2012: 27
2013: 48

163. Between 2010 and 2013, a total of 60 persons were convicted for both the predicate offence and the money-laundering offence (“self-laundering”) under the CDSA:

2010: 8
2011: 21
2012: 17
2013: 14

(b) Observations on the implementation of the article

164. Singapore provided the following additional information pertaining to self-laundering.

Self-laundering is prosecuted under section 47(1) of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A), which makes it an offence for any person who (a) conceals or disguises any property which represents his benefits from criminal conduct, (b) converts or transfer that property or removes it from jurisdiction, or (c) acquires, possesses or uses that property.

An individual who commits an offence under this section is liable under section 47(6) of the CDSA to a fine not exceeding \$500,000 or to imprisonment not exceeding 10 years or to both, while a person who is not an individual is liable to a fine not exceeding \$1 million.

165. Singapore clarified that the case (Koh Seah Wee) cited under article 23(1)(a)(i) also contained an element of self-laundering.

PP v Koh Seah Wee and Lim Chia Meng [2012] 1 SLR 292 [Annex 9] was a case of self-laundering because the offenders laundered their own criminal proceeds. They were convicted for offences under sections 47(1)(a) and 47(1)(b) of the CDSA for concealing and converting their benefits of criminal conduct.

Article 24 Concealment

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

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

166. The person who launders the proceeds of crime need not have participated in the predicate offence to be liable for offences of money-laundering under the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) ("CDSA") [Annex 10] or offences of concealing or retaining such proceeds under the Penal Code. Singapore referred to subparagraph 1 (a) (i) of article 23 for a fuller discussion of the relevant CDSA and PC provisions.

167. Singapore cited the following texts.

Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) ("CDSA") [Annex 10]

Pt VI

Penal Code (Chapter 224, 2008 Revised Edition) ("PC") [Annex 3]

sections 410 to 414

168. Singapore provided the following case examples.

PP v Jeanette Ang [2011] 4 SLR 1 [Annex 13]

The accused claimed trial to 5 charges under section 44(1)(a) of the CDSA, for entering into arrangements knowing that they would facilitate the retention of the benefits of criminal conduct by Michael Walter ("Michael"), whom she knew was engaged in such conduct. The accused, had on the instructions of her brother (who was out of the country), taken a call from one "Mike", a stranger to her. On Mike's instructions, she then accepted large amounts of cash from another stranger known to her as Aloysious James, and remitted the money overseas. On three occasions, the money was remitted to Michael and on one occasion, to a company in China. These remitted amounts totalled S\$2,079,546.20. On another occasion, the accused received cash in Singapore dollars from Aloysious, changed it to US\$51,000, and handed the said cash to one Kessler, who was also a stranger to her.

At the conclusion of the trial, she was convicted and sentenced to 6 months' imprisonment on each of the 4 charges for remitting monies overseas and 3 months' imprisonment for handing the money to one Roland James Kessler, a stranger to her. One of the 6-month terms and the 3-month term were ordered to run consecutively, giving a total of 9 months' imprisonment.

169. PP v Lim Siew Cheng (unreported)

Lim Siew Cheng, a managing director of a secretarial services company in Singapore was charged under section 39(1)(c) of the CDSA for assisting Arafat Rahman, the son of Bangladesh's ex-Prime Minister, to launder the latter's corrupt payments received from Siemens AG and China Harbour Engineering Co Ltd which the latter had received in return for awarding certain contracts in Bangladesh to the said two companies. The total corrupt proceeds held in four bank accounts in Singapore were about S\$3.5m.

On 3 January 2011, the accused pleaded guilty to the charge and was sentenced to a fine of S\$12,000/-.

On 25 September 2012, the Singapore High Court ordered the return of approximately S\$2.2m, held in three bank accounts, to the Government of the Republic of Bangladesh pursuant to the enforcement of a United States of America Confiscation Order under sections 29 and 30 of the Mutual Assistance in Criminal Matters Act (Chapter 190A).

On 26 February 2013, the Singapore Subordinate Court ordered the remaining sum of US\$932,672.81 which had been seized pursuant to investigations against Lim, to be forfeited and disposed in favour of the Government of the Republic of Bangladesh.

170. PP v Ghassan Saimua (unreported)

The accused, a British citizen of Lebanese descent, was tasked by his friend to incorporate two companies in the British Virgin Islands and to open 4 bank accounts in Singapore for these companies. After opening the bank accounts, the accused gave the online Personal Identification Numbers and banking security tokens to his friend, who then operated the bank accounts from overseas. The accused received US\$20,000 for his efforts. Investigations revealed that these accounts were used to receive proceeds of crime. Several clients of the European Organisation for the Safety of Air Navigation (Eurocontrol), based in Belgium, received emails from someone claiming to be from Eurocontrol. They were asked to make payments into the 4 bank accounts in Singapore. However, Eurocontrol did not send these emails. The accused was prosecuted and sentenced to 8 months' imprisonment for assisting another to retain benefits of criminal conduct.

171. Singapore indicated that between 2010 and 2013, a total of 121 persons were prosecuted for money-laundering under the CDSA:

2010: 14
2011: 32
2012: 27
2013: 48

Between 2010 and 2013, a total of 57 persons were convicted for assisting another to launder his or her proceeds of crime ("third party money-laundering") under the CDSA.

2010: 11
2011: 8
2012: 12
2013: 26

(b) Observations on the implementation of the article

172. The article is not mandatory. Singapore explained that, because most of its cases involving the crime of concealment are carried out by the offenders who committed the predicate offence, it is unable to provide case law where the crime of concealment was the main or principal charge.

Article 25 Obstruction of Justice

Subparagraph (a)

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

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

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

173. Section 204A of the Penal Code [Annex 3] provides for the general offence of obstructing, preventing, perverting or defeating the course of justice. The ambit of this provision is very wide and would address instances ranging from the use of physical force, threats or intimidation or promise, offering or giving of undue advantage to induce or interfere in the giving of testimony or production of evidence in any judicial proceeding.

174. Section 204B of the PC [Annex 1] deals specifically with the offence of bribery of witnesses.

175. In cases where an undue advantage is promised, offered or given to witnesses, prosecutions can be conducted under section 5(b) of the PCA.

176. Singapore cited the following texts.

Prevention of Corruption Act (Chapter 241) ("PCA") [Annex 1]
sections 5(b)

Penal Code (Chapter 224) ("PC") [Annex 3]
sections 204A and 204B

177. Singapore provided the following case examples.

178. Seah Hock Thiam v PP [2013] SGHC 136 [Annex 18]

The accused was charged with 2 counts under section 204A read with section 109 of the PC, for abetting by instigating his driver, one Mohamad Azmi Bin Abdul Wahab ("Azmi"), to engage two persons to assume criminal liabilities for two traffic offences committed by his friends, one Ong Pang Aik ("Ong") and Ho Ah Huat ("Ho"). He claimed trial and was convicted of both charges. He was sentenced to 6 weeks' imprisonment per charge, with the sentences in both charges to run concurrently. On appeal, the sentence was reduced to 1 week's imprisonment per charge, with the sentences in both charges to run concurrently.

Sometime in August 2009, the accused was informed by his friends, Ong and Ho that they had each been issued with summons for parking offences committed on 12 August 2009. In order to help them, the accused received copies of the 'Request for Drivers' Particulars' forms issued to both Ong and Ho. The accused then handed the two forms to Azmi, and instructed him to look for 2 persons to assume criminal liabilities for the traffic offences, which each carried a fine of S\$120 and 3 demerit points. In return, the two 'scapegoats' would receive monetary rewards. Azmi agreed.

Azmi subsequently approached one Salami Bin Badrus ("Salami") and one Rosniwati Binte Jumani ("Rosniwati"), to be the two. The two 'Request for Driver's Particulars'

forms were filled up with the respective particulars, and submitted to the Traffic Police. In return, Salami and Rosniwati each received a sum of about S\$300, which was paid for by the accused: S\$120 was for the payment of the fine, while the remaining amount was their reward for having the demerit points issued to their driving records instead.

179. Yap Giau Beng Terence v PP [1998] 3 SLR 656[Annex 19]

The accused was a motorist who fled the scene after knocking down a motorcyclist. He was pursued and stopped by 3 members of the public. The accused offered them money in exchange for not reporting him to the police. In convicting the accused of 2 offences under section 5(b)(i) of the PCA, the court found that offering money in order to escape criminal liability is corrupt because it was an attempt to subvert the course of justice. He was sentenced to a fine of SGD15,000 on each charge.

180. No statistical data was available. Singapore indicated that the statistics maintained capture a wide spectrum of criminal acts from which it is not possible to determine if they relate to the undue influence of witness testimony or the production of evidence.

(b) Observations on the implementation of the article

181. Singapore referred to the following cases involving interference with witnesses or the provision of evidence or testimony.

PP v Chidambaram Radha [2009] SGDC 422 [Annex 52]

The offender, a security guard, was the first person to be charged and convicted under section 204B(1)(c) of the Penal Code. The offender was originally investigated for harbouring immigration offenders in a shop-house unit. The offender repeatedly urged one of the prosecution witnesses, an Indian national, to lie on the witness stand on his behalf to clear his name. The offender wanted the witness to state that another person by the name of 'Mr Ramasamy' was in charge of the flat at the time. The witness told the truth at the trial. The offender was sentenced to 6 months' imprisonment and the sentence was affirmed on appeal.

PP v Choong Pow Hua (unreported)

In June 2005, the offender Choong Pow Hua hired a female PRC national Chen Xiu Xiu without a work permit, to work as a kitchen helper at his Thai cuisine food stall. In November 2006, the Ministry of Manpower conducted a raid at the food stall and arrested Chen Xiu Xiu for working without a valid work permit. In his statement to the police, Choong Pow Hua gave false information that Chen Xiu Xiu was hired by his chief cook (Janthachot Yaowanat) instead of himself. Choong Pow Hua also instigated his chief cook Janthachot Yaowanat and the assistant cook, Wuti Neeranut, to give false information to the police by stating that it was Janthachot Yaowanat who hired Chen Xiu Xiu. The offender, Choong Pow Hua, was charged with one count of giving false information to the police under section 182 of the Penal Code and two counts of abetting two others to give false information to the police. He was sentenced to three weeks imprisonment for his offences.

Article 25 Obstruction of Justice

Subparagraph (b)

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

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

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

182. Sections 224 and 225 of the Penal Code (Chapter 224) ("PC") [Annex 3] deal with the resistance or obstruction of lawful apprehension of a person or another person, whether or not physical force was used. Where physical force was used, sections 332, 333 and 353 of the PC, make it an offence for a person to cause hurt, grievous hurt, or use criminal force respectively to deter a public servant from discharging his duty.

183. Section 57 of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) ("CDSA") [Annex 10] also provides for a specific offence of obstructing authorised officers, Suspicious Transaction Reporting Officers and immigration officers, who are persons tasked with the investigation of offences established under the CDSA from discharging his duty whether or not physical force was used.

184. Section 13D of the Miscellaneous Offences (Public Order and Nuisance) Act (Chapter 184), ("MOA") [Annex 20] also provides that any person who uses any indecent, threatening, abusive or insulting words or behaviour towards a public servant in the execution of his duty shall be guilty of an offence.

185. Singapore cited the following texts.

Penal Code (Chapter 224, 2008 Revised Edition) ("PC") [Annex 3]
sections 224, 225, 332, 333 and 353

Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) ("CDSA") [Annex 10]
section 57

Miscellaneous Offences (Public Order and Nuisance) Act (Chapter 184, 1997 Revised Edition) ("MOA") [Annex 20]
section 13D

186. Singapore provided the following case example.

PP v Loh Chien Wei (unreported)

The accused has been charged with numerous offences, including 3 offences of corruptly giving gratification to an officer in the Police Force under section 6(b) of the PCA, one

offence of voluntarily causing hurt with intent to deter a public servant from discharging his duty under section 332 of the PC and one offence of using criminal force against a public servant with intent to deter him from discharging his duty under section 353 of the PC.

With respect to the latter 2 offences, in the course of investigations into corruption offences, the accused threw a chair at one investigating officer who sustained injuries as a result and also pushed another investigating officer on his chest. The accused was sentenced to 3 months of imprisonment for the offence under section 332, while the offence under section 353 was taken into consideration with his other offences for the purpose of sentencing.

187. No statistical data was available. The statistics maintained capture a wide spectrum of criminal acts from which it is not possible to determine if they relate to the interference of an official's duty in respect of offences under the Convention.

(b) Observations on the implementation of the article

188. The provision is implemented in respect of the PC and police officers. Moreover, provisions in the PCA deal with obstruction of CPIB officers. Specifically, Section 26(a) of the PCA makes it an offence for any person to refuse a CPIB officer authorised to enter or search, from accessing to any place. Section 26(b) of the PCA also makes it an offence for any person to assault, obstruct, hinder or delay a CPIB officer in effecting an entrance authorised under the PCA, or in executing any duty or power conferred by the PCA.

Article 26 Liability of legal persons

Paragraphs 1 and 2

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

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

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

189. Offence-creating provisions in legislation impose liability on any "person". "Person" has been defined in section 2(1) of the Interpretation Act (Chapter 1) [Annex 21] to "include any company or association or body of persons, corporate or unincorporate". This definition applies to all legislation in Singapore. Similar wording is found in section 11 of the Penal Code [Annex 3].

190. The Monetary Authority of Singapore ("MAS"), which regulates and supervises financial institutions in Singapore, has the authority to impose a broad range of regulatory actions in response to a financial institution's weak anti-money laundering and counter financing of terrorism controls ("AML/CFT controls") and regulatory breaches, including financial penalties, administrative sanctions (warning and reprimand letters) and

supervisory measures such as restrictions on operations and revocations of licenses. Upon conviction for an offence under section 27B(2) of the Monetary Authority of Singapore Act (Chapter 186) [Annex 22], the maximum penalty for a regulatory breach is a fine of up to S\$1 million per offence. A further fine of S\$100,000 is levied for every day during which the regulatory offence continues after conviction. Where warranted, MAS may also direct financial institutions to appoint external consultants to conduct a thorough review of their AML/CFT controls or to increase resources dedicated to this function.

191. The MAS Notices and Guidelines on AML/CFT controls are regularly updated to align with the evolving standards set by Financial Action Task Force and other relevant global bodies such as the Basel Committee on Banking Supervision. AML/CFT controls include the need to conduct customer due diligence, report suspicious transactions to the authorities, and maintain records.
192. A financial institution's management of its AML/CFT controls is assessed by MAS on an ongoing basis. MAS seeks to identify potential risks at an early stage, and address these risks pre-emptively before they become serious and require more forceful supervisory intervention.
193. MAS' supervision includes carrying out on-site inspections; checking on the effectiveness of a financial institution's governance and internal controls; tracking its business development; reviewing its regulatory returns, audit, risk management and compliance reports; and engaging key stakeholders regularly, such as board and senior management, risk management and compliance staff as well as internal and external auditors.
194. A financial institution's management of its AML/CFT controls is assessed by MAS on an ongoing basis. MAS seeks to identify potential risks at an early stage, and address these risks pre-emptively before they become serious and require more forceful supervisory intervention.
195. MAS' supervision includes carrying out on-site inspections; checking on the effectiveness of a financial institution's governance and internal controls; tracking its business development; reviewing its regulatory returns, audit, risk management and compliance reports; and engaging key stakeholders regularly, such as board and senior management, risk management and compliance staff as well as internal and external auditors.
196. Singapore cited the following texts.
 - Interpretation Act (Chapter 1) [Annex 21]
section 2(1): definition of "person"
 - Monetary Authority of Singapore Act (Chapter 186) [Annex 22]
section 27B(2)
 - Penal Code (Chapter 224) ("PC") [Annex 3]
section 11

197. Singapore provided the following case examples.

198. PP v Federal Hardware Engineering Co Pte Ltd (unreported)

In 2004, a hardware engineering company, Federal Hardware Engineering Co Pte Ltd, a company based in Singapore, was charged in court on a single charge under section 6(b) of the PCA for corruptly giving a bribe of US\$17,500 to an individual based in Japan, namely, Nakamura Tomohiro, an employee of the Japan-based company, Toyo Engineering Corporation (Japan). Investigations revealed that in 2000, Federal supplied pipes and valves for a chemical plant project in Kuala Lumpur, Malaysia. Federal had business dealings with Nakamura, who was the project manager for the said project undertaken by Toyo. On an occasion in early 2001, Nakamura asked for a commission of 20% to 30% from Federal, in return for awarding more business from Toyo (in the form of sales orders) to Federal. Federal agreed to the request, and transferred a sum of US\$17,500 to Nakamura's bank account. The amount of US\$17,500 was Nakamura's commission for awarding Toyo sales orders worth a total of US\$247,088 to Federal between April 2001 to May 2001. In August 2004, the appointed representative of Federal pleaded guilty to the charge, and Federal was sentenced to a fine of S\$60,000.

199. PP v Joo Development (Pte) Ltd (unreported)

In 2004, 8 transport companies were charged in court for offences of corruptly offering bribes under section 6(b) of the PCA. It was established that transport companies transporting oversized cargo for normal road travels were required to obtain a special road travel permit from the Traffic Police. They were also required to engage CISCO Outriders to provide escort services to ensure public safety during road travel. The CISCO Outriders were to ensure that (i) the bulky cargo were not over-height, over-length or over-width for normal road travel; (ii) the vehicles had the required road travel permit issued by the Traffic Police; and (iii) all the conditions prescribed in the road travel permit were strictly adhered to by the transport companies. Investigations revealed that in 1999, the drivers of these 8 transport companies had given bribes to CISCO Outriders so that the latter would be lenient in performing their escort duties. 32 CISCO Outriders were charged for corruptly receiving gratification from the drivers of these 8 transport companies under section 6(a) of the PCA. All 32 CISCO Outriders pleaded guilty to the charges and were sentenced to imprisonment. The appointed representatives of the respective 8 transport companies also pleaded guilty to the charges, and these companies were fined S\$10,000 for each of the charges proceeded against them.

200. PP v Keppel Shipyard (unreported)

In 1997, Keppel Shipyard was charged in court under section 6(b) of the PCA for corruptly giving gratification totalling S\$8,527,343.30 to a Dutch Marine Engineer, Cornelius Van Der Horst ("Cornelius") who was also the Repair and Technical Manager of Petroleum Shipping Ltd, a subsidiary of Exxon Corporation. Investigations revealed that large sums of money were remitted by Keppel Shipyard into Cornelius's bank accounts held in Singapore so that the latter would assist Keppel Shipyard in securing tenders for ship repair jobs with Petroleum Shipping Ltd; Corenelius provided Keppel Shipyard with information of tender bids submitted by Keppel Shipyard's competitors. In December 1997, Keppel Shipyard was charged; its appointed representative pleaded guilty to 3 charges, and the company was fined a total of S\$300,000. Additionally, Cornelius was arrested and charged by the Serious Fraud Squad on the Crown Court of Southampton, England in May 1995 for accepting gratification from Keppel Shipyard. He

pleaded guilty to 3 charges in January 1996 and was sentenced to 3 years' imprisonment.

201. Singapore indicated that, from 2010 to 2013, in relation to AML/CFT transgressions, MAS has imposed financial penalties on 22 financial institutions, issued a total of 47 warnings and reprimand letters, restricted the operations of 7 financial institutions, and revoked licences or denied applications for renewal of licences of 13 money changers and remittance agents. A few financial institutions were directed to appoint external consultants to conduct a thorough review of their AML/CFT controls or asked to increase resources dedicated to this function. In all cases, the financial institutions had to demonstrate that the deficiencies identified are effectively rectified. In 2014, MAS issued nine warnings and reprimands to financial institutions. MAS also imposed financial penalties on six financial institutions ranging from S\$1,000 to S\$700,000.

(b) Observations on the implementation of the article

202. Singapore has established criminal and administrative liability of legal persons for UNCAC offences, and the common law provides for civil remedies. The MAS is authorized to impose a broad range of regulatory actions and supervisory measures in accordance with the Monetary Authority of Singapore Act.

Article 26 Liability of legal persons

Paragraph 3

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

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

203. As the legal person is a separate and distinct person from the natural person(s) who committed the offence(s), the liability for the legal person is without prejudice to the criminal liability of the natural person(s).

204. Thus far, Singapore has not encountered a case where it has prosecuted both the company and officer(s) of the company for the same offence under this convention.

(b) Observations on the implementation of the article

205. There have been no cases where Singapore has prosecuted both a company and its officers for the same UNCAC offence, although there are no legal restrictions to doing so.

Article 26 Liability of legal persons

Paragraph 4

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

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

206. The offences under sections 5 and 6 of the PCA [Annex 1] recognise the differences in gravity of the offences and provide for a range of sanctions; maximum of a fine not exceeding S\$100,000 for legal persons. In general, the sentences meted out in cases of public corruption are more severe than that in private corruption.

207. Money-laundering and related offences committed by legal persons are similarly punishable with a range of sentences, up to a maximum of a fine of \$1 million (see sections 43, 44, 46 and 47 of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) [Annex 10].

208. In respect of offences of embezzlement, the Penal Code prescribes a wide range of fines, with a stipulated maximum quantum.

209. Non-criminal sanctions are also imposed in respect of some corruption offences. Under the Singapore Government Instruction Manual, contractors, both individuals and companies, who are investigated for corruption offences, for bribing public officials or in connection with a Government contract, may be debarred from submitting a tender for Government contracts for a specified duration.

210. Similarly, non-criminal sanctions may be imposed against legal persons by public bodies such as the MAS. Singapore referred to paragraphs 1 and 2 of article 26.

211. Singapore cited the following texts.

Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) ("CDSA") [Annex 10]
Sections 43 to 48

Prevention of Corruption Act (Chapter 241) ("PCA") [Annex 1]
Section 5 and 6

212. Singapore provided the following case examples.

213. PP v Federal Hardware Engineering Co Pte Ltd (unreported)

In 2004, a hardware engineering company, Federal Hardware Engineering Co Pte Ltd, a company based in Singapore, was charged in court on a single charge under section 6(b) of the PCA for corruptly giving a bribe of US\$17,500 to an individual based in Japan, namely, Nakamura Tomohiro, an employee of the Japan-based company, Toyo Engineering Corporation (Japan). Investigations revealed that in 2000, Federal supplied pipes and valves for a chemical plant project in Kuala Lumpur, Malaysia. Federal had business dealings with Nakamura, who was the project manager for the said project undertaken by Toyo. On an occasion in early 2001, Nakamura asked for a commission of 20% to 30% from Federal, in return for awarding more business from Toyo (in the form of sales orders) to Federal. Federal agreed to the request, and transferred a sum of US\$17,500 to Nakamura's bank account. The amount of US\$17,500 was Nakamura's commission for awarding Toyo sales orders worth a total of US\$247,088 to Federal

between April 2001 to May 2001. In August 2004, the appointed representative of Federal pleaded guilty to the charge, and Federal was sentenced to a fine of S\$60,000.

214. PP v Joo Development (Pte) Ltd (unreported)

215. In 2004, 8 transport companies were charged in court for offences of corruptly offering bribes under section 6(b) of the PCA. It was established that transport companies transporting oversized cargo for normal road travels were required to obtain a special road travel permit from the Traffic Police. They were also required to engage CISCO Outriders to provide escort services to ensure public safety during road travel. The CISCO Outriders were to ensure that (i) the bulky cargo were not over-height, over-length or over-width for normal road travel; (ii) the vehicles had the required road travel permit issued by the Traffic Police; and (iii) all the conditions prescribed in the road travel permit were strictly adhered to by the transport companies. Investigations revealed that in 1999, the drivers of these 8 transport companies had given bribes to CISCO Outriders so that the latter would be lenient in performing their escort duties. 32 CISCO Outriders were charged for corruptly receiving gratification from the drivers of these 8 transport companies under section 6(a) of the PCA. All 32 CISCO Outriders pleaded guilty to the charges and were sentenced to imprisonment. The appointed representatives of the respective 8 transport companies also pleaded guilty to the charges, and these companies were fined S\$10,000 each of the charges proceeded against them.

216. PP v Keppel Shipyard (unreported)

In 1997, Keppel Shipyard was charged in court under section 6(b) of the PCA for corruptly giving gratification totalling S\$8,527,343.30 to a Dutch Marine Engineer, Cornelius Van Der Horst ("Cornelius") who was also the Repair and Technical Manager of Petroleum Shipping Ltd, a subsidiary of Exxon Corporation. Investigations revealed that large sums of money were remitted by Keppel Shipyard into Cornelius's bank accounts held in Singapore so that the latter would assist Keppel Shipyard in securing tenders for ship repair jobs with Petroleum Shipping Ltd; Corenelius provided Keppel Shipyard with information of tender bids submitted by Keppel Shipyard's competitors. In December 1997, Keppel Shipyard was charged; its appointed representative pleaded guilty to 3 charges, and the company was fined a total of S\$300,000. Additionally, Cornelius was arrested and charged by the Serious Fraud Squad on the Crown Court of Southampton, England in May 1995 for accepting gratification from Keppel Shipyard. He pleaded guilty to 3 charges in January 1996 and was sentenced to 3 years' imprisonment.

217. From 2010 to 2013, in relation to AML/CFT transgressions, MAS has imposed financial penalties on 22 financial institutions, issued a total of 47 warnings and reprimand letters, restricted the operations of 7 financial institutions, and revoked licences or denied applications for renewal of licences of 13 money changers and remittance agents. A few financial institutions were directed to appoint external consultants to conduct a thorough review of their AML/CFT controls or asked to increase resources dedicated to this function. In all cases, the financial institutions had to demonstrate that the deficiencies identified are effectively rectified.

(b) Observations on the implementation of the article

218. Singapore's laws provide for a range of criminal and non-criminal sanctions against legal persons which recognize the differences in the gravity of offences. The cases and statistics provided evidence of effective application of these measures in practice.
219. Nonetheless, the reviewers welcome indications by Singapore that it is considering amending the PCA to distinctly provide for, and increase, the maximum penalties applicable to legal persons in corruption cases, an indirect consequence of which would be to further clarify the separate liability of entities and principals engaging in acts of corruption.

Article 27 Participation and attempt

Paragraph 1

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

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

220. Singapore referred to subparagraph 1 (a) (i) of article 23 and subparagraph 1 (b) (ii) of article 23.

221. Singapore cited the following texts.

Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) ("CDSA") [Annex 10]
Pt VI

Prevention of Corruption Act (Chapter 241) ("PCA") [Annex 1]
Sections 29 to 31

Penal Code (Chapter 224) ("PC") [Annex 3]
Sections 410 to 414 and 511

Chapters V and VA

222. Singapore provided the following case examples.

223. PP v Koh Seah Wee and Lim Chia Meng [2012] 1 SLR 292 [Annex 9]

The accused persons were former colleagues in the Singapore Land Authority ("SLA"). At the material time, Koh Seah Wee ("Koh"), was the deputy director of the SLA's Technology and Infrastructure ("TI") department while Lim Chia Meng ("Lim") was the said department's manager, a position subordinate of Koh's. Lim was a procurement/verifying officer responsible for the requisition of goods and services required by SLA's TI department. In the procurement process, vendors would be invited to quote for a contract and Lim would make recommendations to Koh on whom to award the

contract to. Koh had authority to approve and award contracts of up to S\$60,000 in value.

In committing the cheating offences, Koh and Lim rigged the quotation results by arranging for their own "vendors" (the accomplices) to offer the lowest quotations which Lim would recommend and Koh would approve. Lim would also assist in preparing fictitious invoices for some of the "vendors" for submission to SLA's finance department. Through this fraudulent scheme, contracts were awarded to the "vendors" which neither intended nor were able to fulfill in any case. Once payment was made by SLA to the accomplices, the money would be handed over to Koh. The accomplices would be given a share of the money but the bulk of it would go to Koh and Lim.

The criminal proceeds involved amounted to more than S\$12 million. Investigators recovered about S\$7.54 million from Koh and S\$1.43 million from Lim.

In addition to the above offences, Koh had also committed fraud against other government agencies he was previously working for by dishonestly concealing his financial interests in the vendors submitting quotations which were evaluated by him and submitted for approval by his superiors.

224. Koh was charged with 372 counts of cheating and money laundering offences. He pleaded guilty and was sentenced to 22 years' imprisonment. Lim was charged with 309 charges of cheating and money laundering offences. He pleaded guilty and was sentenced to 15 years' imprisonment. His accomplices, who owned or worked at the external vendors, were also jailed for a period between 18 months and 10 years.

225. PP v Jeanette Ang [2011] 4 SLR 1 [\[Annex 13\]](#)

The accused claimed trial to 5 charges under section 44(1)(a) of the CDSA, for entering into arrangements knowing that they would facilitate the retention of the benefits of criminal conduct by Michael Walter ("Michael"), whom she knew was engaged in such conduct. The accused, had on the instructions of her brother (who was out of the country), taken a call from one "Mike", a stranger to her. On Mike's instructions, she then accepted large amounts of cash from another stranger known to her as Aloysious, and remitted the money overseas. On three occasions, the money was remitted to Michael and on one occasion, to a company in China. These remitted amounts totalled S\$2,079,546.20. On another occasion, the accused received cash in Singapore dollars from Aloysious, changed it to US\$51,000, and handed the said cash to one Kessler, who was also a stranger to her.

At the conclusion of the trial, she was convicted and sentenced to 6 months' imprisonment on each of the 4 charges for remitting monies overseas and three months' imprisonment for handing the money to one Roland James Kessler, who was also a stranger to her. One of the 4-month terms and the 3-month term were ordered to run consecutively, giving a total of 9 months' imprisonment.

226. The accused, had on the instructions of her brother (who was out of the country), taken a call from one "Mike", a stranger to her. On Mike's instructions, she then accepted large amounts of cash from another stranger known to her as Aloysious James, and remitted the money overseas. On three occasions, the money was remitted to Michael and on one occasion, to a company in China. These remitted amounts totalled S\$2,079,546.20. On another occasion, the accused received cash in Singapore dollars from Aloysious, changed

it to US\$51,000, and handed the said cash to Kessler.

227. PP v Sek Leong Seng [2010] SGDC 356 [Annex 14]

The accused pleaded guilty to a charge of assisting another to retain benefits of criminal conduct under section 44(1)(a) of the CDSA. He was sentenced to 4 months' imprisonment.

The accused received an email from one Rudolf Schneider ("Schneider") asking him for help to transfer US\$22.5 million to an offshore account in exchange for a share of the money. Schneider explained that he was acting on behalf of a Nigerian politician who had been arrested in London for money laundering and who needed help to transfer the money away from the "prying eyes of the Government". The accused agreed and opened a local bank account and gave the account details to Schneider. On 5 March 2009, Schneider emailed the accused to inform him that 4,870 Euros had been deposited into the account and asked him to send the money to someone in India via Western Union money transfers. The money belonged to one Ralf Humpert ("Humpert") who had lodged a police report stating that he did not authorise the transfer. The account was frozen and the money returned to Humpert.

228. Kannan s/o Kunjiraman & anor v PP [1995] 3 SLR(R) 294 [Annex 17]

A bookmaker, Rajendran, offered Kannan s/o Kunjiraman ("Kannan"), to bribe David Lee ("Lee"), Singapore's national goalkeeper, to let in goals during a match. Kannan asked one Ong Kheng Hock ("Ong") to offer an S\$80,000 bribe to Lee. After the match, thinking that he had spoken to Lee, Rajendran Ong S\$80,000, as well as \$5,000 as a reward for arranging the bribe.

229. Ong had actually never spoken to Lee and kept the \$80,000 for himself.

Kannan and Ong were convicted on a joint charge of conspiring with Rajendran to corruptly offer S\$80,000 to Lee. Kannan was also convicted on a charge of corruptly receiving from Rajendran \$5,000 as a reward for arranging the bribe to Lee, while Ong was convicted of an additional charge of corruptly receiving \$80,000 for Lee. Kannan was sentenced to one year's imprisonment and fined \$40,000, (in default 4 months' imprisonment) on the conspiracy charge; and 18 months' imprisonment and ordered to pay S\$5,000 (in default two weeks' imprisonment) on the corruption charge. Ong was sentenced to one year's imprisonment and fined \$40,000, (in default four months' imprisonment) on the conspiracy charge; and sentenced to 30 months' imprisonment and ordered to pay \$80,000, (in default eight months' imprisonment) on the corruption charge. Their appeals against sentence were dismissed by the High Court.

230. Singapore indicated that, in respect of money laundering offences, the statistics maintained do not distinguish whether the offence was attempted.

In respect of corruption offences, the statistics do not identify cases where the offence was attempted (as opposed to completed). This is because the offence-creating provisions of the PCA can capture attempts (such as mere agreements, promises and offers) and completed offences.

(b) Observations on the implementation of the article

231. Offenders who participate in corruption offences by way of abetment or conspiracy would be caught under sections 29 and 31 PCA.

Article 27 Participation and attempt

Paragraph 2

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

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

232. Singapore referred to subparagraph 1 (b) (ii) of article 23.

233. Singapore cited the following texts.

Prevention of Corruption Act (Chapter 241) ("PCA") [Annex 1]
section 30

Penal Code (Chapter 224, 2008) ("PC") [Annex 3]
section 511

234. Singapore provided the following case example.

PP v Peh Chew Seng [2013] SGDC 296; MA No. 222/2013 [Annex 23]

The accused was a Deputy Director of Projects & Development at Tan Tock Seng Hospital ("TTSH"). He was charged under section 6(a) of the Prevention of Corruption Act (Chapter 241) for corruptly attempting to obtain a gratification of an unspecified sum from one Phua Boon Kin, Eric ("Phua"), Executive Director of M/s PBT Engineering Pte Ltd ("PBT") through one Sim Geok Soon, in relation to his principal's affairs, ie awarding a contract to the said M/s PBT Engineering Pte Ltd for the construction of a temporary office at a vacant plot next to TTSH's main building ("the Project"). The accused was convicted after a trial and sentenced to 6 weeks' imprisonment. His appeal against conviction and sentence was dismissed.

Sometime in January 2009, the accused asked a close friend Sim whether his company was interested in tendering for the Project. Sim told the accused that his company's subsidiary, PBT was interested. In early February 2009, during a private site visit in which the accused personally showed Sim around the Project site, the accused told Sim that in the event that PBT was awarded the tender, the accused would "expect something in return" for his assistance with the tender. Sim replied that he knew what to do and subsequently relayed the accused's demand to Phua. Before the close of the tender, when Sim contacted the accused, the accused told Sim that he was expecting to receive 1% to 2% of the Project sum for the assistance rendered.

After the close of the tender, the accused made numerous efforts to show favour to PBT in

the tender selection process, including instructing one Lee Teck Foo, the leader of the consulting team tasked to evaluate the tenders, to “find some reasons” to disqualify three of the lowest bids. The accused also constantly engaged both Sim and Phua via phone calls and text messages throughout the tender process and showed great concern over PBT’s bid. The accused had no similar contact with any of the other parties tendering for the Project.

PBT was not awarded the tender eventually.

235. The statistics maintained do not distinguish whether the money-laundering offence was attempted or committed in consequence of an abetment or a conspiracy.

In respect of corruption offences, the statistics do not identify cases where the offence was attempted (as opposed to complete). This is because the offence-creating provisions of the PCA can capture attempts (such as mere agreements, promises and offers) and completed offences.

(b) Observations on the implementation of the article

236. Attempts to commit PCA and PC offences are covered under sections 30 PCA and 511 PC.

Article 27 Participation and attempt

Paragraph 3

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

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

237. The existing law under the Penal Code (Chapter 224) ("PC") [Annex 3] which is of general application to all legislation in Singapore is wide enough to capture all acts done in preparation for an offence under this Convention. Such acts include mere agreements and attempts.
238. Sections 120A and 120B of the PC criminalize the mere agreement by parties to commit an offence under this Convention notwithstanding that the offence is not completed.
239. Section 116 of the PC criminalizes acts of abetment in preparation of an offence notwithstanding that the offence is not completed.
240. Section 511 of the PC is a wide-sweeping provision that penalises any act towards the commission of the offence notwithstanding that the offence is not completed. For PCA offences, a similar provision to section 511 of the PC is found in section 30 of the Prevention of Corruption Act (Chapter 241) ("PCA") [Annex 1].
241. Where a bribe has been offered or promised or where a person has agreed to accept or

has attempted to obtain a bribe, this is a complete offence in itself under Section 5 or 6 of the PCA which are wide enough to capture such acts. In respect of preparatory acts that precede the offering or promise of a bribe, or agreement to accept or attempt to obtain a bribe, section 30 of the PCA can be invoked to criminalize such acts.

242. Singapore cited the following texts.

Prevention of Corruption Act (Chapter 241) ("PCA") [Annex 1]
sections 30

Penal Code (Chapter 224) ("PC") [Annex 3]
sections 116, 120A, 120B and 511

243. No case law or statistics were available. Singapore does not maintain statistics that distinguish between prosecutions for acts taken towards the preparation of an offence and completed offences.

(b) Observations on the implementation of the article

244. Sections 116 and 120A to 120B PC criminalize acts of abetment in preparation of offences and the mere agreement to commit offences, notwithstanding that the offence is not completed.

Article 29 Statute of limitations

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

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

245. There is no limitation for the institution of criminal proceedings against an offender in Singapore.

246. Singapore provided the following example of implementation.

Yunani bin Abdul Hamid v PP [2008] 3 SLR(R) 383 [Annex 24]

This was an application for criminal revision. Although the offence involved one of drug trafficking, it is significant for the High Court's observation of the limitations period for the prosecutions. The applicant was first arrested in 1992 and charged with a Capital offence of trafficking in cannabis. His co-offender managed to escape arrest and the accused was eventually given a discharge not amounting to an acquittal in light of the fact that the co-accused disappearance meant that there were evidential gaps in the case against the accused. Nearly 15 years later, in 2007, the co-accused was finally arrested. He unequivocally implicated the applicant and both of them were charged with Capital offences, which were eventually reduced, given the lapse of time and the fact that they had not reoffended in the meantime. The applicant pleaded guilty to the reduced charge. Unsatisfied with his sentence, he appealed; his new counsel also applied for a criminal

revision to have the conviction and sentence quashed on the grounds that the accused had unwillingly decided to plead guilty.

In allowing the revision and remitting the matter back to the Subordinate Courts for retrial, the High Court noted that “there is a strong public interest in prosecuting all drug offences regardless of the lapse of time”, and expressed the view that it was “not satisfied that the delay in the present case will cause irreversible or irremediable prejudice to the Applicant if a retrial were to take place”. The 15-year lapse between the discovery of the offence and the time that the accused was charged was therefore no bar to prosecution.

247. No statistics were available.

(b) Observations and good practices observed on the implementation of the article

248. There is no limitations period for the institution of criminal proceedings against an offender in Singapore. The absence of a statute of limitations is positively noted.

Article 30 Prosecution, adjudication and sanctions

Paragraph 1

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

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

249. The offences under sections 5 and 6 of the Prevention of the Corruption Act, (Chapter 241) ("PCA") [Annex 1], recognise the differences in gravity of the offences and provide for a range of sanctions; maximum of a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 5 years or to both. For instance, a sentence of imprisonment is the norm for cases of public corruption whereas a fine is usually imposed in cases of private sector corruption where the quantum of the bribes is not substantial. However, in appropriate private sector corruption cases, where the bribe is substantial or the public interest demands a deterrent sentence, an imprisonment term is usually imposed.

250. Further, it is legislatively recognised that the gravity of the offence is more severe when it involves a contract with the Government or any public body. In that event, section 7 of the PCA statutorily enhances the punishment to imprisonment for a term not exceeding 7 years, with the quantum of the maximum fine remaining the same.

251. Section 13 of the PCA also expressly provides for the disgorgement of corrupt proceeds from recipients of bribes. On conviction, they are liable to a penalty, over and above any fine imposed, which is equal to the total amount or value of the corrupt proceeds received.

252. Money-laundering and related offences are also punishable with a range of sentences, up to a maximum of 10 years' imprisonment and/or a fine of up to S\$1 million, depending on whether the accused is an individual or otherwise. (See sections 43, 44, 46 and 47 of the CDSA [Annex 10]). If the money-laundering act in question involves the misuse of legitimate financial services and the circumvention of “know your customer” controls, an

imprisonment term is usually imposed on the public interest ground that the offence threatens the reputation and integrity of Singapore's legal system.

253. In respect of offences of embezzlement, the Penal Code prescribes a wide range of punishment, with a stipulated maximum term of imprisonment. For example, the most serious of criminal breach of trust offence (where the accused is a public servant, a banker, merchant or agent) under section 409 of the PC [\[Annex 3\]](#) attracts a maximum penalty of imprisonment for life, or with imprisonment for a term which may extend to 20 years and fine.

254. Non-criminal sanctions are also imposed in respect of some corruption offences. These are known as "departmental referrals", where CPIB makes recommendations to the relevant agencies that employ the offenders to initiate their internal disciplinary proceedings against those offenders. In addition, under the Singapore Government Instruction Manual, contractors, both individuals and companies, who are investigated for corruption offences, for bribing public officials or in connection with a Government contract, may be barred from submitting a tender for Government contracts for a specified duration.

255. Non-criminal sanctions are additionally imposed in respect of offences involving fraud or dishonesty punishable with imprisonment for 3 months or more. Convictions for such offences lead to automatic disqualification from being a director or a company registered in Singapore for a period of 5 years or a period to be determined by the court (see section 154 of the Companies Act (Chapter 50) [\[Annex 25\]](#)).

256. Singapore cited the following texts.

Companies Act (Chapter 50) ("CA") [\[Annex 25\]](#)
section 154

Prevention of Corruption Act (Chapter 241) ("PCA") [\[Annex 1\]](#)
sections 5, 6, 7 and 13

Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) ("CDSA") [\[Annex 10\]](#)
sections 43, 44, 46 and 47

Penal Code (Chapter 224) ("PC") [\[Annex 3\]](#)
sections 406 to 409

257. Singapore provided the following examples of implementation

258. PP v Ang Seng Thor [2011] SGHC 134 [\[Annex 11\]](#)

The accused was the CEO and joint managing director of a company who gave a total of S\$147,158 in bribes on 2 occasions to agents of other companies as gratification for these companies ordering goods from the accused's company.

The accused pleaded guilty to 2 charges under section 6(b) of the PCA. 4 other charges were taken into consideration, including 2 similar charges under section 6(b).

On appeal to the High Court, the accused's sentence per proceeded charge was enhanced to 6 weeks' imprisonment and \$25,000 fine per charge, with the sentences for both charges ordered to run consecutively. The total imprisonment was 12 weeks' imprisonment and S\$50,000 fine. In sentencing the accused, the High Court treated the accused's position of seniority in his company as an aggravating factor. However, the High Court also noted that the accused's high degree of cooperation with CPIB during investigations deserved "significant recognition".

The High Court laid down the following sentencing principles in relation to corruption offences in general, and private sector corruption in particular:

(i) The public service rationale referred to the public interest in preventing a loss of confidence in Singapore's public administration, and where there was a risk of that harm occurring, a custodial sentence was normally justified. The public service rationale was presumed to apply where the offender was a government servant or an officer of a public body, but it could also apply to private sector offenders where the subject matter of the offence involved a public contract or service, such as private sector offences which concerned regulatory or oversight roles. Although triggering the public service rationale was one way in which a private sector offender could be subject to a custodial sentence, it was not the only way: the custody threshold could be breached in other circumstances, depending on the applicable policy considerations and the gravity of the offence as measured by the mischief or likely consequence of the corruption. In addition, factors such as the size of the bribes, the number of people drawn into the web of corruption and whether such conduct was endemic would all be relevant to the consideration of whether a custodial sentence was justified;

(ii) The main sentencing considerations in corruption cases are deterrence and punishment;

(iii) The seriousness of the offence would increase considerably in cases involving corruption of managers, particularly senior managers, and where there was corrupt influence over large or otherwise important business transactions: Courts should then consider imposing custodial sentences to deter the establishment of a corrupt business culture in Singapore;

(iv) It is an aggravating factor if the offences occurred over a long period of time, as opposed to one-off incidents;

(v) The size of the bribe has a bearing on both the culpability of the offender and the harm occasioned by the offence. The larger the amount of the bribe, the greater is the corrupt influence on the recipient and, hence, the greater is the subversion of the public interest in ensuring fairness in transactions and decisions. The size of the bribe is also a good indicator of the culpability of the offender. In the case of the giver of the bribe, the size of the bribe demonstrates the amount of influence that the giver wanted to exert on the recipient. Hence, in general, the greater the bribe, the greater is the culpability of the giver.

The accused was the sole proprietor of AT35 Services, which amongst other things, supplied food products. The accused entered into an agreement with the Food Services Manager of IKANO, a company that owns and operates the IKEA store in Singapore, to reward him with one-third of all profits earned by AT35 Service from its business with IKANO, if he selected AT35 Services as IKANO's food supplier. Pursuant to this agreement, between January 2003 and July 2009, during which AT35 was IKANO's food supplier, the accused made 80 payments to the Food Services Manager, totalling S\$2,389,322.47. This was one of the largest cases of private sector corruption cases in terms of quantum.

The accused pleaded guilty to 12 charges under section 6(b) of the PCA read with s34 of the Penal Code (he had a conspirator) involving S\$761,019.64. He consented to the remaining 68 charges to be taken into consideration.

In enhancing the sentence on appeal, the High Court noted that even though the accused was not the initiator, he was integral to the commission of the offences. However, the Court also considered that the S\$1 million that the accused had paid in settlement of the civil suit brought against him by IKANO was a significant form of restitution that mitigated the harm caused to IKANO. The accused was ultimately sentenced to 10 weeks' imprisonment and S\$15,000 fine per charge, with 4 sentences ordered to run consecutively. The total sentence was therefore 40 weeks' imprisonment and S\$180,000 fine.

260. PP v Md Daud Bin Nadzim (unreported)

In 2011, the accused, Md Daud Bin Nadzim, a Principal Vehicle Inspector in the employ of STA Inspection Pte Ltd ("STAI") was charged for 30 counts of corruptly obtaining gratification under section 6(a) of the PCA. Investigations revealed that as an employee of STAI, he was authorised by the Land Transport Authority, a public body, to carry out motor vehicle inspections to determine if the vehicle contained modifications that did not comply with the Road Traffic Act (Motor Vehicles, Test) Rules. On 30 occasions between October 2009 and March 2010, the accused corruptly obtained bribes amounting to S\$1,675 from several vehicle workshop operators in return for allowing vehicles with illegal modifications to pass the inspections he was tasked to perform. He pleaded guilty to 16 proceeded charges and consented to have the remaining 14 charges being taken into consideration for the purpose of sentencing. The prosecution submitted for a deterrent custodial sentence to be imposed, highlighting the threat to public safety and the accused's abuse of authority. The accused was sentenced to a total of 18 months' imprisonment, and ordered to pay a penalty of S\$1,675 (in default 4 weeks' imprisonment) pursuant to section 13 of the PCA.

261. PP v Tay Ee Tiong [2011] SGDC 302 [\[Annex 27\]](#)

The accused was the sole proprietor of Wealthy Seafood Product and Enterprise. He gave gratification to 19 chefs from various hotels and restaurants in Singapore to ensure their continued purchase of seafood products from his company.

The accused pleaded guilty to 20 charges under section 6(b) of the PCA. Another 203 similar charges were taken into consideration for the purpose of sentencing. The total gratification given was S\$992,403.90. The accused was sentenced to a total of 18 months'

imprisonment.

262. PP v Kim Jaehong (unreported)

In 2012, Kim Jaehong, a Korean National and a professional football player of Geylang United Football Club (“Geylang United”), was charged for 2 counts of corruptly giving gratification under section 6(b) of the PCA, and 1 count for engaging in a conspiracy to corruptly offer gratification under section 6(a) read with section 29(a) of the PCA.

Investigations revealed that on an occasion in May 2012, he offered a sum of S\$4,000 each to two players of Geylang United to ensure that Geylang United lost its S-League football match to Football Club Harimau Muda.. He also conspired with a friend to corruptly offer a bribe to a player of Geylang United to induce the player not to score any goal in the same match.

He pleaded guilty and was sentenced to 10 months’ imprisonment in total.

263. From 2010 to 2012, in relation to AML/CFT transgressions, MAS has imposed financial penalties on 22 financial institutions, issued a total of 47 warnings and reprimand letters, restricted the operations of 7 financial institutions, and revoked licences or denied applications for renewal of licences of 13 money changers and remittance agents. A few financial institutions were directed to appoint external consultants to conduct a thorough review of their AML/CFT controls or asked to increase resources dedicated to this function. In all cases, the financial institutions had to demonstrate that the deficiencies identified are effectively rectified.

264. From 2010 to 2013, in respect of corruption offences, the number of warnings (in lieu of prosecutions) issued are as follows:

2010: 89
2011: 26
2012: 28
2013: 44

265. From 2010 to 2012, in respect of corruption offences, the number of department referrals made by the CPIB and the outcome of these cases are as follows:

2010
No further action by the department: 7 Written warning issued by the department: 7
Pending decision of the department: 10

2011
No further action by the department: -Written warning issued by the department: 3
Pending decision of the department: 8

2012
No further action by the department: -Written warning issued by the department: 1
Pending decision of the department: 1

266. For corruption offences, no statistics have been maintained on the quantum of fines

imposed for corruption offences.

267. Where imprisonment terms have been meted out for corruption offences, the duration of such imprisonment terms are as follows:

2010

Between 12 and 18 months' imprisonment: 1

Between 6 and 12 months' imprisonment: 1

6 months' imprisonment or less: 62

Total convictions: 64

2011

Between 12 and 18 months' imprisonment: 0

Between 6 and 12 months' imprisonment: 0

6 months' imprisonment or less: 22

Total convictions: 22

2012

Between 12 and 18 months' imprisonment: 0

Between 6 and 12 months' imprisonment: 0

6 months' imprisonment or less: 26

Total convictions: 26

2013

Between 12 and 18 months' imprisonment: 0

Between 6 and 12 months' imprisonment: 0

6 months' imprisonment or less: 12

Total convictions: 12

268. The total amounts of penalties imposed under section 13 of the PCA to confiscate corrupt proceeds are as follows:

2010: S\$543,981.88

2011: S\$363,233.07

2012: S\$1,318,918.95

2013: S\$2,001,760.53

269. In relation to money-laundering offences under the CDSA, imprisonment terms have largely been meted out in recent years, as follows:

2010

More than or equal to 48 months' imprisonment: 1

Between 36 and 48 months' imprisonment: 1

Between 24 and 36 months' imprisonment: 3

Between 12 and 24 months' imprisonment: 3

Less than 12 months' imprisonment: 10*

Total convictions: 18

2011

More than or equal to 48 months' imprisonment: 1

Between 36 and 48 months' imprisonment: 3
Between 24 and 36 months' imprisonment: 0
Between 12 and 24 months' imprisonment: 6
Less than 12 months' imprisonment: 16*
Total convictions: 26

2012

More than or equal to 48 months' imprisonment: 1
Between 36 and 48 months' imprisonment: 2
Between 24 and 36 months' imprisonment: 1
Between 12 and 24 months' imprisonment: 1
Less than 12 months' imprisonment: 23*
Total convictions: 28

2013

More than or equal to 48 months' imprisonment: 0
Between 36 and 48 months' imprisonment: 1
Between 24 and 36 months' imprisonment: 2
Between 12 and 24 months' imprisonment: 7
Less than 12 months' imprisonment: 29*
Total convictions: 39

*indicates that some of these accused persons had other money laundering charges taken into consideration into the imprisonment term meted out

(b) Observations on the implementation of the article

270. Singapore explained that it does not have published sentencing guidelines, but for each offence, there are sentencing benchmarks and norms which the courts take into account in determining the appropriate sentence to impose in a particular case. Corruption-related offences do not carry mandatory minimum sentences. However, there are cases which have set down general sentencing principles in relation to corruption cases (see *PP v Ang Seng Thor* [2011] SGHC 134 at paragraph 246 above [Annex 11]).

271. Singaporean authorities noted that, as the crime rate in Singapore is generally low, the money laundering risk arising from domestic offences is not high. Singapore's openness as an international transport hub and financial centre exposes it to higher money laundering risks from offences committed overseas. Law enforcement agencies have faced challenges in obtaining convictions for money laundering relating to foreign predicate offences given the international dimension. Law enforcement agencies need to obtain full support and cooperation from the overseas parties. This includes the foreign victims of the predicate offence and/or witnesses, such as representatives from the foreign financial institutions. Support and cooperation are required from these parties to provide evidence showing the link between the funds in Singapore and the foreign predicate offence, without which it would be very difficult if not impossible to obtain a successful prosecution.

(c) Successes and good practices

272. Singapore's laws provide for a range of criminal and non-criminal sanctions which recognize the differences in the gravity of offences. Sentencing benchmarks and norms are taken into account by courts in determining sentences. Cases and statistics provided evidence effective application of these measures in practice.

Article 30 Prosecution, adjudication and sanctions

Paragraph 2

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

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

273. There are no immunities or jurisdictional privileges accorded to local public officials in respect of offences under this Convention. Public officials who commit offences are liable to be prosecuted in the same way as any other individual.

274. The powers to investigate, prosecute and adjudicate corruption cases against public officials are vested in an entity that is separate and independent from any public office. This ensures that the administration of criminal justice in Singapore is effective and accountable, and avoids issues of potential conflict in the investigation of public officials.

275. The authority to prosecute corruption offences is constitutionally vested in the Attorney-General, acting in the capacity of the Public Prosecutor, pursuant to article 35(8) of the Constitution of the Republic of Singapore [Annex 28] and section 11(1) of the Criminal Procedure Code (Chapter 68) ("CPC") [Annex 29].

276. The authority to adjudicate such offences lies with the Judiciary, which comprises both the Supreme Court of the Republic of Singapore and the State Courts of the Republic of Singapore. The criminal jurisdictions of the Courts are statutorily defined in section 15 of the Supreme Court of Judicature Act (Chapter 322) [Annex 30] for the Supreme Court and Part II of CPC for the State Courts.

277. Singapore cited the following texts.

Constitution of the Republic of Singapore ("Constitution") [Annex 28]
article 35(8)

Criminal Procedure Code (Chapter 68, Revised Edition 2012) ("CPC") [Annex 29]
sections 11(1) and Pt II

Supreme Court of Judicature Act (Chapter 322) ("SCJA") [Annex 30]
section 15

278. Singapore provided the following examples of implementation.

279. CPIB received only 1 complaint or feedback against a CPIB officer in 2012 and 3 in 2013.

280. There have been no registered complaints against CAD officers in relation to their investigative work in the past 4 years.

281. Singapore indicated that there have been no concrete instances where the issue of immunities and/or jurisdictional or other privileges accorded to public officials has arisen or been addressed in official documents.

(b) Observations on the implementation of the article

282. It was confirmed that there is no immunity for the President of Singapore (who is Singapore's Head of State) or for the members of the judiciary in respect of offences under this Convention. In respect of the President, no court proceedings in respect of anything he does or omits to do in his private capacity shall be instituted against him during his term of office (under article 22K of the Constitution of the Republic of Singapore [Annex 28]). However, if there are allegations that the President is permanently incapable of discharging the functions of his office if he has been guilty of certain misconduct, including misconduct or corruption involving the abuse of the powers of his office, or any offence involving fraud, dishonesty or moral turpitude, Parliament can adopt a motion alleging the same. If such motion is passed, a judicial tribunal would then determine whether the President is guilty of these allegations. If the President is found guilty, Parliament may then pass a resolution to remove the President from office (article 22L of the Constitution).

Article 30 Prosecution, adjudication and sanctions

Paragraph 3

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

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

283. In Singapore, prosecutorial discretion is constitutionally vested in the Public Prosecutor pursuant to article 35(8) of the Constitution of the Republic of Singapore [Annex 28].

284. The exercise of this discretion is generally unfettered, save for two narrow exceptions, namely, that this discretion cannot be exercised (i) mala fide (where the decision is biased) and (ii) ultra vires (where irrelevant considerations are taken into account): see *Ramalingam Ravinthran v AG* [2012] 2 SLR 49 [Annex 31] which followed *Quek Hock Lye v Public Prosecutor* [2012] SGCA 25 [Annex 32]. Beyond these narrow exceptions, the prosecutorial discretion of the Public Prosecutor is constitutionally protected and is not subjected to judicial review.

285. In recognition of the need to deter the commission of corruption offences, the

principle of general deterrence and the public interest are essential factors that feature strongly in the Public Prosecutor's decision of whether to prosecute a case or not.

286. Singapore cited the following texts.

Constitution of the Republic of Singapore [Annex 28]
article 35(8)

287. Singapore provided the following examples of implementation and indicated that, although these two cases relate to drug trafficking, the Court of Appeal laid down principles in respect of the exercise of prosecutorial discretion.

288. *Quek Hock Lye v PP* [2012] 2 SLR 1012 [Annex 32]

This case involved a similar factual matrix as *Ramalingam Ravinthran v AG* [2012] 2 SLR 49. The accused was convicted in the High Court for possession of diamorphine, in furtherance of a criminal conspiracy with one other person, to traffic the drugs, an offence punishable with the mandatory death penalty. He appealed against his conviction and sentence and raised questions concerning the constitutionality of the prosecutorial decision to charge him with the Capital charge, while his co-offender faced a less serious charge of possession of a lower stated amount of diamorphine for the purposes of trafficking.

The Court of Appeal found that the accused had failed to establish a *prima facie* case that the Public Prosecutor had infringed Article 12(1) of the Constitution (the equality provision) in charging him with a Capital charge while sparing his co-offender of the same. The test of whether Article 12(1) was infringed, as articulated in *Ramalingam Ravinthran v A-G* [2012] 2 SLR 49, was cited with approval.

289. *Ramalingam Ravinthran v A-G* [2012] 2 SLR 49 [Annex 31]

In this seminal case, the accused faced a charge which attracted the mandatory death penalty, while his co-accused faced a lesser charge, the Court of Appeal laid down the following principles in relation to judicial review of the prosecutorial discretion:

(i) Article 12(1) requires the Prosecution to give unbiased consideration to all potential defendants and not to take into account any irrelevant considerations. As like cases should be treated alike, potential defendants who were involved in the same criminal conduct should, all other things being equal, be charged with the same offence. However, the Prosecution was entitled and obliged to take into account many factors in its charging decisions, and where those factors applied differently to different potential defendants, this would justify differential treatment between them:

(ii) The burden was on the defendant who alleged that his prosecution was unconstitutional to produce *prima facie* evidence of the alleged unconstitutionality. This is because there is a presumption that the Attorney-General's prosecutorial decisions are constitutional until they are shown to be otherwise. This presumption stems from the separation of powers doctrine as well as the co-equal constitutional standing of the Attorney-General's office with the Court. Only when this had been done would the Attorney-General be under an evidential burden to justify his prosecutorial decision. Once evidence of *prima facie* unconstitutionality was produced, the Prosecution would have to justify its prosecutorial decision or be found to be in breach of the Constitution.

290. In 2010, there were prosecutions in respect of 109 corruption offences. In 2011, there were prosecutions in respect of 43 corruption offences. In 2012, there were prosecutions in respect of 47 corruption offences.

(b) Observations on the implementation of the article

291. It was explained that the Public Prosecutor's decisions are subject to scrutiny. The Court of Appeal has laid down that a prosecutorial decision can be quashed by the court if it is shown to have been made in bad faith, or if it is unconstitutional (see *Ramalingam Ravinthran v AG* [2012] 2 SLR 49 [Annex 31] and *Quek Hock Lye v PP* [2012] SGCA 25 [Annex 32] cited above).

Prosecutorial discretion is exercised by prosecutors on the basis of the sufficiency of evidence, and consideration of what is in the public interest. Prosecution guidelines promulgated internally within the AGC provide a framework for decision-making and consistency, and these guidelines are regularly reviewed and updated to reflect, amongst other factors, changes in the law, the enforcement environment and priorities. These guidelines are coupled with a rigorous system of internal review. Almost all decisions made by prosecutors are reviewed by at least one other, more senior, officer. Every prosecution under the PCA requires the written consent of the Public Prosecutor before it can be brought to court.

Article 30 Prosecution, adjudication and sanctions

Paragraph 4

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

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

292. In Singapore, the attendance of an accused for a criminal proceeding is secured by way of a sufficient quantum of bail bond. Section 96 of the Criminal Procedure Code [Annex 29] provides for the statutory requirement that a bail bond, whilst not punitive, must be sufficient to secure the attendance of an accused.

293. Further, the surety for an accused person assumes certain obligations when the accused person is released into his or her care. Section 104(1) of the CPC sets out the obligations of the surety, which includes ensuring that the accused makes himself available for investigations or court hearings, keeping in daily contact with the accused and ensuring that the accused remains in Singapore unless otherwise permitted by the court to leave jurisdiction.

294. In the event that the surety fails to ensure the attendance of the accused, or breaches any of his duties under section 104(1) of the CPC, the bail bond put up by the surety may be forfeited by the court under section 104(2) of the CPC in whole or in part. This serves

as a motivation for the surety to ensure the presence of the accused at criminal proceedings.

295. Singapore cited the following texts.

Criminal Procedure Code (Chapter 68) ("CPC") [Annex 29]
sections 96, 104(1) and 104(2)

296. Singapore provided the following examples of implementation.

Low Chit Bah v PP [1985 - 1986] SLR(R) 388 [Annex 33]

The applicant had been charged with conspiracy to cheat several merchant banks of over S\$3million. He had been granted bail of S\$1million in two sureties but he was unable to satisfy this bail bond as it was too high. Low then sought a reduction of the bail to S\$500,000, arguing that it was difficult for him to provide instructions to his counsel while in custody. The Prosecution objected on the basis that there was evidence that the applicant had previously entered Singapore on a forged passport and was a flight risk.

The High Court dismissed the application, holding that difficulty in obtaining instructions from an accused in remand was just one of the considerations in determining whether to grant bail and the quantum for bail. On the facts, the overriding consideration was that there was every likelihood that the accused would abscond if bail were reduced.

297. From 2010 to 2013, 4 accused persons charged for corruption offences absconded whilst on Court bail of \$10,000 for one of the accused persons, \$50,000 each for two and S\$600,000 for the remaining one. All 4 accused persons are currently still at-large.

(b) Observations on the implementation of the article

298. The provision is implemented.

Article 30 Prosecution, adjudication and sanctions

Paragraph 5

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

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

299. Statutory criteria for determining the eligibility of convicted persons for early release or parole reflects the varying gravity of offences.

300. Remission (i.e. early release) is available for most offences (including corruption), save where the offences were deemed to be of sufficient gravity by the Legislature. For instance, both the home detention scheme under section 52 of the Prisons Act (Chapter 247) ("Prisons Act") [Annex 34] and the general remission scheme under section 50I of the Prisons Act (Chapter 247, Regulation 2) [Annex 35] are not available to convicted persons serving life imprisonment, which punishment is generally reserved for the most

grave of offences. Similarly, convicted persons for certain serious offences set out in the Schedule to the Prisons Act are ineligible for home detention. That said, convicted persons serving life imprisonment may be considered for remission after serving 20 years of his sentence pursuant to section 50P of the Prisons Act.

301. Aside from the situations to which the above applies, early release in the form of home detention or general remission of sentence generally depends on the good conduct of the convicted persons while incarcerated, rather than the gravity of the offence.

Home Detention

302. The Home Detention (“HD”) Scheme was implemented in 2000. Suitable prisoners may be released early to stay at home for durations ranging from a minimum of 1 week to a maximum of 1 year. Prisoners on HD are electronically tagged and supervised by Reintegration Officers. They have to abide by conditions such as curfew hours and drug testing. While on HD, these prisoners would undergo various programmes such as work or education, and counselling.

Remission Process

303. Every prisoner who is given a sentence of imprisonment exceeding 14 days is entitled to be released on a remission order upon completing two-thirds of the sentence, provided the number of days of the imprisonment to be served after the granting of remission does not fall below 14 days.

304. Singapore cited the following texts.

Prisons Act (Chapter 247)[Annex 34]
Pt VI
Schedule

305. Singapore provided the following statistics.

The statistics given below pertain to all offences, including offences falling outside the Convention's ambit.

306. Since the HD Scheme was implemented in 2000, as at 31 December 2013, 15,915 prisoners (average of 1,000 prisoners annually) have been emplaced onto the scheme, and 15,393 prisoners completed the programme successfully (97% completion rate).

The statistics for the inmates released with remission for the past 4 years are reflected below.

2010

Releases with remission: 12,179 Total releases: 17,870

2011

Releases with remission: 10,506 Total releases: 16,030

2012

Releases with remission: 9,994 Total releases: 14,622

2013

Releases with remission: 10,040 Total releases: 14,421

(b) Observations on the implementation of the article

307. Singapore explained that all sentences of imprisonment are subject to a one-third conditional remission for good behaviour, and with the basic condition that the offender not reoffend during the period of remission. Reoffending during this period will make the person liable for an additional sentence not exceeding the remaining duration of the remission period from the date of commission of a new offence.

Article 30 Prosecution, adjudication and sanctions

Paragraph 6

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

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

308. Procedures to investigate into minor and serious misconducts on the part of public servants are statutorily provided for under Regulations 3 and 4 of the Public Service (Disciplinary Proceedings) Regulations (Constitution, Regulation) [Annex 36]. These regulations empower the Public Service Commission, which oversees all public officers in Singapore, to investigate into misconduct by public officers.
309. Under Regulation 7 of the Public Service (Disciplinary Proceedings) Regulations, if in any case the Public Service Commission considers that the public interest requires that a public officer should cease to exercise the powers and functions of his office instantly, the Public Service Commission may interdict the public officer from the exercise of the powers and functions of his office, provided that criminal proceedings or proceedings for his dismissal or reduction in rank are being contemplated.
310. Pursuant to an investigation under Regulations 3 or the proceedings under Regulations 4, if the Public Service Commission is of the opinion that the public officer is guilty of a minor or serious misconduct, the Public Service Commission may impose a penalty, such as stoppage or deferment of increment, fine or reprimand or require the public officer to retire with or without a reduction in retirement benefits.
311. However, the presumption of innocence is still protected under the Public Service (Disciplinary Proceedings) Regulations. Under Regulation 8, if criminal proceedings are instituted against a public officer, proceedings for his dismissal upon any grounds involved in the criminal charge shall not be taken until the criminal proceedings are disposed of. Furthermore, in accordance with Art 110(3) of the Constitution [Annex 28],

no public officer will be dismissed or reduced in rank without being given a reasonable opportunity to be heard.

312. Singapore cited the following texts.

Constitution of the Republic of Singapore [Annex 28]

article 110(3)

Public Service (Disciplinary Proceedings) Regulations (Constitution, Regulation 1) [Annex 36]

regulations 3 and 4

313. Singapore provided the following examples of implementation.

PP v. Peter Benedict Lim Sin Pang [2013] SGDC 192 [Annex 37]

The accused was a senior civil servant, the former Singapore Civil Defence Force (“SCDF”) Commissioner, who obtained sexual gratification from the General Manager of an existing vendor of the SCDF, in exchange for advancing the business interests of the vendor. He claimed trial to his charge and was convicted and sentenced to 6 months’ imprisonment. He chose to admit and consent to 7 other similar charges to be taken into consideration for the purposes of sentencing.

The accused was interdicted the moment he was arrested and investigations commenced against him. Following his conviction, he was dismissed from public service.

314. No statistics were available.

(b) Observations on the implementation of the article

315. The provision is implemented.

Article 30 Prosecution, adjudication and sanctions

Subparagraph 7 (a)

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

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

316. The Constitution [Annex 28] provides that a person who has been convicted of an offence by a court of law in Singapore or Malaysia and sentenced to imprisonment for a

term of not less than one year or to a fine of not less than S\$2,000 and has not received a free pardon will be disqualified from holding certain types of public office for example, member of the Council of Presidential Advisors (Article 37E), member of Parliament (Art 45) and member of Presidential Council for Minority Rights (Art 72).

317. While not a disqualification per se, public sector agencies take preventive steps to ensure that persons who have been convicted of offences under this convention are not employed by the public service. As part of their recruitment process, public sector agencies are required to perform reference checks prior to appointing any officers. The recruitment framework provides that anyone who has any record that demonstrates a lack of integrity, incorruptibility, impartiality and honesty (for example, conviction for corruption or offences involving fraud or dishonesty) will not be appointed in the service.

318. Singapore cited the following texts.

Constitution of the Republic of Singapore [Annex 28]

articles 37E, 45 and 72

319. Singapore provided the following examples of implementation.

PP v. Peter Benedict Lim Sin Pang [2013] SGDC 192 [Annex 37]

The accused was a senior civil servant, the former Singapore Civil Defence Force (“SCDF”) Commissioner, who obtained sexual gratification from the General Manager of an existing vendor of the SCDF, in exchange for advancing the business interests of the vendor. He claimed trial to his charge and was convicted and sentenced to 6 months’ imprisonment. He chose to admit and consent to 7 other similar charges to be taken into consideration for the purposes of sentencing.

The accused was interdicted the moment he was arrested and investigations commenced against him. Following his conviction, he was dismissed from public service.

320. No records of statistics or case outcomes are kept.

(b) Observations on the implementation of the article

321. The provision is implemented.

Article 30 Prosecution, adjudication and sanctions

Subparagraph 7 (b)

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:

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

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

322. Any person convicted for offences involving fraud or dishonesty punishable with imprisonment for 3 months or more (these offences include offences under the Convention such as corruption and embezzlement) will be automatically disqualified from being a director of a company registered in Singapore for a period of 5 years or a period to be determined by the court (see section 154 of the Companies Act (Chapter 50) [Annex 25]).

323. Singapore cited the following texts.

Companies Act (Chapter 50) [Annex 25]

section 154

324. No examples of implementation were provided. No records of such information are kept.

(b) Observations on the implementation of the article

325. The provision is implemented.

Article 30 Prosecution, adjudication and sanctions

Paragraph 8

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

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

326. Criminal prosecutions are without prejudice to disciplinary proceedings being commenced against errant civil servants. After the conclusion of the criminal proceedings, the Public Service Commission may, where the public officer is convicted of the criminal charge, take the necessary disciplinary actions under Regulation 9 of the of the Public Service (Disciplinary Proceedings) Regulations (Constitution, Regulation 1) [Annex 36]. In the event that the public officer is acquitted of the criminal charge, the Public Service Commission may still consider the appropriate disciplinary actions to be taken against the said public officer under Regulation 11 of the said Regulations. This is to reflect the difference between the standard of proof required of a disciplinary proceeding from that required of a criminal proceeding, as well as the fact that conduct which may not be criminal may nonetheless warrant disciplinary action. The two proceedings are independent and without prejudice to one another.

327. Singapore cited the following texts.

Public Service (Disciplinary Proceedings) Regulations (Consitution, Regulation 1) [Annex 36]

regulations 9 and 11

328. Singapore provided the following examples of implementation and related disciplinary cases.

PP v. Peter Benedict Lim Sin Pang [2013] SGDC 192 [Annex 37]

The accused was a senior civil servant, the former Singapore Civil Defence Force ("SCDF") Commissioner, who obtained sexual gratification from the General Manager of an existing vendor of the SCDF, in exchange for advancing the business interests of the vendor. He claimed trial to his charge and was convicted and sentenced to 6 months' imprisonment. He chose to admit and consent to 7 other similar charges to be taken into consideration for the purposes of sentencing.

The accused was interdicted the moment he was arrested and investigations commenced against him. Following his conviction, he was dismissed from public service.

(b) Observations on the implementation of the article

329. The provision is implemented.

Article 30 Prosecution, adjudication and sanctions

Paragraph 10

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

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

330. The Community Action for Rehabilitation of Ex-Offenders ("CARE") Network has several initiatives to help ex-offenders reintegrate into society, including rehabilitative and aftercare programmes. It has developed several aftercare initiatives which include the Case Management Framework Programme (which has since been replaced with the Case Management Services), the Yellow Ribbon Project, the Yellow Ribbon Fund, the Lee Foundation Education Assistance Scheme, the Yellow Ribbon Project, the Yellow Ribbon Fund and the Training and Development Framework for volunteers and aftercare professionals. Started in May 2000, it aims to improve the effectiveness of rehabilitation of ex-offenders in Singapore by engaging the community, co-ordinating member agencies' activities and developing rehabilitation initiatives for ex-offenders. More details of these initiatives are found below:

(i) Case Management Services ("CMS")

331. The CMS seeks to ensure continuity in an inmate's rehabilitation process before and after his release. This case management service is provided by full time Aftercare Case Managers ("ACMs") from Singapore After-Care Association ("SACA") and Singapore Anti-Narcotics Association ("SANA"). It provides individualised case management and

counselling services to ex-offenders and their families to help address the ex-offenders' criminogenic needs, and their reintegration issues, i.e. family, financial, employment, accommodation and other concerns. The programme begins two months before the offender is released and extends up to a year after release. The ACMs focus on rapport building with the offenders and developing rehabilitation goals. Upon release, the ACMs will work with the ex-offenders to implement the goals that were crafted and provide assistance to facilitate the reintegration of ex-offenders to their families and the society.

(ii) Yellow Ribbon Project ("YRP")

332. Ex-offenders who want to have a fresh start in life after incarceration often face stigmatization and prejudice when they return back to the community. Community support is thus essential in reintegrating ex-offenders and preventing re-offending. Recognizing this need, the CARE Network launched the YRP in 2004. The purpose of the YRP is to create awareness about giving second chances to ex-offenders and their families. It also seeks to encourage community acceptance and inspire community action in supporting the reintegration of ex-offenders. Since its inception, the YRP has created a positive impact in Singapore's society with many community partners coming forward to offer support and assistance. The strong show of support from the community was recently reflected in a survey conducted in 2012, where 96% of persons surveyed indicated their awareness of YRP and 71% of persons surveyed indicated their acceptance of ex-offenders.

(iii) Yellow Ribbon Fund ("YRF")

333. The YRF was set up in 2004 to administer funding to the development and implementation of reintegration programmes for ex-offenders, as well as family support programmes to strengthen family ties of ex-offenders. The YRF is a registered charity and Institute of Public Character under the National Council of Social Service. Since its inception, YRF has disbursed approximately \$5.35 million to help about 30,000 ex-offenders and their families.

(iv) Lee Foundation Education Assistance Scheme

334. The scheme provides financial assistance to ex-offenders in their academic pursuits and was launched on 27 September 2003. The Foundation aims to provide opportunities for ex-offenders who are needy and would like to continue with their studies.

(v) Training and Development Framework

335. Prisons will be developing a training and development framework for volunteers and aftercare professionals to support the capability building efforts of non-government partners in these sectors. The framework will systematically equip them with the core competencies, knowledge, and skills needed to better support the rehabilitation of offenders.

336. Regarding statistics on recidivism rates, Singapore indicated that the statistics reflected pertain to all offences, including offence outside the Convention's ambit.

337. The recidivism rate is calculated as a percentage of local inmates who are released

and subsequently detained or convicted and imprisoned again for a fresh offence within two years of their release. For example, for the inmates released in 2011, the rate of 27.4% indicates the percentage of those released who were later detained or convicted and imprisoned within two years of their release.

338. The recidivism rates are as follows:

2008: 27.3%

2009: 26.7%

2010: 23.6%

2011: 27.4%

(b) Observations on the implementation of the article

339. The provision is implemented.

(c) Successes and good practices

340. Singapore facilitates the reintegration of offenders into society through several aftercare initiatives. The measures cited by Singapore are commendable in terms of efforts to reintegrate convicted persons to society.

Article 31 Freezing, seizure and confiscation

Subparagraph 1 (a)

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

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

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

341. The confiscation of corrupt proceeds or its equivalent value is provided for under section 13 of the Prevention of the Corruption Act [Annex 1], which provides that a person convicted of receiving corrupt proceeds shall be liable to a penalty of a sum amounting or equivalent to the value of the corrupt proceeds which was received.

342. Furthermore, for both corruption and non-corruption offences under this Convention, the confiscation of the proceeds of crime is governed by section 5 of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act [Annex 10]. Under this provision, the court shall, upon the application by the Public Prosecutor, make a confiscation order against a convicted person in respect of the benefits derived by him or her from the criminal conduct if the court is satisfied that the benefits have been so derived.

343. Proceeds of crime could also potentially be forfeited under section 364(2) of the Criminal Procedure Code [Annex 29], which expressly provides for the disposal of any property in respect of which an offence is or was alleged to have been committed or which

has been used or is intended to have been used for the commission of any offence or which constitutes evidence of an offence.

344. Singapore cited the following texts.

Criminal Procedure Code (Chapter 68, Revised Edition 2012) ("CPC") [Annex 29]

section 364(2)

Prevention of Corruption Act (Chapter 241) ("PCA") [Annex 1]

section 13

Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) ("CDSA") [Annex 10]

section 5

345. Singapore provided the following case examples in which proceeds were confiscated.

346. Centillion Environment & Recycling Ltd (formerly known as Citiraya Industries Ltd) v Public Prosecutor and others and another appeal [2013] 1 SLR 444 [Annex 38]

Ng Teck Lee ("Ng") was the Chief Executive Officer of Citiraya Industries Ltd ("Citiraya"), a company which was subsequently renamed Centillion Environment & Recycling Ltd ("Centillion"). Citiraya entered into agreements with a number of chip manufacturers to extract precious metals from sub-standard computer chips, and instead of carrying out the terms of the agreements, Ng misappropriated and sent the computer chips to overseas syndicates for repackaging and sale as standard products. Between April 2003 and November 2004, numerous shipments of the computer chips were diverted and sold for a total sum of US\$51,196,938.52 ("the Illegal Proceeds"), and the money was credited into bank accounts held by a company known as Pan Asset International ("Pan Asset"). Gan Chin Chin ("Gan"), the Chief Financial Officer of Citiraya, assisted Ng in his scheme and held all the shares in Pan Asset as Ng's nominee. The scheme was uncovered at the end of 2004 when the Corrupt Practices Investigation Bureau ("CPIB") commenced investigations against Ng for, inter alia, criminal breach of trust as a servant under s 408 of the Penal Code (Chapter 224). Ng left Singapore in January 2005 and his whereabouts remain unknown.

Ng was deemed to have been convicted of a serious offence under s 26(1) of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) ("CDSA"), and the Public Prosecutor subsequently commenced proceedings against Ng for a confiscation order under Section 5 of the CDSA for US\$51,196,938.52, being the value of benefits known to have been derived by him from criminal conduct ("the Confiscation Order"). The PP also sought an order for a list of properties identified as realisable properties to be realised and the proceeds applied towards the satisfaction of the Confiscation Order. The list consisted of properties held in the names of Ng, his wife Thor Chwee Hwa and other third parties. They included shares, insurance policies and landed property which the accused used the proceeds of crime to purchase. Centillion then filed a suit against Ng for breach of fiduciary duties to the

company as a director and subsequently obtained a default judgment against Ng for the sum of \$51,196,938.52, the value of the computer chips misappropriated by Ng.

Centillion and one Ung Yoke Hooi applied to intervene in the Public Prosecutor's application for the Confiscation Order, asserting an "interest" under section 13 of the CDSA in various assets that the PP had sought to realise. The High Court made a provisional Confiscation Order and proceeded to hear the third party applications. Both parties appealed against the High Court's decision. On 2 November 2012, the Court of Appeal issued several confiscation orders resulting in a total quantum of S\$26,832,725.13 and US\$1,008.66 being confiscated.

347. PP v Intra Group (Holdings) Co Inc [1999] 1 SLR(R) 154 [Annex 39]

In 1979, the managing director of Intra Group (Holdings) Co Inc ("Intra") directed Haresh Chotirmall ("Haresh"), an employee of Intra, to purchase a residential property in Singapore in his own name, but as trustee for the company. Money for the purchase and some renovations to the property were provided by Intra, but Haresh also paid some of the purchase price or cost of renovation. Haresh sought and obtained approval from the Land Dealings (Approval) Unit to purchase the property as a dwelling house, but did not disclose that he intended to hold the property as a nominee for Intra. In 1994, Haresh sold the property without Intra's consent. The company secretary lodged a police report against him. Haresh was subsequently convicted and fined for purchasing residential property as a nominee of a foreign person under the Residential Property Act (Chapter 274, 1985 Rev Ed) ("RPA"). Meanwhile, civil proceedings brought by Intra against Haresh for breach of trust were settled on the first day of trial with consent judgment being entered between the parties providing for Haresh to pay Intra S\$1,269,751.88, plus further sums out of any sums Haresh might receive in the disposal inquiry following on from his conviction of the charge under the RPA.

Having considered the terms of the consent judgment, the district judge presiding at the disposal inquiry ordered, pursuant to section 386(2) of the CPC (Chapter 68, 1985 Rev Ed) (currently section 364(2) of the CPC), that: (a) out of S\$740,000 of the proceeds of the sale of the property, S\$695,000 be paid to Intra, and the balance of S\$45,000 be divided between Intra and Haresh in the proportion 60:40; and (b) Intra be paid 60% of the proceeds of the sale in excess of the S\$740,000, the remaining 40% being confiscated to the State. In Criminal Revision No 21 of 1998, the Public Prosecutor sought confiscation of the 60% balance; whereas in Criminal Revision No 24 of 1998, Haresh sought to have the 40% forfeited to the State paid to him instead.

The High Court allowed Criminal Revision No 21 of 1998 and dismissed Criminal Revision No 24 of 1998.

348. PP v Teo See Khiang Willy (unreported)

In 2012, the accused, an Executive Director of Phosphate Resources Ltd ("PRL") pleaded guilty to one charge of corruptly accepting gratification (amongst other non-corruption charges) under section 6(a) of the PCA. Investigations revealed that PRL, an Australian registered company, which is in the business of phosphate mining on Christmas Island, Australia, had engaged the services of shipping companies to ship its phosphate ore to its customers overseas, to be used as raw material for the manufacturing of plant fertilizers.

In July 1999, the accused corruptly agreed to accept gratification from a Director of Assets Shipowners and Managers Pte Ltd (“ASOM”), a shipping company, to ensure that PRL would charter vessels from ASOM for the shipping of phosphate from PRL. The accused received a total amount of US\$343,939/- in bribes.

In June 2012, the accused pleaded guilty to all the proceeded charges, and the total sentence was 2 days’ imprisonment, S\$140,000 fine (in default 14 months’ imprisonment). He was also ordered to pay a penalty of S\$433,363 (in default 1 day’s imprisonment).

349. PP v Andrew Ong Tiong Chiew [2012] SGDC 454 [Annex 40]

The accused was a delivery manager of Courts (Singapore) Pte Ltd, whose duties included liaising with various internal departments that require delivery services and handling complaints regarding the transport contractors. The accused solicited and obtained gratification of a total of S\$631,200, in the form of 74 payments from 3 different transport contractors, over a period of nearly 3 years (May 2008 to March 2011), in return for undertaking to help them if any complaints were made against their company’s delivery services.

The accused pleaded guilty to 15 charges under section 6(a) of the PCA, involving S\$194,000. He consented to the remaining 59 charges to be taken into consideration.

In sentencing the accused, the Court found that the reach of the offences was wide, as it involved more than one giver and one receiver. However, he accepted that the accused was not a senior manager. Accordingly, the accused was sentenced to a total of 10 months’ imprisonment and ordered to pay a penalty of S\$631,200, in default 36 weeks’ imprisonment. The Court allowed property seized by the CPIB in connection with the case, which the accused had converted into from the proceeds of his criminal conduct (including watches and a caveat on a property for which the down payment had been made), to pay the penalty. Consequently, the remaining penalty that the accused was liable to pay was S\$385,797.27.

350. The total amount of penalties imposed under section 13 of the PCA for corruption offences are as follows:

2010: S\$543,981.88
2011: S\$363,233.07
2012: S\$1,318,918.95
2013: S\$2,001,760.53

351. Between 2010 and 2013, CAD did not confiscate any proceeds relating to corruption offences under section 5 of the CDSA.

(b) Observations on the implementation of the article

352. Section 10 of the Act seems to cover value based confiscation. Part IVA of the CDSA specifically deals with the confiscation of property of corresponding value to the instrumentalities of crime.

353. Given the serious offences threshold for confiscation, Singapore explained that almost all UNCAC offences qualify for confiscation. These include corruption and embezzlement, but do not currently include the obstruction of justice provisions under sections 204A and 204B of the Penal Code.

354. The cited statistics deal with “penalties imposed under section 13”. In this context it was explained that, although the CDSA provides for confiscation of proceeds of crime where a person is convicted of accepting bribes, the PCA provides for a mandatory penalty order under section 13 of the PCA to be imposed to disgorge the bribes. The procedure under section 13 of the PCA is more straightforward. As such, a penalty under section 13 of the PCA is sought instead of a confiscation order under Section 5 of the CDSA. There is, however, no difference in effect between a penalty imposed under section 13 PCA, and a confiscation order made under section 5 of the CDSA. The observations above apply generally to prosecutions against persons convicted of accepting bribes, and not only for the period between 2010 and 2012.

355. Section 13 of the Prevention of the Corruption Act covers a person convicted of “receiving” corrupt proceeds. It was confirmed that Section 13 of the Prevention of Corruption Act only applies to a person convicted of accepting or receiving corrupt proceeds. Where proceeds of crime are to be confiscated from a person convicted of giving bribes, Section 5 of the CDSA can be used instead. There have not, however, been any cases to date where Section 5 of the CDSA has been used to confiscate the proceeds of crime of a corrupt giver.

Article 31 Freezing, seizure and confiscation

Subparagraph 1 (b)

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

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

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

356. The general regime under Part XIX of the Criminal Procedure Code [Annex 29] applies to the disposal of all property, equipment or other instrumentalities used in or destined for use in offences established in accordance with this Convention. Specifically, section 364(2) of the CPC expressly provides for the disposal of any property in respect of which an offence is or was alleged to have been committed or which has been used or is intended to have been used for the commission of any offence or which constitutes evidence of an offence.

357. In addition, properties used in offences established in accordance with this Convention are often also proceeds of crime. For example, money that is laundered is both property used in an offence, and the proceeds of crime. Where this is the case, the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act [Annex 10] provides an avenue for the confiscation of such property.

358. Singapore cited the following texts.

Criminal Procedure Code (Chapter 68) ("CPC") [Annex 29]

Pt XIX and section 364(2)

Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) ("CDSA") [Annex 10]

Section 5

359. Singapore provided the following examples of implementation

Centillion Environment & Recycling Ltd (formerly known as Citiraya Industries Ltd) v Public Prosecutor and others and another appeal [2013] 1 SLR 444 [Annex 38]

Ng Teck Lee ("Ng") was the Chief Executive Officer of Citiraya Industries Ltd ("Citiraya"), a company which was subsequently renamed Centillion Environment & Recycling Ltd ("Centillion"). Citiraya entered into agreements with a number of chip manufacturers to extract precious metals from sub-standard computer chips, and instead of carrying out the terms of the agreements, Ng misappropriated and sent the computer chips to overseas syndicates for repackaging and sale as standard products. Between April 2003 and November 2004, numerous shipments of the computer chips were diverted and sold for a total sum of US\$51,196,938.52 ("the Illegal Proceeds"), and the money was credited into bank accounts held by a company known as Pan Asset International ("Pan Asset"). Gan Chin Chin ("Gan"), the Chief Financial Officer of Citiraya, assisted Ng in his scheme and held all the shares in Pan Asset as Ng's nominee. The scheme was uncovered at the end of 2004 when the Corrupt Practices Investigation Bureau ("CPIB") commenced investigations against Ng for, inter alia, criminal breach of trust as a servant under s 408 of the Penal Code (Chapter 224). Ng left Singapore in January 2005 and his whereabouts remain unknown.

Ng was deemed to have been convicted of a serious offence under s 26(1) of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) ("CDSA"), and the Public Prosecutor subsequently commenced proceedings against Ng for a confiscation order under section 5 of the CDSA for US\$51,196,938.52, being the value of benefits known to have been derived by Ng from criminal conduct ("the Confiscation Order"). The PP also sought an order for a list of properties identified as realisable properties to be realised and the proceeds applied towards the satisfaction of the Confiscation Order. The list consisted of properties held in the names of Ng, his wife Thor Chwee Hwa and other third parties. They included shares, insurance policies and landed property which the accused used the proceeds of crime to purchase. Centillion then filed a suit against Ng for breach of fiduciary duties to the company as a director and subsequently obtained a default judgment against Ng for the sum of US\$51,196,938.52, the value of the computer chips misappropriated by Ng.

Centillion and one Ung Yoke Hooi applied to intervene in the Public Prosecutor's application for the Confiscation Order, asserting an "interest" under section 13 of the CDSA in various assets that the PP had sought to realise. The High Court made a provisional Confiscation Order and proceeded to hear the third party applications. Both

parties appealed against the High Court's decision. On 2 November 2012, the Court of Appeal issued several confiscation orders resulting in a total quantum of S\$26,832,725.13 and US\$1,008.66 being confiscated.

360. PP v Lim Siew Cheng (unreported)

Lim Siew Cheng, a managing director of a secretarial services company in Singapore was charged under section 39(1)(c) of the CDSA for assisting Arafat Rahman, the son of Bangladesh's ex-Prime Minister, to launder the latter's corrupt payments received from Siemens AG and China Harbour Engineering Co Ltd which the latter had received in return for awarding certain contracts in Bangladesh to the said two companies. The total corrupt proceeds held in four bank accounts in Singapore were about S\$3.5m.

On 3 January 2011, the accused pleaded guilty to the charge and was sentenced to a fine of S\$12,000/-.

361. On 25 September 2012, the Singapore High Court ordered the return of approximately S\$2.2m, held in three bank accounts, to the Government of the Republic of Bangladesh pursuant to the enforcement of a United States of America Confiscation Order under sections 29 and 30 of the Mutual Assistance in Criminal Matters Act (Chapter 190A).

On 26 February 2013, the Singapore Subordinate Court ordered the remaining sum of US\$932,672.81 which had been seized pursuant to investigations against Lim, to be forfeited and disposed in favour of the Government of the Republic of Bangladesh.

362. Singapore provided the following information on the amount/types of property, equipment or other instrumentalities confiscated.

From 2010 to 2013, the following types of property, equipment and instrumentalities used in or destined for use in offences established under the Convention were confiscated:

- (i) Bank accounts
- (ii) Insurance policies
- (iii) Property
- (iv) Shares

No records of the quantum or value of these property and instrumentalities have been kept.

363. No case examples were available.

(b) Observations on the implementation of the article

364. It was confirmed that Part IVA of the CDSA specifically deals with the confiscation of the instrumentalities of crime, as well as property of corresponding value to the instrumentalities of crime. A court can impose a confiscation order or a substitute property confiscation order if it is satisfied that the defendant had used or intended to use any property for the commission of a drug dealing offence or a serious offence (including the Convention offences like corruption and embezzlement), as defined in the CDSA.

365. Singapore indicated that, statistically, in the embezzlement cases that the Commercial Affairs Department investigates and the corruption cases that the Corrupt Practices Investigation Bureau investigates, the seizure of instrumentalities of crime is uncommon. It is more common to seize the proceeds of crime or any asset into which the proceeds of crime have been converted.

366. Between 2011 and 2013, the total value of the instrumentalities confiscated in connection with corruption offences under the CPC is as follows:

Year	Amount Confiscated under the CPC
2011	S\$2350
2012	S\$2416.95 + THB100 + RMB600
2013	US\$932,672.81 + S\$2283.50 + RM51 + BND1

One of the occasions in which an instrumentality (which was not also proceeds of a crime) was seized and a court order obtained for its confiscation was *PP v Kim Jae Hong* (unreported). The accused, a South Korean national, was a professional football player who had previously played in Singapore for Geylang United Football Club (“GUFC”). At the material time, Mohamed Yazid bin Mohamed Yasin (“Yazid”) was a professional football player employed by GUFC as their first-choice goalkeeper. On 28 April 2012, acting on the instructions of his contact in South Korea, the accused flew into Singapore from South Korea for the specific purpose of offering a bribe to Yazid, as an inducement for the latter to fix the results of football matches of GUFC. S\$9,000 was deposited into the accused’s bank account for the purpose of offering a bribe to Yazid. A Samsung mobile phone was also given to him to communicate with his contact in South Korea. On 30 April 2012, Yazid met the accused and instructed him on how to fix the result of an upcoming football match between GUFC and Harimau Muda on 3 May 2012. On 2 May 2012, the accused met Yazid and handed over an envelope containing S\$4,000 to Yazid, which was intended as a bribe to induce Yazid to fix the match. On the same day, the accused was arrested by the CPIB and the Samsung phone was seized. The accused was subsequently charged and convicted of 2 counts of corruptly giving gratification under section 6(b) of the Prevention of Corruption Act (Chapter 241), and 1 count of engaging in a conspiracy to corruptly offer gratification (the two other charges involved other people). The Court ordered the Samsung phone to be forfeited to the State.

367. With regard to the meaning of the term “disposal” as used in the cited provision of the CPC, Singapore clarified the following.

The court’s power to make disposal orders under section 364 of the CPC (in respect of all case exhibits or properties produced before a criminal court) includes the power to order:

- (i) Forfeiture: property forfeited to the State
- (ii) Confiscation: property or proceeds, including any accrued interest, is confiscated and goes to the State
- (iii) Destruction: property is to be scheduled for destruction e.g. pirated items that infringe copyright or trademark laws
- (iv) Delivery of property to any person: property is returned or delivered to the person entitled to possession of it.

Article 31 Freezing, seizure and confiscation

Paragraph 2

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

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

368. Sections 17 to 22, and 27 of the Prevention of Corruption Act [Annex 1], sections 30 to 31 of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act

(Chapter 65A) ("CDSA") [Annex 10] and sections 20 to 40 of the Criminal Procedure Code (Chapter 68) ("CPC") [Annex 29] imbue law enforcement officers with extensive powers of investigation. These powers of investigation are wide enough to identify, trace, freeze or seize benefits of crime in Singapore.

369. Broadly, these powers include examination of witnesses, searching of persons or premises, seizure of property or documents, whether in physical form or held in computer systems, access to decrypted information, and issuance of production orders to persons or institutions. The statutes also provide for criminal sanctions in the event of a failure to comply with such orders for disclosure of information or surrender of property.

Powers of production

370. Investigation officers and the courts are able to compel the production of documents (including those belong to financial institutions) or anything that is necessary or desirable for an investigation, trial or proceeding. An investigation officer may issue a written production order under section 20 of the CPC and present it to the person who is believed to have possession or power over the document/ thing. Likewise, a court may issue a summons for production. In the case of bankers' books, these powers must be exercised by a police officer who is at the rank of inspector or higher (or an investigation order deemed to be of this equivalent).

371. There are two types of production orders under the CDSA, namely, general production orders that shall not apply to any material in the possession of a financial institution under section 30 of the CDSA or specific production orders against a financial institution under section 31 of the CDSA. For a court to grant the production orders stated in the CDSA, there must be reasonable grounds for suspecting that a specified person has carried on or has benefited from drug trafficking or from criminal conduct, as the case may be and that there are reasonable grounds for believing that it is in the public interest that the material should be produced or that access to it should be given, amongst other criteria as stated in sections 30(4) or 31(3) of the CDSA.

Powers to search and seize

372. In the context of investigating, investigation officers authorised pursuant to the CDSA may apply to the court for a search warrant in relation to any specific premises in cases

where there are reasonable grounds to believe that the specific person had carried on criminal conduct in the premises (section 34 of the CDSA). The "officer" is also authorised to seize and retain any material (other than items subject to legal privilege) for the purpose of investigation, provided that it is likely to be of substantial value (by itself or together with other material) to the investigation (section 34 of the CDSA). Section 15 of the CDSA allows the court to make restraint or charging orders where necessary to prevent the dissipation of property that is the subject of investigations into corruption or money-laundering offences.

373. Police officers at the rank of sergeant or above are also authorised to search any premises if they have reasonable cause for suspecting that stolen property is contained therein, and if there are good grounds for believing that recovery of such property would be jeopardised by the delay in obtaining a search warrant (sections 24 to 34 of the CPC). Law enforcement officers also have powers to restrain or seize any property that is suspected to be stolen or which is found in circumstances creating a suspicion of the commission of any offence (section 35 of the CPC).

Recording statements

374. Investigation Officers are generally authorised to record statements made by witnesses (section 22 of the CPC) or person who are to be charged formally in court (a so-called "cautioned statement") (section 23 of the CPC). Additionally, investigation officers are authorised to record statements that could be tendered with regard to any matters relevant to the determination whether benefits have been derived by the accused from corruption (section 9 of the CDSA). When investigating corruption or the laundering of related proceeds, the Corrupt Practices Investigation Bureau has a special power to make inquiries of any person who is then legally obliged to furnish information pertaining to the investigation. Any person who fails to give information or knowingly gives misleading information to any CPIB officer is guilty of an offence that is punishable by a fine not exceeding S\$10,000 and/or imprisonment for a term not exceeding one year (section 28 of the PCA).
375. Generally, enforcement agencies can compel the attendance of witnesses to assist in their investigations, including those related to money-laundering or financing of terrorism (section 21 of the CPC). This power is exercised by issuing a summons in writing to any person who is within the limits of Singapore and who may have information beneficial to the case. If someone refuses to comply with such a summons, a warrant may be issued to secure their attendance (section 21 of the CPC). In such cases, the enforcement agencies are also entitled to take up an action against the witness for non attendance in obedience to an order from a public servant (section 174 of the Penal Code [\[Annex 3\]](#)). Such an offence is punishable by a fine and/or imprisonment.

376. Singapore cited the following texts.

Criminal Procedure Code (Chapter 68) ("CPC") [\[Annex 29\]](#)

sections 20 to 40

Prevention of Corruption Act (Chapter 241) ("PCA") [\[Annex 1\]](#)

sections 17 to 22 and 28

Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) ("CDSA") [Annex 10]

sections 9, 15, 30, 31 and 34

Penal Code (Chapter 224) ("PC") [Annex 3]

section 174

377. Singapore provided the following examples of implementation.

Centillion Environment & Recycling Ltd (formerly known as Citiraya Industries Ltd) v Public Prosecutor and others and another appeal [2013] 1 SLR 444 [Annex 38]

Ng Teck Lee ("Ng") was the Chief Executive Officer of Citiraya Industries Ltd ("Citiraya"), a company which was subsequently renamed Centillion Environment & Recycling Ltd ("Centillion"). Citiraya entered into agreements with a number of chip manufacturers to extract precious metals from sub-standard computer chips, and instead of carrying out the terms of the agreements, Ng misappropriated and sent the computer chips to overseas syndicates for repackaging and sale as standard products. Between April 2003 and November 2004, numerous shipments of the computer chips were diverted and sold for a total sum of US\$51,196,938.52 ("the Illegal Proceeds"), and the money was credited into bank accounts held by a company known as Pan Asset International ("Pan Asset"). Gan Chin Chin ("Gan"), the Chief Financial Officer of Citiraya, assisted Ng in his scheme and held all the shares in Pan Asset as Ng's nominee. The scheme was uncovered at the end of 2004 when the Corrupt Practices Investigation Bureau ("CPIB") commenced investigations against Ng for, inter alia, criminal breach of trust as a servant under s 408 of the Penal Code (Chapter 224). Ng left Singapore in January 2005 and his whereabouts remain unknown.

378. Ng was deemed to have been convicted of a serious offence under s 26(1) of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) ("CDSA"), and the Public Prosecutor subsequently commenced proceedings against Ng for a confiscation order under section 5 of the CDSA for US\$51,196,938.52, being the value of benefits known to have been derived by him from criminal conduct ("the Confiscation Order"). The PP also sought an order for a list of properties identified as realisable properties to be realised and the proceeds applied towards the satisfaction of the Confiscation Order. The list consisted of properties held in the names of Ng, his wife Thor Chwee Hwa and other third parties. They included shares, insurance policies and landed property which Ng used the proceeds of crime to purchase. Centillion then filed a suit against Ng for breach of fiduciary duties to the company as a director and subsequently obtained a default judgment against Ng for the sum of \$51,196,938.52, the value of the computer chips misappropriated by Ng.

379. Centillion and one Ung Yoke Hooi applied to intervene in the Public Prosecutor's application for the Confiscation Order, asserting an "interest" under section 13 of the CDSA in various assets that the Public Prosecutor had sought to realise. The High Court made a provisional Confiscation Order and proceeded to hear the third party applications.

Both parties appealed against the High Court's decision. On 2 November 2012, the Court of Appeal issued several confiscation orders resulting in a total quantum of S\$26,832,725.13 and US\$1,008.66 being confiscated.

380. PP v Andrew Ong Tiong Chiew [2012] SGDC 454 [Annex 40]

The accused was a delivery manager of Courts (Singapore) Pte Ltd, whose duties included liaising with various internal departments that require delivery services and handling complaints regarding the transport contractors. The accused solicited and obtained gratification of a total of S\$631,200, in the form of 74 payments from 3 different transport contractors, over a period of nearly 3 years (May 2008 to March 2011), in return for undertaking to help them if any complaints were made against their company's delivery services.

The accused pleaded guilty to 15 charges under section 6(a), involving \$194,000. He consented to the remaining 59 charges to be taken into consideration.

In sentencing the accused, the Court found that the reach of the offences was wide, as it involved more than one giver and one receiver. However, he accepted that the accused was not a senior manager. Accordingly, the accused was sentenced to a total of 10 months' imprisonment and ordered to pay a penalty of S\$631,200, in default 36 weeks' imprisonment. The Court allowed property seized by the CPIB in connection with the case, which the accused had converted into from the proceeds of his criminal conduct (including watches and a caveat on a property for which the down payment had been made), to be used to pay the penalty. Consequently, the remaining penalty that the accused had to pay was \$385,797.27.

381. PP v Thomas Philip Doehrman & Ors (ongoing)

In this on-going case, the accused persons were investigated for and charged for an offence of falsifying an invoice for payment under section 477A of the PC as well as offences of dealing with the benefits of criminal conduct under section 47(1)(b) of the CDSA, namely, removing property from jurisdiction and transferring property to other persons. Their bank accounts were frozen pursuant to section 35 of the CPC.

382. For corruption offences, the following amounts were frozen or seized in the course of investigations:

2011: 5 cases involving S\$2,645,375.70 and US\$2,463,172.36

2012: 2 cases involving S\$752,609.48

383. For money-laundering offences, the following amounts (in cash and non-cash) were frozen or seized in the course of investigations:

2010: S\$68.5 million

2011: S\$63.1 million

2012: S\$21.5 million

2013: S\$116.9 million

(b) Observations on the implementation of the article

384. It was confirmed that the powers of production, search and seizure and to record statements under the CPC can generally be exercised, in respect of Convention offences, without the need for a court order. In contrast, the powers of production under the CDSA require a court order. However, as the CPC and CDSA powers generally overlap, many investigative powers are exercised in respect of the Convention offences without the need for a court order, pursuant to sections 20-40 of the CPC. Between 2011 and 2014, neither CPIB nor CAD sought any orders under the CDSA powers of production.

Article 31 Freezing, seizure and confiscation

Paragraph 3

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

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

385. In Singapore, the disposal or confiscation of any property can only be effected pursuant to a court order. The legislation gives consideration to instances where there may be third parties (whether or not identified) interested in the property that is the subject of a disposal or confiscation order.

386. Part XIX of the CPC [Annex 29] sets out the procedures to be complied with when the person entitled to the property is known or otherwise, under sections 371 and 372 of the CPC respectively. In gist, attempts must be made to locate the person entitled to the property before such property may be disposed of in favour of the State.

387. Section 13 of the CDSA [Annex 10] also provides similar procedures. Specifically, even where a confiscation order had already been made, section 13 of the CDSA allows third parties with an interest in the property to be confiscated to apply to the court for a suitable remedy.

388. Where there is a dispute as to how a property that is seized ought to be disposed, a disposal hearing in court is convened to determine how it is to be disposed of. There is no right of appeal against an order made pursuant to a disposal inquiry. However, where there is a fundamental error occasioning a failure of justice, the High Court may exercise its revisionary jurisdiction: *Chu Wai Kiu v PP* [2005] 2 SLR(R) 202 [Annex 41].

389. Singapore cited the following texts.

Criminal Procedure Code (Chapter 68, Revised Edition 2012) ("CPC") [Annex 29]

Pt XIX

Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) ("CDSA") [Annex 10]

section 13

390. Singapore provided the following examples of implementation

There are no reports or assessments of the administration of frozen, seized or confiscated property. However, the freezing, seizing and confiscation of property is done only pursuant to statutory provisions, and there is therefore judicial oversight over the administration of such property.

(b) Observations on the implementation of the article

391. Singapore provided the following clarification in respect of the management or administration of frozen, seized and confiscated assets.

Once property is seized by a Police officer pursuant to the CPC, a report of the seizure must be made to a Magistrate's Court under section 370 of the CPC, at the earlier of the following times: (i) when the police officer considers that such property is no longer relevant for the purposes of any investigation, inquiry, trial or other proceeding under the CPC, or (ii) one year from the date of seizure of the property. Depending on whether the person entitled to the possession of the property is known, the procedures under sections 371 and 372 of the CPC are triggered and the Magistrate's Court must make such order as it thinks fit respecting the delivery of the property to the person so entitled to possession of the property. In any event, no disposal or confiscation of property that has been seized by the Police can be effected without a court order.

Administratively, the Singapore Police Force ("SPF") (and therefore the Commercial Affairs Department, which is a department within the SPF) has Standard Operating Procedures that set out strict guidelines on the procedures for seizure, tracking, storage, withdrawal and disposal of case properties. Case properties may be monies, vehicles, documents, jewellery, etc. For example, there are strict guidelines on the management of cash seized. Upon seizure, if it is not necessary to retain the amount in the original currency notes, SPF officers are required to deposit the monies in the Accountant-General's Department ("AGD") account. Amounts more than S\$3000 must be deposited within 1 working day. For foreign currency notes which are deemed not necessary to retain the original notes and has a value equivalent to S\$5000 and more, these currencies (based on the exchange rate then) shall also be banked into the AGD account. This ensures easy tracking and prevents the funds seized from being lost or stolen. To ensure that these processes remain sound and efficient, the SPF, Ministry of Home Affairs and Auditor-General's Office conduct regular audits on accounts and records.

Likewise, the CPIB has processes in place to handle seized assets from the point of seizure, tracking, storage, withdrawal to disposal of case properties. If the seized assets form part of the case exhibits, they are handed over to the CPIB's management (Assistant Directors and above) for safekeeping in a safe. However, if the seized assets do not form part of the case exhibits, they are handed over to Finance & Administration Division for banking-in into the Accountant-General's account and are therefore duly acknowledged. The CPIB ensures that all seized assets are reported to the Magistrate in a timely manner as required under section 370 of the CPC.

Article 31 Freezing, seizure and confiscation

Paragraph 4

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

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

392. Confiscation orders under the CDSA [Annex 10] are not restricted to the proceeds of crime, but instead apply to any benefits derived from the criminal conduct under section 5 of the CDSA.

393. In assessing the benefits derived from criminal conduct, section 8(1)(a) of the CDSA states that the benefits derived by any person from criminal conduct, shall be any property or interest therein (including income accruing from such property or interest) held by the person at any time, being property or interest therein disproportionate to his known sources of income, and the holding of which cannot be explained to the satisfaction of the court. For the avoidance of doubt, section 8(1)(b) of the CDSA states that the value of the benefits shall be the aggregate of the values of all the properties and interests falling within the ambit of section 8(1)(a).

394. Accordingly, if the proceeds of crime have been transformed or converted, in part or in full, into other property, such property is liable for confiscation instead of the original proceeds.

395. In addition, section 34 of the CDSA and sections 24 to 35 of the CPC [Annex 29] provide the powers to search and seize property where there are reasonable grounds to believe that it is linked to crime. This is sufficiently broad to include proceeds of crime that have been transformed or converted, in part or in full, into other property.

396. Singapore cited the following texts.

Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) ("CDSA") [Annex 10]

sections 5, 8(1)(a), 8(1)(b) and 34

Criminal Procedure Code (Chapter 68, Revised Edition 2012) ("CPC") [Annex 29]

sections 24 to 35

397. Singapore provided the following examples of implementation

398. Centillion Environment & Recycling Ltd (formerly known as Citiraya Industries Ltd) v Public Prosecutor and others and another appeal [2013] 1 SLR 444 [Annex 38]

Ng Teck Lee ("NTL") was the Chief Executive Officer of Citiraya Industries Ltd ("Citiraya"), a company which was subsequently renamed Centillion Environment & Recycling Ltd ("Centillion"). Citiraya entered into agreements with a number of chip manufacturers to extract precious metals from sub-standard computer chips, and instead of carrying out the terms of the agreements, NTL misappropriated and sent the computer

chips to overseas syndicates for repackaging and sale as standard products. Between April 2003 and November 2004, numerous shipments of the computer chips were diverted and sold for a total sum of US\$51,196,938.52 ("the Illegal Proceeds"), and the money was credited into bank accounts held by a company known as Pan Asset International ("Pan Asset"). Gan Chin Chin ("Gan"), the Chief Financial Officer of Citiraya, assisted NTL in his scheme and held all the shares in Pan Asset as NTL's nominee. The scheme was uncovered at the end of 2004 when the Corrupt Practices Investigation Bureau ("CPIB") commenced investigations against NTL for, inter alia, criminal breach of trust as a servant under s 408 of the Penal Code (Chapter 224, 2008 Rev Ed). NTL left Singapore in January 2005 and his whereabouts remained unknown.

NTL was deemed to have been convicted of a serious offence under s 26(1) of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A, 2000 Rev Ed) ("CDSA"), and the Public Prosecutor ("the PP") subsequently commenced proceedings against NTL for a confiscation order under s 5 of the CDSA for US\$51,196,938.52, being the value of benefits known to have been derived by him from criminal conduct ("the Confiscation Order"). The PP also sought an order for a list of properties identified as realisable properties to be realised and the proceeds applied towards the satisfaction of the Confiscation Order. The list consisted of properties held in the names of NTL, his wife Thor Chwee Hwa ("TCH") and other third parties. They included shares, insurance policies and landed property which the accused used the proceeds of crime to purchase. Centillion then filed a suit against NTL for breach of fiduciary duties to the company as a director and subsequently obtained a default judgment against NTL for the sum of \$51,196,938.52, the value of the computer chips misappropriated by NTL.

Centillion and one Ung Yoke Hooi applied to intervene in the PP's application for the Confiscation Order, asserting an "interest" under s 13 of the CDSA in various assets that the PP had sought to realise. The High Court Judge made a provisional Confiscation Order and proceeded to hear the third party applications. Both parties appealed against the Judge's decision. On 2 November 2012, the Court of Appeal issued several confiscation orders resulting in a total quantum of S\$26,832,725.13 and US\$1,008.66 being confiscated.

399. PP v Intra Group (Holdings) Co Inc [1999] 1 SLR(R) 154 [\[Annex 39\]](#)

In 1979, the managing director of Intra Group (Holdings) Co Inc ("Intra") directed Haresh Chotirmall ("Haresh"), an employee of Intra's, to purchase a residential property in Singapore in his own name, but as trustee for the company. Money for the purchase and some renovations to the property were provided by Intra, but Haresh also paid some of the purchase price or cost of renovation. Haresh sought and obtained approval from the Land Dealings (Approval) Unit to purchase the property as a dwelling house, but did not disclose that he intended to hold the property as a nominee for Intra. In 1994, Haresh sold the property without Intra's consent. The company secretary lodged a police report against him. Haresh was subsequently convicted and fined for purchasing residential property as a nominee of a foreign person under the Residential Property Act (Chapter 274, 1985 Rev Ed) ("RPA"). Meanwhile, civil proceedings brought by Intra against Haresh for breach of trust were settled on the first day of trial with consent judgment being entered between the parties providing for Haresh to pay Intra \$1,269,751.88, plus further sums out of any sums Haresh might receive in the disposal inquiry following on from his conviction of the

charge under the RPA.

400. Having considered the terms of the consent judgment, the district judge presiding at the disposal inquiry ordered, pursuant to section 386(2) of the CPC (Chapter 68, 1985 Rev Ed) (the current section 364(2) of the CPC), that: (a) out of \$740,000 of the proceeds of the sale of the property, \$695,000 be paid to Intra, and the balance of \$45,000 be divided between Intra and Haresh in the proportion 60:40; and (b) Intra be paid 60% of the proceeds of the sale in excess of the \$740,000, the remaining 40% being confiscated to the State. In Criminal Revision No 21 of 1998, the Public Prosecutor sought confiscation of the 60% balance; whereas in Criminal Revision No 24 of 1998, Haresh sought to have the 40% forfeited to the State paid to him instead.

The High Court allowed Criminal Revision No 21 of 1998 and dismissed Criminal Revision No 24 of 1998.

401. No record of whether proceeds of crime have been converted or not have been kept.

(b) Observations on the implementation of the article

402. The provision is adequately implemented.

Article 31 Freezing, seizure and confiscation

Paragraph 5

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

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

403. The fact that the proceeds of crime are intermingled, with property acquired from legitimate sources is no bar to confiscation, up to the assessed value of the proceeds. The value of the proceeds of crime is assessed as the property or interest therein, held by the person, which is disproportionate to his known sources of income, and the holding of which cannot be explained to the satisfaction of the court (s 8(1)(a) CDSA) [Annex 10].

404. Singapore cited the following texts.

Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) ("CDSA") [Annex 10]

section 8(1)(a)

405. No record of whether proceeds of crime have been converted or not have been kept.

(b) Observations on the implementation of the article

406. The provision is implemented.

Article 31 Freezing, seizure and confiscation

Paragraph 6

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

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

407. Section 8(1)(a) of the CDSA [Annex 10] makes clear that the benefits derived by any person from criminal conduct is property or interest therein, including income accruing from such property or interest, held by the person, being property or interest therein disproportionate to his known sources of income, and the holding of which cannot be explained to the satisfaction of the court.

408. In addition, section 34 of the CDSA and s 24 - 35 of the CPC [Annex 29] provide the powers to search and seize property where there are reasonable grounds to believe that it is linked to crime. This is sufficiently broad to include the income or other benefits derived from proceeds of crime, from property into which such proceeds of crime have been transformed or converted, and property with which such proceeds of crime have been intermingled.

409. Singapore cited the following texts.

Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) ("CDSA") [Annex 10]
sections 8(1)(a) and 34

Criminal Procedure Code (Chapter 68, Revised Edition 2012) ("CPC") [Annex 29]
sections 24 to 35

(b) Observations on the implementation of the article

410. The provision is implemented.

Article 31 Freezing, seizure and confiscation

Paragraph 7

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

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

411. Production orders against financial institutions are statutorily provided for under section 31 of the Corruption, Drug trafficking and Other Serious Crimes (Confiscation of Benefits) (Chapter 65A) [Annex 10].
412. The procedure is triggered by the application of the Public Prosecutor or any person duly authorised by him in writing. Pursuant to the application, and if the High Court is satisfied of the prerequisite conditions, an order can be made against a financial institution for the production of any particular material or material of a particular description.
413. It is pertinent to note that the provision also makes clear that a financial institution in compliance with the production order is not in breach of any restriction upon the disclosure of information or material imposed by law, contract or rules of professional conduct (section 31(4) of the CDSA).
414. Sections 20 and 21(1)(f) of the PCA [Annex 1] and sections 20(2) and 35(2) and (6) of the Criminal Procedure Code (Chapter 68) [Annex 29] also make similar provisions for production orders issued to financial institutions. In particular, section 20(2) of the CPC is the most commonly used provision to obtain bank documents. Pursuant to this section, an investigation officer may issue a written production order and present it to anyone, including a financial institution or a bank, who is believed to have possession or power over the document or thing. In the case of customer records kept by a financial institution, these powers must be exercised by a police officer who is at the rank of inspector or higher.
415. Singapore cited the following texts.
- Criminal Procedure Code (Chapter 68) ("CPC") [Annex 29]
- sections 20(2), 35(2) and 35(6)
- Prevention of Corruption Act (Chapter 241) ("PCA") [Annex 1]
- sections 20 and 21(1)(f)
- Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) ("CDSA") [Annex 10]
- section 31
416. Singapore indicated that bank and financial records are routinely obtained pursuant to powers under the CPC. No further data was available.

(b) Observations on the implementation of the article

417. The provision is implemented.

Article 31 Freezing, seizure and confiscation

Paragraph 8

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

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

418. Under the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) [Annex 10], the accused has to demonstrate the lawful origin of such alleged proceeds of crime or other property liable to confiscation under sections 7(1)(a) and 8(1)(a) of the CDSA. However, this only applies to “property or interest disproportionate to his known sources of income and the holding of which cannot be explained to the satisfaction of the court”.

419. Such property or interest shall be the benefits derived from criminal conduct pursuant to section 5(6) of the CDSA, and liable to confiscation.

420. Under section 24 of the Prevention of Corruption Act (Chapter 241) [Annex 1], in any court proceedings, the fact that an accused person is unable to satisfactorily account for pecuniary resources or property in his possession that are “disproportionate to his known sources of income”, may be proved and taken into consideration by the court as corroborating the testimony of any witness in the trial or inquiry that the accused person accepted or obtained or agreed to accept or attempted to obtain any gratification and as showing that the gratification was accepted or obtained or agreed to be accepted or attempted to be obtained corruptly as an inducement or reward.

421. Singapore cited the following texts.

Prevention of Corruption Act (Chapter 241) ("PCA") [Annex 1]

section 24

422. Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) ("CDSA") [Annex 10]

sections 5(6), 7(1)(a) and 8(1)(a)

423. Regarding examples of implementation, Singapore indicated that in both cases below, the accused was not able to demonstrate the lawful origins of the funds which were confiscated.

424. Centillion Environment & Recycling Ltd (formerly known as Citiraya Industries Ltd) v Public Prosecutor and others and another appeal [2013] 1 SLR 444 [Annex 38]

Ng Teck Lee ("Ng") was the Chief Executive Officer of Citiraya Industries Ltd ("Citiraya"), a company which was subsequently renamed Centillion Environment & Recycling Ltd ("Centillion"). Citiraya entered into agreements with a number of chip manufacturers to extract precious metals from sub-standard computer chips, and instead of carrying out the terms of the agreements, Ng misappropriated and sent the computer chips to overseas syndicates for repackaging and sale as standard products. Between April 2003

and November 2004, numerous shipments of the computer chips were diverted and sold for a total sum of US\$51,196,938.52 ("the Illegal Proceeds"), and the money was credited into bank accounts held by a company known as Pan Asset International ("Pan Asset"). Gan Chin Chin ("Gan"), the Chief Financial Officer of Citiraya, assisted Ng in his scheme and held all the shares in Pan Asset as Ng's nominee. The scheme was uncovered at the end of 2004 when the Corrupt Practices Investigation Bureau ("CPIB") commenced investigations against Ng for, inter alia, criminal breach of trust as a servant under s 408 of the Penal Code (Chapter 224, 2008 Rev Ed). Ng left Singapore in January 2005 and his whereabouts remain unknown.

Ng was deemed to have been convicted of a serious offence under s 26(1) of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) ("CDSA"), and the Public Prosecutor subsequently commenced proceedings against Lee for a confiscation order under section 5 of the CDSA for US\$51,196,938.52, being the value of benefits known to have been derived by him from criminal conduct ("the Confiscation Order"). The Public Prosecutor also sought an order for a list of properties identified as realisable properties to be realised and the proceeds applied towards the satisfaction of the Confiscation Order. The list consisted of properties held in the names of Ng, his wife Thor Chwee Hwa and other third parties. They included shares, insurance policies and landed property which the accused used the proceeds of crime to purchase. Centillion then filed a suit against Ng for breach of fiduciary duties to the company as a director and subsequently obtained a default judgment against Ng for the sum of US\$51,196,938.52, the value of the computer chips misappropriated by him.

Centillion and one Ung Yoke Hooi applied to intervene in the Public Prosecutor's application for the Confiscation Order, asserting an "interest" under section 13 of the CDSA in various assets that the Public Prosecutor had sought to realise. The High Court made a provisional Confiscation Order and proceeded to hear the third party applications. Both parties appealed against the High Court's decision. On 2 November 2012, the Court of Appeal issued several confiscation orders resulting in a total quantum of S\$26,832,725.13 and US\$1,008.66 being confiscated.

425. PP v Lim Siew Cheng (unreported)

Lim Siew Cheng, a managing director of a secretarial services company in Singapore was charged under section 39(1)(c) of the CDSA for assisting Arafat Rahman, the son of Bangladesh's ex-Prime Minister, to launder the latter's corrupt payments received from Siemens AG and China Harbour Engineering Co Ltd which the latter had received in return for awarding certain contracts in Bangladesh to the said two companies. The total corrupt proceeds held in four bank accounts in Singapore were about S\$3.5m.

On 3 January 2011, the accused pleaded guilty to the charge and was sentenced to a fine of S\$12,000/-.

On 25 September 2012, the Singapore High Court ordered the return of approximately S\$2.2m, held in three bank accounts, to the Government of the Republic of Bangladesh pursuant to the enforcement of a United States of America Confiscation Order under sections 29 and 30 of the Mutual Assistance in Criminal Matters Act (Chapter 190A).

On 26 February 2013, the Singapore Subordinate Court ordered the remaining sum of

US\$932,672.81 which had been seized pursuant to investigations against Lim, to be forfeited and disposed in favour of the Government of the Republic of Bangladesh.

426. Concerning recent cases where an offender has been required to demonstrate the lawful origin of alleged proceeds of crime or other property liable to confiscation, Singapore referred to the answer above.

(b) Observations on the implementation of the article

427. The provision is implemented.

Article 31 Freezing, seizure and confiscation

Paragraph 9

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

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

428. The rights of bona fide third parties are protected under section 13 of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act, (Chapter 65A) [Annex 10] and sections 366 and 369 of the Criminal Procedure Code (Chapter 68) [Annex 29].

429. These provisions allow a third party who asserts an interest in the property to be heard before the court before a disposal or confiscation order is made, declaring his legitimate interest (nature, extent and value) in the said property. Thereafter, if the court is satisfied that the person acquired the interest for sufficient consideration and without knowledge that the property was involved or derived from criminal conduct, an order may be made declaring the nature, extent and value of the interest of the third party.

430. Singapore cited the following texts.

Criminal Procedure Code (Chapter 68) ("CPC") [Annex 29]

sections 366 and 369

Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) ("CDSA") [Annex 10]

section 13

431. Concerning examples of implementation and recent cases where bona fide third parties were involved and their rights were protected, Singapore indicated that in both cases below, the accused was not able to demonstrate the lawful origins of the funds which were confiscated.

432. Centillion Environment & Recycling Ltd (formerly known as Citiraya Industries Ltd)

Ng Teck Lee ("Ng") was the Chief Executive Officer of Citiraya Industries Ltd ("Citiraya"), a company which was subsequently renamed Centillion Environment & Recycling Ltd ("Centillion"). Citiraya entered into agreements with a number of chip manufacturers to extract precious metals from sub-standard computer chips, and instead of carrying out the terms of the agreements, Ng misappropriated and sent the computer chips to overseas syndicates for repackaging and sale as standard products. Between April 2003 and November 2004, numerous shipments of the computer chips were diverted and sold for a total sum of US\$51,196,938.52 ("the Illegal Proceeds"), and the money was credited into bank accounts held by a company known as Pan Asset International ("Pan Asset"). Gan Chin Chin ("Gan"), the Chief Financial Officer of Citiraya, assisted Ng in his scheme and held all the shares in Pan Asset as Ng's nominee. The scheme was uncovered at the end of 2004 when the Corrupt Practices Investigation Bureau ("CPIB") commenced investigations against Ng for, inter alia, criminal breach of trust as a servant under s 408 of the Penal Code (Chapter 224, 2008 Rev Ed). Ng left Singapore in January 2005 and his whereabouts remain unknown.

Ng was deemed to have been convicted of a serious offence under s 26(1) of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) ("CDSA"), and the Public Prosecutor subsequently commenced proceedings against Lee for a confiscation order under section 5 of the CDSA for US\$51,196,938.52, being the value of benefits known to have been derived by him from criminal conduct ("the Confiscation Order"). The Public Prosecutor also sought an order for a list of properties identified as realisable properties to be realised and the proceeds applied towards the satisfaction of the Confiscation Order. The list consisted of properties held in the names of Ng, his wife Thor Chwee Hwa and other third parties. They included shares, insurance policies and landed property which the accused used the proceeds of crime to purchase. Centillion then filed a suit against Ng for breach of fiduciary duties to the company as a director and subsequently obtained a default judgment against Ng for the sum of US\$51,196,938.52, the value of the computer chips misappropriated by him.

Centillion and one Ung Yoke Hooi applied to intervene in the Public Prosecutor's application for the Confiscation Order, asserting an "interest" under section 13 of the CDSA in various assets that the Public Prosecutor had sought to realise. The High Court made a provisional Confiscation Order and proceeded to hear the third party applications. Both parties appealed against the High Court's decision. On 2 November 2012, the Court of Appeal issued several confiscation orders resulting in a total quantum of S\$26,832,725.13 and US\$1,008.66 being confiscated.

433. PP v Lim Siew Cheng (unreported)

Lim Siew Cheng, a managing director of a secretarial services company in Singapore was charged under section 39(1)(c) of the CDSA for assisting Arafat Rahman, the son of Bangladesh's ex-Prime Minister, to launder the latter's corrupt payments received from Siemens AG and China Harbour Engineering Co Ltd which the latter had received in return for awarding certain contracts in Bangladesh to the said two companies. The total corrupt proceeds held in four bank accounts in Singapore were about S\$3.5m.

On 3 January 2011, the accused pleaded guilty to the charge and was sentenced to a fine of S\$12,000/-.

On 25 September 2012, the Singapore High Court ordered the return of approximately S\$2.2m, held in three bank accounts, to the Government of the Republic of Bangladesh pursuant to the enforcement of a United States of America Confiscation Order under sections 29 and 30 of the Mutual Assistance in Criminal Matters Act (Chapter 190A).

On 26 February 2013, the Singapore Subordinate Court ordered the remaining sum of US\$932,672.81 which had been seized pursuant to investigations against Lim, to be forfeited and disposed in favour of the Government of the Republic of Bangladesh.

(b) Observations on the implementation of the article

434. The provision is implemented.

Article 32 Protection of witnesses, experts and victims

Paragraph 1

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

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

435. Witnesses and experts are protected from potential retaliation or intimidation by the criminalization of any obstruction, prevention, perversion or defeat of the course of justice under section 204A of the Penal Code (Chapter 224) [Annex 3].

436. Existing legislation also protects the identity of informants (see answer to Subparagraph 2 (a) of article 32).

437. Where necessary, enforcement agencies may take steps to protect certain witnesses.

438. Singapore cited the following texts.

Penal Code (Chapter 224) ("PC") [Annex 3]

section 204A

439. Regarding examples of implementation, Singapore indicated that in high profile corruption trials where key prosecution witnesses are subject to harassment from the media or public or intimidation from accused persons or their associates, CPIB has assigned officers to escort such witnesses to court.

440. The trial of PP v Chua Tiong Tiong [2001] 2 SLR(R) 515 [Annex 4] involved an illegal money-lender charged with corruptly giving gratification to a police officer. Yap Chee Keong was a key witness who could offer incriminating evidence against Chua in

the trial. During the Court proceedings, Yap expressed fear for his and his family's safety as he was harassed by the associates of Chua who warned him not to implicate Chua. To ensure Yap's attendance in Court and that the quality of his testimony would not be affected by the attempts to suborn him, the CPIB made special security arrangements for Yap and assigned a team of officers to escort him back-and-forth between his residence and the court. CPIB also enlisted the help of a police division to step up patrol duties in the vicinity of Yap's residence to ensure the safety of his family members. Yap did not turn hostile in Court and the prosecution was able to adduce crucial evidence from him.

441. Concerning the number of witnesses or experts and their relatives or other persons close to them who have required protection, Singapore indicated that there is no formal witness protection programme, and protection is provided only in exceptional circumstances; therefore, no records of such protection have been kept. The establishment of a formal witness protection programme was not reported as a priority due to the small size of the country and the reported strong respect for the rule of law.

(b) Observations on the implementation of the article

442. It was confirmed that Section 204A of the Penal Code (Chapter 224) applies to *all* witnesses, including informants and non-informants alike. It protects witnesses from potential retaliation or intimidation by criminalizing any obstruction, prevention, perversion or defeat of the course of justice. The wide phrasing of the section means that the interference of any witness could potentially amount to a breach of the provision.
443. Apart from this catch-all provision, there are also specific provisions of law that protect the identity of informants (see subparagraph 2 (a) of article 32 below).
444. The CPIB is currently considering the possibility of establishing internal procedures and guidelines relating to witness protection.
445. Based on the information provided, it is recommended that Singapore adopt further measures to provide added protection from potential retaliation or intimidation for witnesses and experts who give testimony and, as appropriate, their relatives and other persons close to them. Such measures could include a witness protection programme, further measures for the physical protection of such persons and evidentiary rules in accordance with article 32(1) and (2).

Article 32 Protection of witnesses, experts and victims

Subparagraph 2 (a)

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

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

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

446. Singapore indicated that it has partially implemented the provision.
447. Section 36 of the Prevention of Corruption Act (Chapter 241) ("PCA") [Annex 1] prohibits the disclosure of the identity of informers whose information led to the investigation and prosecution of any offences under the PCA. This protection extends to any books, documents or papers which may lead to the identification of the informer.
448. Sections 40A of the CDSA [Annex 10] prohibits the disclosure of the identity of persons who report about property which they know or suspect to be proceeds or instrumentalities of crime. Section 45 of the CDSA prohibits the disclosure of the identity of informers of money-laundering offences.
449. As a catch-all, section 127(1) of the Evidence Act (Chapter 97) [Annex 42] provides for the non-disclosure of information as to the commission of any offence if the public interest warrants it.
450. However as Singapore does not have a formal witness protection programme, there are no procedures in place for the relocation of witnesses or experts for the purpose of their protection.
451. Singapore cited the following texts.
- Evidence Act (Chapter 97) [Annex 42]
- section 127(1)
- Prevention of Corruption Act (Chapter 241) ("PCA") [Annex 1]
- section 36
- Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) ("CDSA") [Annex 10]
- sections 40A and 45
452. No case examples or information on the number of witnesses or experts who have received physical protection was available.
453. Singapore indicated that a procedure for the physical protection of witnesses, experts or victims by means of relocation is currently not envisioned in Singapore as it has not been deemed necessary thus far.

(b) Observations on the implementation of the article

454. The observations made under paragraph 1 of this article are referred to.

Article 32 Protection of witnesses, experts and victims

Subparagraph 2 (b)

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

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

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

455. Section 281 of the CPC [Annex 29] provides that evidence may be given through communications technology in a wide range of scenarios, including instances where the interest of justice would require it. Further, section 7(2) of the State Courts Act (Chapter 321) [Annex 43] and section 8(2) of the Supreme Court of Judicature Act (Chapter 322) [Annex 30] allow a hearing to proceed in camera if it is in the interests of justice, public safety, public security or propriety to do so.

456. Singapore cited the following texts.

State Courts Act (Chapter 321) [Annex 43]

section 7(2)

Supreme Court of Judicature Act (Chapter 322) [Annex 30]

section 8(2)

Criminal Procedure Code (Chapter 68) ("CPC") [Annex 29]

section 281

457. No records of implementation have been kept.

458. No information was provided on recent cases in which witnesses or experts have given testimony using video or other communications technology

(b) Observations on the implementation of the article

459. Singapore indicated that there have been no cases to date which have necessitated the use of communications technology for witnesses to give testimony in a manner that ensure the safety of the witnesses.

Article 32 Protection of witnesses, experts and victims

Paragraph 3

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

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

460. Singapore indicated that it has not implemented the provision.

461. As Singapore does not have a formal witness protection program, there are no procedures in place for the relocation of witnesses or experts for the purpose of their protection.

(b) Observations on the implementation of the article

462. It is recommended that Singapore consider entering into agreements and arrangements with other States for the relocation of witnesses or experts in accordance with the provision under review.

Article 32 Protection of witnesses, experts and victims

Paragraph 4

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

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

463. All legislative provisions pertaining to the protection of witnesses apply equally to victims (see the answers to Paragraphs 1 and 3 of article 32).

464. Singapore cited the following texts.

Criminal Procedure Code (Chapter 68) ("CPC") [Annex 29]

section 281

Prevention of Corruption Act (Chapter 241) ("PCA") [Annex 1]

section 36

Evidence Act (Chapter 97) [Annex 42]

section 127(1)

Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) ("CDSA") [Annex 10]

sections 40A and 45

State Courts Act (Chapter 321) [Annex 43]

section 7(2)

Supreme Court of Judicature Act (Chapter 322) [Annex 30]

section 8(2)

Penal Code (Chapter 224) [Annex 3]

section 204A

465. No examples of implementation were provided. No records of such implementation have been kept.

(b) Observations on the implementation of the article

466. The provision is adequately implemented.

Article 32 Protection of witnesses, experts and victims

Paragraph 5

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

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

467. All witnesses must generally give their evidence in person. These witnesses include victims, who are routinely called upon to give evidence during the course of the trial against the accused. Under section 228(2)(b) of the CPC [Annex 29], once an accused has been convicted, victim impact statements may also be tendered to the court. This allows the views and concerns of the victims to be presented and considered by the court in determining the appropriate sentence to be imposed.

468. Singapore cited the following texts.

Criminal Procedure Code (Chapter 68) ("CPC") [Annex 29]

sections 228(2)(b) and 228(7)

469. Singapore provided the following examples of implementation.

PP v. Goh Wen Cai (unreported)

The accused was a serial cheat who cheated a single victim on multiple occasions, by making phone calls and forging letters to the victim under the guise of various eminent persons, including the Prime Minister of Singapore. The accused faced 105 charges - 87 counts of cheating and dishonestly inducing delivery of property under section 420 of the Penal Code ("PC"), 10 counts of forgery punishable under section 465 PC and 8 counts of forgery for the purpose of cheating punishable under section 468 PC. The accused pleaded guilty to 25 charges, and the remaining 80 charges were taken into consideration for the purposes of sentencing.

The victim was a 60-year-old man. The accused conceived of an investment scam to

deceive the victim into delivering cash and other property to him: he masqueraded as a Vice-President of DBS Bank and encouraged the victim to invest money in a fictitious investment scheme with the bank. Subsequently, the accused masqueraded as several other persons, some of whom are eminent persons, in letters and phone calls to the victim. These persons were all purported to be connected with the investment scheme and were part of the accused's plan to reassure the victim of the authenticity of the investment scheme and to urge the victim to invest more money in the scam. As a result of the accused's scam, the victim was cheated of cash amounting to S\$435,652.

In pressing for a deterrent custodial sentence, the Prosecution submitted a Victim Impact Statement which the victim had signed. In the Statement, he stated that he had lost his and his wife's life savings, and now owes his friends, relatives, banks and other financial institutions large sums of money. The bank had also issued a writ of seizure and sale against him.

The Court agreed that a deterrent sentence was warranted in this case, and sentence the accused to a total sentence of 60 months' imprisonment.

470. No examples of implementation were available.

(b) Observations on the implementation of the article

471. The provision is adequately implemented.

Article 33 Protection of reporting persons

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

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

472. Sections 39(6) and 39(8) of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) [Annex 10] provide protection to a person who discloses a suspicious transaction under the CDSA; his disclosure shall not be treated as a breach of any restriction upon that disclosure imposed by law, contract or rules of professional conduct, and he shall not be liable for any loss arising out of the disclosure or any act or omission in consequence of the disclosure.

473. Sections 43(3) and 44(3) of the CDSA confers a similar protection to persons who provide information on money-laundering offences to the authorities.

474. Singapore cited the following texts.

Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) ("CDSA") [Annex 10]

sections 39(6), 39(8), 43(3) and 44(3)

475. No examples of implementation were provided.

(b) Observations on the implementation of the article

476. The type of protections afforded to informants and whistleblowers has been set out under subparagraph 1 and 2 (a) of article 32. At a general level, all witness, including informants, are protected from potential retaliation or intimidation by the criminalization of any obstruction, prevention, perversion or defeat of the course of justice under section 204A of the Penal Code (Chapter 224). More specifically, the identity of informants is protected during investigations and court proceedings by way of various provisions in the Prevention of Corruption Act (Chapter 241), CDSA and Evidence Act (Chapter 97). This protection is significant because preventing the disclosure of the identity of the informant decreases the risk of retaliation against him/her. Acts of retaliation and intimidation are further criminalized under the PC.
477. In addition, the CPIB is currently considering the possibility of establishing internal procedures and guidelines relating to the protection of witnesses – a category that includes informants.
478. Based on the information provided, it is recommended that Singapore consider further expanding measures to protect reporting persons against unjustified treatment in accordance with the article under review.

Article 34 Consequences of acts of corruption

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

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

479. Under section 14(1) of the Prevention of Corruption Act (Chapter 241) ("PCA") [Annex 1], when any person gives corrupt proceeds to an agent, the principal may recover as a civil debt the money value of the corrupt proceeds from either the agent or the person who gave the bribe. Further, section 14(2) of the same PCA provides that the principal may, under any written law or rule of law, recover from his agent any money or property.
480. The common law doctrine of illegality is of general application to all areas of law and enables a party to a contract to obtain a remedy (for example, non-enforcement of a contract) on the ground of public policy; the Courts will not assist a party to enforce a contract founded on an immoral or illegal act.
481. Singapore cited the following texts.

Prevention of Corruption Act (Chapter 241) ("PCA") [Annex 1]

sections 14(1) and 14(2)

482. Singapore provided the following examples of implementation.

483. ANC Holdings Pte Ltd (a Singapore Pte Ltd) and Bina Puri Holdings Bhd (a Malaysian listed company) [2013] 3 SLR 666 [Annex 44]

A Singaporean plaintiff company had an agreement with a Malaysian company that it would receive commission if it managed to help the Malaysian company clinch construction projects. The Malaysian company was awarded the projects but declined to pay the Singapore company the commission owed under the agreement. The High Court found that the parties had intended that the Singapore company would secure the projects by making bribe payments to third parties in Saudi Arabia. As the agreement had been entered into with the intention of committing an illegal act, the High Court refused to allow the Singapore company to enforce its rights under the agreement and dismissed its claim.

484. PP v Tee Fook Boon Andrew [2011] SGHC 192 [Annex 26]

The accused was the sole proprietor of AT35 Services, which amongst other things, supplied food products. The accused entered into an agreement with the Food Services Manager of IKANO, a company that owns and operates the IKEA store in Singapore, to reward him with one-third of all profits earned by AT35 Service from its business with IKANO, if he selected AT35 Services as IKANO's food supplier. Pursuant to this agreement, between January 2003 and July 2009, during which AT35 was IKANO's food supplier, the accused made 80 payments to the Food Services Manager, totalling S\$2,389,322.47. This was one of the largest cases of private sector corruption cases in terms of quantum.

The accused pleaded guilty to 12 charges under section 6(b) of the PCA read with s 34 of the Penal Code (he had a conspirator) involving S\$761,019.64. He consented to the remaining 68 charges to be taken into consideration.

In enhancing the sentence on appeal, the High Court noted that even though the accused was not the initiator, he was integral to the commission of the offences. However, the Court also considered that the S\$1 million that the accused had paid in settlement of the civil suit brought against him by IKANO was a significant form of restitution that mitigated the harm caused to IKANO. The accused was ultimately sentenced to 10 weeks' imprisonment and S\$15,000 fine per charge, with 4 sentences ordered to run consecutively. The total sentence was therefore 40 weeks' imprisonment and S\$180,000 fine.

(b) Observations on the implementation of the article

485. In addition to the cited measures, Section 154 of the Companies Act (Chapter 50) provides that where a person is convicted – whether in Singapore or elsewhere – of any offence involving fraud or dishonesty punishable with imprisonment for 3 months or more (a criteria which corruption offences satisfy), he shall be subject to automatic disqualification, for up to 5 years, from acting as a director of any Singapore company or foreign company that has a place of business or carries on business in Singapore.

486. Singapore provided two examples below, where persons convicted of corruption and embezzlement offences were disqualified from acting as directors under the Companies Act.

PP v Yap Sze Kam (unreported)

The accused, Yap Sze Kam (“Yap”), was the managing director and owner (i.e. sole proprietor) of S. K. Yap Engineering (a transport company). He was also the director of a logistics company, Connector Connections Pte Ltd. At the material time, S.K. Yap Engineering was a transport contractor engaged by a furniture store, Courts (Singapore) Pte Ltd, to deliver its products to customers.

Between 2008 and 2011, Yap had given bribes totaling \$274,000 to one Andrew Ong Tiong Chiew, a delivery manager of Courts (Singapore) Pte Ltd, in return for undertaking to help them if any complaints were made against their company’s delivery services.

Yap was charged in Court for 33 counts of corruptly giving gratification under section 6(b) of the PCA on 5 Dec 2012. He pleaded guilty to 7 charges (with the remaining taken into consideration for the purposes of sentencing) and was sentenced to four months jail. He was disqualified from acting as a director for 5 years from his release from prison.

Phang Wah and Ors v PP [2012] 1 SLR 646 [Annex 53]

Phang Wah (“Phang”) was the authorized signatory for the bank accounts of Sunshine Empire Pte Ltd (“Sunshine Empire”) while Jackie Hoo Choon Cheat (“Jackie”) was a Director of Sunshine Empire. Sunshine Empire was a multi-level marketing business which sold several types of lifestyle packages. Consumer rebate privileges (“CRP”) were offered to participants of the “Prime” lifestyle packages as an incentive for purchasing such packages. CRP were paid for by the sale of new packages and constituted a very high proportion of Sunshine Empire’s revenue. Sunshine Empire’s MLM scheme proved to be popular amongst members of the public, with some even purchasing multiple packages. Throughout its operation from August 2006 to October 2007, there was a general upward trend in the price of the packages, and a total of 25,733 lifestyle packages were sold. The total revenue during that period was about \$175 million, and the total CRP pay out amounted to about \$107 million. However, there was no credible alternative source of revenue despite the allusions to vague future business plans and some minor ad hoc investments.

Notwithstanding that Sunshine Empire was not legally bound to continue paying out at high rates or at all, there was a consistently high level of pay out over 15 months, leading to a return of 160% for purchasers of Prime packages.

Phang and Jackie were charged with knowingly being a party to the carrying on of the business of Sunshine Empire for a fraudulent purpose of selling certain packages yielding returns when in fact Sunshine Empire did not operate any substantive profit generating business and had no sustainable means of funding such returns. Charges were also brought against Phang and Jackie for committing Criminal Breach of Trust as agents by virtue of their engagement in a conspiracy to cause Sunshine Empire to

make payments based on 1% of the monthly sales to an accomplice as commission purportedly as a Group Sales Director when they knew that she was not qualified under Sunshine Empire's compensation plan. Phang and Jackie were convicted after trial and sentenced to 108 months and 84 months imprisonment respectively. The sentences were upheld on appeal. Both Phang and Jackie were disqualified from acting as directors for 5 years from his release from prison.

487. In addition, persons and contractors involved in corruption may be debarred by the Standing Committee on Debarment of the Ministry of Finance from contracting with government agencies. The grounds for debarment and procedure for debarment has been set out at

https://www.gebiz.gov.sg/scripts/doc/AUTHORITY_AND_RATIONALE_FOR_DEBARMENT.pdf. [Annex 54]

One of the most significant cases in which debarment was applied was *PP v Choy Hon Tim* (unreported). Choy Hon Tim (“Choy”) was the Deputy Chief Executive (Operations) as well as the Director of the Electricity Department of the Public Utilities Board (“PUB”) at the material time. Between 1974 and 1995, he received S\$12,240,613 in bribes from one Lee Peng Siong (“Lee”), an Australian businessman, for variously ensuring the smooth running of Lee’s companies’ projects with PUB, and for providing confidential information concerning PUB tenders. Lee then provided the same confidential information to international contractors, who paid him a “consultancy service fee” for each successful award of tender. On 7 Oct 1995, Choy was charged for 30 counts of corrupting obtaining gratification amounting to \$12,240,613 under s.6(a) of the PCA. He pleaded guilty to 5 charges, while the remaining charges were taken into consideration for sentencing. He was eventually sentenced to 14 years of imprisonment and ordered to forfeit \$13.85 million which were the bribe monies (inclusive of interest earned from banks) found in the Hong Kong bank accounts operated by his former wife, wife and her sister. To date, the bribe monies Choy received remained the largest total of bribe monies involved in Singapore’s history. The international contractors who were involved in paying Lee for the “consultancy services”, namely, Japan's Marubeni Corporation and Tomen Corporation, two Singapore units of Britain's BICC Cables Ltd, Pirelli of Italy and three subsidiaries, and Germany's Siemens AG and Siemens Ltd, were debarred from participating in government-related contracts for a period of 5 years.

488. Apart from disqualification and debarment, foreign nationals convicted of Convention offences may be repatriated upon completion of their sentences. In some cases, a foreigner who has been repatriated has to seek the written permission of the Controller of Immigration to enter Singapore. A foreigner who is also a Permanent Resident (“PR”) of Singapore may have his PR status revoked, through the cancellation of his entry and re-entry permits. Two examples where convicted foreign nationals were repatriated are listed below.

PP v Sathasivan Letchuman (unreported)

The accused, Sathasivan Letchumanm (“Sathasivan”), was at the material time a Malaysian citizen employed in Singapore as a dishwasher. On 24 Apr 2014, Sergeant Nurulain Binte Mohamed Rafie and Sergeant Lin Wuha, both officers in the Singapore Police Force, had approached Sathasivan after receiving a complaint that he

was refusing to pay a taxi fare. When engaged by the two police officers, Sathasivan become agitated and started shouting vulgarities at Sergeant Lin Wuha. After Sathasivan was warned by Sergeant Lin Wuha, he turned to Sergeant Nurulain Binte Mohamed Rafie and showed her his wallet, which consisted of S\$1170 in Malaysian Ringgit and S\$9. Sathasivan then offered her the money so that he could avoid being arrested. Sergeant Nurulain Binte Mohamed Safie proceeded to warn him against offering her a bribe but he persisted and was placed under arrest.

Sathasivan was charged in Court on 9 May 2014 for 1 count of corruptly offering gratification under s 6(b) of the PCA, and 1 count of threatening, abusing or insulting a public servant under s 13D(1)(a) of the Miscellaneous Offences (Public Order and Nuisance) Act. He pleaded guilty to the PCA charge (the other charge was taken into consideration for the purposes of sentencing) and was sentenced to 8 weeks of imprisonment. He was repatriated after his imprisonment.

PP v Ali Eid, PP v Abdallah Taleb, PP v Ali Sabbagh (unreported)

The accused persons are:

- Ali Sabbagh (“Sabbagh”), a male Lebanese who is an accredited Federation Internationale de Football Association (“FIFA”) referee;
- Ali Eid (“Eid”), a male Lebanese who is an accredited FIFA linesman; and
- Abdallah Taleb (“Taleb”), a male Lebanese who is an accredited FIFA linesman.

Investigations revealed that sometime in June 2012, Sabbagh was introduced to one ‘James’ (Ding Si Yang, a male Singaporean) by a fellow Lebanese referee named at a cafe, in Beirut. They then exchanged contact details and email addresses. Shortly thereafter, Sabbagh and ‘James’ started communicating with each other via their personal email accounts. From their communications, Sabbagh became aware that ‘James’ was a match fixer, and he subsequently confirmed his interest to do ‘jobs’ for ‘James’, as and when possible.

In late February 2013, Sabbagh told ‘James’ that had an upcoming Asian Football Confederation (“AFC”) Cup match scheduled on 3rd April 2013 in Singapore between a Singapore football league team, Tampines Rovers, and an Indian football league team, East Bengal. Sabbagh also informed ‘James’ that Eid and Taleb would be officiating as linesmen for the match in Singapore. ‘James’ then asked if Sabbagh, Eid or Taleb had any requests whilst in Singapore and Sabbagh replied that he would like ‘James’ to arrange for “girls” to provide free sexual services for him, Ali Eid and Abdallah Taleb.

On 1 April 2013, the three accused persons arrived in Singapore and put up at the Amara Hotel. Investigations revealed that sometime on 3 April 2013, shortly after 12 midnight, ‘James’ made arrangements for three female social escorts to meet the three accused persons at the Amara Hotel. After meeting the girls, Taleb, Eid and Sabbagh selected a female escort each and went back to their individual rooms to receive free sexual services. The three accused persons did not pay for the sexual services because ‘James’ had promised that the sexual services would be free. They also knew that they had to help fix future football matches in return for the free sexual services.

The three accused persons were each charged with 1 count of corruptly receiving gratification under section 5(a)(i) of the PCA. They pleaded guilty. Sabbagh was sentenced to 6 months jail while Eid and Taleb were each sentenced to 3 months jail. All three accused persons were repatriated after serving their jail sentences.

489. It was explained that the cited case, ANC Holdings Pte Ltd (a Singapore Pte Ltd) and Bina Puri Holdings Bhd (a Malaysian listed company) [2013] 3 SLR 666 [Annex 44], is a civil case that illustrates the consequence of corruption. The Singaporean plaintiff company had an agreement with the Malaysian defendant company that it would receive commission if it managed to help the Malaysian company clinch construction projects. The Malaysian company was awarded the projects, but declined to pay the Singaporean company the commission owed under the agreement. As the commission would have amounted to a bribe, and the agreement was therefore entered into with the intention of committing an illegal act, the High Court refused to allow the Singaporean company to enforce its rights under the agreement and dismissed its claim.

Article 35 Compensation for damage

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

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

490. Section 14 of the Prevention of Corruption Act (Chapter 241) ("PCA") [Annex 1] allows a principal to recover the amount or money value of a gratification from his agent or from the person who gave the gratification. Singapore referred to article 34.

491. Singapore cited the following texts.

Prevention of Corruption Act (Chapter 241) ("PCA") [Annex 1]
sections 14(1) and 14(2)

492. Singapore provided the following case example.

PP v Tee Fook Boon Andrew [2011] SGHC 192 [Annex 26]

The accused was the sole proprietor of AT35 Services, which amongst other things, supplied food. The accused entered into an agreement with the Food Services Manager of IKANO, a company that owns and operates the IKEA store in Singapore, to reward him with one-third of all profits earned by AT35 Service from its business with IKANO, if he selected AT35 Services as IKANO's food supplier. Pursuant to this agreement, between January 2003 and July 2009, during which AT35 was IKANO's food supplier, the accused made 80 payments to the Food Services Manager, totalling S\$2,389,322.47. This was one of the largest cases of private sector corruption cases in terms of quantum.

The accused pleaded guilty to 12 charges under section 6(b) of the PCA read with s 34 of the Penal Code (he had a conspirator) involving S\$761,019.64. He consented to the

remaining 68 charges to be taken into consideration.

In enhancing the sentence on appeal, the High Court noted that even though the accused was not the initiator, he was integral to the commission of the offences. However, the Court also considered that the S\$1 million that the accused had paid in settlement in the civil suit brought against him by IKANO was a significant form of restitution that mitigated the harm caused to IKANO. The accused was ultimately sentenced to 10 weeks' imprisonment and S\$15,000 fine per charge, with 4 sentences ordered to run consecutively. The total sentence was therefore 40 weeks' imprisonment and S\$180,000 fine.

(b) Observations on the implementation of the article

493. The article is implemented.

Article 36 Specialized authorities

Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies or persons specialized in combating corruption through law enforcement. Such body or bodies or persons shall be granted the necessary independence, in accordance with the fundamental principles of the legal system of the State Party, to be able to carry out their functions effectively and without any undue influence. Such persons or staff of such body or bodies should have the appropriate training and resources to carry out their tasks.

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

494. The Corrupt Practices Investigation Bureau is a specialised agency established to combat corruption under the PCA.

Independence

495. To ensure the independence of the CPIB, key appointments are made by the President, under the advice of the Cabinet or a Minister authorised by the Cabinet. This serves two purposes. First, it ensures the independence of the appointment of key positions in the CPIB. Secondly, this establishes a wholly different regime of appointment compared to other public officers. The CPIB is kept separate from other public officers, thus removing the issue of potential conflict in investigations into public sector corruption.

496. Independence of officers of the CPIB is also statutorily entrenched by the remuneration structure under section 4A of the Prevention of Corruption Act (Chapter 241) [Annex 1]. This eliminates the dependence of the CPIB on another entity in structuring its remuneration packages and thus strengthens the independence of the CPIB.

497. Potential for undue influence is removed by separating the investigation powers of the CPIB from the prosecutorial functions to be exercised by the Public Prosecutor.

Powers to combat corruption

498. Specific powers of investigations are statutorily provided for under Part IV of the PCA. These powers range from powers of arrest under section 15 of the PCA to powers of

search and seizure under section 22 of the PCA. Further, authorisation may be granted by the Public Prosecutor in appropriate situations for the CPIB to investigate into various non-corruption related offences which may arise out of their original investigations.

Officer Training

499. All CPIB officers are recruited on a one-year probation period. They will undergo a four-month basic training course and are required to sit and pass the relevant law examinations thereafter. The officers will only be appointed as “Special Investigators” by the President upon completion of this course.

500. After completing the course, officers are posted to the investigations units. During this period, on-the-job training continues with supervisors closely monitoring their progress for the next 8 months until they are assessed for suitability to be confirmed in service.

501. See below for more details of the training that CPIB officers undergo.

502. Singapore cited the following texts.

Prevention of Corruption Act (Chapter 241) ("PCA") [Annex 1]

Part IV

sections 3 and 4A

503. Singapore provided details of training for CPIB officers.

The 4-month basic course covers the following:

- Legal training (PCA, Penal Code, Criminal Procedure Code and other general laws: Trainee officers are required to pass law examinations on these topics;
- Practical knowledge (For example, making an arrest, recording of investigation diaries, interviewing of witnesses and suspects, recording of statements etc: Trainee officers will undergo lectures and practical trial for each of the topic learnt; and
- Physical and technical skills training (shooting, defence tactics, leadership and team building).

504. After the initial basic training course, continuous training is provided for officers at all levels. The CPIB also subscribes to courses run by other law enforcement agencies and specialist vendors.

505. Some of the courses which the entry-level officers attend are:

- Home Team Basic Investigation Course (Conducted by the Home Team Academy): Officers will be taught essential steps in investigation such as recording a statement, drafting a charge sheet, writing a summary of facts and putting up an investigation paper. Trainees will be introduced to the legal framework in Singapore, essential laws such as the Penal Code, the hierarchy of courts and their different jurisdictions. The basic steps in the “3 pillars” of investigation (interview, intelligence and forensics) are also covered.
- White-collar Crime Investigation Course (conducted by the Commercial Affairs

Department, Singapore Police Force, ("CAD"))

- Basic Prosecutor Course (Conducted by Civil Service College)
- Basic Field Intelligence Officers' Course (Singapore Police Force)
- Security Intelligence (Basic) Course (conducted by vendor)
- Psychodynamic Interview Course (conducted by vendor)
- Civil Service Investigation
- Courtroom Testimonies (conducted by Civil Service College)
- Civil Service Investigation - Surviving Cross-examination (conducted by Civil Service College)
- REID Interview & Interrogation Course (conducted by vendor)

506. The courses which intermediate-level officers attend are:

- Complex Financial Investigation Course (conducted by International Law Enforcement Academy, Bangkok)
- Public Integrity Investigation Course (conducted by International Law Enforcement Academy, Bangkok)
- Fraud & Public Corruption Investigation Course (conducted by International Law Enforcement Academy, Bangkok). This course focuses on using financial investigative techniques and forensic accounting to identify, investigate and solve crimes of fraud and public corruption.
- Supervisory Criminal Investigator Course (conducted by International Law Enforcement Academy, Bangkok)
- Chief Investigators' Command Course (conducted by Independent Commission Against Corruption, Hong Kong)
- International Economic Crime Course (conducted by CAD)
- Postgraduate Certificate in Corruption Studies (conducted by Hong Kong University)
- International Anti-corruption Professional Certificate (conducted by International Anti-corruption Summer Academy, Austria)

507. For more senior officers, they will attend relevant management or leadership programme as well as specialised programme such as:

508. - Home Team Senior Command & Staff Course (conducted by Home Team Academy). Participants are provided with knowledge, values and attitudes essential for Directors and Commanders. They will also gain foundational understanding of the concepts and policies underlying good governance of public organisations and a strategic perspective of the regional and international social-political issues that influence the stability and survival of Singapore.
- FBI Course (conducted by FBI National Academy)
 - In addition to the general leadership training, officers may also attend training on one of these three specialist tracks:
 - Polygraph
 - Computer Forensics
 - Intelligence

509. Regarding measures adopted to ensure the independence of the specialized body, Singapore indicated that the CPIB reports directly to the Prime Minister and has functional independence in its operational matters. The Singapore Constitution was amended in 1991 to provide further safeguards on the independence of the CPIB; the

Director CPIB position is appointed by the elected President of Singapore. The President can also authorise the Director to continue any investigations, in the event that the Prime Minister decides to stop one.

510. In terms of the general appointment and selection of CPIB officers, after going through a 3-member selection panel, shortlisted applicants are also screened with the various authorities before they are offered employment. In-service officers are also screened regularly to ensure that they are suitable to remain in service.

511. While CPIB officers are deemed to be public officers, they are appointed on a special scheme of service which only applies to the CPIB's investigation officers. The remuneration package is reviewed regularly and separately from the generic schemes in the Singapore Civil Service to ensure that it remains attractive so as to attract and retain talent; and with different market benchmarks. The superannuation scheme also operates differently from the other services in the Civil Service.

512. Singapore provided the following information on how staff is selected and trained.

Officers are selected through a competitive (20 were selected from 3034 applicants in 2012) and open recruitment process. Besides meeting the minimum entry qualifications, shortlisted applicants have to go through a rigorous interview session with a panel formed by the Assistant Directors of the CPIB.

As stated above, the training for officers comprises a basic training course and structured training for various levels and specialisation. Annually, officers will discuss their training requirements with their supervisors and the consolidated training plans will be submitted to Director CPIB for approval.

(b) Observations on the implementation of the article

513. There seem to be some good practices involving the functions and mandate of the CPIB, to be elaborated in the country visit.

514. Independence of CPIB investigations is ensured through art. 22G of the Constitution, which provides that even if the Prime Minister refuses to consent to an investigation, CPIB can proceed in investigations if the President concurs with the Director of the CPIB.

515. Regarding the CPIB's budget, Singapore explained that a baseline budget is given to the CPIB from which it funds the operations of the Bureau. This budget would include Expenditure on Manpower and Other Operating Expenditure which would include the various operational costs as well as funds for officer training and development. Part of this budget is also used for development and capability building projects which the Bureau may embark on. Variations to this baseline budget, including additional funding, is determined and requested for annually during the annual budgeting exercise based on the projected requirements of the Bureau for the coming Financial Year. After the annual exercise when the supported amounts are finalised, the funds are then voted to the CPIB for that Financial Year to manage on its own.

516. Under the Singapore Civil Service Manpower Management Framework, agencies may request for increased headcount with substantiating evidence for the increase. The CPIB's

manpower requirements are thus reviewed regularly. The current establishment, which was last reviewed and approved in 2014, is determined based on our operational requirements; as such, the CPIB has sufficient manpower to carry out its functions effectively.

517. It was further clarified that the responsibility for investigation of money laundering offences and asset confiscation is borne by various law enforcement agencies, depending on the nature of the predicate offence.

518. The Commercial Affairs Department ("CAD") is the principal white-collar crime investigation agency in Singapore and investigates money laundering offences and other offences with a view to asset confiscation. The CAD is equipped with its own investigative and intelligence resources and houses Singapore's financial intelligence unit, the Suspicious Transaction Reporting Office ("STRO") which is tasked with the receipt and analysis of financial intelligence on property linked to crime, and the dissemination of the results of the analysis. Besides investigating white-collar crime, the CAD also plays a crucial role in enforcing Singapore's Anti-Money Laundering/Countering Financing of Terrorism ("AML/CFT") Regime. The CAD actively engages and collaborates with foreign counterparts on AML/CFT issues and is an active member of various international forums and inter-government bodies such as the Egmont Group of Financial Intelligence Units and the Financial Action Task Force ("FATF").

519. Apart from the CAD, the various Police land Divisions also investigate money laundering offences and other Convention offences like embezzlement. In the course of investigation, these agencies also identify the proceeds and instrumentalities of crime with a view to confiscation, where appropriate.

520. Where the predicate offence involves corruption, the CPIB would investigate any related money laundering offences and identify the relevant tainted assets, with a view to confiscation.

(c) Successes and good practices

521. The competitive recruitment process and comprehensive training for officers of the CPIB and CAD ensure the availability of highly qualified investigators.

Article 37 Cooperation with law enforcement authorities

Paragraph 1

1. Each State Party shall take appropriate measures to encourage persons who participate or who have participated in the commission of an offence established in accordance with this Convention to supply information useful to competent authorities for investigative and evidentiary purposes and to provide factual, specific help to competent authorities that may contribute to depriving offenders of the proceeds of crime and to recovering such proceeds.

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

522. Section 35(3) of the Prevention of Corruption Act (Chapter 241) [Annex 1] provides that a court may grant a certificate of indemnity to a person (including a co-accused

person) if it is of the opinion that this person has made true and full discovery of all things he was examined on, and this certificate is a bar to all legal proceedings against the person in respect of those things. In addition, section 27 of the PCA mandates that a person required to provide information to the CPIB is legally bound to do so and section 28 of the PCA makes it an offence for any person to give or cause to be given false or misleading information.

523. In relation to money-laundering offences, sections 39(6) and (8), 43(3) and 44(3) of the CDSA [Annex 10] confer protection on persons who report suspicious transactions to the authorities. Singapore referred to article 33.

524. Singapore cited the following texts.

Prevention of Corruption Act (Chapter 241) ("PCA") [Annex 1]

sections 27, 28 and 35(3)

Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) ("CDSA") [Annex 10]

sections 39(6) and (8), 43(3) and 44(3)

525. Singapore provided the following examples of implementation.

PP v Chua Kim Guan (unreported)

The accused was the managing director of a Singapore company who supplied parts to Apple Inc. ("Apple") based in the United States of America ("US") to be used in the manufacture of Apple products such as iPods and iPhones. He gave a total of US\$387,600 in bribes to Apple's Global Supply Manager, Paul Shin Devine ("Devine"). He pleading guilty to 5 charges of corruptly giving gratification to Devine under section 6(b) of the PCA and was sentenced to a total of 9 months' imprisonment.

In this case, Singapore granted Devine an immunity from prosecution on the mirror charges of corruptly accepting gratification from the accused. Devine was indicted in the US Federal Court and had pleaded guilty in February 2011 to charges of wire fraud, money-laundering and carrying out transactions with criminally derived property. Some of the charges preferred against him pertained to his receipt of bribes from the accused

(b) Observations on the implementation of the article

526. The provision is implemented.

Article 37 Cooperation with law enforcement authorities

Paragraph 2

2. Each State Party shall consider providing for the possibility, in appropriate cases, of mitigating punishment of an accused person who provides substantial cooperation in the investigation or prosecution of an offence established in accordance with this Convention.

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

527. The courts have recognised that accused persons may possess different degrees of culpability and that substantial cooperation in the investigation or prosecution of offences is of mitigating value. For example, a whistleblower or informant who led to the discovery and prosecution of other offenders may, in suitable instances, be given a lighter sentence.

528. Singapore indicated that the operation of a mitigating sentence is by way of common law instead of statutory provision.

529. Singapore provided the following examples of implementation

PP v Ang Seng Thor [2011] SGHC 134 [\[Annex 11\]](#)

The accused was the CEO and joint managing director of a company who gave a total of S\$147,158 in bribes on 2 occasions to agents of other companies as gratification for these companies ordering goods from the accused's company.

The accused pleaded guilty to 2 charges under section 6(b) of the PCA. 4 other charges were taken into consideration, 2 similar charges under section 6(b).

On appeal to the High Court, the accused's sentence per proceeded charge was enhanced to 6 weeks' imprisonment and S\$25,000 fine per charge, with the sentences for both charges ordered to run consecutively. The total imprisonment was 12 weeks' imprisonment and S\$50,000 fine. In sentencing the accused, the High Court treated the accused's position of seniority in his company as an aggravating factor. However, the High Court also noted that the accused's high degree of cooperation with CPIB during investigations deserved "significant recognition".

The High Court laid down the following sentencing principles in relation to corruption offences in general, and private sector corruption in particular:

(i) The public service rationale referred to the public interest in preventing a loss of confidence in Singapore's public administration, and where there was a risk of that harm occurring, a custodial sentence was normally justified. The public service rationale was presumed to apply where the offender was a government servant or an officer of a public body, but it could also apply to private sector offenders where the subject matter of the offence involved a public contract or service, such as private sector offences which concerned regulatory or oversight roles. Although triggering the public service rationale was one way in which a private sector offender could be subject to a custodial sentence, it was not the only way: the custody threshold could be breached in other circumstances, depending on the applicable policy considerations and the gravity of the offence as measured by the mischief or likely consequence of the corruption. In addition, factors such as the size of the bribes, the number of people drawn into the web of corruption and whether such conduct was endemic would all be relevant to the consideration of whether a custodial sentence was justified.

(ii) The main sentencing considerations in corruption cases are deterrence and punishment.

(iii) The seriousness of the offence would increase considerably in cases involving

corruption of managers, particularly senior managers, and where there was corrupt influence over large or otherwise important business transactions: Courts should then consider imposing custodial sentences to deter the establishment of a corrupt business culture in Singapore.

(iv) It is an aggravating factor if the offences occurred over a long period of time, as opposed to one-off incidents.

(v) The size of the bribe has a bearing on both the culpability of the offender and the harm occasioned by the offence. The larger the amount of the bribe, the greater is the corrupt influence on the recipient and, hence, the greater is the subversion of the public interest in ensuring fairness in transactions and decisions. The size of the bribe is also a good indicator of the culpability of the offender. In the case of the giver of the bribe, the size of the bribe demonstrates the amount of influence that the giver wanted to exert on the recipient. Hence, in general, the greater the bribe, the greater is the culpability of the giver.

(vi) It is a mitigating factor where an offender surrenders himself to the authorities even before investigations have caught up with him. Where the offender discloses the crimes of one's accomplices at the same time, there is even greater mitigating value. There is a strong public interest in such disclosures, especially for crimes which are usually difficult to detect.

530. No statistics were available.

(b) Observations on the implementation of the article

531. The provision is implemented.

Article 37 Cooperation with law enforcement authorities

Paragraph 3

3. Each State Party shall consider providing for the possibility, in accordance with fundamental principles of its domestic law, of granting immunity from prosecution to a person who provides substantial cooperation in the investigation or prosecution of an offence established in accordance with this Convention.

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

532. The Public Prosecutor could grant immunity to an accused person from prosecution by administering a warning in lieu of prosecution. In certain exceptional circumstances particularly when a person provides substantial cooperation, an undertaking to grant immunity from prosecution may be issued.

533. Section 35(3) of the Prevention of Corruption Act (Chapter 241) [Annex 1] provides that a court may grant a certificate of indemnity to a person if it is of the opinion that this person has made true and full discovery of all things he was examined on, and this certificate is a bar to all legal proceedings against the person in respect of those things.

534. Singapore cited the following texts.

535. The mechanism of prosecutorial discretion is not statutorily regulated.

Prevention of Corruption Act (Chapter 241) ("PCA") [Annex 1]

section 35(3)

536. Singapore provided the following examples of implementation.

PP v Chua Kim Guan (unreported)

The accused was the managing director of a Singapore company who supplied parts to Apple Inc. ("Apple") based in the United States of America ("US") to be used in the manufacture of Apple products such as iPods and iPhones. He gave a total of US\$387,600 in bribes to Apple's Global Supply Manager, Paul Shin Devine ("Devine"). He pleading guilty to 5 charges of corruptly giving gratification to Devine under section 6(b) of the PCA and was sentenced to a total of 9 months' imprisonment.

In this case, Singapore granted Devine an immunity from prosecution on the mirror charges of corruptly accepting gratification from the accused. Devine was indicted in the US Federal Court and had pleaded guilty in February 2011 to charges of wire fraud, money-laundering and carrying out transactions with criminally derived property. Some of the charges preferred against him pertained to his receipt of bribes from the accused.

537. No statistics were available.

(b) Observations on the implementation of the article

538. The provision is implemented.

Article 37 Cooperation with law enforcement authorities

Paragraph 4

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

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

539. Singapore does not have a formal witness protection programme. However, as explained in the previous answers to article 32, the CPIB and the CAD do provide some assistance to protect witnesses when necessary.

540. Singapore cited the following texts.

Criminal Procedure Code (Chapter 68) ("CPC") [Annex 29]

sections 228(2)(b) and 228(7), 281

Prevention of Corruption Act (Chapter 241) ("PCA") [Annex 1]

section 36

Evidence Act (Chapter 97) [Annex 42]

section 127(1)

Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) ("CDSA") [Annex 10]

sections 40A and 45

State Courts Act (Chapter 321) [Annex 43]

section 7(2)

Supreme Court of Judicature Act (Chapter 322) [Annex 30]

section 8(2)

Penal Code (Chapter 224) [Annex 3]

section 204A

541. No examples of implementation or statistics were available.

(b) Observations on the implementation of the article

542. The provision is implemented.

Article 37 Cooperation with law enforcement authorities

Paragraph 5

5. Where a person referred to in paragraph 1 of this article located in one State Party can provide substantial cooperation to the competent authorities of another State Party, the States Parties concerned may consider entering into agreements or arrangements, in accordance with their domestic law, concerning the potential provision by the other State Party of the treatment set forth in paragraphs 2 and 3 of this article.

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

543. The grant of immunity from prosecution as described in the answer to Paragraph 3 of article 37 can be extended to a person located in a State Party who has provided substantial cooperation.

544. Singapore provided the following examples of implementation.

PP v Chua Kim Guan (unreported)

545. The accused was the managing director of a Singapore company who supplied parts to Apple Inc. (“Apple”) based in the United States of America (“US”) to be used in the manufacture of Apple products such as iPods and iPhones. He gave a total of US\$387,600 in bribes to Apple’s Global Supply Manager, Paul Shin Devine (“Devine”). He pleading guilty to 5 charges of corruptly giving gratification to Devine under section 6(b) of the PCA and was sentenced to a total of 9 months’ imprisonment.

546. In this case, Singapore granted Devine an immunity from prosecution on the mirror charges of corruptly accepting gratification from the accused. Devine was indicted in the US Federal Court and had pleaded guilty in February 2011 to charges of wire fraud, money-laundering and carrying out transactions with criminally derived property. Some of the charges preferred against him pertained to his receipt of bribes from the accused.

547. The indictment of Devine in the US Federal Court was reached without any input from Singapore on the appropriate course of action, as any interference would potentially encroach upon the sovereignty of the US. On Singapore’s end, following Devine’s conviction on the indictment in the US, the Acting Attorney-General had provided a written undertaking to Devine not to institute criminal proceedings against him in relation to any part played by him in the commission of the corruption offences, provided that he gave active cooperation, including the giving of evidence truthfully without embellishments and without withholding any information of relevant to the proceedings against the accused persons in the corruption offences.

(b) Observations on the implementation of the article

548. It is positively noted that there have been cases illustrating the application of this provision in practice.

549. Nonetheless, it is recommended that Singapore consider entering into agreements and arrangements with other States concerning the potential granting of immunity or mitigated punishment to collaborators of justice providing substantial cooperation

Article 38 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.

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

550. All public officers and selected persons exercising public functions are regulated by the Government Instruction Manuals (“IM”). The IM states that all such persons have to

report any case where gratification is offered, accepted or demanded. Disciplinary action may be taken against a person who fails to do so.

551. In addition, the legal obligation to give information relating to corruption offences to the Director or any officer of the Corrupt Practices Investigation Bureau upon questioning under section 27 of the PCA [Annex 1] covers public officers as well. Failure to do so is a criminal offence under section 28 of the PCA.
552. Under section 32(2) of the PCA, a public officer who is offered or who receives gratification must arrest the person who offers or gives him the gratification and make over the person to the nearest police station. Failure to do so without reasonable excuse is a criminal offence.
553. In respect of money-laundering offences, the general reporting requirement under section 39 of the CDSA [Annex 10], applies to public officers as well. Section 39 of the CDSA provides that where a person knows or has reasonable grounds to suspect that any property represents the proceeds of, or was used in connection with, criminal conduct, and the information on which his knowledge or suspicion is based came about in the course of his trade, profession, business or employment, he must disclose this to a Suspicious Transaction Reporting Officer. Failure to do so is a criminal offence.
554. Section 42 of the CDSA also provides that the High Court may, on an application by the Public Prosecutor, order the production of material, which is in the possession of any public body, that would facilitate the making of a restraint or charging order in respect of property which is suspected to be proceeds of crime..
555. Extra-legally, the tough anti-corruption stance in Singapore is consistently emphasised by the Government, evincing a strong political will to weed out the scourge of corruption. The CPIB is a key stakeholder in the fight against corruption: it is the public's first port of call in bringing to attention suspected corrupt activities and is fully accessible by various avenues viz. personal visits to CPIB, anonymous or non-anonymous written complaints received through the mail or fax, CPIB's 24-hour toll-free hotline and Internet Website's e-Reporting Centre. CPIB also runs an active public outreach programme reaching out to students, government agencies and businesses through preventive education talks, visits, seminars, workshops and the media to instil a culture of zero tolerance against corruption and to encourage the reporting of corrupt activities to the CPIB. There is particular emphasis on reaching out to new officers from government agencies, and those whose work may expose them to opportunities for bribery and corruption.
556. In practice, enforcement agencies such as the CPIB and CAD have regular coordination meetings with other law enforcement agencies at both staff and management levels to keep each other abreast of the latest developments in their own respective areas of competence and to share intelligence on any emerging trends and in so doing, improve their capabilities to combat crime.
557. Singapore cited the following texts.

Prevention of Corruption Act (Chapter 241) ("PCA") [Annex 1]

sections 27, 28 and 32(2)

Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) ("CDSA") [Annex 10]

sections 39 and 42

558. Singapore provided the following examples of implementation.

559. In 2008, CAD provided intelligence to CPIB in relation to a Singapore-registered company (Company A), and its Shanghai representative office (Company B). Company A is a subsidiary of a focused global technology business, which provides products and services in areas such as threat & contraband detection, medical devices, energy and communications.

CPIB received information that between 2003 to 2008, Company A made commission payments to individuals employed by or associated with Company A's customers so as to either influence the decision making process, to secure business opportunities or to reward individuals for having influenced business outcomes in favour of Company A. These payments were mostly in relation to the People's Republic of China market and in connection with large projects handled by Company B. Based on the information provided by the other law enforcement agency, CPIB commenced investigations and it was found that the commission payments totalled about US\$24,000. The offender, the general manager of Company A was served with a warning in February 2012.

560. In October 2012, CPIB received a referral from the Ministry of Defence that a staff sergeant of the Singapore Armed Forces, one Mohammad Yani, was involved in corrupt practices. CPIB's investigations uncovered that Yani assisted a national serviceman to convert his Army Driving Permit into a Civilian Driving Licence in return for a bribe of S\$800. Yani pleaded guilty to one charge under section 6(a) of the Prevention of Corruption Act [Annex 1] and was sentenced to 2 months' imprisonment and had to pay a penalty of S\$800.

561. In December 2012, the CPIB received a referral from the Media Development Authority ("MDA") that one of the MDA's assistant directors, Lai Wai Khuen, had approached MDA grant applicants for bribes in the form of loans. The grant applicants would feel compelled to loan Lai money since he was involved in the disbursement of grants by the MDA. Investigations revealed that Lai borrowed a total of S\$23,565 from 12 persons whom had official dealings with him during his employment with MDA, and also attempted to borrow S\$3,000 from a grant applicant. Lai was also found to have forged his supervisor's signature on 3 documents. A total of 31 charges (for corruption and forgery) were tendered against him. The case is still pending in court.

562. No records of the number of reports received or referred from public agencies have been kept.

(b) Observations on the implementation of the article

563. Singapore has implemented the article.

(c) Successes and good practices

564. The efforts of CPIB, CAD and STRO in raising awareness and creating a culture of zero tolerance towards corruption through inter-agency cooperation and cooperation with the private sector were deemed effective measures in the fight against corruption.

Article 39 Cooperation between national authorities and the private sector

Paragraph 1

1. Each State Party shall take such measures as may be necessary to encourage, in accordance with its domestic law, cooperation between national investigating and prosecuting authorities and entities of the private sector, in particular financial institutions, relating to matters involving the commission of offences established in accordance with this Convention.

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

565. The same legislative provisions and extra-legal measures referred to in the answer to article 38 are equally applicable to private entities.

566. In addition, to prevent corruption involving private entities, the Corrupt Practices Investigation Bureau proactively and regularly engages the business community, and the banking and financial sectors through seminars and working with them to develop anti-corruption programmes for their staff.

567. The Suspicious Transactions Reporting Office (“STRO”), Singapore’s financial intelligence unit, also conducts extensive outreach and feedback to the financial institutions, casinos, legal professionals, accounting professionals, corporate secretaries and their industry associations. These outreach efforts are targeted at increasing the quality and quantity of financial intelligence received and supplement the in-house or industry professional training. Such financial intelligence includes suspicious transaction reports (“STR”) that may disclose corruption offences. Where there is reason to believe that an offence has been committed, the STRO would forward it to the relevant investigation agencies. For corruption offences, the information would be forwarded to the CPIB (for bribery offences under the PCA or the Penal Code) or the Commercial Affairs Department (for embezzlement and money-laundering offences under the PC). Persons who file suspicious transaction reports are updated of the outcome of analysis and investigations. If an individual has reason to believe that any property or transaction may be connected to a criminal activity, STR can be lodged in writing (including through email) to the STRO or the CAD. Companies with valid accounts can also lodge a report online with the STRO. In addition, the STRO maintains a hotline for inquiries on the process of filing STRs (this hotline is not intended for whistle-blowing purposes).

568. Singapore cited the following texts.

Prevention of Corruption Act (Chapter 241) ("PCA") [\[Annex 1\]](#)

sections 27, 28 and 32(2)

Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act

(Chapter 65A) ("CDSA") [Annex 10]

sections 39 and 42

569. Singapore provided the following examples of implementation.

Between 2010 and 2012, STRO and the CAD conducted outreach sessions to more than 6,000 law enforcement officers, business and financial sector employees, and industry associations on detecting crime. During such collaborations, crime trends and indicators for detecting suspicious transactions, including those related to possible corruption offences, were shared with the participants.

Between 2010 and 2013, the CPIB has worked with the Singapore Business Federation and the Singapore Hotel Association to come up with more initiatives to engage their member organisations. The CPIB has also reached out to niche groups such as the Football Association of Singapore to educate new and existing players on the ills of corruption.

570. Over the past three years, Singapore's national investigating or prosecuting authorities have collaborated with entities of the private sector in the following case:

PP v Lin Wenfeng Benny (DAC Nos 1546 - 1548/2013)(unreported)

The accused was an assistant engineering in the employ of Company A, which was in the business of constructing offshore living platforms and floating production facilities for the oil and gas industry. Company A secured a contract with a Norwegian company to build accommodation platforms located in the North Sea ("the project"). The accused was assigned to be one of the procurement officers for the project. His job scope was to source for suppliers to provide furniture for the project. After suppliers submitted their tender bids, the accused told one of the suppliers that he quoted too high and that he might not be awarded the tender. The accused then asked the supplier for \$30,000 in order to influence the decision of Company A to award the contract to him.

The supplier initially agreed but felt uneasy about the accused's proposals. He informed the management of Company A and they made a report to CPIB promptly. Company A assisted CPIB in securing a foreign witness by contacting him and making arrangements for him to go to CPIB to record his statement. Company A also provided the necessary documentations of the project as well as the contact details of all relevant witnesses in Company A. Company A also assisted CPIB in isolating the accused's workstation (after his arrest) so as preserve the chain of evidence. The supplier's company also rendered full cooperation with CPIB to furnish the incriminating email correspondences between the supplier and the accused. The supplier also fully cooperated with CPIB by informing CPIB about the location where the payment of bribe would take place, which led to the arrest of the accused.

The accused was charged with 3 counts of corruptly attempting to obtain gratification as inducement to influence the award of a contract under Sec 6(a) of the PCA, Cap 241. He pleaded guilty and was fined \$30,000.

(b) Observations on the implementation of the article

571. The proactive and regular engagement by Singaporean authorities with the business community, and also on anti-money laundering, is positively noted.

572. Moreover, Singapore provided the following information pertaining to the Singapore STRO (financial intelligence unit).

S/N	Statistics	2011	2012	2013	2014
1	Number of outgoing SEIs	74	160	341	385
	Number of outgoing RFAs	120	144	162	244
2	Number of outgoing SEIs in relation to corruption	10	22	55	51
	Number of outgoing RFAs in relation to corruption	0	3	0	10
3	Number of incoming SEIs	12	25	35	41
	Number of incoming RFAs	152	111	164	164
4	Number of incoming SEIs in relation to corruption	0	0	2	5
	Number of incoming RFAs in relation to corruption	13	13	18	32
5	Number of STRs disseminated to LEAs (including domestic LEAs and foreign FIUs)	2,971	3,894	6,682	6,082

Explanatory information:

- “SEI” refers to Spontaneous Exchange of Information. When STRO disseminates financial intelligence and results of our analysis to a foreign FIU, STRO will collate it as an outgoing SEI. Conversely, when a foreign FIU sends information for STRO’s intelligence, STRO will collate it as an incoming SEI.
- “RFA” refers to Request for Assistance. When STRO sends a request to a foreign FIU to solicit for information, STRO will collate it as an outgoing RFA. Conversely, when a foreign FIU sends STRO a request for information, STRO will collate it as an incoming RFA. Such RFAs can be sent by a FIU on behalf of a domestic agency.

Article 39 Cooperation between national authorities and the private sector

Paragraph 2

2. Each State Party shall consider encouraging its nationals and other persons with a habitual residence in its territory to report to the national investigating and prosecuting authorities the commission of an offence established in accordance with this Convention.

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

573. The same legislative provisions and extra-legal measures referred to in the answers to article 38 and Paragraph 1 of article 39 are equally applicable to nationals and persons habitually residing in Singapore.

574. Singapore cited the following texts.

Prevention of Corruption Act (Chapter 241) ("PCA") [Annex 1]

sections 27, 28 and 32(2)

Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) ("CDSA") [Annex 10]

sections 39 and 42

575. Singapore provided the following examples of implementation.

To increase public awareness of the ills of corruption, the CPIB reached out to the public via the media to publicise cases of interest so as to deter corrupt behaviour, conduct regular Learning Journey Programmes for students, and organise events such as an open house for the public to commemorate International Anti-Corruption Day on 9 December 2012.

576. Singapore referred to paragraph 1 of article 39.

577. Concerning hotlines or other mechanisms for offences to be reported, Singapore provided the following information.

The number of complaints received by the CPIB annually from 2010 to 2013 are as follows:

2010: 876

2011: 757

2012: 906

2013: 792

The number of STRs received by the CAD annually from 2010 to 2012 are as follows:

2010: 11,394

2011: 13,557

2012: 17,975

578. No financial incentives are provided.

579. The CPIB does not track the number of anonymous reports that contributed to investigations or prosecutions of offences. Nonetheless, the CPIB receives anonymous complaints and has launched and completed investigations based on such complaints.

There was no STR linked to corruption filed by anonymous persons between 2010 and 2013.

(b) Observations on the implementation of the article

580. It was explained that there is no duty for Singapore citizens to report corruption. However, there is a legal obligation that applies to every person within the jurisdiction of Singapore, to give information relating to corruption offences to the Director or any officer of the CPIB upon questioning under section 27 of the PCA.

581. For public officers, there is an express duty to report corruption. The Government Instruction Manual states that all public officers and selected persons exercising public

functions have to report any case where gratification is offered, accepted or demanded. Disciplinary action may be taken against a person who fails to do so. Furthermore, under section 32(2) of the PCA, a public officer who is offered or who receives gratification must arrest the person who offers or gives him the gratification and make over the person to the nearest police station. Failure to do so without reasonable excuse is a criminal offence.

582. Concerning the involvement and outreach by CPIB with civil society and non-governmental organizations (NGOs), it was explained that the CPIB has had some ad-hoc engagement with NGOs. In recent years, the CPIB has met with visiting Transparency International officials, at their request, on a number of occasions. There is presently no local anti-corruption NGO in Singapore. The lack of public initiative to set up such NGOs in Singapore may be attributable to the low levels of corruption in Singapore and the relative effectiveness of its anti-corruption framework. Even so, the CPIB indicated that it is prepared to engage any anti-corruption NGOs (both local and foreign) on related anti-corruption issues that affect Singapore.

(c) Successes and good practices

583. The efforts of CPIB, CAD (including STRO) in raising awareness and creating a culture of zero tolerance towards corruption through inter-agency cooperation and cooperation with the private sector were deemed effective measures in the fight against corruption.

Article 40 Bank secrecy

Each State Party shall ensure that, in the case of domestic criminal investigations of offences established in accordance with this Convention, there are appropriate mechanisms available within its domestic legal system to overcome obstacles that may arise out of the application of bank secrecy laws.

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

584. Singapore has a legislative framework of exceptions to the general statutory obligations of secrecy with respect to information relating to a bank's customers and their accounts. A key exception to banking secrecy can be found in Part I of the Third Schedule to the Banking Act (Chapter 19) ("Banking Act") [Annex 45] - disclosure of customer information is allowed (and further disclosure by the recipient to any other person is not prohibited) where:

1. disclosure is to a police officer or public officer or a court where it is necessary for reasons of investigation or prosecution;
2. disclosure is necessary for compliance with a garnishee order served on the bank attaching moneys in the account of the customer; and
3. disclosure is necessary for compliance with an order of the Supreme Court or a judge thereof pursuant to the powers conferred under Part IV of the Evidence Act (Chapter 97) ("EA") [Annex 42].

585. The Corrupt Practices Investigation Bureau routinely obtains information from banks (which would ordinarily be withheld under banking secrecy laws) in the course of

investigations by exercise of its powers under section 17 of the Prevention of Corruption Act (Chapter 241) [Annex 1] (read with section 20 of the Criminal Procedure Code [Annex 29]) and in exceptional cases, under section 18 of the PCA (with an order from the Public Prosecutor).

586. Similarly, the CAD routinely obtains information from banks pursuant to its powers under section 20 of the CPC. In addition, section 31 of the CDSA [Annex 10] also provides that the Public Prosecutor or any person duly authorized by the Public Prosecutor to investigate into an offence under the CDSA may apply to the High Court to order the production of materials held by a financial institution which includes banks.

587. Singapore cited the following texts.

Banking Act (Chapter 19) [Annex 45]

Parts I and II of the Third Schedule

Criminal Procedure Code (Chapter 68) ("CPC") [Annex 29]

sections 17, 18 and 20

Evidence Act (Chapter 97) [Annex 42]

Part IV

Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) ("CDSA") [Annex 10]

section 31

588. Singapore provided the following examples of implementation.

589. PP v. Lim Siew Cheng (unreported)

The accused was charged for assisting Arafat Rahman, the son of Bangladesh's ex-Prime Minister, to launder the latter's corrupt payments received from Siemens AG. Investigations revealed that the bribes were transferred to Arafat's account through his associate's bank account. CPIB retrieved the bank statements for both Arafat's and his associate's bank accounts under their powers under section 17 of the Prevention of Corruption Act, Chapter 241. CPIB also asked other major banks if Arafat held any other accounts. It was discovered that Arafat did have another United Overseas Bank account which was used to receive bribes in relation to projects in Bangladesh. Both of Arafat's bank accounts were frozen, and the funds therein were subsequently confiscated.

590. Centillion Environment & Recycling Ltd (formerly known as Citiraya Industries Ltd) v Public Prosecutor and others and another appeal [2013] 1 SLR 444 [Annex 38]

The accused Ng Teck Lee committed criminal breach of trust as a servant of Citiraya Industries Ltd. He channelled his criminal benefits to Hong Kong bank accounts maintained by an offshore company (which Ng controlled). Funds were then transferred

from the Hong Kong bank accounts to the bank accounts of several corporations and individuals for the purpose of purchasing shares, property and other assets. CPIB froze the funds in these bank accounts.

(b) Observations on the implementation of the article

591. Singapore has implemented the article.

Article 41 Criminal record

Each State Party may adopt such legislative or other measures as may be necessary to take into consideration, under such terms as and for the purpose that it deems appropriate, any previous conviction in another State of an alleged offender for the purpose of using such information in criminal proceedings relating to an offence established in accordance with this Convention.

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

592. Evidence of an accused's previous convictions in another country may be taken into account when passing sentence. This is established in local case law.

593. Singapore provided the following examples of implementation.

PP v Low Kam Hing (1998) (unreported)

The court made the following observations on the treatment of foreign previous convictions:

“The case of R v Postiglione (1991) 24 NSWLR 584 enunciated that evidence of previous convictions in another country may be taken into account when passing sentence. Evidence of previous foreign convictions is prima facie evidence of bad character. The case of R v Heard (1911) 7 Cr App R 80 was cited in the above case for the evidence of a conviction in France being held rightly to have been admitted to rebut a possible inference that in an interval since last conviction in England, an alleged habitual criminal was not persistently leading a dishonest or criminal life. In R v Ford (1921) 15 Cr App R 176, Darling J, in the course of approving this case, said:

‘It would be entirely against the public interest to exclude convictions outside the jurisdiction of this Court being taken into consideration by a judge when passing sentence.’”

594. This principle of common law, viz. that foreign antecedents can be taken into account when passing sentence, was recently affirmed in the following case.

Fricker Oliver v PP and another appeal and another matter [2011] 1 SLR 84[Annex 46]

The accused was a Swiss national who committed vandalism on public train carriages in Singapore. The Prosecution sought to admit evidence of his previous conviction in Switzerland for multiple incidents of property damage. The High Court allowed evidence of the accused's previous convictions to be admitted, as they were relevant and material to

the Prosecution's appeal against sentence. However, because the evidence lacked details, no real weight was attached to it. In enhancing the sentence from two to four months' imprisonment for other unrelated reasons, the High Court also noted the following:

"It is trite that an offender's antecedents are relevant to show whether the instant offence before the court is a manifestation of the offender's continuing disobedience of the law (see *Sim Yeow Seng v PP* [1995] 2 SLR(R) 466 at [8]-[9]). Enhanced sentences for repeat offenders are justified on the basis of specific deterrence, general deterrence and protection of the public (see *Tan Kay Beng v PP* [2006] 4 SLR(R) 10 at [14]). That the antecedents are from a foreign jurisdiction should not present additional difficulty, if they are clear."

595. Singapore referred to the above response regarding implementation examples.

(b) Observations on the implementation of the article

596. Singapore has implemented the article.

Article 42 Jurisdiction

Subparagraph 1 (a)

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

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

597. Under section 15(1)(a) of the Supreme Court of Judicature Act (Chapter 322) [Annex 30], the High Court of Singapore has jurisdiction to try all offences committed within Singapore.

598. Under section 50(2)(a) of the State Courts Act (Chapter 321) [Annex 43], the State Courts of Singapore have jurisdiction to try all offences committed within Singapore.

599. Local courts have criminal jurisdiction over offences of corruption and money-laundering committed within Singapore pursuant to the PCA and the CDSA.

600. Singapore cited the following texts.

Supreme Court of Judicature Act (Chapter 322) [Annex 30]

section 15(1)(a)

State Courts Act (Chapter 321) [Annex 43]

section 50(2)(a)

601. Singapore provided examples of implementation as follows.

Singapore has regularly exercised its jurisdiction over the offences established in accordance with the Convention. The numerous cases cited throughout this report are testament to that.

(b) Observations on the implementation of the article

602. Singapore has implemented the provision.

Article 42 Jurisdiction

Subparagraph 1 (b)

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:

(b) The offence is committed on board a vessel that is flying the flag of that State Party or an aircraft that is registered under the laws of that State Party at the time that the offence is committed.

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

603. By virtue of section 15(1)(b) of the Supreme Court of Judicature Act, Chapter 322 [Annex 30] and sections 50(2)(b) and 51(2)(b) of the State Courts Act, Chapter 321 [Annex 43], the Singapore courts have the jurisdiction to try all offences, including offences of corruption and money laundering committed by any person of any nationality on board any ship or aircraft registered in Singapore.

604. Moreover, in respect of corruption offences, extraterritorial jurisdiction is conferred in relation to Singapore citizens by section 37 Prevention of Corruption Act, Chapter 241 [Annex 1].

605. Singapore cited the following texts.

Prevention of Corruption Act (Chapter 241) ("PCA") [Annex 1]

section 37

Supreme Court of Judicature Act (Chapter 322) ("SCJA") [Annex 30]

section 15(1)(b)

State Courts Act (Chapter 321) ("SCA") [Annex 43]

sections 50(2)(b) and 51(2)(b)

606. No records of implementation have been kept.

(b) Observations on the implementation of the article

607. Singapore has implemented the provision

Article 42 Jurisdiction

Subparagraph 2 (a)

2. Subject to article 4 of this Convention, a State Party may also establish its jurisdiction over any such offence when:

(a) The offence is committed against a national of that State Party; or

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

608. Under section 29(b) of the Prevention of Corruption Act (Chapter 241) ("PCA") [Annex 1], Singapore has jurisdiction over an act by any person outside Singapore that relates to the affairs or business of or on behalf of a principal residing in Singapore, if such act would be an offence under PCA. A "principal" includes an employer, the Government and a public body.

609. In certain circumstances, the local courts have jurisdiction over offences committed against a national. Singapore referred to subparagraph 2 (b) of article 42.

610. Singapore cited the following texts.

Prevention of Corruption Act (Chapter 241) ("PCA") [Annex 1]

section 2: definition of "principal"

sections 29(b) and 37

Penal Code (Chapter 224) ("PC") [Annex 3]

sections 108A and 108B

(b) Observations on the implementation of the article

611. Singapore could establish jurisdiction in cases other than abetment (including conspiracies) over offences committed against nationals.

Article 42 Jurisdiction

Subparagraph 2 (b)

2. Subject to article 4 of this Convention, a State Party may also establish its jurisdiction over any such offence when:

(b) The offence is committed by a national of that State Party or a stateless person who has his or her habitual residence in its territory; or

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

Offence committed in Singapore

612. The Prevention of Corruption Act (Chapter 241) [Annex 1] applies to all persons, whether a national or otherwise, if the offence is committed in Singapore.

Offence committed outside of Singapore

613. Local statutes generally do not apply extraterritorially unless otherwise expressly stipulated. One such exception to this general principle of territorial jurisdiction is section 37 of the PCA which confers nationality jurisdiction i.e. the provisions of the PCA apply to all Singapore citizens, even when the act constituting an offence under the PCA is committed outside of Singapore.
614. Non-nationals who abet the commissions of offences which have an extraterritorial element i.e. where the principal offence was committed overseas, or the act of abetment of the principal offence was committed overseas, may be tried in Singapore. As long as the abetment of an offence was performed in Singapore, section 108A of the PC [Annex 3] enables Singapore to exercise jurisdiction over the offence which is committed outside Singapore, regardless of the nationality of the accused person. Section 108B of the PC criminalizes the acts of abetment done outside Singapore if an offence is committed in Singapore. It is notable that sections 108A and 108B apply to all criminal offences, including bribery and money-laundering.
615. Singapore cited the following texts.
- Prevention of Corruption Act (Chapter 241) ("PCA") [Annex 1]
- section 37
- Penal Code (Chapter 224, 2008 Revised Edition) ("PC") [Annex 3]
- sections 108A and 108B
616. Singapore provided the following case example.
617. PP v. Taw Cheng Kong [1998] 2 SLR(R) 489 [Annex 8]

The accused, a Singapore citizen, was Regional Manager (Asia Pacific) of the Government of Singapore Investment Corporation ("GIC"), based in Hong Kong. He was alleged to have accepted "incentive fees" from one Kevin Lee ("Lee") of Rockefeller & Co Inc. New York to make GIC purchases of certain counters in Hong Kong and Australia under Lee's instigation. The accused was tried and convicted of eight offences under section 6 read with section 37 of the PCA which provided that where an offence under the Act was committed by a citizen of Singapore in any place outside Singapore, that person could be dealt with in respect of that offence as if it had been committed in Singapore. The accused's appeal against conviction was allowed by the High Court which found (a) that section 37(1) of the PCA was in constitutional violation of article 12(1) of the Constitution; (b) that section 37(1) was ultra vires the powers of the Legislature; and (c)

that there was insufficient evidence for a conviction under the charges for corruption.

Pursuant to section 60 of the Supreme Court of Judicature Act (Chapter 322), the Attorney General and the Public Prosecutor applied for a criminal reference for two questions of law to be considered by the Court of Appeal, viz: (1) whether section 37 of the PCA was ultra vires the powers of the legislature; and (2) whether section 37 of the PCA was inconsistent with article 12(1) of the Constitution of the Republic of Singapore.

The Court of Appeal answered both questions in the negative and held that the extraterritorial provision in section 37(1) of the PCA was not ultra vires the powers of the legislature. It was valid so long as it did not offend the Constitution.

The concept of equality under article 12 of the Constitution did not mean that all persons were to be treated equally, but simply that all persons in like situations would be treated alike. The question was whether the classification in section 37(1) of the PCA on the grounds of citizenship was arbitrary or unreasonable. A classification was valid and did not offend the principle of equality if it was founded on an intelligible differentia and bore a rational or reasonable connection to the object of the impugned legislation.

The Court of Appeal noted that the language of section 37(1) was very wide, and the section was capable of capturing all corrupt acts by Singapore citizens outside Singapore, regardless of whether such corrupt acts had consequences within the borders of Singapore or not.

Under international law, a statute generally operated within the territorial limits of the Parliament that enacted it, and could not be construed as applying to foreigners outside its dominions. It was with this consideration that Parliament left non-citizens out of section 37(1) of the PCA. It was rational for section 37 to draw the line at citizenship and leave out non-citizens so as to observe international comity and the sovereignty of other nations.

The Court of Appeal also noted that it had been said to be settled law that any State might impose liabilities, even upon persons not within its allegiance, for conduct outside its borders that had consequences within its borders which the State reprehended. As Singapore becomes increasingly cosmopolitan, it might well have been more compelling and effective for Parliament to adopt the effects doctrine as the foundation of our extraterritorial laws in addressing potential mischief.

(b) Observations on the implementation of the article

618. The reviewers welcome indications by Singapore that it is considering establishing jurisdiction over persons habitually resident in Singapore.

Article 42 Jurisdiction

Subparagraph 2 (c)

2. Subject to article 4 of this Convention, a State Party may also establish its jurisdiction over any such offence when:

(c) The offence is one of those established in accordance with article 23, paragraph 1 (b) (ii), of this Convention and is committed outside its territory with a view to the commission of an offence established in accordance with article 23, paragraph 1 (a) (i) or (ii) or (b) (i), of this Convention within its territory; or

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

619. As explained in answer to Subparagraph 2 (b) of article 42, pursuant to sections 108A and 108B of the Penal Code [Annex 3], local courts have the jurisdiction to try the abetment of offences with extraterritorial elements. For the specific offences relating to the handling of proceeds of crime, Singapore referred to subparagraph 1 (a) (i) of article 23.

620. While there is no general jurisdiction to try offences of attempt that occurred extraterritorially, exceptions do exist. For instance, the Tokyo Convention Act (Chapter 327) [Annex 47], relating to offences committed aboard Singapore-controlled aircraft, or section 37 of the Prevention of Corruption Act (Chapter 241) [Annex 1] where jurisdiction is conferred over corruption offences committed by Singapore citizens even where they are committed outside Singapore.

621. Singapore cited the following texts.

Penal Code (Chapter 224) ("PC") [Annex 3]

Part V

sections 108A, 108B and 511

sections 410 to 414

sections 213 and 215

Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Chapter 65A) ("CDSA") [Annex 10]

Part VI

Tokyo Convention Act (Chapter 327) ("TCA") [Annex 47]

Prevention of Corruption Act (Chapter 241) ("PCA") [Annex 1]

section 37

622. No records of implementation have been kept.

(b) Observations on the implementation of the article

623. Singapore has legislatively implemented the provision.

Article 42 Jurisdiction

Subparagraph 2 (d)

2. Subject to article 4 of this Convention, a State Party may also establish its jurisdiction over any such offence when:

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

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

624. There is no distinction drawn between offences committed against the Government or a national. Thus, the same rules governing jurisdiction as explained in the answers to Subparagraphs 2 (b) and 2 (c) of article 42 apply.

625. Singapore cited the following texts.

Prevention of Corruption Act (Chapter 241) ("PCA") [Annex 1]

sections 29(b) and 37

Penal Code (Chapter 224) ("PC") [Annex 3]

Part V

sections 108A, 108B and 511

626. Singapore provided the following case examples.

627. PP v. Taw Cheng Kong [1998] 2 SLR(R) 489 [Annex 8]

In this case, the Court of Appeal upheld the constitutionality of section 37 of the PCA. Accordingly, section 37 PCA could apply to the accused, who was based in Hong Kong as the Asia Pacific regional manager of the Government of Singapore Investment Corporation Pte Ltd ("GIC"), and was alleged to have accepted "incentive fees" from one Kevin Lee of Rockefeller & Co Inc New York to make GIC purchases of certain counters in Hong Kong and Australia under the latter's instigation.

628. PP v. Phey Mui Hoon (unreported)

The accused was a Senior Immigration Officer employed by the Singapore Immigration and Registration Department, and attached to the Singapore embassy in Beijing, China. She was in charge of approving and rejecting applications for business or tourist visas submitted by foreign nationals to the said Singapore embassy. Investigation revealed that whilst in China and Inner Mongolia, the accused had received bribes in the form of free air fares, meals and hotel accommodations from 2 Chinese nationals, in return for expediting their visa applications. She had also received bribes in the form of cash from another 2 Chinese nationals in return for approving their visa applications. Separately, she had also received bribes in China from a Singaporean, David Chau Soo Guan, in return for approving the visas of 4 Chinese nationals. The accused pleaded guilty in June 2003 to 2 charges under section 6(a) of the Prevention of Corruption Act, Chapter 241 with

another 5 charges taken into consideration for the purpose of sentencing. She was sentenced to 10 months' imprisonment and had to pay a penalty of S\$3,020 (equivalent to the bribes received).

(b) Observations on the implementation of the article

629. Singapore could establish jurisdiction in cases other than abetment (including conspiracies) over offences committed against the State.

Article 42 Jurisdiction

Paragraph 3

3. For the purposes of article 44 of this Convention, each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when the alleged offender is present in its territory and it does not extradite such person solely on the ground that he or she is one of its nationals.

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

630. Singapore's domestic law allows it to extradite its nationals. In most cases, one of the two courses of action - extradition or prosecution - will be embarked upon. However, the decision whether to extradite or prosecute domestically in any case depends largely on the facts as well as the terms of the extradition treaty under consideration.

631. However, as specified in Singapore's extradition treaties with Germany [Annex 49] and Hong Kong Special Administrative Region [Annex 48], the fact that the fugitive is a national of the requested party is a ground of refusal to extradition. In the extradition treaty with Germany, there is no obligation for either country to prosecute if extradition is refused on the basis of the fugitive's nationality. In the extradition treaty with Hong Kong Special Administrative Region, where the requested party refuses extradition, the requesting party may request that the case be submitted to the competent authorities of the requested party in order that proceedings for prosecution of the fugitive may be considered.

632. Singapore cited the following texts.

Extradition (Hong Kong Special Administrative Region of the People's Republic of China) Notification (Chapter 103, N1) [Annex 48]

The Schedule

Federal Republic of Germany (Extradition) Order in Council (Chapter 103, S782/2010) [Annex 49]

First Schedule

(b) Observations on the implementation of the article

633. It was explained that Singapore has laws to prosecute its own nationals for Convention offences, where these offences are committed extra-territorially (see subparagraphs 2 (a) to (d) of Article 42). Singapore takes the view that this is sufficient to satisfy the mandatory nature of paragraph 3 of article 42, which requires each State Party to establish jurisdiction over Convention offences when the offender is within its territory and is not extradited solely on the ground that he is a Singaporean citizen.

634. Separately, if Singapore's treaty partners are of the view that it is necessary, Singapore is prepared to consider reviewing its extradition treaties with Germany and Hong Kong Special Administrative Region to determine if it is appropriate to impose an obligation to prosecute in *all* cases where extradition has been refused solely on the ground of nationality.

Article 42 Jurisdiction

Paragraph 4

4. Each State Party may also take such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when the alleged offender is present in its territory and it does not extradite him or her.

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

635. Singapore notes that this is not a mandatory provision. Where the alleged offender is present in Singapore, Singapore will consider the feasibility of prosecuting the offender - e.g. the availability of evidence for a successful prosecution.

(b) Observations on the implementation of the article

636. Singapore could establish jurisdiction over offenders present in its territory where it does not extradite them.

Article 42 Jurisdiction

Paragraph 5

5. If a State Party exercising its jurisdiction under paragraph 1 or 2 of this article has been notified, or has otherwise learned, that any other States Parties are conducting an investigation, prosecution or judicial proceeding in respect of the same conduct, the competent authorities of those States Parties shall, as appropriate, consult one another with a view to coordinating their actions.

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

637. Singapore does engage in various acts of cooperation with our foreign counterparts, for instance, sharing of intelligence, assisting in retrieving evidence and interviewing of witnesses, freezing or seizing assets suspected or are proven to be criminal proceeds etc.

638. Singapore provided the following case example.

PP v Thana Segar S Sinnaiah and Shokri Bin Nor (unreported)

Both accused persons are Malaysians. Shokri Bin Nor (“Shokri”) faced a charge of corruptly attempting to obtain gratification from a Singaporean for fixing the results of a soccer match which was to be played in Singapore. Thana Segar S Sinnaiah (“Thana”) faced a charge of abetting Shokri to corruptly attempt to obtain gratification. Both accused persons absconded whilst on bail after being charged in court. CPIB has sought the assistance of their Malaysian counterparts to locate the two accused persons.

(b) Observations on the implementation of the article

639. The provision is implemented.

Article 42 Jurisdiction

Paragraph 6

6. Without prejudice to norms of general international law, this Convention shall not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

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

640. Singapore has enacted laws to establish its criminal jurisdiction over offences in this Convention.

641. Singapore indicated that it has regularly exercised its jurisdiction over the offences established in accordance with the Convention. The numerous cases cited throughout this report are testament to that.

(b) Observations on the implementation of the article

642. The provision is implemented.

Chapter IV. International cooperation

643. As a general observation, the reviewers notice that Singapore's system for international cooperation in corruption cases is advanced and well-developed. The legal framework for cooperation is based on legislation and a large number of treaties, provides major forms of assistance and appears to function well in practice. Commensurate with its role as a major financial center, Singapore is fairly active in responding to foreign requests for legal assistance. The designated central authority for extradition plays an important role in the cooperation process.
644. The AGC is the Central Authority for extradition. Requests are received either through the Ministry of Foreign Affairs or the AGC, and processed by the AGC. AGC will consider the legal aspects of the request before making a recommendation to the Minister for Law who will, based on AGC's recommendation, determine whether to proceed with the request. If the determination is to proceed, the fugitive will be apprehended based on a warrant of apprehension issued by a magistrate, and a committal hearing will be conducted in the Singapore courts. The magistrate's findings in respect of extradition may be subject to legal challenge. The Minister for Law orders the surrender if the fugitive is committed and all legal requirements are met. Surrender is arranged with requesting States.
645. The review team noted the positive role of AGC in ensuring a cooperative working relationship among criminal justice authorities, especially in the efficient processing of international cooperation requests.
646. The AGC's website (<https://www.agc.gov.sg>) provides information on international cooperation procedures, template forms for international cooperation and contact details. To strengthen internal coordination, AGC has created flowcharts and procedures to monitor processing of requests, which create greater certainty for processing requests. Singapore acknowledges all requests within days of their receipt and provides guidance to requesting countries online and bilaterally (including reviewing advance copies of requests).
647. A unique feature of AGC is the dedicated case management database, the Enterprise Legal Management System ("ELMS") for international cooperation, which allows AGC to quickly provide status updates and ensures timely, accurate and efficient execution and tracking of requests, including remotely. This could be emulated by other countries. ELMS allows for the collection of disaggregated data on international cooperation based on the predicate offence and facilitates the monitoring of the execution of requests.
648. It is also positively noted that Singapore has not refused any requests for MLA or extradition in relation to UNCAC offences.

Article 44 Extradition

Paragraph 1

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.

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

649. The Attorney-General's Chambers of Singapore ("AGC") is the Central Authority for extradition. Under Singapore's laws, extradition is conditional on the existence of an extradition treaty or arrangement with a requesting or requested country. The primary legislation governing extradition is the **Extradition Act: Annex 1**. Sections 3-17 of the Extradition Act provide for extradition to and from foreign States. Sections 18-31 of the Extradition Act provide for extradition to and from declared Commonwealth countries. Sections 32-39 of the Extradition Act provide for extradition to and from Malaysia. Dual criminality is a fundamental principle for extradition under Singapore law. It is flexibly applied, considering the underlying conduct.

650. Singapore has bilateral extradition treaties (with non-Commonwealth countries) and extradition arrangements (with declared Commonwealth countries) with more than 40 jurisdictions, and is party to a number of multilateral instruments which provide for extradition between State Parties (e.g. International Convention for the Suppression of the Financing of Terrorism).

651. Extradition is routinely granted where the request is in accordance with domestic legal and treaty requirements. Dual criminality, a prerequisite to extradition from Singapore, is applied flexibly. Singapore used the conduct-based approach, and not the label or elements approach, to assessing dual criminality: **Wong Yuh Lan & Ors v PP** [2012] SGHC 161: **Annex 2**. Technical differences in the manner in which another country categorises or denominates the offence accordingly does not pose an impediment to the provision of extradition.

(b) Observations on the implementation of the article

652. Sections 3-17 of the Extradition Act provide for extradition to and from foreign States and seem to be the legal basis for extradition. However, Singapore indicates that extradition is conditional on the existence of an extradition treaty or arrangement with a requesting or requested country, and there is furthermore a specified provision for extradition for Commonwealth countries and Malaysia in the Extradition Act but not for other countries. Clarification was provided on the extradition procedures with countries where there are no bilateral or multilateral treaties or arrangements that cover extradition as follows.

653. Where Singapore is unable to extradite a fugitive due to the absence of a treaty or arrangement or for other reasons, Singapore would try its best to render other forms of assistance to the requesting country, including, in appropriate cases, providing the fugitive's movement records so that the requesting country can seek the extradition of the fugitive from other countries which may have an extradition relationship with the requesting country should the fugitive leave Singapore.

654. Singapore provided the following statistics on extradition.

Between 2011 and 2014, Singapore received 6 incoming extradition requests. Singapore was unable to execute a total of 3 requests because the persons sought were not present in Singapore (2 requests) and because there was no extradition treaty between Singapore and the requesting State (1 request).

Article 44 Extradition

Paragraph 2

2. Notwithstanding the provisions of paragraph 1 of this article, a State Party whose law so permits may grant the extradition of a person for any of the offences covered by this Convention that are not punishable under its own domestic law.

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

655. Singapore indicated that the provision is not applicable. All offences in the UNCAC are extraditable under Singapore law.

(b) Observations on the implementation of the article

656. It was explained that all offences in the UNCAC are extraditable under Singapore law. For instance, Singapore recently extradited **Radius Christanto [Annex 6]** who was wanted for serious charges of bribery of foreign officials to Australia. The fugitive has been convicted by the Australian authorities.

Article 44 Extradition

Paragraph 3

3. If the request for extradition includes several separate offences, at least one of which is extraditable under this article and some of which are not extraditable by reason of their period of imprisonment but are related to offences established in accordance with this Convention, the requested State Party may apply this article also in respect of those offences.

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

657. Singapore referred to paragraph 1 of article 44 of the UNCAC.

658. At the time of preparing this report, Singapore did not have any examples of the implementation of this provision.

(b) Observations on the implementation of the article

659. It was explained that under Singapore's extradition law, the period of imprisonment is one of the factors determining whether an offence is extraditable for extradition to declared Commonwealth countries. The minimum period of imprisonment is a relatively short one of 12 months which most (if not all) declared Commonwealth countries would be able to satisfy. This minimum period of imprisonment requirement does not apply to Singapore's extradition treaties with the US, Germany and Hong Kong SAR.

660. It was further explained that to date, there has not been a case where Singapore was unable to extradite a fugitive wanted for an UNCAC offence simply because of its period of imprisonment. As stated under article 44(2), all the UNCAC offences are extraditable under Singapore law.

Article 44 Extradition

Paragraph 4

4. Each of the offences to which this article applies shall be deemed to be included as an extraditable offence in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them. A State Party whose law so permits, in case it uses this Convention as the basis for extradition, shall not consider any of the offences established in accordance with this Convention to be a political offence.

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

661. Singapore adopts the list approach to defining extradition crimes. The lists in the extradition treaties and arrangements are wide enough to allow the offences under the UNCAC to be extraditable. Depending on the facts, the offences under -

[a] Articles 15, 16, 18, 19 and 21 of the UNCAC can fall within, for instance, serial numbers 13 and 21 of the First Schedule of the Extradition Act;

[b] Articles 17 and 22 of the UNCAC can fall within, for instance, serial number 18 of the First Schedule;

[c] Articles 20, 23 and 24 of the UNCAC can fall within, for instance, serial number 26 of the First Schedule; and

[d] Article 25 of the UNCAC can fall within, for instance, serial number 14 of the First Schedule.

662. Concerning a sample of relevant extradition treaties, Singapore referred to:

Singapore's extradition treaties with Hong Kong SAR and Germany, which are attached as a sample: see [Annexes 3 and 4](#).

(b) Observations on the implementation of the article

663. It was explained that under Singapore law, extradition is only available to countries which have an extradition relationship with Singapore, whether by way of an extradition treaty or arrangement. Where Singapore is unable to extradite a fugitive for this or other reasons, Singapore would try its best to render other forms of assistance to the requesting country, including, in appropriate cases, providing the fugitive's movement records so that the requesting country can seek the extradition of the fugitive from other countries should the fugitive leave Singapore.

Article 44 Extradition

Paragraph 5

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.

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

664. Singapore indicated that it makes extradition conditional on the existence of a treaty.

665. Singapore does not consider this Convention as a legal basis for extradition in respect of offences under the Convention (see paragraph 6 of article 44 below).

(b) Observations on the implementation of the article

666. Article 44(5) of the UNCAC is an optional measure. Singapore provided the following explanation of why it does not consider the Convention as a legal basis for extradition.

Instead of a multilateral extradition treaty, Singapore's preference is for extradition to be based on a bilateral or regional extradition treaty that is developed in line with the specific domestic legal requirements, with full understanding of the respective legal processes and extradition procedures, of the Parties. Such an approach would better avoid uncertainty, and thus ensure success in extradition.

667. Noting the optional nature of article 44(5) of UNCAC, Singapore may wish to consider applying this Convention as the legal basis for extradition in respect of UNCAC offences and, should this not be possible, Singapore may wish to consider concluding additional bilateral or multilateral treaties.

Article 44 Extradition

Subparagraph 6 (a)

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

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

668. Singapore had informed the Secretary-General of the United Nations at the time of ratification in 2009 that it does not consider the Convention as a legal basis for cooperation on extradition with other States parties. Please see the depositary notification referenced in the introduction to this report (C.N.824.2009.TREATIES-37⁶). At the moment, Singapore has no plans to consider the UNCAC as a legal basis for extradition.

⁶ <https://treaties.un.org/doc/Publication/CN/2009/CN.824.2009-Eng.pdf>

(b) Observations on the implementation of the article

669. Singapore has made the declaration required of it under Article 44(6)(a) at the time of deposit of its instrument of ratification.

Article 44 Extradition

Subparagraph 6 (b)

6. A State Party that makes extradition conditional on the existence of a treaty shall:

(b) If it does not take this Convention as the legal basis for cooperation on extradition, seek, where appropriate, to conclude treaties on extradition with other States Parties to this Convention in order to implement this article.

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

670. Singapore indicated that it has not concluded treaties on extradition with other States parties to this Convention in order to implement this article.

(b) Observations on the implementation of the article

671. Singapore indicated that it is currently working with other members of the ASEAN to come up with a model ASEAN extradition treaty. Once completed, this will form the basis for Singapore to conclude extradition treaties with other ASEAN countries.

Article 44 Extradition

Paragraph 7

7. States Parties that do not make extradition conditional on the existence of a treaty shall recognize offences to which this article applies as extraditable offences between themselves.

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

672. The provision is not applicable since Singapore makes extradition conditional on the existence of a treaty.

(b) Observations on the implementation of the article

673. Singapore considers that the provision is not applicable, since Singapore makes extradition conditional on the existence of a treaty.

Article 44 Extradition

Paragraph 8

8. Extradition shall be subject to the conditions provided for by the domestic law of the requested State Party or by applicable extradition treaties, including, inter alia, conditions in

relation to the minimum penalty requirement for extradition and the grounds upon which the requested State Party may refuse extradition.

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

674. The conditions to extradition are found in the various extradition treaties ([see extradition treaty with Hong Kong SAR as an example](#)), as well as Sections 7 and 8 (for treaty countries) and Sections 21, 22 and 31 (for countries with which Singapore has treaty arrangements under the London Scheme) of the Extradition Act.

675. Singapore provided the following examples of implementation.

Examples of cases where the conditions for extradition were considered by Singapore include [Wong Yuh Lan & Ors v PP](#) [2012] SGHC 161 (dual criminality) [[Annex 2](#)] and [John Muhia Kangu v Director of Prisons](#) [1996] SGHC 110 (grounds of refusal) [[Annex 5](#)]. Also attached is a recent case where pursuant to a request from Australia, Singapore extradited a fugitive [RADIUS Christanto](#) [[Annex 6](#)] who was wanted for serious charges of bribery of foreign officials. The fugitive has been convicted by the Australian authorities.

676. Singapore provided the following information on conditions and grounds upon which extradition requests were refused.

To date, Singapore has not refused any request for extradition relating to UNCAC offences.

(b) Observations on the implementation of the article

677. The reviewers are satisfied with the information provided.

Article 44 Extradition

Paragraph 9

9. States Parties shall, subject to their domestic law, endeavour to expedite extradition procedures and to simplify evidentiary requirements relating thereto in respect of any offence to which this article applies.

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

678. Just like other Commonwealth countries under the London Scheme, Singapore requires the provision of prima facie evidence to enable extradition. The evidentiary requirements are applied in a flexible and reasonable manner. The Singapore Central Authority will conduct queries and consultations through informal channels to expedite the request. Assuming that the extradition papers are in order, the evidentiary requirements are met, and there is no contest to the extradition, a fugitive can be extradited within weeks on receiving the request.

679. Singapore provided the following examples of implementation.

In 2013, Singapore extradited a Singapore national to the United Kingdom (wanted for theft of diamonds) within 3 months of her arrest in Singapore pursuant to the extradition

request. This is despite the fact that the fugitive challenged a lower court's decision to deny her bail pending extradition proceedings.

(b) Observations on the implementation of the article

680. It was explained that the evidentiary standard to be met to enable extradition is the provision of credible evidence to establish a *prima facie* case for a fugitive to answer. The *prima facie* case threshold is a low one which is easily satisfied. All that is required to meet this threshold is the production of some evidence that is not inherently incredible, which if the court were to accept as true and accurate would establish that the fugitive's conduct if committed in Singapore would constitute an offence under Singapore law (*John Muhia Kangu v Director of Prisons* [1996] 2 SLR (R) 211 [Annex 5]; *Haw Tua Tau v Public Prosecutor* [1981-1982] SLR(R) 133 [Enclosure A]). In determining whether to allow extradition, the court hearing the matter does not have to (a) consider the possible substantive arguments which the fugitive may raise in his/her defence; (b) decide whether there are sufficient grounds for convicting the fugitive; (c) test the strength of the evidence produced; or (d) inquire into issues of foreign law.

(c) Successes and good practices

681. The evidentiary requirements for extradition are applied in a flexible and reasonable manner. Case examples evidencing the expeditious surrender of persons to requesting States were provided.

Article 44 Extradition

Paragraph 10

10. Subject to the provisions of its domestic law and its extradition treaties, the requested State Party may, upon being satisfied that the circumstances so warrant and are urgent and at the request of the requesting State Party, take a person whose extradition is sought and who is present in its territory into custody or take other appropriate measures to ensure his or her presence at extradition proceedings.

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

682. Singapore authorities can, pursuant to urgent requests, apply to the Singapore courts to provisionally arrest fugitives, pending the receipt of the formal extradition request. Such applications can be made under Section 10(1)(b) (requests from treaty partners) and Section 23(1)(b) (for requests from countries with which Singapore has treaty arrangements with under the London Scheme) of the Extradition Act. See also Article 12 of *Singapore's treaty with Hong Kong SAR* [Annex 3].

683. Singapore provided the following information on recent court or other cases in which a person whose extradition was sought and who was present in its territory has been taken into custody and cases in which other appropriate measures were taken to ensure his or her presence at extradition proceeding.

Fugitives are typically taken into custody. Examples of such cases (which are reported in written court decisions) include *John Muhia Kangu v Director of Prisons* [1996] SGHC

110 [Annex 5] and *Son Kaewsra and others v Superintendent of Changi Prison and another* [1991] SGHC 95 [Annex 8].

(b) Observations on the implementation of the article

684. While welcoming Singapore's availability to assist requesting States with videoconferencing and other forms of assistance for purposes of obtaining evidence in investigations, prosecutions or judicial proceedings, the reviewers are of the view that Singapore may wish to consider making arrangements so that detained persons can give evidence in appropriate cases.

Article 44 Extradition

Paragraph 11

11. A State Party in whose territory an alleged offender is found, if it does not extradite such person in respect of an offence to which this article applies solely on the ground that he or she is one of its nationals, shall, at the request of the State Party seeking extradition, be obliged to submit the case without undue delay to its competent authorities for the purpose of prosecution. Those authorities shall take their decision and conduct their proceedings in the same manner as in the case of any other offence of a grave nature under the domestic law of that State Party. The States Parties concerned shall cooperate with each other, in particular on procedural and evidentiary aspects, to ensure the efficiency of such prosecution.

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

685. Singapore's law does not place any restrictions on the extradition of its nationals (see Sections 7, 8, 21 and 22 of the *Extradition Act* [Annex 1]). However, at the request of its treaty partners, Singapore has agreed to provide for nationality as a ground for refusal in its *extradition treaties with Hong Kong SAR* (discretionary ground: see Article 3 of the treaty) [Annex 3] and *Germany* (mandatory ground: see Article III of the treaty) [Annex 4]. The 'extradite or prosecute' provision can only be found in the Hong Kong SAR treaty but not the Germany treaty. In the case of Hong Kong SAR, Singapore so far has not had the occasion to refuse extradition on the basis that the wanted person is a Singapore national. Should such an occasion arise, the Singapore authorities will, at the request of the Hong Kong SAR, submit the case without undue delay to the relevant authorities to consider prosecution in accordance with the terms of the bilateral extradition treaty with Hong Kong SAR.

686. Singapore provided the following information on recent court or other cases submitted for prosecution by its authorities.

The most recent example is where Singapore extradited a national to the United Kingdom for theft of diamonds (see *Annex 21*).

(b) Observations on the implementation of the article

687. It was explained that Singapore has extradited its nationals (see e.g., *Wong Yuh Lan & Ors v PP* [2012] SGHC 161 [Annex 2] where two Singapore nationals were extradited to the United States). It therefore follows that, except in cases where the extradition treaty with Germany or Hong Kong SAR applies, there will not be cases where extradition is

refused by Singapore “*solely on the ground that*” the fugitive is its national and thus there will be no examples of cases being submitted for prosecution where extradition is refused “*solely on the ground that*” the fugitive is a Singapore national. As for cases coming within the extradition treaties with Germany and Hong Kong SAR, thus far there had been no specific cases arising under either treaty where extradition is refused by Singapore “*solely on the ground that*” the fugitive is its national.

688. Outside the context of article 44(11), there have been cases where extradition was refused on other grounds and Singapore has proceeded to prosecute the subject in Singapore. Examples of such cases were provided during the country visit.

Article 44 Extradition

Paragraph 12

12. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State Party to serve the sentence imposed as a result of the trial or proceedings for which the extradition or surrender of the person was sought and that State Party and the State Party seeking the extradition of the person agree with this option and other terms that they may deem appropriate, such conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 11 of this article.

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

689. The provision is not applicable. Singapore referred to paragraph 11 of article 44 of the UNCAC.

(b) Observations on the implementation of the article

690. Singapore does not require the conditional extradition of nationals. Singapore confirmed that conditional extradition is neither permitted nor provided for in Singapore law. Accordingly, article 44(12) has no application to Singapore.

Article 44 Extradition

Paragraph 13

13. If extradition, sought for purposes of enforcing a sentence, is refused because the person sought is a national of the requested State Party, the requested State Party shall, if its domestic law so permits and in conformity with the requirements of such law, upon application of the requesting State Party, consider the enforcement of the sentence imposed under the domestic law of the requesting State Party or the remainder thereof.

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

691. The provision is not applicable. Singapore referred to paragraph 11 of article 44 of the UNCAC.

692. Under Singapore’s extradition treaties with Hong Kong SAR and Germany (see

Articles 3 and III of the respective treaties), Singapore is not obliged to consider the enforcement of the sentence imposed under the law of Hong Kong SAR or Germany where extradition has been refused on the ground that the fugitive is a Singapore national.

(b) Observations on the implementation of the article

693. Singaporean authorities explained that Singapore's domestic law does not permit the Singapore prisons to enforce sentences imposed by a foreign court. Under Section 35 of the Singapore Prisons Act, the Singapore prisons are only authorized to detain persons committed to their custody by a Singapore court or official. Accordingly, Singapore would not enforce a foreign sentence as provided in article 44(13).

Article 44 Extradition

Paragraph 14

14. Any person regarding whom proceedings are being carried out in connection with any of the offences to which this article applies shall be guaranteed fair treatment at all stages of the proceedings, including enjoyment of all the rights and guarantees provided by the domestic law of the State Party in the territory of which that person is present.

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

694. Sections 6-13 (for treaty countries) and Sections 20-28 and 31 (for countries with which Singapore has extradition arrangements pursuant to the London Scheme), and Sections 35-38 (Malaysia) of the **Extradition Act** [Annex 1].

695. Singapore provided the following examples of implementation, including related court or other cases.

All extradition proceedings in Singapore are conducted in conformity with due process and fundamental fairness. These safeguards can be found in the Extradition Act. For instance, upon his arrest, a fugitive is brought before a judge (Sections 25 and 26). He is entitled to an extradition hearing during which the State will have to satisfy the judge that the conditions to extradition are met (see Section 21). The fugitives can engage lawyers, and ask for time to prepare for extradition hearings (the progress of the extradition proceedings is reviewed by a judge on a weekly basis until the extradition hearing is concluded). The fugitive has the right to be heard during the hearing. If the judge finds that a fugitive is legally liable to be extradited, the fugitive can challenge the finding. The Minister for Law will review the judge's finding in determining whether the fugitive should be surrendered to the requesting State.

(b) Observations on the implementation of the article

696. Singapore indicated that an example where a fugitive exercised his right under the Extradition Act to challenge his extradition on the basis that it was politically motivated is **John Muhia Kangu v Director of Prisons** [1996] SGHC 110 [Annex 5]. In this case, the fugitive also argued that (a) some of the documents placed before the committing district judge that formed the basis of his extradition was irregular and invalid; and (b) he was

subject to some ill-treatment while in custody. The High Court reviewing the decision of the committing judge rejected the fugitive's allegations.

697. **Son Kaewsu and others v Superintendent of Changi Prison and another** [1991] SGHC 95 [**Enclosure B**] is a case involving three fugitives who were wanted by the United States of America for drug offences. The fugitives alleged illegality of the extradition proceedings on several grounds, including (a) the prison authorities acted oppressively; (b) as the initial orders for remand were illegal as they were issued for a period exceeding one week, all subsequent remand orders were rendered unlawful; (c) the conditions for committal to custody pending the Minister's order for extradition were not satisfied. The High Court reviewing the decision of the district judge dismissed the fugitives' applications for habeas corpus after hearing the submissions made by the fugitives' lawyers and the Singapore Attorney-General's Chambers.

Article 44 Extradition

Paragraph 15

15. Nothing in this Convention shall be interpreted as imposing an obligation to extradite if the requested State Party has substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on account of that person's sex, race, religion, nationality, ethnic origin or political opinions or that compliance with the request would cause prejudice to that person's position for any one of these reasons.

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

698. Singapore cited Sections 7, 8, 21 and 22 of the Extradition Act.

699. Singapore provided the following examples of implementation.

An example where a fugitive exercised his right under the Extradition Act to challenge his extradition on the basis that it was politically motivated is **John Muhia Kangu v Director of Prisons** [1996] SGHC 110 [**Annex 5**].

700. So far, Singapore has not refused extradition on the grounds of a discriminatory or political purpose of the request.

(b) Observations on the implementation of the article

701. The provision is implemented.

Article 44 Extradition

Paragraph 16

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

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

702. Under Singapore's law, there is no provision which requires Singapore to refuse or deny extradition requests solely on the ground that the offence involves fiscal matters. If the requirements for extradition are met, Singapore will be able to proceed with the request.

703. So far, Singapore has not received requests involving fiscal matters from its extradition treaty partners.

(b) Observations on the implementation of the article

704. The provision is implemented.

Article 44 Extradition

Paragraph 17

17. Before refusing extradition, the requested State Party shall, where appropriate, consult with the requesting State Party to provide it with ample opportunity to present its opinions and to provide information relevant to its allegation.

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

705. There is no relevant legal provision.

706. When processing extradition requests, the Central Authority of Singapore will seek clarifications from the requesting State if there are reasons to think that the request is inadequate. During the court proceedings relating to the extradition request, the Singapore authorities will keep in close touch with the requesting State to ensure that the requesting State's inputs are sought on issues to be addressed in court.

707. Singapore regularly consults with requesting States in processing extradition requests. Due to the confidential nature of such exchanges, Singapore will not be able to share the details of such exchanges.

(b) Observations on the implementation of the article

708. Taking into account the efforts to execute requests as soon as possible, and the practice of consulting with requesting States parties prior to postponing or refusing requests, Singapore may wish to document this position, e.g., by including it in the workflow or standard operating procedures of the AGC.

Article 44 Extradition

Paragraph 18

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

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

709. As noted under paragraph 1, Singapore has bilateral extradition treaties (with non-Commonwealth countries) and extradition arrangements (with declared Commonwealth countries) with more than 40 jurisdictions, and is party to a number of multilateral instruments which provide for extradition between States (e.g. International Convention for the Suppression of the Financing of Terrorism).

710. Singapore is actively engaged in the development of an ASEAN model extradition treaty with the 9 other ASEAN Member States.

(b) Observations on the implementation of the article

711. The provision is implemented.

Article 45 Transfer of sentenced persons

States Parties may consider entering into bilateral or multilateral agreements or arrangements on the transfer to their territory of persons sentenced to imprisonment or other forms of deprivation of liberty for offences established in accordance with this Convention in order that they may complete their sentences there.

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

712. Singapore has received and considered proposals from other countries to enter into agreements on the transfer of sentenced persons but has thus far not concluded any such agreement.

713. Article 45 is an optional measure. Singapore has thus far not concluded any transfer of sentenced persons agreements.

(b) Observations on the implementation of the article

714. Singapore has considered adopting, but thus far not concluded, transfer of sentenced persons agreements.

Article 46 Mutual legal assistance

Paragraph 1

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.

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

715. Singapore's domestic mutual legal assistance ("MLA") laws may be found in the Mutual Assistance in Criminal Matters Act ("MACMA"). Where the types of assistance do not fall within the MACMA (e.g. recording of witness statements by foreign authorities for the purpose of investigations), these may still be provided through other channels (e.g. law enforcement agencies, Singapore's Financial Intelligence Unit, exchange of information provisions in double taxation agreements) subject to domestic

law.

716. Singapore has MLA treaties with the United States, India and Hong Kong SAR, and is a party to the Treaty on MLA in Criminal Matters Among like-minded ASEAN Member Countries, the UNTOC and a number of other multilateral treaties with MLA provisions. Since 2006, Singapore can provide MLA on the basis of reciprocity without the need for a treaty.

717. Please find attached –

[1] the **Mutual Legal Assistance in Criminal Matters Act** (“MACMA”) which is the Singapore MLA law: **Annex 9**,

[2] **Singapore’s MLA treaty with Hong Kong SAR** (as an example of a bilateral MLA treaty): **Annex 7**, and

[3] the **Treaty on MLA in Criminal Matters Among like-minded ASEAN Member Countries** (as an example of a regional MLA treaty to which Singapore is a party): **Annex 10**.

(b) Observations on the implementation of the article

718. Singapore has processed the following number of incoming mutual legal assistance requests relating to offences under the UNCAC between 2012 and November 2014:

Year	Number of requests	Number rejected
2012	48	0
2013	75	0
2014	88	0
Total	211	0

As indicated in the table above, Singapore processed a total of 211 incoming mutual legal assistance requests relating to offences under the UNCAC between 2012 and November 2014 and did not reject any of the said requests.

Article 46 Mutual legal assistance

Paragraph 2

2. Mutual legal assistance shall be afforded to the fullest extent possible under relevant laws, treaties, agreements and arrangements of the requested State Party with respect to investigations, prosecutions and judicial proceedings in relation to the offences for which a legal person may be held liable in accordance with article 26 of this Convention in the requesting State Party.

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

719. Singapore referred to paragraph 1 of article 46 of the UNCAC.

720. Singapore provided the following examples of implementation and related court or other cases.

Please see **Annex 11**, containing a short write-up on 3 MLA requests concerning Pokerstar,

Zasz and Fairhill. In the cases of Zasz and Fairhill, Singapore had given a presentation at the 4th StAR-Interpol Global Focal Point Conference on Asset Recovery (Bangkok, 3-5 July 2013). A copy of the slides that was used in a US-Bangladesh-Singapore joint presentation is attached for reference: [Annex 12](#). Due to the confidential nature of MLA requests, Singapore was not able to provide the details of other requests.

(b) Observations on the implementation of the article

721. The provision is implemented.

Article 46 Mutual legal assistance

Subparagraph 3 (a) to (i)

3. Mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes:

- (a) Taking evidence or statements from persons;*
- (b) Effecting service of judicial documents;*
- (c) Executing searches and seizures, and freezing;*
- (d) Examining objects and sites;*
- (e) Providing information, evidentiary items and expert evaluations;*
- (f) Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records;*
- (g) Identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes;*
- (h) Facilitating the voluntary appearance of persons in the requesting State Party;*
- (i) Any other type of assistance that is not contrary to the domestic law of the requested State Party;*

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

722. The areas of assistance specified in Article 46(3) of the UNCAC can be provided under [Part III of the MACMA \(Annex 9\)](#) through the Central Authority of Singapore, and informal assistance through the law enforcement agencies.

723. Singapore provided the following examples of implementation of these measures, including court or other cases in which you have made or received a request for forms of mutual legal assistance listed in the provision under review.

These types of assistance are regularly requested of and acceded to by Singapore. Some examples are highlighted in [Annex 13A-D](#).

(b) Observations on the implementation of the article

724. The provision is implemented.

Article 46 Mutual legal assistance

Subparagraph 3 (j) and (k)

3. Mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes:

(j) Identifying, freezing and tracing proceeds of crime in accordance with the provisions of chapter V of this Convention;

(k) The recovery of assets, in accordance with the provisions of chapter V of this Convention.

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

725. Singapore referred to Sections 29-32 of the MACMA.

726. Singapore provided the following examples of implementation of these measures, including court or other cases in which it made or received a request for forms of mutual legal assistance listed in the provision under review.

Please see [Annex 11](#) (write-up on MLA requests concerning the cases of Pokerstar, Zasz and Fairhill) and [Annex 12](#) (slides used in presentation of the Zasz and Fairhill cases at the 4th StAR-Interpol Global Focal Point Conference on Asset Recovery in Bangkok, 3-5 July 2013).

(b) Observations on the implementation of the article

727. The provision is implemented.

Article 46 Mutual legal assistance

Paragraph 4

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.

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

728. Singapore indicated that it can transmit information spontaneously. Singapore is a member of the Egmont Group of Financial Intelligence Units. It has MOUs between Singapore's Suspicious Transactions Reporting Office ("STRO") and other financial intelligence units concerning the exchange of financial intelligence, which generally follow the Egmont standard.

729. There is a constant exchange of information between Singapore law enforcement agencies and their counterparts. For instance, the Singapore STRO (a financial intelligence unit) spontaneously transmits information to its counterparts pursuant to an MOU. Singapore's Corrupt Practices Investigations Bureau ("CPIB") proactively shared information, without prior request, with Brunei's Anti-Corruption Bureau in 2009 on a bribery case involving the employee of an oil company, as well as with the Malaysian Anti-Corruption Commission in 2007 on a case relating to football bribery.

(b) Observations on the implementation of the article

730. The provision is implemented.

Article 46 Mutual legal assistance

Paragraph 5

5. The transmission of information pursuant to paragraph 4 of this article shall be without prejudice to inquiries and criminal proceedings in the State of the competent authorities providing the information. The competent authorities receiving the information shall comply with a request that said information remain confidential, even temporarily, or with restrictions on its use. However, this shall not prevent the receiving State Party from disclosing in its proceedings information that is exculpatory to an accused person. In such a case, the receiving State Party shall notify the transmitting State Party prior to the disclosure and, if so requested, consult with the transmitting State Party. If, in an exceptional case, advance notice is not possible, the receiving State Party shall inform the transmitting State Party of the disclosure without delay.

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

731. There is nothing in Singapore's domestic law which will prevent Singapore from giving confidentiality undertakings or to accept restrictions as stated in Article 46(5) of the UNCAC, on the use of the information received under Article 46(4) of the UNCAC.

732. Singapore provided the following examples of implementation and related mutual legal assistance and other cases.

Singapore treats all requests confidentially. Without the consent of the requesting State, Singapore will neither confirm nor deny the existence of an MLA request, nor disclose any of its contents outside government departments, agencies, the courts or enforcement agencies in Singapore. Requests are not disclosed further than is necessary to obtain the cooperation of the witnesses or other persons concerned.

733. Singapore courts have also recognised the need for confidentiality in the context of collecting evidence for use in a criminal proceeding by a foreign government (see **Re Section 22 of the Mutual Assistance in Criminal Matters Act** [2008] SGCA 41: **Annex 19**). There were 3 occasions when Members of Parliament sought information on pending MLA requests received by Singapore. On these occasions, respecting the need for confidentiality expressed by the requesting countries, the relevant Ministers informed the Singapore Parliament that MLA requests are confidential and did not disclose any details of the MLA requests (see **Annexes 14 and 15**).

(b) Observations on the implementation of the article

734. The provision is implemented.

Article 46 Mutual legal assistance

Paragraph 8

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

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

735. Banking information can be provided in accordance with Section 22 of the MACMA.

736. Singapore provided the following examples of implementation, including recent cases in which bank secrecy rules or issues did not impede effective mutual legal assistance.

There have been many instances where banking information has been shared with requesting countries in accordance with Section 22 of the MACMA. Due to the confidential nature of banking information and MLA requests, Singapore is unable to provide details of the specific instances.

(b) Observations on the implementation of the article

737. The provision is implemented.

Article 46 Mutual legal assistance

Subparagraph 9 (a)

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;

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

738. Singapore does not require dual criminality when assisting with non-coercive measures and when assisting in the obtaining of evidence in respect of foreign tax evasion offences. Dual criminality is only required for coercive measures, although the requirement is relaxed for foreign tax evasion offences that meet the specific conditions set out in the MACMA. In addition, as the mandatory offences under the UNCAC have been criminalized in Singapore, the situation envisioned by this subparagraph will not arise.

(b) Successes and good practices

739. The review team positively noted Singapore's practice of flexibly interpreting the dual criminality requirement so as to render a wide measure of assistance.

740. Singapore has provided MLA on the basis of the Convention.

Article 46 Mutual legal assistance

Subparagraph 9 (b)

9.(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;

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

741. Singapore referred to paragraph 9(a) of article 46 of the UNCAC. In addition, Singapore will decline to provide MLA in situations where the matter involved is of a de minimis nature or where the assistance sought is available through other means, such as through the police-to-police channel.

742. Singapore considers coercive measures to include compelling private parties to give evidence before a Singapore court (Section 21 of the MACMA) and produce documents (Section 22 of the MACMA), confiscation and restraint of assets (Section 29 of the MACMA), as well as execution of search and seizure (Section 33 of the MACMA).

743. De minimis, as a ground for refusal to grant assistance, is provided for in Section 20(1)(g) and (h) of the MACMA.

744. Regarding the types of non-coercive actions taken when rendering assistance in the absence of dual criminality, such actions include (i) the provision of information in the public domain and (ii) the voluntary provision of statement or evidence by a private party.

745. Singapore provided the following information on recent cases in which it refused mutual legal assistance on the ground of absence of dual criminality.

In one recent case, the foreign request for bank records concerned the non-repatriation of funds (purportedly held in Singapore) to the requesting country under the foreign exchange control laws of that country. Singapore was not able to assist because there was no similar criminal offence.

(b) Observations on the implementation of the article

746. Singapore does not require dual criminality when assisting with non-coercive measures and obtaining evidence for foreign tax evasion offences. Dual criminality is, however, required for coercive measures but is relaxed for foreign tax evasion offences.

Article 46 Mutual legal assistance

Subparagraph 9 (c)

9. (c) Each State Party may consider adopting such measures as may be necessary to enable it to provide a wider scope of assistance pursuant to this article in the absence of dual criminality.

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

747. Article 46(9)(c) of the UNCAC is an optional measure. Singapore referred to paragraph 9 (a) of article 46 of the UNCAC.

748. Singapore only requires dual criminality for coercive measures, although the requirement is relaxed for foreign tax evasion offences that meet the specific conditions

set out in the MACMA. Where dual criminality is required, Singapore has provided assistance in the absence of dual criminality in situations that include (i) the provision of information in the public domain and (ii) the voluntary provision of statement or evidence by a private party.

(b) Observations on the implementation of the article

749. The provision is implemented.

Article 46 Mutual legal assistance

Paragraphs 10 to 12

10. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for investigations, prosecutions or judicial proceedings in relation to offences covered by this Convention may be transferred if the following conditions are met:

(a) The person freely gives his or her informed consent;

(b) The competent authorities of both States Parties agree, subject to such conditions as those States Parties may deem appropriate.

11. For the purposes of paragraph 10 of this article:

(a) The State Party to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State Party from which the person was transferred;

(b) The State Party to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State Party from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States Parties;

(c) The State Party to which the person is transferred shall not require the State Party from which the person was transferred to initiate extradition proceedings for the return of the person;

(d) The person transferred shall receive credit for service of the sentence being served in the State from which he or she was transferred for time spent in the custody of the State Party to which he or she was transferred.

12. Unless the State Party from which a person is to be transferred in accordance with paragraphs 10 and 11 of this article so agrees, that person, whatever his or her nationality, shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in the territory of the State to which that person is transferred in respect of acts, omissions or convictions prior to his or her departure from the territory of the State from which he or she was transferred.

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

750. Singapore indicated that it has not implemented the paragraphs under review. Singapore law does not allow for a prisoner to be transferred to another country to give evidence. Section 26 of the MACMA expressly stipulated that the Attorney-General could

only accede to a foreign request if the person whose attendance as a witness in a trial in a foreign country is sought was not a “prisoner within the meaning of Section 2 of the Prisons Act, Chapter 247” or “otherwise under detention in a prescribed institution”. At the moment, there are no plans to change the law.

751. No steps or action are being considered to ensure full compliance with the provisions under review.

(b) Observations on the implementation of the article

752. Due to its domestic law, Singapore does not allow for a prisoner to be transferred to another country to give evidence or provide testimony. However, Singapore can assist another country to (i) obtain voluntary statements from the prisoner; (ii) to take evidence before a Singapore judge for the purpose of it being used in criminal proceedings pending in a court in the requesting country under Section 21 of the MACMA; or (iii) in appropriate circumstances allow the prisoner to give evidence by video-conference from Singapore.

753. While the reviewers welcome Singapore’s availability to assist requesting States with videoconferencing and other forms of assistance for purposes of obtaining evidence in investigations, prosecutions or judicial proceedings, Singapore may wish to consider making arrangements so that detained persons can give evidence in appropriate cases.

Article 46 Mutual legal assistance

Paragraph 13

13. Each State Party shall designate a central authority that shall have the responsibility and power to receive requests for mutual legal assistance and either to execute them or to transmit them to the competent authorities for execution. Where a State Party has a special region or territory with a separate system of mutual legal assistance, it may designate a distinct central authority that shall have the same function for that region or territory. Central authorities shall ensure the speedy and proper execution or transmission of the requests received. Where the central authority transmits the request to a competent Authority for execution, it shall encourage the speedy and proper execution of the request by the competent authority. The Secretary-General of the United Nations shall be notified of the central authority designated for this purpose at the time each State Party deposits its instrument of ratification, acceptance or approval of or accession to this Convention. Requests for mutual legal assistance and any communication related thereto shall be transmitted to the central authorities designated by the States Parties. This requirement shall be without prejudice to the right of a State Party to require that such requests and communications be addressed to it through diplomatic channels and, in urgent circumstances, where the States Parties agree, through the International Criminal Police Organization, if possible.

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

754. Singapore has notified the Secretary-General of the United Nations that the Central Authority for MLA requests in Singapore is the Attorney General’s Chambers (AGC). Please see the 2009 Depositary Notification (C.N.824.2009.TREATIES-37⁷).

⁷ <https://treaties.un.org/doc/Publication/CN/2009/CN.824.2009-Eng.pdf>

755. The function of the Central Authority is located with the International Legal Cooperation Team (“ILCT”) of the International Affairs Division of the AGC. It maintains a website to assist countries planning to make MLA requests to Singapore. The website contains links to Singapore MLA law, information on the types of MLA which Singapore can provide, sample request forms, guidance on how MLA requests may be transmitted to Singapore, and the Central Authority’s email address to which correspondence may be sent, amongst others. Please see - https://app.agc.gov.sg/What_We_Do/International_Affairs_Division/Mutual_Legal_Assistance.aspx.

756. In order to provide effective and efficient assistance to requesting countries, the AGC leverages on a variety of electronic tools, including

- [1] an electronic case management system for extradition and MLA requests,
- [2] an electronic Singapore Government Directory (which allows AGC case officers to conveniently identify the appropriate contact person from the relevant competent agencies,
- [3] online access to Singapore and foreign legal resources and
- [4] newsfeeds on latest Singapore judgments and legal information.

Apart from electronic tools, the ILCT officers are also assisted in their work through a Knowledge Management database which contains a variety of manuals, checklists and precedents, weekly meeting notes at the ILCT level, and monthly meetings between the Senior State Counsel in charge of the ILCT and the ILCT officers individually. The ILCT holds regular dialogues with national MLA stakeholders and requesting countries, including regularly sending its officers to a request requesting country to conduct workshops on Singapore MLA law and practice. During the MLA process, queries and consultations are held through informal channels.

757. Under Singapore law, there is no need for MLA requests to be made via diplomatic channel. Requesting countries can send an advance copy of the MLA request to the Singapore Central Authority via email so that Singapore can start processing the requests and follow-up with the original request subsequently.

758. An example where Singapore provided MLA on an urgent basis was in February 2013, where within days of receipt of an Indian MLA request, Singapore arranged for 2 medical witnesses to testify via video-link from Singapore in an Indian trial where a paramedical student was brutally gang-raped. She later died from her injuries. The important medical evidence provided by the Singapore witnesses helped to eventually secure the conviction of the rapists (see [Annex 16](#)).

(b) Observations on the implementation of the article

759. Singapore provides several tools demonstrating the effectiveness and efficiency of the central authority as well as its dedication in international mutual legal assistance.

760. It was explained that Singapore’s Central Authority can receive MLA requests via the diplomatic channel. This form of transmission is particularly suitable for requests that contain confidential information. If a requesting country prefers (*e.g.* because of the urgency of the request), it can alternatively send the original request by post or courier.

The Singapore Central Authority's postal address is available on the AGC website. The address is also listed in various publications and forums, including the UNODC Directory of Competent National Authorities under the UNCAC and UN Convention against Transnational Organised Crime, and the websites of the Treaty on MLA in Criminal Matters Among like-minded ASEAN Member Countries and StAR-INTERPOL.

Article 46 Mutual legal assistance

Paragraph 14

14. Requests shall be made in writing or, where possible, by any means capable of producing a written record, in a language acceptable to the requested State Party, under conditions allowing that State Party to establish authenticity. The Secretary-General of the United Nations shall be notified of the language or languages acceptable to each State Party at the time it deposits its instrument of ratification, acceptance or approval of or accession to this Convention. In urgent circumstances and where agreed by the States Parties, requests may be made orally but shall be confirmed in writing forthwith.

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

761. Singapore has notified the Secretary-General of the United Nations that it will accept requests in the English language. Please see the 2009 Depositary Notification (C.N.824.2009.TREATIES-37⁸). The general requirements for making MLA requests to Singapore are set out in Section 19 of the MACMA. Singapore also applies the same principles when making requests to foreign central authorities. For incoming requests, the specific requirements for the different types of assistance governed by the MACMA can be found in the other provisions to Part III of the MACMA.

762. To ensure that requesting countries can make MLA requests to Singapore easily and expeditiously, information about Singapore's Central Authority, the coercive types of assistance that Singapore can provide under the MACMA and templates for making the requests are made available on the AGC website (<https://www.agc.gov.sg>).

(b) Observations on the implementation of the article

763. The provision is implemented.

Article 46 Mutual legal assistance

Paragraphs 15 and 16

15. A request for mutual legal assistance shall contain:

(a) The identity of the authority making the request;

(b) The subject matter and nature of the investigation, prosecution or judicial proceeding to which the request relates and the name and functions of the authority conducting the investigation, prosecution or judicial proceeding;

(c) A summary of the relevant facts, except in relation to requests for the purpose of service of judicial documents;

⁸ <https://treaties.un.org/doc/Publication/CN/2009/CN.824.2009-Eng.pdf>

(d) A description of the assistance sought and details of any particular procedure that the requesting State Party wishes to be followed;

(e) Where possible, the identity, location and nationality of any person concerned; and

(f) The purpose for which the evidence, information or action is sought.

16. The requested State Party may request additional information when it appears necessary for the execution of the request in accordance with its domestic law or when it can facilitate such execution.

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

764. The general requirements for making MLA requests are set out in Section 19 of the MACMA. Singapore also applies the same principles when making requests to foreign central authorities.

765. To assist countries in knowing what information is needed for making requests to Singapore, Singapore has provided draft MLA request templates on the AGC website. Please see - https://app.agc.gov.sg/What_We_Do/International_Affairs_Division/Mutual_Legal_Assistance.aspx.

766. When Singapore asks a requesting country for additional information, it is usually because the requesting country, in its MLA request, has failed to show a connection between the matters under investigation and the evidence sought in Singapore. The additional information is needed to ensure that assistance can be provided in accordance with domestic law and the due process, as well as to safeguard fundamental rights of the affected persons and third parties.

(b) Observations on the implementation of the article

767. Singapore has accurately implemented this provision in section 19 of the MACMA as well as on its website previously mentioned. In some cases Singapore has requested additional information when needed. Singapore explained that, to expedite the processing of requests, Singapore routinely seeks and provides additional information through communication channels such as emails, video-conferences and tele-conferences. Where so requested by the requesting country, Singapore will also rely on more formal communication mode such as diplomatic notes and letters. Singapore explained that it actively engages with the requesting countries to arrive at the best procedure for each MLA request.

Article 46 Mutual legal assistance

Paragraph 17

17. A request shall be executed in accordance with the domestic law of the requested State Party and, to the extent not contrary to the domestic law of the requested State Party and where possible, in accordance with the procedures specified in the request.

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

768. To assist requesting countries, Singapore's Central Authority has uploaded on its website (<https://www.agc.gov.sg>) template request forms that countries can use. In these forms, requesting countries are specifically asked what are the procedures they would like

Singapore to follow when providing the assistance: e.g. see [Annex 17 at page 3](#) (sample request form for production of evidence). Singapore endeavours to do its best, in accordance with Singapore domestic laws, to follow these procedures. When making requests, Singapore will ensure that there are reasonable grounds for believing that the requested evidence would be relevant to criminal proceedings in Singapore, and will endeavour to comply with the legal requirements of the requested countries.

769. Pursuant to requests, Singapore has provided affidavits of relevant bank officials to certify the accuracy of bank records requested by the requesting countries, even though there is no such requirement under Singapore laws.

(b) Successes and good practices

770. Singapore is guided by the preferences of requesting States regarding the mode, channel, mechanism and form of assistance, and regularly consults with requesting States on this. It dedicates substantial resources and effort to executing requests in accordance with the manner of assistance sought.

Article 46 Mutual legal assistance

Paragraph 18

18. Wherever possible and consistent with fundamental principles of domestic law, when an individual is in the territory of a State Party and has to be heard as a witness or expert by the judicial authorities of another State Party, the first State Party may, at the request of the other, permit the hearing to take place by video conference if it is not possible or desirable for the individual in question to appear in person in the territory of the requesting State Party. States Parties may agree that the hearing shall be conducted by a judicial authority of the requesting State Party and attended by a judicial authority of the requested State Party.

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

771. Singapore indicated that it permits hearings to take place by video conference as described above.

772. Article 46(18) of the UNCAC is not a mandatory provision. Singapore can, in appropriate cases, accede to requests for evidence by witnesses in Singapore to be given via video-link to a requesting State.

773. So far, Singapore has not received such requests for offences under the UNCAC. There have, however, been cases where Singapore acceded to such requests for other types of offences. One example is the case of a Romanian diplomat on trial in Romania for causing the death of one pedestrian and injuries to 2 others while driving his vehicle in Singapore. At the request of the Romanian Government, numerous witnesses in Singapore gave evidence to a Romanian court via video-link (see [Annex 13C](#)). Another example is where Singapore arranged for the medical evidence of 2 doctors in Singapore to be given to an Indian court in the 2012 Indian trial where a paramedical student was brutally gang-raped (see [Annex 16](#)).

(b) Observations on the implementation of the article

774. Singapore may provide assistance in hearing witnesses present in Singapore, taking evidence before a Singaporean judge, or in appropriate circumstances, facilitate the giving of evidence by videolink, but it does not accept evidence provided by videolink in domestic trials.

Article 46 Mutual legal assistance

Paragraph 19

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.

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

775. When making a request, Singapore will typically give an undertaking that anything obtained pursuant to the request will not be used for a matter other than the criminal matter in respect of which the request was made, except with the consent of the requesting State.
776. Singapore complies with this provision concerning the use limitations of evidence provided under the UNCAC. One manner in which this is reinforced is that the Singapore AGC, acting as the Central Authority, would remind the prosecutors and investigators about the limitation of use when drafting the MLA request and when eventually transmitting the evidence obtained from the requested State to them.

(b) Observations on the implementation of the article

777. As a matter of practice, when requesting MLA, Singapore provides an undertaking not to use anything obtained pursuant to the request for matters other than those specified in the request, unless the requested State consents.

Article 46 Mutual legal assistance

Paragraph 20

20. The requesting State Party may require that the requested State Party keep confidential the fact and substance of the request, except to the extent necessary to execute the request. If the requested State Party cannot comply with the requirement of confidentiality, it shall promptly inform the requesting State Party.

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

778. Singapore treats all requests confidentially. Without the consent of the requesting State, Singapore will neither confirm nor deny the existence of an MLA request, nor disclose any of its contents outside government departments, agencies, the courts or

enforcement agencies in Singapore. Requests are not disclosed further than is necessary to obtain the cooperation of the witnesses or other persons concerned.

779. Singapore courts have also recognised the need for confidentiality in the context of collecting evidence for use in a criminal proceeding by a foreign government (see **Re Section 22 of the Mutual Assistance in Criminal Matters Act** [2008] SGCA 41: **Annex 19**). There were 3 occasions when Members of Parliament sought information on pending MLA requests received by Singapore. On these occasions, respecting the need for confidentiality expressed by the requesting countries, the relevant Ministers informed the Singapore Parliament that MLA requests are confidential and did not disclose any details of the MLA requests (see **Annexes 14 and 15**).

780. So far, Singapore has not encountered a case where it was not possible to comply with the requirement of confidentiality by the requesting country.

(b) Observations on the implementation of the article

781. The provision is implemented.

Article 46 Mutual legal assistance

Paragraph 21

21. Mutual legal assistance may be refused:

(a) If the request is not made in conformity with the provisions of this article;

(b) If the requested State Party considers that execution of the request is likely to prejudice its sovereignty, security, ordre public or other essential interests;

(c) If the authorities of the requested State Party would be prohibited by its domestic law from carrying out the action requested with regard to any similar offence, had it been subject to investigation, prosecution or judicial proceedings under their own jurisdiction;

(d) If it would be contrary to the legal system of the requested State Party relating to mutual legal assistance for the request to be granted.

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

782. Singapore referred to Sections 20(1)(a), (i) and (l) of the MACMA.

783. There has not been a case where Singapore rejected a request on the grounds stated in Articles 21(a)-(d) of the UNCAC. In cases where there request may be refused under the MACMA or the MLA treaty, Singapore will first work with the requesting State to see how difficulties may be overcome.

784. Based on the records from 2010 to 2013, Singapore has not had its request refused on the grounds stated in Articles 21(a)-(d) of the UNCAC.

(b) Observations on the implementation of the article

785. The provision is implemented.

Article 46 Mutual legal assistance

Paragraph 22

22. States Parties may not refuse a request for mutual legal assistance on the sole ground that the offence is also considered to involve fiscal matters.

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

786. The fact that an offence is considered to involve fiscal matters does not fall within any of the grounds for refusal under the MACMA (see Section 20 of the MACMA). On the other hand, tax evasion is specifically listed in the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act as a serious offence for which MLA can be provided.

787. There have been cases where Singapore provided assistance for offences involving fiscal offences. Due to the confidential nature of the requests, Singapore is unable to disclose the details of these requests.

(b) Observations on the implementation of the article

788. The provision is implemented.

Article 46 Mutual legal assistance

Paragraph 23

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

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

789. Singapore referred to Article 5(2) of the bilateral MLA treaty with the United States, Article 3 of the bilateral MLA treaty with Hong Kong SAR and Article 3(9) of the Treaty on Mutual Legal Assistance in Criminal Matters Amongst Like-minded ASEAN Member States.

790. Singapore rarely refuses to render assistance. Whenever Singapore receives a request that has not been drafted in the correct manner or does not contain the elements required under Singapore law, the Central Authority will contact the representatives of the requesting State and provide them with information for completion of the request. If Singapore is unable to provide the assistance, e.g. where the witness which a requesting State wishes to interview refuses to give his cooperation, or the requesting State is unable to provide sufficient information for Singapore to process the request, e.g. a request to provide bank records without specifying the bank account, Singapore will provide the requesting State, in writing, the reasons why a request cannot be executed.

(b) Observations on the implementation of the article

791. The provision is implemented.

Article 46 Mutual legal assistance

Paragraph 24

24. The requested State Party shall execute the request for mutual legal assistance as soon as possible and shall take as full account as possible of any deadlines suggested by the requesting State Party and for which reasons are given, preferably in the request. The requesting State Party may make reasonable requests for information on the status and progress of measures taken by the requested State Party to satisfy its request. The requested State Party shall respond to reasonable requests by the requesting State Party on the status, and progress in its handling, of the request. The requesting State Party shall promptly inform the requested State Party when the assistance sought is no longer required.

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

792. Singapore indicated that there is no legal provision.

793. There have been occasions when Singapore expedited the processing of urgent requests, e.g. impending court hearing, by applying to the Singapore courts for expedited dates for the grant of production orders. Singapore's Central Authority would also provide updates to requesting countries on their requests, either via emails or through face-to-face meetings.

794. Singapore strives to execute all MLA requests as soon as possible. Some can be completed within a matter of days of receipt, while others can take a longer time. The amount of time needed depends on a number of factors, including the type of assistance sought, the complexity of the requests, the quality of the initial requests (including the quality of the English translations) and whether additional information is needed. When Singapore needs additional information, it is usually because the requesting country, in its MLA request, has failed to show a connection between the activity under investigation and the evidence sought in Singapore. Sometimes the request fails to supply sufficient information to even locate the bank account or witness who is being investigated. Also, MLA requests that need to be executed with the use of compulsory processes and therefore the involvement of court authorization tend to take more time than those which can be handled through the law enforcement channels.

(b) Observations on the implementation of the article

795. Singapore has implemented the provision under review. However, the amount of time needed depends on a number of factors mentioned. Singapore indicated that it keeps the requesting countries apprised of the developments in Singapore, including any obstacles that occur during the execution of the request and the time needed to finalize execution. Routinely, Singapore will update the requesting countries of crucial milestones in the execution of MLA requests, such as filing of applications for production orders or the execution or search and seizure operations. Singapore also actively engages requesting countries if obstacles arise and work jointly with the requesting countries to address any obstacles, adopting a problem-solving approach.

796. Taking into account the efforts to execute requests as soon as possible, and the practice of consulting with requesting States parties prior to postponing or refusing

requests, Singapore may wish to document this position, e.g., by including it in the workflow or standard operating procedures of the AGC.

Article 46 Mutual legal assistance

Paragraph 25

25. Mutual legal assistance may be postponed by the requested State Party on the ground that it interferes with an ongoing investigation, prosecution or judicial proceeding.

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

797. Singapore cited Section 20(1)(l) of the MACMA.

798. Singapore has postponed the provision of MLA in cases where the request is for statements of accused persons. Singapore informed the requesting countries that these statements, if tendered in court, would be provided after the trial.

(b) Observations on the implementation of the article

799. The provision is implemented.

Article 46 Mutual legal assistance

Paragraph 26

26. Before refusing a request pursuant to paragraph 21 of this article or postponing its execution pursuant to paragraph 25 of this article, the requested State Party shall consult with the requesting State Party to consider whether assistance may be granted subject to such terms and conditions as it deems necessary. If the requesting State Party accepts assistance subject to those conditions, it shall comply with the conditions.

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

800. Singapore referred to Article 5(2) of the bilateral MLA treaty with the United States, Article 3 of the bilateral MLA treaty with Hong Kong SAR and Article 3(9) of the Treaty on Mutual Legal Assistance in Criminal Matters Amongst Like-minded ASEAN Member States.

801. Singapore provided the following examples of implementation, related cases, and ways in which they were handled.

Instances would include cases where Singapore provided confidential information in the possession of the Government on conditions. Due to the confidential nature of such requests and the information being shared, Singapore would not be able to share further details on these cases.

(b) Observations on the implementation of the article

802. Taking into account the efforts to execute requests as soon as possible, and the practice of consulting with requesting States parties prior to postponing or refusing requests, Singapore may wish to document this position, e.g., by including it in the workflow or standard operating procedures of the AGC.

Article 46 Mutual legal assistance

Paragraph 27

27. Without prejudice to the application of paragraph 12 of this article, a witness, expert or other person who, at the request of the requesting State Party, consents to give evidence in a proceeding or to assist in an investigation, prosecution or judicial proceeding in the territory of the requesting State Party shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in that territory in respect of acts, omissions or convictions prior to his or her departure from the territory of the requested State Party. Such safe conduct shall cease when the witness, expert or other person having had, for a period of fifteen consecutive days or for any period agreed upon by the States Parties from the date on which he or she has been officially informed that his or her presence is no longer required by the judicial authorities, an opportunity of leaving, has nevertheless remained voluntarily in the territory of the requesting State Party or, having left it, has returned of his or her own free will.

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

803. Singapore referred to Sections 9-12 (where Singapore is the requesting State) and Section 26 (where Singapore is the requested State) of the MACMA.

804. So far, there has only been one case where Singapore successfully obtained the assistance of a country for its witnesses to testify in Singapore against an accused charged with dishonestly retaining stolen property. An undertaking along the lines of Article 46(27) of the UNCAC was given to the requested State.

(b) Observations on the implementation of the article

805. The provision is implemented.

Article 46 Mutual legal assistance

Paragraph 28

28. The ordinary costs of executing a request shall be borne by the requested State Party, unless otherwise agreed by the States Parties concerned. If expenses of a substantial or extraordinary nature are or will be required to fulfil the request, the States Parties shall consult to determine the terms and conditions under which the request will be executed, as well as the manner in which the costs shall be borne.

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

806. Singapore referred to Article 24 of the bilateral MLA treaty with Hong Kong SAR, Article 8 of the bilateral MLA treaty with the United States, Article 25 of the Treaty on Mutual Assistance in Criminal Matters Amongst Like-minded ASEAN Member States.

807. Examples where Singapore had absorbed the costs of executing requests include

application fees for obtaining documents (e.g. company profile records) and applying for court orders (e.g. production and restraint orders), and the cost of transcribing and production of transcripts of evidence given in court pursuant to a request under Section 21 of the MACMA.

(b) Observations on the implementation of the article

808. Singapore implements the provision under review through the application of article 24 of the bilateral MLA treaty with Hong Kong SAR, article 8 of the bilateral MLA treaty with the United States, and article 25 of the Treaty on Mutual Assistance in Criminal Matters Amongst Like-minded ASEAN Member States. Moreover, it has provided examples of arrangements related to such costs.

809. Singapore further explained that it regularly absorbs the cost of execution of requests, regardless of whether there is any pre-existing MLA arrangement. In cases of extraordinary cost to execute a request, Singapore will consult with the requesting countries to arrive at the appropriate costs arrangements. Thus far, no requesting countries had to bear the costs of the execution of MLA requests to Singapore.

Article 46 Mutual legal assistance

Subparagraph 29 (a)

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;

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

810. Singapore is able to provide publicly available documents to requesting State Parties. Since these documents are accessible to any member of the general public, the documents are usually obtained from the government agencies which are in possession of them.

811. Regarding information on how such records, documents or information can be obtained and how they were provided to the requesting State Party, Singapore indicated that the records would include company profile records, certain court documents and information on the ownership of premises.

(b) Observations on the implementation of the article

812. Singapore indicates that it is able to provide publicly available documents to requesting States, since these documents are accessible to any member of the general public and that the documents are usually obtained from the government agencies which are in possession of them.

813. Singapore indicated that the specific measures on the provision of records available to the general public depend on the particular type of record involved. Singapore is able to provide the records via email, through DVDs, CDs or in hardcopies and will consult the

requesting countries to determine the most appropriate measure while taking into account the circumstances of each case.

Article 46 Mutual legal assistance

Subparagraph 29 (b)

29. The requested State Party:

(b) May, at its discretion, provide to the requesting State Party in whole, in part or subject to such conditions as it deems appropriate, copies of any government records, documents or information in its possession that under its domestic law are not available to the general public.

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

814. Generally speaking, for confidential information obtained pursuant to coercive powers provided for under the law, the Government is under a duty to preserve the confidentiality of such information and to use it according to the statutory purpose. AGC, as Singapore's Central Authority, will refer the requests to the relevant authorities for their consideration. Factors that the authorities may consider include, but are not limited to, the type of information requested, the necessity of the information requested and the reasons behind the request for information.

815. There have been several occasions where Singapore shared confidential information with foreign authorities on such basis. Due to the confidential nature of such requests and the information being shared, Singapore would not be able to share further details on these cases.

(b) Observations on the implementation of the article

816. In cases where Singapore refuses to share this type of information, Singapore explained that it informs the requesting countries about the reasons behind the non-provision of the confidential information.

Article 46 Mutual legal assistance

Paragraph 30

30. States Parties shall consider, as may be necessary, the possibility of concluding bilateral or multilateral agreements or arrangements that would serve the purposes of, give practical effect to or enhance the provisions of this article.

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

817. Article 46(30) of the UNCAC is an optional requirement. In the event that Singapore decides to conclude related bilateral or multilateral agreements or arrangements, it will seek to ensure that the MLA provisions in these instruments are consistent with article 46 of the UNCAC.

818. As noted under paragraph 1 of this article, Singapore has MLA treaties with the United States, India and Hong Kong SAR, and is a party to the Treaty on MLA in Criminal Matters Among like-minded ASEAN Member Countries, the UNTOC and a number of multilateral terrorism conventions with MLA provisions.

819. Singapore is currently negotiating the ASEAN Convention Against Trafficking in Persons. This draft treaty has a provision on MLA amongst convention parties.

(b) Observations on the implementation of the article

820. Singapore has implemented the provision.

Article 47 Transfer of criminal proceedings

States Parties shall consider the possibility of transferring to one another proceedings for the prosecution of an offence established in accordance with this Convention in cases where such transfer is considered to be in the interests of the proper administration of justice, in particular in cases where several jurisdictions are involved, with a view to concentrating the prosecution.

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

821. Singapore has considered the possibility of transferring proceedings for the prosecution of offences established in accordance with the UNCAC. However, there is no suitable case for transfer thus far.

822. Under Article 35(8) of the Constitution of the Republic of Singapore and Section 11(1) of the Criminal Procedure Code, the Attorney-General as the Public Prosecutor shall have the control and direction of criminal prosecutions and proceedings and has the power, exercisable at his discretion, to institute, conduct or discontinue any proceedings for any offence.

823. To date, there have been no such cases where the need to transfer was considered appropriate.

(b) Observations on the implementation of the article

824. Singapore refers to Article 35(8) of the Constitution of the Republic of Singapore and Section 11(1) of the Criminal Procedure Code. In this respect the reviewers note that the provision under review does not limit proceedings for the prosecution of an offence to one or two parties in charge. It aims to facilitate the administration of justice in cases where several jurisdictions are involved, with a view to concentrating the prosecution through transferring proceedings and not limiting them to any one party.

825. So far, there has not been an occasion for Singapore to work with another country on the transfer of criminal proceedings. Should the circumstances call for it, Singapore indicated that it would consider the matter, and see how it can best assist.

Article 48 Law enforcement cooperation

Subparagraph 1 (a)

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;

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

826. The CPIB has designated liaison officers to deal with informal requests from its foreign counterpart agencies.

827. Singapore indicated that there is no specific database through which information can be shared for this purpose.

828. There are regular exchanges of information on corruption-related offences between the CPIB and its counterparts. Pursuant to incoming requests made at informal agency-to-agency level (i.e. outside of the MLA route), the CPIB had provided information in 12 cases in 2010 and 9 cases in 2011 and 2012 respectively.

(b) Observations on the implementation of the article

829. It was explained that while CPIB does not have a common database to conduct the exchange of information with its foreign counterpart agencies, it is able to receive related requests from foreign counterpart agencies via its generic inbox, referrals from other domestic agencies, Singapore's Central Authority, as well as INTERPOL. CPIB has designated liaison officers for foreign counterpart agencies with whom it has regular dealings and with whom informal exchange of information occurs seamlessly.

830. CPIB indicated that it handles all requests for informal assistance in a timely fashion. There are eight officers in the Intelligence Branch processing such requests. To provide effective and timely assistance, CPIB often communicate with the requesting agencies via phone calls, e-mails or for complex cases via face-to-face meetings or discussions to understand the facts of the request and resolve any issues of conflict.

831. Singapore provided the following information on the cooperation agreements of the STRO (financial intelligence unit).

MOUs

As of 6 April 2015, STRO had signed 29 MOUs with foreign financial intelligence units (FIUs) from the following jurisdictions (in alphabetical order). In addition, STRO had received 1 Letter of Undertaking (LOU) from the Switzerland FIU⁹.

⁹ As of September 2015, STRO has received another LOU from Norway FIU, and concluded an additional MOU with the FIU of Papua New Guinea. STRO had a total of 30 MOUs and 2 LOUs with foreign FIUs at the conclusion of the review.

1. Argentina	11. Guernsey	21. Mexico
2. Australia	12. Hong Kong	22. Monaco
3. Bangladesh	13. India	23. Netherlands
4. Belgium	14. Indonesia	24. Portugal
5. Brazil	15. Isle of Man	25. Russia
6. Canada	16. Italy	26. South Africa
7. China	17. Japan	27. South Korea
8. Finland	18. Liechtenstein	28. United Kingdom
9. France	19. Macao, SAR	29. United States
10. Greece	20. Malaysia	

Article 48 Law enforcement cooperation

Subparagraphs 1 (b) to (d)

1. States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offences covered by this Convention. States Parties shall, in particular, take effective measures:

(b) To cooperate with other States Parties in conducting inquiries with respect to offences covered by this Convention concerning:

(i) The identity, whereabouts and activities of persons suspected of involvement in such offences or the location of other persons concerned;

(ii) The movement of proceeds of crime or property derived from the commission of such offences;

(iii) The movement of property, equipment or other instrumentalities used or intended for use in the commission of such offences;

(c) To provide, where appropriate, necessary items or quantities of substances for analytical or investigative purposes;

(d) To exchange, where appropriate, information with other States Parties concerning specific means and methods used to commit offences covered by this Convention, including the use of false identities, forged, altered or false documents and other means of concealing activities;

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

832. The STRO is part of the Egmont Group. As the Financial Investigation Unit in Singapore, STRO is responsible for collection, analysis and dissemination of financial information for anti-money laundering and counter-terrorist financing purposes. To the extent that the offences covered by the UNCAC involve these areas, STRO can offer its fellow Egmont partners valuable assistance. In addition, Singapore is an active member of the Interpol.

833. The CPIB shares information with its foreign counterpart agencies relating to noteworthy modus operandi employed to commit offences covered under the UNCAC.

The Southeast Asia-Parties Against Corruption (“SEA-PAC”) is one of the for a where CPIB shares information of such nature with fellow member agencies. CPIB had, for instance, shared with the SEA-PAC agencies information on the modus operandi relating to corruption in the bunkering industry.

(b) Observations on the implementation of the article

834. Singapore’s law enforcement agencies, including CPIB, are able to provide informal assistance to their counterparts pursuant to an incoming request, in locating, or identifying and locating, a person who is believed to be in Singapore and suspected of being involved in offences covered by the UNCAC. This form of assistance is also provided for under Section 37 of the MACMA which may be executed by the Central Authority of Singapore.

835. Singapore referred to the below table for statistics in relation to the execution of requests for information on location or identity of persons between 2011 and 2014.

Year	Number of incoming requests	Number of executed requests	Number of withdrawn requests
2010	6	6	-
2011	9	8	-
2012	3	2	1
2013	2	2	-
2014	3	3	-

Article 48 Law enforcement cooperation

Subparagraph 1 (e)

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:

(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;

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

836. The international cooperation that CPIB has engaged in has yet to be extended to the exchange of personnel and other experts with its foreign counterparts. There are mechanisms in place to facilitate such cooperation. For example, CPIB is signatory to international law enforcement agencies networks such as the Economic Crime Agency Network (“ECAN”) which has provisions for such exchanges to be exercised where necessary.

837. As noted above, the CPIB has designated liaison officers to deal with informal requests from its foreign counterpart agencies.

(b) Observations on the implementation of the article

838. Singapore's law enforcement authorities engage in the exchange of personnel and other experts with foreign counterparts. It was explained that Singapore has sent and received law enforcement officers for attachments and training with other States.

Article 48 Law enforcement cooperation

Subparagraph 1 (f)

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:

(f) To exchange information and coordinate administrative and other measures taken as appropriate for the purpose of early identification of the offences covered by this Convention.

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

839. There are regular exchanges of information on corruption-related offences between the CPIB and its counterparts. Please refer to the statistics provided above (see comments to paragraph 1(a) of article 48 of the UNCAC) pertaining to CPIB's informal agency-to-agency cooperation with its counterparts (i.e. cooperation outside of the MLA route). As noted in the examples to article 46(4) of the UNCAC, CPIB shares information with its foreign counterpart agencies that have led to the early identification of offences under the UNCAC.

(b) Successes and good practices

840. The active role of Singapore as an international training and assistance provider on international and law enforcement cooperation is positively noted.

Article 48 Law enforcement cooperation

Paragraph 2

2. With a view to giving effect to this Convention, States Parties shall consider entering into bilateral or multilateral agreements or arrangements on direct cooperation between their law enforcement agencies and, where such agreements or arrangements already exist, amending them. In the absence of such agreements or arrangements between the States Parties concerned, the States Parties may consider this Convention to be the basis for mutual law enforcement cooperation in respect of the offences covered by this Convention. Whenever appropriate, States Parties shall make full use of agreements or arrangements, including international or regional organizations, to enhance the cooperation between their law enforcement agencies.

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

841. The CPIB does not sign bilateral or multilateral arrangements that specifically prescribe law enforcement cooperation with its foreign counterpart agencies. However, this does not impede CPIB from actively cooperating with its foreign counterpart

agencies. For instance, between 2012 and 2013, CPIB has successfully collaborated on a case with Hong Kong SAR's Independent Commission Against Corruption and, in another instance, with Australia's Serious Fraud Office.

842. Singapore indicated that it does not consider this Convention as the basis for mutual law enforcement cooperation in respect of offences covered by this Convention.

(b) Observations on the implementation of the article

843. Singapore does not require formal agreements or arrangements to render informal assistance to a foreign law enforcement agency. Notwithstanding, Singapore considers the Convention as a basis for law enforcement cooperation in respect of UNCAC offences.

844. The CPIB does not sign bilateral or multilateral arrangements that specifically prescribe law enforcement cooperation with its foreign counterpart agencies. However, this does not impede CPIB from actively cooperating with its foreign counterpart agencies, and examples of such cooperation were provided.

845. Singapore's indicated that its framework for international cooperation is well-developed. Its law enforcement agencies, including CPIB, are able to provide informal assistance to their counterparts, regardless of whether the request for informal assistance emanates from a State party to the UNCAC. It is Singapore's view that this is a more comprehensive framework for the provision of informal assistance, as the ability of law enforcement agencies to cooperate with foreign law enforcement agencies is not dependent on a bilateral or multilateral treaty arrangement or impeded by the absence of one.

Article 48 Law enforcement cooperation

Paragraph 3

3. States Parties shall endeavour to cooperate within their means to respond to offences covered by this Convention committed through the use of modern technology.

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

846. The CPIB keeps its operational capabilities up to date to stay abreast of the latest technological developments. For instance, CPIB has established a Computer Forensic Unit that specialises in performing forensic examinations of computer-related evidence. CPIB has shared information acquired via such means with domestic and foreign counterpart agencies to facilitate their investigations.

(b) Successes and good practices

847. CPIB has established a Computer Forensics Unit that specializes in forensic examinations of computer-related evidence; Singapore has shared information acquired through such means with domestic and foreign counterparts to facilitate investigations.

Article 49 Joint investigations

States Parties shall consider concluding bilateral or multilateral agreements or arrangements whereby, in relation to matters that are the subject of investigations, prosecutions or judicial proceedings in one or more States, the competent authorities concerned may establish joint investigative bodies. In the absence of such agreements or arrangements, joint investigations may be undertaken by agreement on a case-by-case basis. The States Parties involved shall ensure that the sovereignty of the State Party in whose territory such investigation is to take place is fully respected.

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

848. Article 49 of the UNCAC is an optional requirement. The CPIB does not sign bilateral or multilateral arrangements that specifically prescribe law enforcement cooperation (including joint investigations) with its foreign counterpart agencies. However, this does not impede CPIB from actively cooperating with its foreign counterpart agencies to conduct joint investigations through mutual agreement on a case-by-case basis. For instance, between 2012 and 2013, CPIB has successfully conducted joint investigations with Hong Kong SAR's Independent Commission Against Corruption and Australia's Serious Fraud Office each over a case.

(b) Observations on the implementation of the article

849. Singapore has undertaken joint investigations concerning UNCAC offences and does so on a case-by-case basis, notwithstanding the absence of agreements or arrangements on joint investigations.

Article 50 Special investigative techniques

1. In order to combat corruption effectively, each State Party shall, to the extent permitted by the basic principles of its domestic legal system and in accordance with the conditions prescribed by its domestic law, take such measures as may be necessary, within its means, to allow for the appropriate use by its competent authorities of controlled delivery and, where it deems appropriate, other special investigative techniques, such as electronic or other forms of surveillance and undercover operations, within its territory, and to allow for the admissibility in court of evidence derived therefrom.

2. For the purpose of investigating the offences covered by this Convention, States Parties are encouraged to conclude, when necessary, appropriate bilateral or multilateral agreements or arrangements for using such special investigative techniques in the context of cooperation at the international level. Such agreements or arrangements shall be concluded and implemented in full compliance with the principle of sovereign equality of States and shall be carried out strictly in accordance with the terms of those agreements or arrangements.

3. In the absence of an agreement or arrangement as set forth in paragraph 2 of this article, decisions to use such special investigative techniques at the international level shall be made on a case-by-case basis and may, when necessary, take into consideration financial arrangements and understandings with respect to the exercise of jurisdiction by the States Parties concerned.

4. Decisions to use controlled delivery at the international level may, with the consent of the States Parties concerned, include methods such as intercepting and allowing the goods or funds to continue intact or be removed or replaced in whole or in part.

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

850. Generally speaking, illegally obtained evidence is admissible as evidence in criminal proceedings (see *Law Society of Singapore v Tan Guat New Phyllis* [2007] SGHC 207 at [150]: *Annex 20*).
851. Singapore's law does not contain any restrictions on the ability of law enforcement agencies to carry out coordinated investigations (with domestic or foreign counterparts) using special investigative techniques (including controlled deliveries, continued surveillance and undercover operations), to the extent appropriate in each case and subject to necessity. Special investigative techniques are used whenever necessary and beneficial to a money laundering / terrorism financing investigation.
852. Singapore is unable to provide examples of implementation due to the sensitive nature of such investigations.
853. The CPIB does not maintain statistics on recent cases in which controlled delivery or other special investigative techniques have been used or admitted in court

(b) Observations on the implementation of the article

854. There is no restriction under Singapore's laws for law enforcement agencies to exercise a wide range of investigative techniques (such as controlled delivery, continued surveillance, undercover operations, etc.), appropriate to the circumstances of each case, and in accordance with their internal procedures and guidelines. Singapore provided a case example to this effect.
855. Singapore has not concluded agreements or arrangements on special investigative techniques at the international level.