



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

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Items 2 and 4 of the provisional agenda\*

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

### Technical assistance

## Compliance with the United Nations Convention against Corruption

### Report of the Secretariat\*\*

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\* CAC/COSP/2009/1.

\*\* The submission of the present document was delayed owing to the need to wait for additional relevant information.



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## **I. Introduction**

### **A. Legislative framework**

1. In accordance with article 63 of the United Nations Convention against Corruption, the Conference of the States Parties to the Convention was established to improve the capacity of the States parties and their cooperation to achieve the objectives set forth in the Convention. Furthermore, the Conference is to promote and review the implementation of the Convention by periodically reviewing its implementation and making recommendations for its improvement and implementation (art. 63, paras. 1 and 4 (e) and (f)).

2. In order to fulfil these functions, it is essential that the Conference acquire knowledge through information provided by the States parties regarding measures they have taken to implement the Convention and the difficulties they have encountered in doing so (art. 63, para. 5). To this end, each State party has to provide the Conference with information on its programmes, plans and practices, as well as on legislative and administrative measures to implement the Convention (art. 63, para. 6).

3. In accordance with article 63, paragraph 2, the first session of the Conference was held in Jordan from 10 to 14 December 2006, one year after the entry into force of the Convention, on 14 December 2005. The second session of the Conference was held in Indonesia from 28 January to 1 February 2008, in accordance with the rules of procedure adopted by the Conference.

### **B. Mandate of the Conference of the States Parties**

4. The Conference decided in its resolution 1/2 that a self-assessment checklist should be used as a tool to facilitate the provision of information on the implementation of the Convention prior to the second session of the Conference. Furthermore, it requested the Secretariat to collate and analyse information provided by States parties and signatories and to share this information and analysis with the Conference at its second session, and with the relevant open-ended working groups established by it, to facilitate its work. Pursuant to that resolution, the Secretariat presented to the Conference at its second session a report on the self-assessment of the implementation of the Convention<sup>1</sup> and a report on the self-assessment of technical assistance needs for implementation.<sup>2</sup>

5. At its second session, in resolution 2/1, the Conference urged States parties and signatories that had not yet done so to complete the self-assessment checklist and to submit it to the United Nations Office on Drugs and Crime (UNODC). In the same resolution, UNODC was requested to continue to assist parties, upon request, in their efforts to collect and provide information requested by the self-assessment checklist and to analyse and report to the Conference at its third session on the information received.

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<sup>1</sup> CAC/COSP/2008/2.

<sup>2</sup> CAC/COSP/2008/2/Add.1.

6. In its resolution 2/2, the Conference reiterated its request to the States parties that had not yet provided through the self-assessment checklist information on their programmes, plans and practices and on their legislative and administrative measures to implement the Convention to provide the Secretariat with such information.

7. The present report is aimed at providing the Conference with an analysis of such information regarding compliance with the Convention, while the report prepared by the Secretariat on the self-assessment of technical assistance needs to implement the Convention<sup>3</sup> is aimed at providing an analysis of technical assistance needs identified through the self-assessment checklist.

### **C. Scope and structure of the report**

8. Following guidance received from the Conference and from States parties and signatories, the present report contains information on the implementation of 15 articles of the Convention. Four thematic areas were covered by the self-assessment checklist launched in 2007: prevention,<sup>4</sup> criminalization and law enforcement,<sup>5</sup> international cooperation<sup>6</sup> and asset recovery.<sup>7</sup>

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<sup>3</sup> To be issued as CAC/COSP/2009/9/Add.1.

<sup>4</sup> Article 5, paragraph 1 (policies to prevent corruption), article 6, paragraphs 1 and 2 (anti-corruption body or bodies; and independent status, resources and trained staff for the body or bodies), and article 9, paragraphs 1 to 3 (systems of procurement designed to prevent corruption; establishment of conditions for participation in public procurement; criteria for public procurement decisions; system of domestic review of public procurement decisions; measures regarding public procurement personnel; transparency and accountability in public finances; timely reporting on revenue and expenditures; accounting and auditing standards; systems of risk management and internal control; corrective action upon failure to comply; and prevention of falsification of public expenditure records).

<sup>5</sup> Article 15 (active and passive bribery of a national public official), article 16 (active and passive bribery of a foreign public official or an official of a public international organization), article 17 (embezzlement, misappropriation or other diversion of property by a public official), article 23 (criminalization of conversion or transfer of property proceeds of crime; criminalization of acquisition, possession or use of property proceeds of crime; predicate offences in the laundering of proceeds of crime; and notification obligation) and article 25 (criminalization of use of inducement, threats or force to interfere with witnesses or officials; and criminalization of interference with actions of judicial or law enforcement officials).

<sup>6</sup> Article 44, paragraph 6 (a) (taking the Convention as the legal basis for cooperation on extradition), and article 46, paragraph 13 (designation of a central authority to receive requests for mutual legal assistance and either execute them or transmit them for execution).

<sup>7</sup> Article 52 (verification of identity and enhanced scrutiny of customers of financial institutions; issuance of advisories to financial institutions; notifying financial institutions of the identity of account holders for enhanced scrutiny; implementation of measures to require financial institutions to maintain adequate records; prevention of establishment of banks having no physical presence or affiliation with a regulated financial group; establishment of financial disclosure systems for public officials; and requiring public officials to report foreign financial accounts), article 53 (institution by a State party of measures to permit another State party to initiate civil action in its courts; institution by a State party of measures to permit its courts to order payment of compensation or damages; and institution by a State party of measures to permit its courts or competent authorities to recognize another State party's claim of legitimate ownership of property proceeds of crime), article 54 (institution by a State party of measures to permit its competent authorities to give effect to orders of confiscation issued by courts of

9. For each provision selected, information was elicited by asking States whether they had adopted the measures required by the Convention. The possible answers were (a) yes; (b) yes, in part; and (c) no. When full implementation was reported (“yes”), and in order to simplify the reporting exercise, States were requested to cite, but not to provide copies of, relevant legislative information. Although it was optional to do so, some 50 per cent of the reporting States excerpted or annexed copies of their legislation. An analysis of such legislation has been reflected in the present report to the extent possible. To substantiate reported implementation (“yes”), States were requested to provide examples of successful application of the measures cited or quoted. The optional nature of this question resulted in approximately 40 per cent of the reporting States providing such examples.

10. The report presents a diagram illustrating the global implementation of each chapter under review (figures 3, 22, 53 and 56),<sup>8</sup> followed by a diagram illustrating the global implementation of each article under review (figures 4, 10, 16, 23, 29, 35, 41, 47, 54, 55, 57, 63, 69, 75 and 81). Subsequently, an indication of the status of implementation of each article under review and an analysis of the information provided to the Secretariat are presented. To enable the Conference to readily determine regional trends and patterns in implementation, the information on status of implementation is divided into regional groups and, with the exception of articles 44 and 46, is complemented by a diagram on the regional implementation of the article under review (figures 5-9, 11-15, 17-21, 24-28, 30-34, 36-40, 42-46, 48-52, 58-62, 64-68, 70-74, 76-80 and 82-86). As the quality of the present report is, to a large extent, a reflection of the quality of the information provided to the Secretariat, the analysis of compliance with each article is complemented, where appropriate, by text boxes describing examples of promising implementation and reporting practices.

11. States parties reporting partial or no compliance with the provisions under review (“yes, in part” or “no”) were requested to identify the types of technical assistance that, if available, would facilitate the implementation of the measures set forth in the Convention. The types of assistance foreseen were model legislation, legislative drafting, legal advice, site visits by an anti-corruption expert and the development of an action plan for implementation. States were also offered the opportunity to describe needs for forms of technical assistance other than those listed above, or to state that despite partial or non-compliance with the provision under review, no assistance was required.

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another State party; confiscation of property of foreign origin; confiscation without a criminal conviction of property acquired through corruption; freezing or seizure of property upon freezing or seizure order; freezing or seizure of property upon request providing sufficient grounds and preserving property for confiscation), article 55, paragraphs 1 to 3 (submission of request for order of confiscation to competent authorities; identification, tracing, freezing or seizure of proceeds of crime for eventual confiscation; and content of requests for order of confiscation), and article 57 (disposal of confiscated property; return of confiscated property upon request by another State party; return of property confiscated in accordance with article 55 of the Convention; deduction of expenses incurred in return or disposal of confiscated property; and conclusion of agreements on final disposal of confiscated property).

<sup>8</sup> Chapter II, “Preventive measures”; chapter III, “Criminalization and law enforcement”; chapter IV, “International cooperation”; and chapter V, “Asset recovery”.

12. To ensure coordination and avoid unnecessary duplication in the delivery of technical assistance, further information was elicited from those States that indicated needs for technical assistance. In particular, such States were asked whether technical assistance necessary to implement the Convention was already being or had been provided. In case of an affirmative answer, they were requested to specify by whom such assistance was provided and whether its extension or expansion would further facilitate the implementation of the provision under review.

13. As the Conference already considered, at its second session, information provided to the Secretariat through the 44 self-assessment reports of States parties received as at 30 November 2007, the narrative analysis of the present report focuses on information provided by States parties between 1 December 2007 and 14 August 2009. During this reporting period, 33 new self-assessment reports and 5 updates of previous self-assessment reports were submitted to the Secretariat. In order to avoid misleading interpretations of the visual features illustrating global and regional compliance with each article, these features also include information provided by self-assessment reports submitted prior to 30 November 2007 and are thus based on all 77 self-assessment reports received by the Secretariat as at 14 August 2009. To ensure comprehensiveness, the present report should be read in conjunction with the report entitled “Self-assessment of the implementation of the United Nations Convention against Corruption”.<sup>1</sup>

14. While the self-assessment checklist elicits information on compliance with provisions of the Convention, reference is made to articles and chapters rather than individual provisions under review to make the report more comprehensive and reader-friendly.

15. The visual features and detailed statistics that will enable the Conference to identify prevailing needs for technical assistance have been facilitated by the innovative, computer-based information-gathering tool used for the self-assessment.

#### **D. Chronology of the reporting process**

16. As requested by the Conference in its resolution 1/2, the Secretariat developed a self-assessment checklist on the implementation of the Convention. This computer-based self-assessment checklist was distributed to States parties and signatories on a CD-ROM on 15 June 2007. On 30 June 2007, the software was made available for download from the website of UNODC ([www.unodc.org/unodc/en/treaties/CAC/self-assessment.html](http://www.unodc.org/unodc/en/treaties/CAC/self-assessment.html)).

17. At the second session of the Conference, the Secretariat presented an analytical report<sup>1</sup> on the information that had been provided by 44 States parties and 7 signatories as at 30 November 2007. The addendum to that report<sup>2</sup> contains information on the technical assistance needed to fully implement the Convention.

18. As at 14 August 2009, the Secretariat had received 77 self-assessment reports from States parties to the Convention and 6 reports from States signatories, making a total of 83 reports received.

## **E. Assistance provided by the Secretariat to facilitate the fulfilment of reporting obligations after the second session of the Conference**

19. Between 1 February 2008 and 14 August 2009, approximately 90 permanent missions or capitals received offers of assistance, by telephone and/or by e-mail, in installing and operating the software.

20. During the intersessional meetings of the working groups on review of implementation, asset recovery and technical assistance, a “self-assessment clinic” was made available to the delegations to help them to become familiar with the software, complete their self-assessment reports or convert their reports into the required format.

21. Details of the assistance provided by the Secretariat are as follows:

(a) The following 26 States parties received assistance from the Secretariat in completing their self-assessment reports, updating them or converting them into the required format: Afghanistan, Algeria (update), Angola, Armenia, Australia, Brunei Darussalam, China, Colombia (update), Croatia (update), Cuba, Ecuador, Fiji, Guatemala, Malta, Pakistan, Panama, Peru (update), Philippines (update), Republic of Korea, Rwanda, Sierra Leone, Tajikistan, Togo, Tunisia, United Kingdom of Great Britain and Northern Ireland (update) and Yemen;

(b) The following 13 States parties submitted their reports without requiring assistance from the Secretariat: Azerbaijan, Bulgaria, Egypt, Greece, Hungary, Kenya, Mauritania, Mauritius, Mongolia, Morocco, Serbia, Slovenia and Uganda;

(c) The following 58 States parties did not submit their self-assessment reports: Albania, Antigua and Barbuda, Bahamas, Belgium, Benin, Bosnia and Herzegovina, Burundi, Cambodia, Cameroon, Cape Verde, Central African Republic, Cyprus, Democratic Republic of the Congo, Denmark, Djibouti, Ethiopia, Gabon, Georgia, Ghana, Guinea-Bissau, Guyana, Honduras, Iran (Islamic Republic of), Iraq, Israel, Jamaica, Kazakhstan, Kuwait, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Mozambique, Nicaragua, Niger, Palau, Papua New Guinea, Qatar, Republic of Moldova, Sao Tome and Principe, Senegal, Seychelles, South Africa, Sri Lanka, Timor-Leste, Trinidad and Tobago, Turkmenistan, United Arab Emirates, Uzbekistan, Venezuela (Bolivarian Republic of), Zambia and Zimbabwe.

## **F. Summary of self-assessment reports submitted as at 14 August 2009**

22. Seventy-seven States parties had submitted self-assessment reports as at 14 August 2009, which raised the overall rate of response to the self-assessment checklist to 57 per cent, from 42 per cent as at 30 November 2007. Six States signatories or other entities also reported on the implementation of the Convention. Details about the reporting of States parties by region are presented in figure 1, as well as in paragraphs 23 to 27. Figure 2 presents the changes in the regional response rates from 30 November 2007 to 14 August 2009.

Figure 1  
**Reporting by States parties and signatories to the Convention, by region**

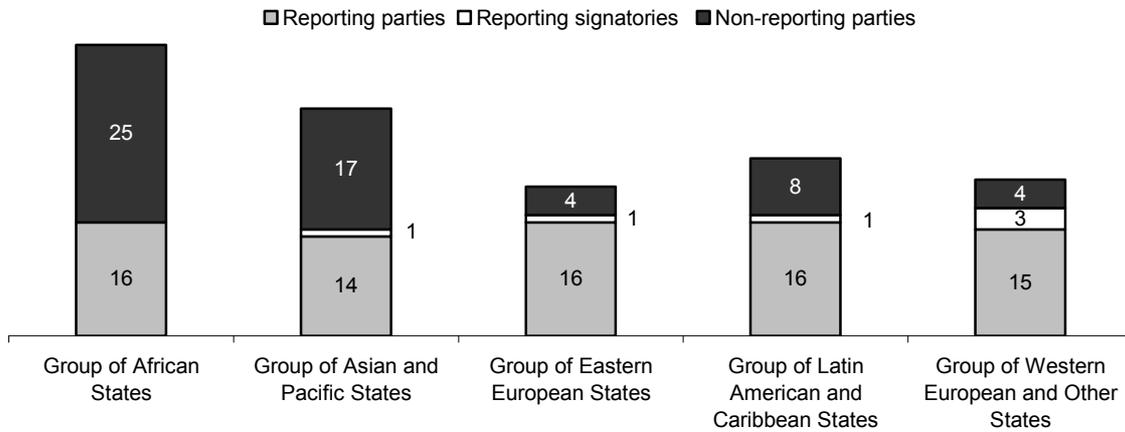
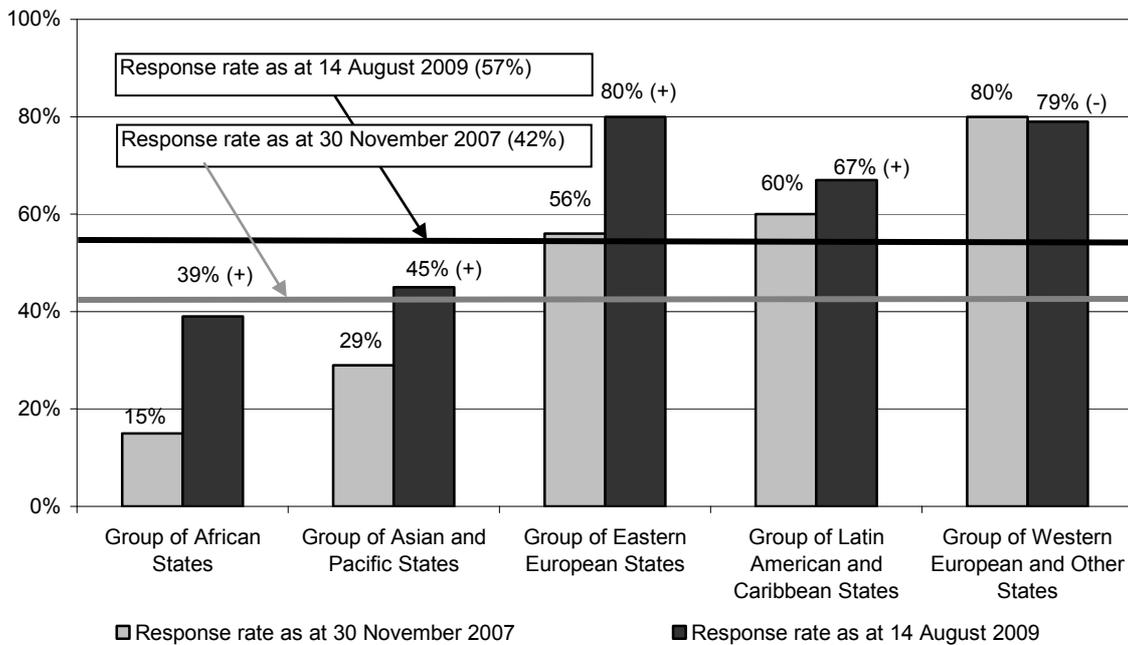


Figure 2  
**Change in response rates, by region**



**1. Group of African States**

23. The following 11 States parties from the Group of African States reported on the implementation of the Convention in the reporting period from 1 December 2007 to 14 August 2009: Angola, Egypt, Kenya, Mauritania, Mauritius, Morocco, Rwanda, Sierra Leone, Togo, Tunisia and Uganda. Algeria provided an update of its previous submission. The following 25 States parties did not provide self-

assessment reports: Benin, Burundi, Cameroon, Cape Verde, Central African Republic, Democratic Republic of the Congo, Djibouti, Ethiopia, Gabon, Ghana, Guinea-Bissau, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Mali, Mozambique, Niger, Sao Tome and Principe, Senegal, Seychelles, South Africa, Zambia and Zimbabwe.

## **2. Group of Asian and Pacific States**

24. The following nine States parties from the Group of Asian and Pacific States submitted self-assessment reports in the reporting period from 1 December 2007 to 14 August 2009: Afghanistan, Brunei Darussalam,<sup>9</sup> China,<sup>10</sup> Fiji, Mongolia, Pakistan, Republic of Korea, Tajikistan and Yemen. The Philippines provided an update of its previous submission. The following 17 States parties did not submit reports: Cambodia, Cyprus, Iran (Islamic Republic of), Iraq, Kazakhstan, Kuwait, Lebanon, Malaysia, Maldives, Palau, Papua New Guinea, Qatar, Sri Lanka, Timor-Leste, Turkmenistan, United Arab Emirates and Uzbekistan.

## **3. Group of Eastern European States**

25. From the Group of Eastern European States, the following six States parties reported on the implementation of the Convention in the reporting period from 1 December 2007 to 14 August 2009: Armenia, Azerbaijan, Bulgaria, Hungary, Serbia and Slovenia. Croatia updated its previous submission. The following four States parties did not report on their implementation of the Convention: Albania, Bosnia and Herzegovina, Georgia and the Republic of Moldova.

## **4. Group of Latin American and Caribbean States**

26. The following four States parties from the Group of Latin American and Caribbean States submitted self-assessment reports in the reporting period from 1 December 2007 to 14 August 2009: Cuba, Ecuador, Guatemala and Panama. Colombia and Peru provided updates of their self-assessment reports. The following eight States parties did not report on their implementation of the Convention: Antigua and Barbuda, Bahamas, Guyana, Honduras, Jamaica, Nicaragua, Trinidad and Tobago and Venezuela (Bolivarian Republic of). One signatory, Haiti, also reported.

## **5. Group of Western European and Other States**

27. The following three States parties from the Group of Western European and Other States reported on the implementation of the Convention in the reporting period from 1 December 2007 to 14 August 2009: Australia,<sup>11</sup> Greece and Malta.

<sup>9</sup> Brunei Darussalam reported before 30 November 2007, but was not included in the previous analysis, as it was a signatory at the time of reporting.

<sup>10</sup> Upon transmission of the self-assessment report to the Secretariat, China stated that the reports of the Hong Kong Special Administrative Region (SAR) and Macao SAR should be considered part of the reply of China.

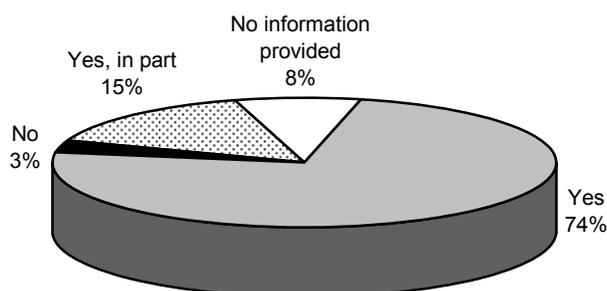
<sup>11</sup> Australia submitted its self-assessment report prior to 30 November 2007. However, the submission reached UNODC only after the second session of the Conference of the States Parties.

The United Kingdom provided an update of its previous submission. The following four States parties did not report: Belgium, Denmark, Israel and Luxembourg.

## II. Analysis of the implementation of selected articles of the Convention

### A. Preventive measures (chapter II of the Convention)

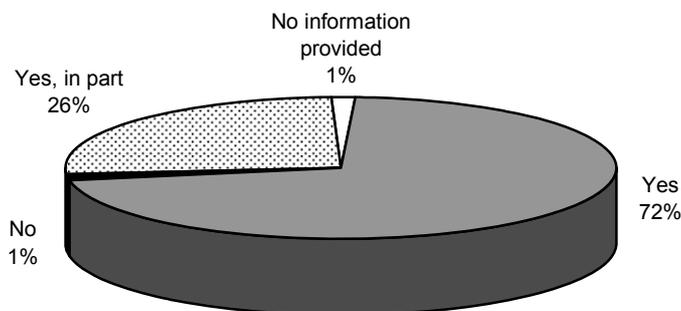
Figure 3  
Global implementation of chapter II



#### 1. Preventive anti-corruption policies and practices (article 5, paragraph 1)

28. The global implementation of article 5 (including implementation by parties that reported prior to 30 November 2007) is illustrated in figure 4. From the 78 per cent of States parties that reported full compliance with article 5 as at 30 November 2007, the compliance rate has fallen to 73 per cent.

Figure 4  
Global implementation of article 5 (reporting parties)



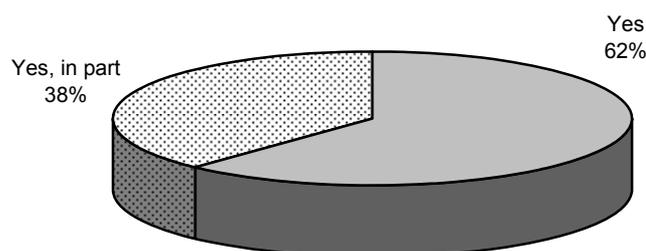
#### (a) Group of African States

29. Of the 11 reporting States parties from the Group of African States, Egypt, Mauritius, Morocco, Rwanda, Tunisia and Uganda indicated that they had adopted preventive anti-corruption policies and practices in compliance with article 5 of the Convention. Angola, Kenya, Mauritania, Sierra Leone and Togo reported partial implementation of these measures. Where applicable, reporting parties cited

relevant legislation, while Togo reported that preventive anti-corruption policies had not been implemented by law, but by setting up an organ tasked exclusively with the fight against corruption. Furthermore, Togo indicated that the public could address complaints about cases of corruption to that organ. In addition to citing relevant legislation, Egypt reported that many bodies were involved in the implementation of the principles set forth in article 5 of the Convention, among them the public prosecution and the integrity and transparency committee. Mauritania and Sierra Leone provided information about their anti-corruption strategies: Mauritania indicated that a national anti-corruption strategy taking all segments of society into account had been approved, but did not elaborate on its aims and approaches. Sierra Leone described its newly developed anti-corruption strategy for the period 2008-2013 and reported that it was aimed at preventing corruption through institutional strengthening, education and confrontation of existing corruption. Mauritius provided information on the setting up of anti-corruption core teams and measures to mobilize public support for anti-corruption efforts as examples of successful implementation (an optional reporting requirement). An example of good implementation by Mauritius is presented in box 1. Uganda referred to its Constitution as the applicable legal framework and stated that its Directorate for Ethics and Integrity was tasked with formulating anti-corruption policies and legislation to guide agencies and their activities and with monitoring the observance of ethical standards, anti-corruption legislation and political representation in the fight against corruption.

Figure 5

**Implementation of article 5 by parties from the Group of African States**



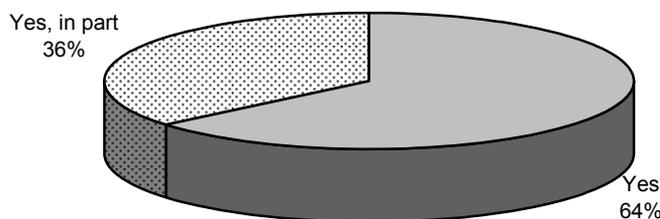
**(b) Group of Asian and Pacific States**

30. Six of the nine reporting parties from the Group of Asian and Pacific States—China (including Hong Kong), Fiji, Mongolia, Pakistan, the Republic of Korea and Tajikistan—reported that they had fully implemented preventive anti-corruption policies and practices as prescribed by article 5. Providing an update to its previous submission, the Philippines also reported full compliance with the article under review. Fiji referred to its Constitution and reported that it had established a relevant code of conduct, while Pakistan provided information about its National Accountability Ordinance and the rules of conduct for civil servants. The Republic of Korea referred to its Act on Anti-Corruption and the Establishment and Operation of the Anti-Corruption and Civil Rights Commission as applicable legislation and reported that the Commission was tasked with, inter alia, sharing, best practices by evaluating and announcing the adequacy and effectiveness of anti-corruption

initiatives pursued by public organizations. The Philippines referred to national constitutional provisions and reported on its National Anti-Corruption Programme of Action, which had been guided by the Medium-Term Philippine Development Plan, the Convention and the Millennium Development Goals. Furthermore, the Philippines provided information about the Multisectoral Anti-Corruption Council, which had identified the implementation of the Convention as one of its priorities. The Philippines also reported on the establishment of the Presidential Anti-Graft Commission, tasked with formulating national anti-corruption plans and strategies, conducting awareness-raising campaigns and recommending the issuance and adoption of appropriate policies to strengthen anti-corruption efforts. Afghanistan, Brunei Darussalam and Yemen indicated partial compliance with the provision under review. Afghanistan referred to its National Development Strategy, which contained anti-corruption elements to address corruption in the public and private sectors. Brunei Darussalam stated that its Anti-Corruption Bureau had its own Corruption Prevention Section, aimed at analysing the working practices and procedures of targeted Government departments and at making recommendations regarding the present system so as to prevent opportunities for corruption or abuse. Furthermore, Brunei Darussalam reported that the Community Relations Unit of the Anti-Corruption Bureau was tasked with educating the public about the negative effects of corruption through lectures, road shows and exhibitions. An example of good implementation by Brunei Darussalam is presented in box 1. Fiji provided a detailed account of the measures taken to implement the provision under review, while Mongolia provided information on its National Programme for Combating Corruption. Tajikistan provided information about its draft strategy for combating corruption. While all reporting parties cited the applicable laws or other measures, Fiji, Pakistan and the Republic of Korea also provided information on examples of successful implementation of the article (an optional reporting item).

Figure 6

#### Implementation of article 5 by parties from the Group of Asian and Pacific States



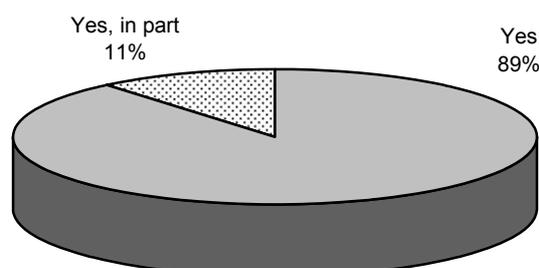
#### (c) Group of Eastern European States

31. All six reporting States parties—Armenia, Azerbaijan, Bulgaria, Hungary, Slovenia and Serbia—indicated that they had adopted preventive measures as prescribed in article 5. Armenia indicated that, while there was an anti-corruption strategy in place, it was formulating a new strategy with measures for its implementation. Azerbaijan reported that it had adopted the National Strategy to increase transparency and combat corruption for the period 2007-2011. In an effort to fulfil the optional reporting item of providing examples of the successful use or

implementation of the article, Azerbaijan submitted information on national anti-corruption action aimed at proper planning and allocation of responsibilities. Bulgaria cited its first National Strategy for Combating Corruption, which had been adopted in 2001, and referred to its government Commission for Coordination of the Fight against Corruption. Additionally, it drew attention to its Action Plan for Implementation of the National Strategy. Serbia reported the adoption of new legislation, in particular the Law on the Anti-Corruption Agency. Hungary cited its criminal code as applicable legislation. Bulgaria and Serbia also fulfilled the optional reporting item of providing examples of the successful implementation of the article. Bulgaria reported that automatic telephone centres had been created to report cases of corruption. Croatia, updating its previous submission, reported full compliance with the provision under review and stated that preventive anti-corruption policies and practices were also contained in its Anti-Corruption Strategy, the Action Plan for the Strategy and its court rules. In addition, Croatia provided further details on the obligations of State attorneys in declaring their assets. Slovenia cited applicable legislation and provided detailed information about its national anti-corruption strategy.

Figure 7

**Implementation of article 5 by parties from the Group of Eastern European States**



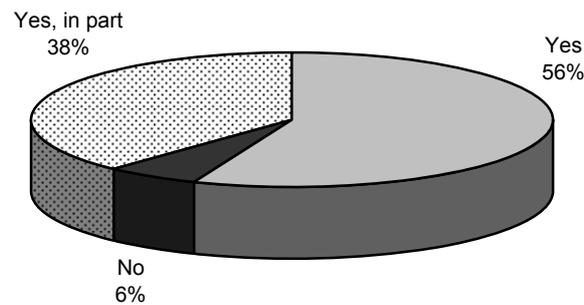
**(d) Group of Latin American and Caribbean States**

32. Two of the four reporting parties, Cuba and Panama, indicated that they had implemented effective anti-corruption policies in full compliance with article 5. Both parties also attached or cited in detail the relevant national laws. Peru, providing an update of the applicable legislation, cited in its previous submission, reported partial compliance with article 5. Ecuador cited partial implementation of the article under review, but did not provide information on the relevant legislative or other measures (an obligatory reporting item), while Guatemala reported no implementation of the measures prescribed in article 5. Cuba reported on an array of measures to prevent corruption, including the elaboration of plans for the prevention of corruption pursuant to ministerial resolution 13/06 and the establishment of a code of ethics. Panama provided an extensive overview of the measures adopted to ensure the implementation of effective anti-corruption prevention policies. Among other things, Panama reported strengthened measures for the participation of civil society through petitions and the exercise of the right to information pursuant to the Constitution and the Law on Transparency. Furthermore, Panama indicated that it

had launched a website where information on products and services required by the Government was available to the public. A uniform code of ethics for public servants and the observance of an annual Transparency Week had been introduced. Cuba also provided examples of the successful implementation of the provision under review.

Figure 8

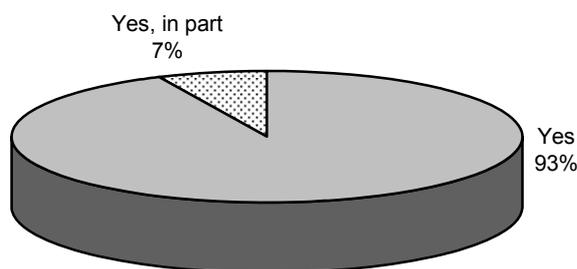
**Implementation of article 5 by parties from the Group of Latin American and Caribbean States**



**(e) Group of Western European and Other States**

33. All three reporting parties—Australia, Greece and Malta—indicated that they had adopted preventive anti-corruption policies to pursue full compliance with article 5 of the Convention. Australia reported that its Government, through the Commonwealth Fraud Control Guidelines, had mandated each Commonwealth department and agency to take responsibility for the prevention of fraud and corruption within that department or agency. Furthermore, Australia reported that it provided public access to Government decision-making processes and made information regarding corruption and anti-corruption measures in Australia available on the Internet. Australia also stated that it had developed a policy for Australian development assistance and anti-corruption work to underpin high-priority anti-corruption activities in the Asia-Pacific region. While Malta provided information on applicable legislation and its National Anti-Fraud and Anti-Corruption Strategy, Greece described the measures taken to ensure that effective anti-corruption policies were in place. Greece referred to the introduction of e-government and similar initiatives to facilitate interaction between citizens and the State in a transparent environment. An example of good implementation of the article under review by Greece is contained in box 1. Malta also provided examples of successful implementation of the article, thus fulfilling an optional reporting item.

Figure 9  
**Implementation of article 5 by parties from the Group of Western European and Other States**



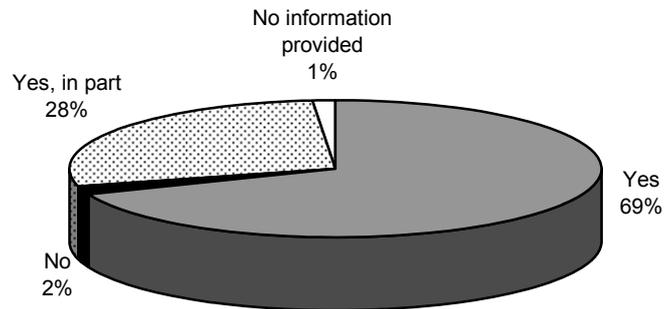
Box 1  
**Examples of good implementation of article 5**

- **Brunei Darussalam:** The Anti-Corruption Bureau has successfully utilized mass media to reach out to the local population with anti-corruption messages, e.g. by showing real-life dramas based on cases that were successfully prosecuted in court. Additionally, the Anti-Corruption Bureau and the Ministry of Education have launched a national anti-corruption curriculum requiring all educational institutions from the primary to the pre-university level to teach various aspects of corruption prevention.
- **Cuba:** Prevention plans are elaborated as obligatory implementation tools at all government levels. Consisting of several actions, such plans are aimed at promoting ethics, reducing the risk of corruption and creating a climate of honesty and efficiency.
- **Greece:** A review of all legislation that might allow for corrupt practices has been conducted. The review has led to the promulgation of several new statutes, in particular concerning public procurement and public contracts. A major programme of regulatory reform has been undertaken, resulting, inter alia, in the introduction of e-government.
- **Mauritius:** The Independent Commission against Corruption has involved trade unions in the fight against corruption by conducting middle-management courses and organizing a workshop for the evaluation of anti-corruption strategies with their participation. Furthermore, it has adopted a village-based approach establishing community-based integrity circles with the participation of community leaders and raised awareness about corruption issues at evening schools in various languages.

## 2. Preventive anti-corruption body or bodies (article 6)

34. Figure 10 illustrates the global implementation of article 6 (including implementation by States parties that reported prior to 30 November 2007). From the 60 per cent of States parties that reported the existence of independent corruption-prevention bodies as at 30 November 2007, the compliance rate has risen to 71 per cent.

Figure 10  
Global implementation of article 6 (reporting parties)



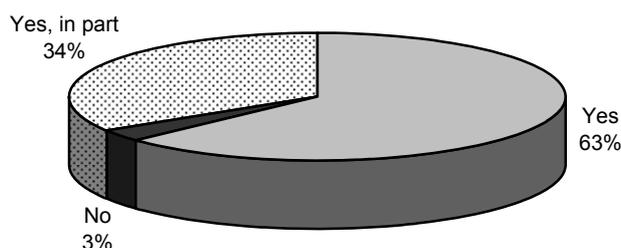
(a) Group of African States

35. Of the 11 reporting parties, Egypt, Mauritius, Morocco and Rwanda indicated that they had established independent preventive anti-corruption bodies in full compliance with article 6, and Kenya and Togo reported partial implementation of the article. While Angola reported that it had not ensured the existence of a body such as that prescribed by article 6, paragraph 1, it indicated that its Law on the High Authority against Corruption would partially comply with the requirement of article 6, paragraph 2, to grant such a body or bodies the necessary independence and provide adequate resources and training. Egypt indicated that, among other bodies, the integrity and transparency committee served as an anti-corruption body, in compliance with article 6. Kenya indicated that it had established the Kenya Anti-Corruption Commission, which, complemented by other institutions, partially fulfilled the requirements of paragraph 1; it still required legal assistance to become fully compliant. Uganda reported on the establishment of its Directorate for Ethics and Integrity, and stated that this coordinating agency was in full compliance with the requirements of paragraph 1. Kenya further indicated partial compliance with the requirement to grant the anti-corruption body or bodies the necessary independence (para. 2) and, like most other States parties reporting full or partial implementation, cited relevant legislation. In addition, Kenya reported that it was carrying out a gap analysis of its legislation vis-à-vis the Convention to determine the extent to which it has been implemented and to evaluate the way towards full implementation. Uganda reported partial compliance with paragraph 2. Mauritania reported partial compliance with article 6 and indicated that no particular authority was responsible for fighting bribery. However, it added that other authorities were dealing with this matter with varying degrees of independence. Mauritius reported that it had established an independent preventive anti-corruption body, the Independent Commission against Corruption, in full compliance with article 6. That Commission had developed an action plan for the period 2006-2009 to implement anti-corruption strategies focusing on prevention and education. However, Mauritius indicated that the body would still need training and technical assistance, especially in the prevention and investigation of money-laundering. Rwanda confirmed the establishment of a preventive anti-corruption body as prescribed by article 6 and stated that it was given the necessary independence and adequate training.

Furthermore, Rwanda provided examples of the successful implementation of the provision under review (an optional reporting item). Sierra Leone indicated partial compliance with the provision under review and reported the establishment of the Anti-Corruption Commission, tasked with the enforcement of anti-corruption laws and the implementation of preventive policies and measures. Furthermore, it reported that the Anti-Corruption Act 2008 stipulated that the Commission should act independently and impartially and should not be subject to the direction or control of any person or authority. Togo reported partial compliance with the provision under review and indicated that a national commission for the fight against corruption and economic sabotage had been established to raise public awareness about the effects of corruption and to fight it in all its forms. While indicating partial compliance with the requirement of granting its anti-corruption body independence, Togo did not specify whether the decree establishing its anti-corruption commission provided for such independence. Tunisia reported partial implementation of the requirement to ensure the existence of an anti-corruption body (para. 1) and full implementation concerning independence, resources and trained staff for the body (para. 2). Furthermore, it provided information on the applicable legislation. An example of successful implementation of article 6 by Mauritius is provided in box 2.

Figure 11

**Implementation of article 6 by parties from the Group of African States**

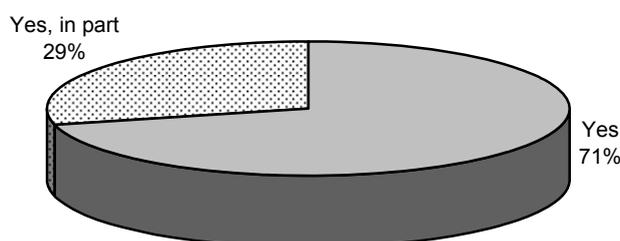


**(b) Group of Asian and Pacific States**

36. Six of the nine reporting States parties—Brunei Darussalam, China (including Hong Kong), Fiji, Mongolia, Pakistan and the Republic of Korea—indicated that they had established independent preventive anti-corruption bodies in full compliance with the requirements of article 6. Afghanistan, Tajikistan and Yemen reported partial implementation of the article under review. Brunei Darussalam stated that its Anti-Corruption Bureau was an independent body reporting directly to His Majesty the Sultan and Yang Di-Pertuan. China reported on the establishment of the National Corruption Prevention Bureau and stated that its duties included the coordination of prevention at the national level and international cooperation in preventing corruption. Fiji reported that its Independent Commission Against Corruption had been granted independence and that its Commissioner was not subject to the direction or control of any person other than the President. Furthermore, Fiji provided detailed accounts of the Commission's work, some of which are presented in box 2. The Republic of Korea reported that it had established the Anti-Corruption and Civil Rights Commission under the Office of the Prime

Minister in order to handle complaints and grievances, improve administrative systems and prevent corruption. It further indicated that the Commission was charged with formulating anti-corruption policies and making corruption prevention recommendations to assist public organizations in strengthening their systems and policies, as well as developing mid- and long-term basic policies and yearly implementation plans to combat corruption in public organizations. An example of good implementation of article 6 by the Republic of Korea is presented in box 2. While Mongolia stated that it had ensured the existence of an anti-corruption body in accordance with paragraph 1, it did not comply with the obligatory reporting item of citing the applicable legislation. Indicating partial compliance with the provision under review, Afghanistan reported on the establishment of the High Office of Oversight and Anti-Corruption, tasked with overseeing the implementation of the national anti-corruption strategy and implementing reforms of administrative procedures. With regard to the same provision, Tajikistan stated that its Agency for State Financial Control and the Fight against Corruption was responsible for preventing, detecting and investigating corruption and economic crimes and offences, but indicated that the Agency did not have a specialized department for the prevention and interdiction of corruption-related crimes. Concerning the independent status of and resources and trained staff for such bodies (para. 2), Afghanistan reported partial compliance and explained that the High Office of Oversight had been established by presidential decree as an independent institution. It further stated that its Anti-Corruption Law required relevant technical training to be provided to all government employees to enable them to carry out their functions effectively. Tajikistan indicated partial compliance with the provision under review, but did not comply with the obligatory reporting item of citing applicable legislation. With regard to the same provision, China reported that its National Corruption Prevention Bureau was directly affiliated with the State Council and conducted its work independently. Mongolia reported that its Independent Authority against Corruption was a special, independent State body, as defined in its Anti-Corruption Law. Mongolia indicated that, to ensure the Authority's independence, it did not report on its activities to any organization or official. Furthermore, it stated that, unless otherwise provided for by law, it was prohibited to relieve an officer of the Authority of his or her duties, or to dismiss or transfer him or her to another job or official position, without the officer's consent. Similarly, the Republic of Korea stated that the members of the Anti-Corruption and Civil Rights Commission should not be dismissed or decommissioned against their will except for reasons listed in the Act on Anti-Corruption and the Establishment and Operation of the Anti-Corruption and Civil Rights Commission. With regard to the training of officers of the Independent Authority against Corruption, Mongolia stated that they had been given English-language training. Pakistan indicated the establishment of the Awareness and Prevention Division in the National Accountability Bureau. Apart from Mongolia, all reporting parties cited the relevant legislation or other measures. Fiji, Pakistan and the Republic of Korea also fulfilled the optional reporting item of giving substantiating examples of successful use or implementation of the article.

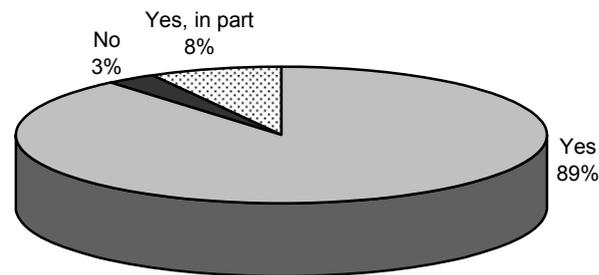
Figure 12  
**Implementation of article 6 by parties from the Group of Asian States**



**(c) Group of Eastern European States**

37. All six reporting parties indicated that they had adopted measures to ensure the existence of bodies that prevent corruption, in compliance with article 6. Croatia, updating its previous submission, reported action to achieve full compliance with article 6 and provided a detailed description of its Coordinating Committee for Monitoring the Implementation of Anti-Corruption Measures and its National Council for Monitoring the Implementation of the Anti-Corruption Strategy, thereby fulfilling an optional reporting item. Armenia stated that the general policy for combating corruption was formulated and implemented by the Government and supported by the Council for the Fight against Corruption, which was chaired by the Prime Minister. Azerbaijan provided information about the legislation pursuant to which the Commission on the Fight Against Corruption had been established. Bulgaria reported that it had established the Commission on Preventing and Counteracting Corruption under the National Assembly and anti-corruption committees under the Supreme Judicial Council. Furthermore, Bulgaria indicated that a Strategy for Transparent Governance and Preventing and Counteracting Corruption was in place. Hungary stated that it had established the Anti-Corruption Coordination Board, tasked with providing opinions and recommendations to and supporting the Government. Serbia reported the establishment of the Anti-Corruption Agency, which would be operational as from 2010. Slovenia cited its Prevention of Corruption Act 2004 as applicable legislation and provided a detailed description of its Commission for the Prevention of Corruption, tasked with developing and implementing anti-corruption strategies, disseminating knowledge about the prevention of corruption and proposing legislative amendments. Slovenia further stated that this Commission had the highest possible level of independence and was free from any undue influence in exercising its functions. Azerbaijan, Bulgaria, Hungary and Slovenia also provided examples of the successful implementation of the article, thus fulfilling an optional reporting item. Examples given by Slovenia and Croatia are presented in box 2.

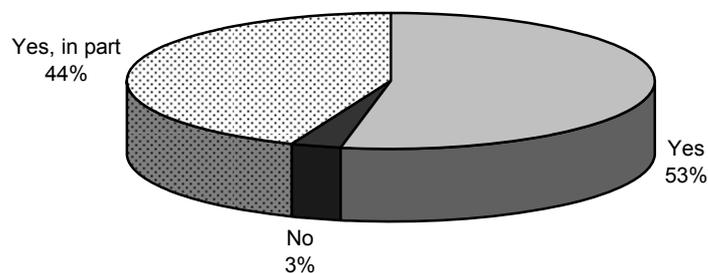
Figure 13  
**Implementation of article 6 by parties from the Group of Eastern European States**



**(d) Group of Latin American and Caribbean States**

38. Two of the four reporting parties—Cuba and Panama—indicated that they had ensured the existence of independent preventive anti-corruption bodies to pursue full implementation of article 6. Both Cuba and Panama reported that there was no single body charged with the prevention of corruption, as this was the task of multiple institutions. Ecuador and Guatemala reported that they had established the Civil Corruption Control Commission and the Commission for Transparency and against Corruption, respectively, to pursue full implementation of paragraph 1, and cited relevant legislation. Providing an update of its previous submission, Peru reported partial compliance with the article under review and stated that its National Anti-Corruption Office, which had replaced the National Anti-Corruption Council, was tasked with preventing corruption. Guatemala added that one of the weaknesses of the one-man Commission for Transparency and against Corruption lay in its temporary character, since the Commissioner was appointed to a one-year contract only, which was renewable by decision of the President. In application of paragraph 2 (independence of such bodies), Ecuador indicated partial implementation, while Guatemala reported no implementation of that provision. All reporting parties also provided examples of the successful implementation of the article, in fulfilment of an optional reporting item (Colombia did so as an update of its previous submission).

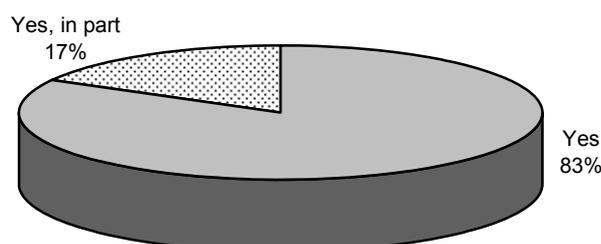
Figure 14  
**Implementation of article 6 by parties from the Group of Latin American and Caribbean States**



**(e) Group of Western European and Other States**

39. Two of the three reporting parties—Australia and Greece—reported that they had adopted measures to ensure the existence of independent preventive anti-corruption bodies, in compliance with article 6. Providing an update of its previous submission, the United Kingdom also provided information on measures aimed at full implementation of article 6, while Malta reported partial compliance. Australia provided a detailed description of the bodies responsible for preventive anti-corruption measures. Greece indicated that the Office of the General Inspector of Public Administration, assisted by the corps of public administration inspectors, was coordinating the implementation of the anti-corruption strategy. Greece further stated that, while the Office of the General Inspector for Public Administration was not an independent body, it operated on the basis of its own internal organization in order to ensure the maximum independence of its personnel. The United Kingdom reported that the Cabinet Office Corruption Committee was coordinating preventive anti-corruption functions. Malta reported the existence of preventive anti-corruption bodies, as prescribed by paragraph 1, and stated that numerous bodies such as the Permanent Commission against Corruption, were in charge of such efforts. In application of paragraph 2 (independence of such bodies), Malta indicated partial compliance and cited relevant legislation. Examples of successful implementation of the article were provided by all reporting parties.

Figure 15

**Implementation of article 6 by parties from the Group of Western European and Other States****Box 2****Examples of good implementation of article 6**

- **Croatia:** The Coordinating Committee for Monitoring the Implementation of Anti-Corruption Measures is tasked with assessing corruption risks and recommending measures for the prevention of corruption and improving the efficiency of the implementation of the Action Plan of the Anti-Corruption Strategy. The Committee is composed of the Minister of Justice as national coordinator and high-ranking representatives of the bodies in charge of the implementation of the Action Plan measures. To further efficient prevention and suppression of corruption, the National Council for Monitoring the Implementation of the Anti-Corruption Strategy has been set up.
- **Fiji:** The Independent Commission against Corruption has established a Community and Education Department, whose officers travel around Fiji

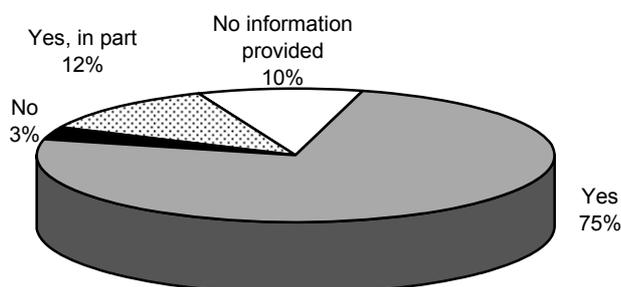
visiting government ministries, firms in the private sector and secondary schools to deliver presentations and training programmes. The Commission's website is designed to be interactive, informative and user-friendly, thus functioning like an online office of the Commission, where users can lodge their complaints. To raise awareness of corruption, the Commission has released a wall calendar for distribution at high schools and set up LCD screens in social clubs and a major retail store, repeating still pictures and anti-corruption messages related to the Commission's work and the Convention. Furthermore, television and radio advertisements have been aired.

- **Panama:** Among other institutions, the National Transparency Council against Corruption is tasked with ensuring that policies are transparent and prevent corruption. The Council, which consists of five representatives of the public and private sector each, airs a weekly television programme to inform the public about its programmes and activities.
- **Mauritius:** The independence of the Independent Commission against Corruption was established by law. Accordingly, its Director General should not be under the control or direction of any person or authority. The Director General is appointed by the Prime Minister after consultation with the opposition leader.
- **Republic of Korea:** The Anti-Corruption and Civil Rights Commission provides tailor-made integrity consulting to public organizations that recorded low average integrity scores in the previous year and to those that request integrity consulting to find their weaknesses in anti-corruption infrastructure and mechanisms. The Commission develops countermeasures and, in discussion with the organizations concerned, draws up custom-made anti-corruption policies. Subsequently, the Commission monitors their implementation.
- **Slovenia:** The Commission for the Prevention of Corruption has been established as an independent and autonomous authority tasked with developing and implementing anti-corruption strategies, disseminating knowledge on the prevention of corruption and suggesting legislative amendments.

### 3. Public procurement and management of public finances (article 9)

40. Figure 16 illustrates the global implementation of article 9 (including implementation by States parties that reported prior to 30 November 2007). From the 56 per cent of States parties that reported full compliance with article 9 as at 30 November 2007, the compliance rate has risen to 76 per cent, representing an increase of 20 per cent in two years.

Figure 16  
Global implementation of article 9 (reporting parties)



**(a) Group of African States**

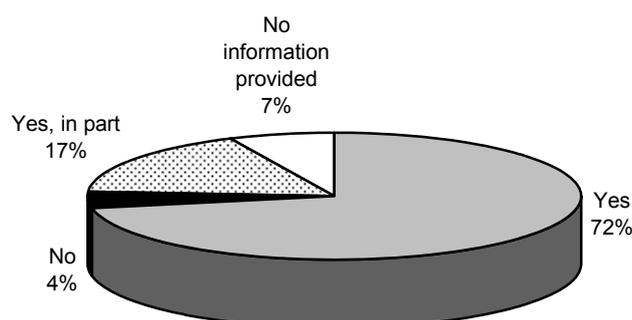
41. Egypt, Mauritius, Morocco and Tunisia reported full compliance with article 9 and cited relevant legislation. However, no substantiating examples of the successful implementation of the measures set forth in article 9 were provided (optional reporting item). With the exception of paragraph 2 (d), regulating systems of risk management and internal control, with which partial compliance was reported, Uganda also assessed its legislation as being fully compliant with article 9. As an update to its previous submission, Algeria provided information on paragraphs 2 (c), (d) and (e) and paragraph 3. It reported partial compliance with the requirements for accounting and auditing standards set forth in paragraph 2 (c) and stated that measures were soon to be adopted to better comply with this provision. Indicating partial implementation of risk management and internal control systems under paragraph 2 (d) and of measures providing for corrective action upon failure to comply with the requirements of paragraph 2, Algeria cited relevant legislation. With regard to the prevention of falsification of public expenditure records, as prescribed by paragraph 3, Algeria stated that, while no particular measure had been taken to implement these provisions of the Convention, its legislative framework provided for the prevention of falsification of such records. Angola reported partial implementation of article 9 and, where applicable, also cited relevant legislation or other measures. While Kenya and Sierra Leone reported that their systems of procurement were partially compliant with paragraph 1 (a), Mauritania and Rwanda stated that their systems of procurement were designed to prevent corruption and thus were fully compliant with the requirements of paragraph 1 (a). To support its response, Mauritania reported that the preliminary evaluation announcement, which had to be published in newspapers or by means of posters for a period of no less than 30 days for national and 45 days for international tenders, had to convey to the candidates all necessary information on the services to be provided and the conditions for qualification. Rwanda cited relevant legislation and provided examples on the successful implementation of the article, thereby fulfilling an optional reporting item. Togo reported that its system of procurement was partially in compliance with the requirements of paragraph 1 (a), and cited its commercial code as relevant legislation. Kenya reported full compliance with paragraph 1 (b), and specified that its Public Procurement and Disposal Act provided for criteria to determine the award of contracts and details on the required content of a tender.

Rwanda and Togo indicated that they had taken measures to establish conditions for participation in public procurement that were fully compliant with the requirements of paragraph 1 (b). An example of good implementation of the provision under review by Uganda, which also reported full compliance, is presented in box 3. Mauritania and Sierra Leone indicated partial compliance with paragraph 1 (b). Mauritania and Rwanda reported full compliance with paragraph 1 (c), requiring the establishment and use of criteria for public procurement decisions. Mauritania and Rwanda cited relevant legislation, while the former also provided excerpts of such legislation. Kenya, Sierra Leone and Togo indicated partial implementation of criteria for public procurement decisions, as prescribed by paragraph 1 (c), and of a system of domestic review of public procurement decisions, as prescribed by paragraph 1 (d), and cited, respectively, the Kenyan Public Procurement Disposal Act, the Sierra Leonean Public Procurement Act and the Togolese commercial code. With regard to paragraph 1 (d), Mauritania indicated partial compliance and reported that the national transactions committee was the only body empowered to appeal. Angola noted that no system of domestic review of public procurement decisions, as prescribed by paragraph 1 (d) was in place, while Rwanda reported full compliance with the provision under review and cited applicable legislation. Reporting on systems of domestic review of public procurement decisions (para. 1 (d)), Mauritius stated that it had implemented a system allowing a bidder who claims to have suffered, or to be likely to suffer, loss or damages owing to a breach of a duty imposed on a public body or the Central Procurement Board to challenge the procurement proceedings at any time before the entry into force of the procurement contract. Kenya, Mauritania and Sierra Leone reported partial implementation of measures regarding public procurement personnel, as prescribed by paragraph 1 (e), while Togo indicated that no such measures had been taken. Rwanda reported full compliance with the provision under review and cited relevant legislation. An example of good implementation by Mauritius is presented in box 3. Reporting on transparency and accountability in the management of public finances, Kenya and Sierra Leone indicated partial implementation and Mauritania and Rwanda full implementation of paragraph 2 (a). While Kenya and Rwanda cited relevant legislation, Mauritania indicated that the national budget was approved by the parliament, but did not provide any legislative background. Rwanda provided an example of the successful implementation of the provision under review (an optional reporting item). Both Kenya and Mauritania reported partial implementation of measures concerning timely reporting on revenue and expenditure and a system of accounting and auditing standards and related oversight, as prescribed by paragraphs 2 (b) and (c), while Sierra Leone did not provide information on the implementation of those provisions (an obligatory reporting item). Rwanda indicated full compliance with the provisions under review and cited applicable legislation. While Kenya cited relevant legislation for both provisions under review, Mauritania indicated that there was a possibility of obtaining information on revenue and expenditures and cited legislation providing for accounting and auditing standards. While Kenya and Sierra Leone indicated that their systems of risk management and internal control were in partial compliance with paragraph 2 (d), and cited the relevant regulations, Mauritania reported that it did not have such a system. Sierra Leone further stated that its internal control structure was generally very weak, as its internal audit department was relatively small and subordinate to the office that it should be auditing. Sierra Leone also reported that many tasks related to the management of the budget were concentrated

in the position of the Accountant General, thus making the entire financial management system dependent on the ability, competence and integrity of a single person. While Sierra Leone indicated that such concentration might be expedient in the short term, taking into account the country's post-conflict situation, the self-assessment report recognized that the situation represented a risk to public accountability that had to be addressed in the medium term by building capacity in other positions and public institutions. Angola reported that no measures to promote timely reporting on revenue and expenditure, as prescribed by paragraph 2 (b), and no systems of risk management and internal control, as described in paragraph 2 (d), had been established. Reporting on measures taken to ensure corrective action upon failure to comply with the requirements of article 9, paragraph 2, in accordance with paragraph 2 (e), Mauritania and Rwanda indicated full compliance. Mauritania reported on its national strategy to abide by the conditions stipulated in the international agreement, while Kenya reported partial compliance and cited relevant legislation. Sierra Leone indicated that no measures had been taken to ensure corrective action upon failure to comply with the requirements of article 9, paragraph 2. Angola indicated that it had not implemented the provision under review. With regard to the prevention of falsification of public expenditure records in accordance with paragraph 3, Kenya and Sierra Leone reported partial compliance; Angola, Mauritania and Rwanda indicated full implementation of the provision. While Kenya, Sierra Leone and Rwanda cited relevant legislation, Mauritania did not do so.

Figure 17

#### Implementation of article 9 by parties from the Group of African States



#### (b) Group of Asian and Pacific States

42. China did not report on the implementation of article 9, regarding public procurement and management of public finances, thereby not complying with an obligatory reporting item, while Hong Kong, China, indicated full compliance with the article under review. The Republic of Korea reported full compliance with measures concerning public procurement and management of public finances as set forth in article 9. Fiji assessed its legislation as fully compliant with article 9, with the exception of paragraph 2 (c), concerning accounting and auditing standards, in respect of which it indicated partial compliance. Mongolia also reported full compliance with article 9, with the exception of paragraph 3, regarding the prevention of falsification of public expenditure records, in respect of which it indicated partial compliance. Reporting on systems of procurement designed to

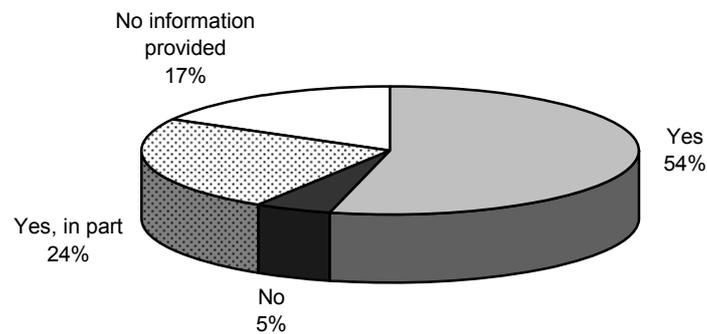
prevent corruption (para. 1 (a)), Afghanistan, Brunei Darussalam, Pakistan and Yemen indicated partial compliance. Brunei Darussalam further reported that there was no specific legislation regulating public procurement, but that the Government had its own financial regulations and administrative circulars providing for the management of public finances and that it had set up a State Tender Board and a Mini Tender Board within ministries to regulate the process of public procurement. Fiji reported that its public procurement system was governed by the finance instructions of 2005 and that a Ministry of Finance manual had been introduced that same year to further define the establishment of a procurement system and its processes. With regard to the same provision, Mongolia reported full compliance and stated that its procuring entities had to post on a particular website invitations for tenders exceeding a certain threshold value. The Republic of Korea referred to its Act on Contracts as applicable legislation. An example of good implementation of the provision under review by the Republic of Korea is presented in box 3. Reporting on the implementation of systems of procurement designed to prevent corruption (para. 1 (a)), Tajikistan indicated that it was not in compliance. Tajikistan did not provide information on the implementation of article 9 from paragraph 1 (b) to paragraph 3, thereby not complying with obligatory reporting items. While Brunei Darussalam indicated that it had established conditions for participation in public procurement as provided by paragraph 1 (b), it stated that it had not implemented paragraph 1 (c), concerning criteria for public procurement decisions. With regard to conditions for participation in public procurement (para. 1 (b)), Fiji reported full compliance and stated that it released the terms and criteria for individual tenders to the public or to interested parties. Pakistan also assessed its legislation as fully compliant with the provision under review, while Afghanistan and Yemen indicated that they were partially in compliance with paragraph 1 (b). The Republic of Korea provided a detailed account of its applicable legislation. Afghanistan and Fiji reported full compliance with paragraph 1 (c). Afghanistan indicated that bidding documents had to mention bid evaluation criteria, and Fiji provided further detail on the decision-making process in public procurement. Pakistan indicated partial implementation and Yemen no implementation of the requirements concerning criteria for public procurement decisions. The Republic of Korea cited its Act on Contracts as relevant legislation. Brunei Darussalam reported that it had not implemented a system of domestic review of public procurement decisions as prescribed by paragraph 1 (d). Afghanistan reported that it had fully implemented such a provision and referred to its Procurement Law as the applicable legislation. Indicating full compliance with the provision under review, Fiji reported that within the Ministry of Finance there was an internal audit responsible for reviewing procurement procedures and for ensuring that all government guidelines were complied with. Fiji further stated that, if external parties were involved in such procedures and wished to appeal or lodge a complaint about improper procedures, this could be done through the Minister for Finance and the Office of the Ombudsman. Mongolia indicated that procuring entities had to establish an evaluation committee when procuring goods, work or services estimated to exceed the threshold value specified in Mongolian legislation. However, Mongolia did not provide details concerning the specific tasks of the evaluation committee. Pakistan reported partial compliance with paragraph 1 (d) and cited the applicable legislation, while Yemen assessed its legislation as fully compliant with the provision under review. The Republic of Korea provided a detailed account of its applicable legislation and stated that anyone who had suffered damage because of the

commission of certain listed offences could file an objection for the purpose of cancelling or correcting the relevant acts. An example of good implementation of the provision under review by the Republic of Korea is presented in box 3. Concerning measures on public procurement personnel, as prescribed by paragraph 1 (e), Afghanistan reported full compliance, while Brunei Darussalam indicated that it had not implemented such measures. Afghanistan deemed its Procurement Law the applicable legislation. Yemen reported partial implementation of the provision under review, while Fiji provided a detailed account of such measures. An example of good implementing practices by Fiji is presented in box 3. Pakistan assessed its legislation as being partially compliant with the provision under review. The Republic of Korea, further to reporting full compliance with the provision under review, also stated that a training event on procurement planning was set up every year. It further reported that various courses, including courses on procurement, were offered. In addition, the Republic of Korea provided information about its procurement-education website. Concerning transparency and accountability in public finances (para. 2 (a)), Afghanistan, Fiji and Pakistan reported full compliance. Afghanistan reported that procedures for the adoption of the budget were contained in the Public Finance and Expenditure Management Laws 2005. While Pakistan cited relevant legislation, Fiji explained its legislative framework governing the implementation of the provision under review. The Republic of Korea stated that transparency in public finances had increased thanks to the various channels of participation for citizens and experts. Yemen reported partial compliance with the provision under review. Afghanistan and Pakistan also reported full implementation of paragraph 2 (b), regulating timely reporting on revenue and expenditure. Afghanistan indicated that the Ministry of Finance prepared timely reports on revenue and expenditure through the Afghan Financial Management Information System, while Pakistan cited applicable legislation. Similarly, the Republic of Korea indicated that it used a digitalized system for timely reporting on revenue and expenditure. Yemen assessed its legislation as being partially compliant with this provision. Reporting full compliance with paragraph 2 (c), on accounting and auditing standards, Afghanistan stated that it had adopted international accounting standards such as the Generally Accepted Accounting Principles and the International Accounting Standards. Brunei Darussalam specified that no particular legislation on the matter existed, while Fiji and Yemen reported partial implementation of the provision and cited applicable legislation. Mongolia stated that its legislation was in full compliance with the requirements of the provision under review and indicated that its implementation was governed by the Law on State Audit. Furthermore, Mongolia provided information about its highest audit organization, the National Audit Office. Mongolia reported that, to improve accounting inspection and external inspection activities, amendments to the accounting and audit laws were planned for 2009. Pakistan also indicated full compliance with the provision under review and reported on its Public Accounts Committee and the Auditor-General. Indicating partial compliance with the requirements of the Convention concerning systems of risk management and internal control, as set forth in paragraph 2 (d), Brunei Darussalam specified that no particular legislation on the matter existed. Afghanistan and Fiji reported that they had fully implemented the provision under review. Afghanistan explained that its budget hearing process served as mechanism for scrutinizing risk management of ministries' activities, while Fiji provided an account of its systems of risk management and internal control. Mongolia and

Pakistan also indicated full compliance with the provision under review, while Yemen reported partial implementation. Mongolia further reported that an internal inspection manual had been prepared in conformity with international practices. While the Republic of Korea reported full compliance with article 9 from paragraph 2 (d) to paragraph 3, it did not comply with the obligatory reporting item of citing applicable legislation. Furthermore, Afghanistan, Brunei Darussalam and Pakistan reported full compliance with paragraph 2 (e), on corrective action upon failure to comply with the other requirements of paragraph 2. With regard to the same provision, Brunei Darussalam stated that there was no implementing legislation. Fiji indicated that its Financial Management Act was in full compliance with the requirements of article 9, paragraph 2 (e), while Yemen reported partial compliance. Brunei Darussalam did not report on the implementation of paragraph 3, concerning the prevention of falsification of public expenditure records, thereby not complying with an obligatory reporting item. Further to assessing its legislation as being fully compliant with paragraph 3, Fiji indicated that the Ministry of Finance and the Office of the Auditor-General were responsible for ensuring that accounting records and documents were not amended or falsified. In addition, Fiji stated that, under its legislative framework, the falsification of documents was a criminal offence. Mongolia and Yemen reported partial compliance, while Afghanistan and Pakistan indicated full compliance with the provision under review and cited applicable legislation. The Republic of Korea provided examples of the successful implementation of the article under review, thereby fulfilling an optional reporting item.

Figure 18

#### Implementation of article 9 by parties from the Group of Asian and Pacific States



#### (c) Group of Eastern European States

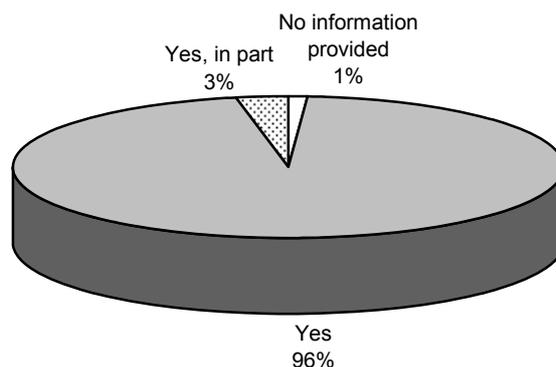
43. Armenia, Azerbaijan, Bulgaria and Slovenia reported full implementation of article 9, while Hungary and Serbia reported full compliance with most of the provisions of the article. Partial implementation was reported by both Hungary and Serbia with regard to paragraphs 2 (d) and (e). While Armenia, Azerbaijan, Bulgaria and Slovenia cited applicable legislation as required, Azerbaijan did not provide information on legislative or other measures adopted to ensure the existence of systems of procurement designed to prevent corruption and measures regarding public procurement personnel, in accordance with paragraphs 1 (a) and (e), respectively (mandatory reporting items). Croatia reported full compliance with the

requirements of article 9 and provided an update of its previous submission. Furthermore, Croatia fulfilled the optional reporting item of providing examples of successful implementation of the article under review. Reporting on systems of procurement designed to prevent corruption (para. 1 (a)), Bulgaria stated that standard samples of announcements of contracts, which included the necessary minimum information to ensure publicity and transparency, had been established. Furthermore, Bulgaria indicated that all contracting authorities had to send to the State gazette, for publication on its website, information on all public procurement award procedures that they were considering initiating during the next 12 months. Serbia reported full compliance with this provision and cited applicable legislation. Slovenia indicated that competition among tenderers and transparency were fundamental principles of its public procurement system. It further reported the establishment of a national public procurement portal, which could be accessed free of charge and without registering or logging in. Reporting on the establishment of conditions for participation in public procurement (para. 1 (b)), Azerbaijan stated that all public procurement exceeding a certain cost was carried out through open tenders published online. With regard to the same provision, Croatia indicated that open tendering should be the basic procurement method. Croatia further reported that interested parties may participate in such tenders pursuant to requirements and tendering procedures set forth in the tender documentation. Serbia indicated full compliance with the provision under review and excerpted legislation stating that the criteria on the basis of which a procuring entity selects the most advantageous bid have to be described and evaluated in the tender documents, must not be discriminatory and have to be logically related to the subject of public procurement. Furthermore, it reported that the methodology for allocating points for each criterion needed to be described in the tender documents to allow for subsequent objective verification of the bid evaluation. Slovenia indicated that such conditions had to be published on its national procurement portal. Reporting on criteria for public procurement decisions as prescribed by paragraph 1 (c), Serbia indicated full compliance. An example of good implementation of paragraph 1 (c) by Croatia is presented in box 3. Concerning systems of domestic review of procurement decisions (para. 1 (d)), Azerbaijan mentioned that if a breach of law during the preparation and the conduct of a tender were to be confirmed, the results of the tender would be cancelled and a new tender conducted. Bulgaria reported that its legislation on public procurement had been amended in 2006 and that a number of mechanisms for countering corruption in public procurement had been introduced. Bulgaria further indicated that every decision, action or inaction of the assignors of public procurement should be subject to appeal with regard to its legal compatibility before the Commission for Protection of Competition, until the conclusion of the contract. Serbia reported partial implementation of the provision under review and cited relevant legislation. Slovenia indicated that legal protection of tenderers in public procurement procedures was ensured by auditing public procurement procedures at two levels: first at the level of the contracting authority and then at the level of the National Review Commission, an autonomous body monitoring the lawfulness of public contract award procedures. Furthermore, after completion of the auditing by the National Review Commission, judicial protection was guaranteed in compensatory proceedings before a general court. Bulgaria reported the adoption of measures regarding public procurement personnel, in accordance with paragraph 1 (e), which are presented in box 3. With regard to the same provision, Serbia indicated that its legislation was in partial compliance and

excerpted parts of such legislation. Reporting on transparency and accountability in public finances (para. 2 (a)) and timely reporting on revenue and expenditures (para. 2 (b)), Serbia reported full compliance and quoted applicable legislation. Serbia further reported full implementation of accounting and auditing standards as prescribed by paragraph 2 (c), and gave an account of its legislative framework. With regard to this provision, Slovenia explained that major budget spending centres had set up functionally independent internal audit services. Additionally, it reported that the Slovene Budget Supervision Office was the central body tasked with harmonizing, coordinating and preparing guidelines based on international standards for internal auditing and with monitoring their implementation. Serbia indicated that its system of risk management and internal control was in full compliance with paragraph 2 (d), and provided an account of its applicable legislation. Serbia further reported that it had taken measures to ensure corrective action upon failure to comply with the requirements of article 9, paragraph 2, in accordance with paragraph 2 (e). Serbia also excerpted passages of its criminal code related to the prevention of falsification of public expenditure records and indicated that it was in full compliance with paragraph 3.

Figure 19

#### Implementation of article 9 by parties from the Group of Eastern European States



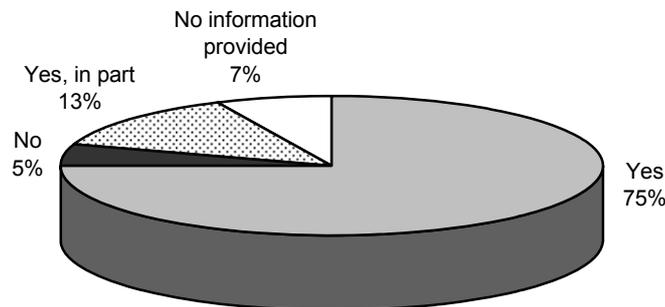
#### (d) Group of Latin American and Caribbean States

44. Cuba reported full implementation of article 9 of the Convention, while Ecuador, Guatemala and Panama indicated partial implementation. Updating its previous submission, Peru also reported partial compliance with article 9. Cuba reported that public procurement was not common, as most suppliers were State entities to which economic contracting principles set forth in legislation applied. Reporting on its system of accounting, auditing standards and related oversight (para. 2 (c)), Cuba stressed that new legislation and a new system of administrative control were being elaborated to ensure the monitoring of the use of public funds and the integration of best practices to guarantee adherence to the law. Ecuador stated that its system of procurement was partially designed to prevent corruption (para. 1 (a)), while Guatemala and Panama assessed their systems of procurement as being designed to prevent corruption, and thus fully compliant with paragraph 1 (a). With regard to measures adopted to establish conditions for participation in public

procurement, as prescribed by paragraph 1 (b), Ecuador and Guatemala indicated full compliance. Guatemala further stated that tenders were announced at least twice in the official journal and in another newspaper of wide circulation, as well as in the State's online system of procurement. Similarly, Panama reported full implementation of such measures and further provided information on the announcement of tenders in one national newspaper and the establishment of an electronic procurement system. With regard to measures establishing criteria for public procurement decisions (para. 1 (c)) and measures regarding domestic systems for reviewing public procurement decisions (para. 1 (d)), Ecuador indicated no implementation. Panama did not provide information about the implementation of paragraph 1 (c), thereby not complying with an obligatory reporting item. Updating its previous submission, Colombia provided examples of the successful implementation of the provisions under review. With regard to measures establishing criteria for public procurement decisions (para. 1 (c)), Guatemala indicated partial implementation and fulfilled the optional reporting item of describing the measures or actions to be adopted to ensure full implementation and the time frame involved. Guatemala also reported partial implementation of a system of domestic review of public procurement decisions and measures regarding procurement personnel, as prescribed by paragraphs 1 (d) and (e). With regard to the provisions under review, Panama stated that its legislation was fully compliant with the requirements of the Convention and referred to the creation of the Administrative Tribunal for Public Procurement. Ecuador also reported no implementation of measures regarding public procurement personnel and of procedures for the adoption of the national budget, as prescribed by paragraphs 1 (e) and 2 (a). Panama indicated partial implementation and Guatemala full implementation of procedures for the adoption of the national budget (para. 2 (a)). Both parties referred to relevant provisions of their respective Constitutions as applicable legislation. Ecuador, Guatemala and Panama stated that they had fully implemented measures to ensure timely reporting on revenue and expenditure, in accordance with paragraph 2 (b) of the Convention. While Guatemala and Panama assessed their systems of auditing and accounting standards as being fully compliant with paragraph 2 (c), Guatemala mentioned that the system's weakness was not in the normative framework, but rather in the control organisms. Reporting on systems of risk management and internal control, as prescribed by paragraph 2 (d), Ecuador indicated partial compliance and cited applicable legislation. Guatemala and Panama reported full implementation of such systems and cited the relevant texts. Guatemala reported partial compliance and Ecuador and Panama full compliance with paragraph 2 (e), concerning corrective measures upon failure to comply with the other requirements of article 9, paragraph 2. Updating its previous submission, Colombia provided an example of the successful implementation of the provision under review. Ecuador and Guatemala indicated no implementation of measures to prevent the falsification of public expenditure records, as prescribed by paragraph 3, while Panama assessed its legislation as being fully compliant with the requirements of the Convention in this regard.

Figure 20

**Implementation of article 9 by parties from the Group of Latin American and Caribbean States**



**(e) Group of Western European and Other States**

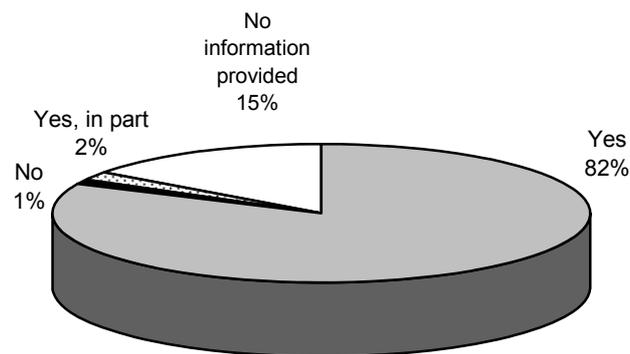
45. While Australia and Greece reported full implementation of measures concerning public procurement and management of public finances, in accordance with article 9, Malta indicated partial implementation of the article. Updating its previous submission, the United Kingdom also stated that its legislation was fully compliant with the requirements of article 9. In application of paragraph 1 (a), on systems of procurement designed to prevent corruption, Australia stated that its Commonwealth Procurement Guidelines fully implemented the requirements of the Convention. In relation to the provision under review, Greece provided an account of legislative measures, including Presidential Decrees 59/2007 and 60/2007, aimed at bringing legislation on public contracts in line with directives of the Council of the European Union, while Malta assessed its regulations on public contracts and on public procurement of entities operating in the water, energy, transport and postal service sectors as fully compliant with the provision under review. Furthermore, Australia and Malta indicated that the regulations cited with regard to paragraph 1 (a) were also fully compliant with the requirement to establish conditions for participation in public procurement and the criteria for public procurement decisions as set forth in paragraphs 1 (b) and (c). Reporting on a system of domestic review of procurement decisions (para. 1 (d)), Greece stated that a system was in place for an administrative review of any decisions made. Furthermore, Greece indicated that, should the matter not be resolved at the administrative level, full recourse to both administrative and civil courts was available. In relation to the provision under review, Malta indicated that the number of complaints had increased, demonstrating the business community's confidence in the system of domestic review. With regard to the same provision, Australia stated that its public service values and code of conduct, together with the Commonwealth Fraud Control Guidelines, provided an effective system of domestic review. Malta assessed its legislation as being fully compliant with the provision under review. Australia stated that the same normative framework cited in connection with paragraph 1 (d) also implemented measures regarding public procurement personnel, in accordance with paragraph 1 (e). Concerning the same provision, Greece drew attention to its civil service code, which explained in detail incompatibilities and conflicts of interest for civil servants. With regard to

transparency and accountability in public finances, as required by paragraph 2 (a), Australia stated that its Charter of Budget Honesty Act 1998 provided a framework for the conduct of Government fiscal policy by requiring the fiscal strategy to be based on principles of sound fiscal management and by facilitating public scrutiny of fiscal policy and performance. Greece assessed its Constitution and legislative framework as being fully compliant with the requirements of the provision under review. Malta indicated that its Financial Administration and Audit Act was in full compliance with the provision under review. Reporting on transparency and accountability in public finances, timely reporting on revenue and expenditures and accounting and auditing standards (paras. 2 (a), (b) and (c)), the United Kingdom mentioned that such requirements were included in the Government Financial Reporting Manual, which set out the accounting and disclosure requirements for the annual report and accounts. In application of paragraph 2 (b), concerning timely reporting on revenue and expenditure, Australia provided a detailed account of its implementing measures, while Greece referred to its Constitution as a normative framework providing safeguards for full compliance. Malta indicated that its Financial Administration and Audit Act was in full compliance with the provision under review. Reporting on the same provision, the United Kingdom explained that its Treasury guide on managing public money set out the main principles for dealing with resources used by public organizations. Regarding the accounting and auditing standards set forth in paragraph 2 (c), Greece reported the establishment of the Commission on Audit Standards and Controls as an independent authority supervising the auditing body, while Australia referred to its Charter of Budget Honesty Act 1998. Malta also reported full compliance with the provision under review. Reporting on systems of risk management and internal control, as required by paragraph 2 (d), Australia stated that it had established such systems under the Commonwealth Department of Finance and Deregulation guidelines for issuing and managing indemnities, guarantees, warranties and letters of comfort. The United Kingdom stated that, in accordance with its Treasury guide, every central Government department had an internal audit unit that provided the accounting officer with an evaluation of the robustness of arrangements to manage risks effectively. Malta reported partial implementation of systems of risk management and internal control and measures to ensure corrective action upon failure to comply, as prescribed in paragraphs 2 (d) and (e), respectively, and referred to relevant provisions of its Constitution. In application of paragraph 2 (e), concerning corrective action upon failure to comply with the other requirements of article 9, paragraph 2, Greece indicated that external auditors had reporting obligations that superseded any duties of confidentiality. Australia stated that, while there was no prosecution policy under its Financial Management and Accountability Act and no penalties for failure to comply with such regulation, a breach of financial management and accountability regulations would nevertheless be a criminal offence and therefore a breach of the Public Service Act and the public service code of conduct, which in itself would draw appropriate sanctions. With regard to corrective action upon failure to comply (para. 2 (e)), the United Kingdom indicated that any fraud would be dealt with via the normal investigative and prosecution route. In application of paragraph 3, Australia reported that the Finance Minister's orders were subject to annual parliamentary scrutiny. Furthermore, it stated that all agencies were subject to audit by the Australian National Audit Office. Greece indicated that its tax legislation provided for a complex system of significant administrative fines and severe criminal penalties for any interference with books

and records and assorted financial statements. However, it did not clarify whether the system was applicable to public expenditure records as well. Malta reported full compliance with the provision under review and indicated that statements of the Accountant General, as chief accounting officer of the Government, were subsequently audited by the Auditor General. An example of good implementation by Malta is given in box 3. With regard to the same provision, the United Kingdom reported that the prevention of falsification of public expenditure records was achieved by independent auditing of accounts by the National Auditing Office. Furthermore, the United Kingdom reported that the falsification of accounts was a criminal offence.

Figure 21

### Implementation of article 9 by parties from the Group of Western European and Other States



Box 3

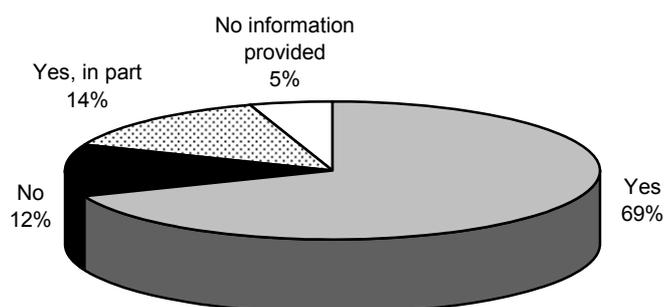
### Examples of good implementation of article 9

- **Bulgaria:** As a measure concerning public procurement personnel (para. 1 (e)), the contracting authority appoints a commission for the conduct of a public procurement procedure consisting of at least three members, one of whom has to be a qualified lawyer. To ensure compliance with its code of ethics, every public sector organization has to introduce internal procedures to monitor the observance of the code, a mechanism for detecting and reporting violations of the code and follow-up measures. The Institute of Public Administration and European Integration organizes and conducts training on public procurement legislation every year.
- **Croatia:** As criteria for public procurement decisions (para. 1 (c)), Croatia provides in its Public Procurement Act that the contracting authority has to exclude from tender procedures tenderers that have been convicted, inter alia, for accepting or offering a bribe in economic operations, abuse of office, official authority or governmental functions, or money-laundering.
- **Fiji:** To avoid conflicts of interest among its public procurement personnel (para. 1 (c)), Fiji has introduced a system requiring personnel responsible for procurement to disclose their interest to the Agency Tender Board and excluding them from further evaluation or approval of the tender.

- **Guatemala:** The introduction of an information system for public contracts and acquisitions has contributed to designing of the public procurement system in such a way as to prevent corruption.
- **Malta:** To prevent the falsification of public expenditure records (para. 3), Malta utilizes an electronic accounting system, for which users need authorization to access and assigned logins and passwords, thus ensuring an adequate audit trail.
- **Mauritius:** As a measure regarding public procurement personnel (para. 1 (e)), the Central Tender Board Act requires every officer or member to file a declaration of assets and liabilities with the Prime Minister not later than 30 days after, and upon termination of, his or her appointment. Furthermore, a new declaration has to be made if there was a change in assets equivalent to \$13,300 or more.
- **Philippines:** Guidelines to help stakeholders understand the requirements of the Public Procurement and Disposal of Public Assets Act and the regulations concerning the establishment of conditions for participation in public procurement (para. 1 (b)) have been developed.
- **Republic of Korea:** To design its system of procurement to prevent corruption (para. 1 (a)), the Republic of Korea announces all bidding processes carried out by the Public Procurement Service on the website of its online e-procurement system in advance, with bidders' names and bid prices disclosed in real time. As a system of domestic review of public procurement decisions (para. 1 (d)), the Public Procurement Service's home page can be used to file complaints and obtain counselling.

## B. Criminalization and law enforcement (chapter III of the Convention)

Figure 22  
Global implementation of chapter III

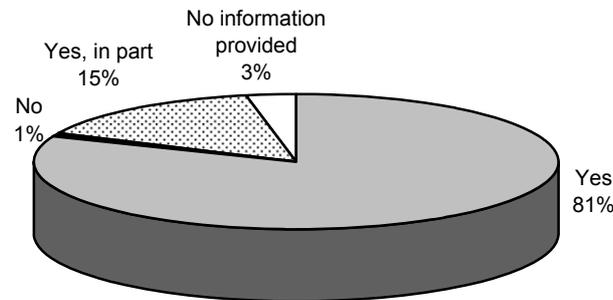


## 1. Bribery of national public officials (article 15)

46. The global implementation of article 15 (including implementation by parties that reported prior to 30 November 2007) is illustrated in figure 23. From the 82 per cent of States parties that reported full compliance with article 15 as at 30 November 2007, the compliance rate has risen to 85 per cent.

Figure 23

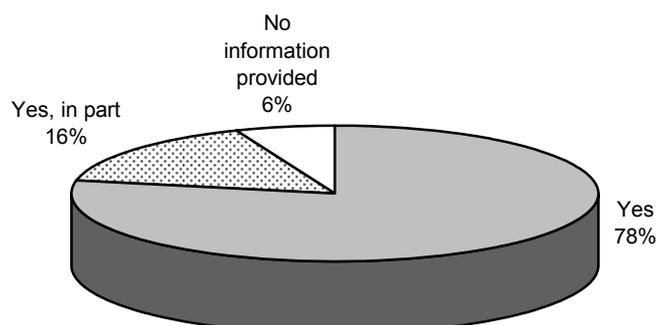
### Global implementation of article 15 (reporting parties)



#### (a) Group of African States

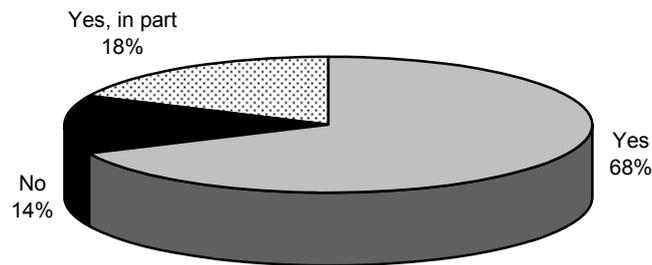
47. Angola, Egypt, Mauritania, Mauritius, Morocco, Rwanda and Tunisia reported the criminalization of active and passive bribery of national public officials, in full compliance with article 15 of the Convention. They also provided information on relevant legislation, such as the Angolan Law on Offences against the Country's Economy and the penal codes of Egypt, Mauritania and Tunisia. Mauritania also excerpted relevant provisions of its criminal code, while Mauritius cited its Prevention of Corruption Act as relevant legislation and provided examples of the successful implementation of the provision under review, thereby fulfilling an optional reporting item. Uganda reported partial compliance with the article under review and cited, inter alia, its penal code as applicable legislation. Kenya and Sierra Leone indicated partial compliance with the requirement of criminalizing active bribery of national public officials, as set forth in paragraph (a). As relevant legislation, Kenya cited its Anti-Corruption and Economic Crimes Act 2003, penal code and Public Officer Ethics Act 2003, and Sierra Leone its Anti-Corruption Act 2008. Sierra Leone indicated that, to become fully compliant with article 15, its Anti-Corruption Commission investigators required training. Subsequently, Sierra Leone reported full implementation of paragraph (b), requiring the criminalization of passive bribery of national public officials, while Kenya reported partial implementation of that provision. An example of successful implementation of the article by Mauritius is provided in box 4.

Figure 24

**Implementation of article 15 by parties from the Group of African States****(b) Group of Asian and Pacific States**

48. Brunei Darussalam, Fiji, Pakistan, the Republic of Korea, the Philippines and Yemen reported that active and passive bribery of national public officials had been established as criminal offences, in application of article 15 of the Convention. Afghanistan assessed its legislation as being partially in compliance with article 15. It cited its penal code as applicable legislation and added that the code was under review to ensure full compliance with the Convention. Brunei Darussalam did not provide examples of the successful use or implementation of the provision under review (an optional reporting item). China quoted the relevant legislation and indicated partial implementation of measures establishing active bribery as a criminal offence (para. (a)) and full criminalization of passive bribery (para. (b)). Hong Kong, China, stated that it had fully implemented article 15. Fiji referred to the Prevention of Bribery Promulgation 2007 and indicated that, while a number of investigations were ongoing, no prosecution had been completed under the Prevention of Bribery Promulgation. Brunei Darussalam and Pakistan referred to their respective penal codes as relevant legislation. Furthermore, Pakistan gave examples of the successful implementation of the article under review (an optional reporting item). While citing its revised penal code as applicable legislation, the Philippines also fulfilled the optional reporting item of providing examples of the successful implementation of the article. An example of good implementation by the Philippines is presented in box 4. Reporting on the active bribery of national public officials, Mongolia assessed its legislation as partly compliant with paragraph (a) and clarified that it had not criminalized the promise and offering of an undue advantage to a public official in order for the official act or refrain from acting in the exercise of his or her official duties. With regard to the same provision, Tajikistan indicated that it had not criminalized active bribery of national public officials. Mongolia reported that it had not implemented paragraph (b), concerning the criminalization of passive bribery of national public officials. Tajikistan assessed its criminal code as fully compliant with the provision under review.

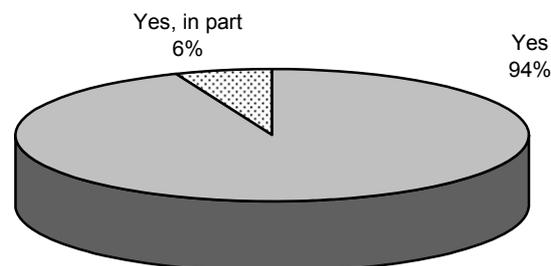
Figure 25  
**Implementation of article 15 by parties from the Group of Asian and Pacific States**



**(c) Group of Eastern European States**

49. Armenia, Azerbaijan, Bulgaria, Hungary and Slovenia indicated full compliance with article 15. Croatia, updating its previous submission, reported full implementation of article 15 and quoted relevant legislation. With reference to active bribery of national public officials (para. (a)), Azerbaijan stated that a person given a bribe should be released from criminal liability if the bribe was offered because of threats by an official or if the person offering the bribe voluntarily informed the appropriate State body about the offer. Serbia mentioned that an offender could be spared punishment if he or she reported the offence before becoming aware that he or she had been discovered. Hungary provided an extensive excerpt of its relevant legislation, while Bulgaria cited its penal code as applicable legislation and also stressed that a person mediating for any of the acts covered by the penal code should be punished by deprivation of liberty and a fine. Serbia indicated full compliance with paragraph (a), requiring the criminalization of active bribery of a national public official, and partial compliance with the requirement to criminalize passive bribery of such officials, as prescribed by paragraph (b). Azerbaijan and Serbia also provided examples of the successful implementation of the article, thereby fulfilling an optional reporting item. An example of good implementation by Croatia is presented in box 4.

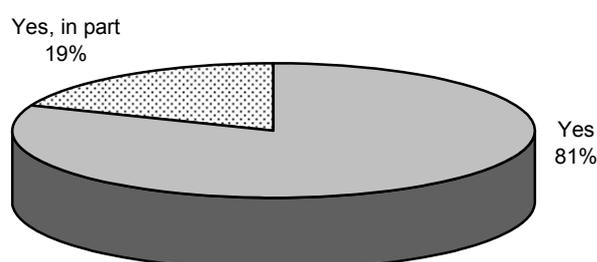
Figure 26  
**Implementation of article 15 by parties from the Group of Eastern European States**



**(d) Group of Latin American and Caribbean States**

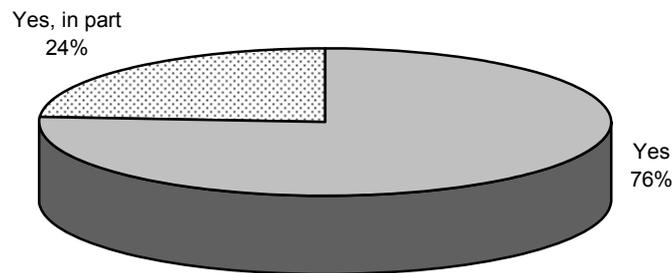
50. Cuba, Guatemala and Panama reported that active and passive bribery of national public officials were established as criminal offences in their legislation, in accordance with article 15 of the Convention. In citing the relevant normative framework, Cuba, Guatemala and Panama referred to their respective penal codes. Cuba also excerpted the relevant passages of the applicable legislation. Colombia (update), Cuba and Guatemala also provided examples of the successful implementation of the article, while Panama did not fulfil that optional reporting item. Ecuador indicated partial implementation of the provision under review and referred to relevant legislation contained in its penal code.

Figure 27

**Implementation of article 15 by parties from the Group of Latin American and Caribbean States****(e) Group of Western European and Other States**

51. All reporting parties—Australia, Greece and Malta—indicated that they had criminalized active and passive bribery of national public officials, in full compliance with article 15. Providing an update of its previous submission, the United Kingdom also reported full compliance with the provision under review. Australia and Greece reported that the relevant norms were contained in their criminal codes. Australia did not provide examples of the successful implementation of the article (an optional reporting item). Greece stated that further information could be found in the annual reports of the Inspector General of Public Administration to the parliament. Malta, while excerpting relevant parts of its criminal code as a relevant normative framework, stated that no substantiating examples of successful implementation of the article could be given, as no statistical records were kept to that end. The United Kingdom cited, among other sources, the Prevention of Corruption Act as applicable legislation. Furthermore, it offered detailed examples of successful implementation of the article under review (an optional reporting item), one of which is presented in box 4.

Figure 28  
**Implementation of article 15 by parties from the Group of Western European and Other States**



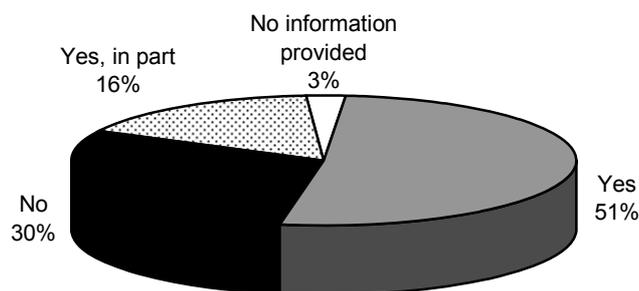
Box 4  
**Examples of good implementation of article 15**

- **Croatia:** Operation Maestro was conducted by a joint investigation team in 2008. Ten persons, among them three vice-chairmen of the Croatian Privatization Fund, were charged with accepting or offering a bribe. While Croatia reported that court proceedings were still pending, the suspects' assets had been frozen.
- **Guatemala:** Since 2005, 45 sentences have been recorded for active bribery.
- **Mauritius:** The Independent Commission against Corruption reported that it was investigating several cases of bribery involving national public officials at the time of reporting. Three cases were pending appeal, while three more had been submitted to the Director for Public Prosecution.
- **Philippines:** An accomplice of a former President in the crime of plunder was sentenced to imprisonment. In addition, he repaid the amount he was accused of having stolen.
- **United Kingdom:** With regard to passive bribery of national public officials (para. (b)), the conviction of a Ministry of Defence official in 2007 for accepting bribes amounting to £217,000 was reported.

## 2. Bribery of foreign public officials and officials of public international organizations (article 16)

52. The global implementation of article 16 (including implementation by parties that reported prior to 30 November 2007) is illustrated in figure 29. From the 48 per cent of States parties that reported full compliance with article 16 as at 30 November 2007, the compliance rate has risen to 54 per cent. However, the percentage of States parties indicating no compliance with the article under review has nearly doubled in the reporting period, standing at 31 per cent, as compared to 16 per cent as at 30 November 2007.

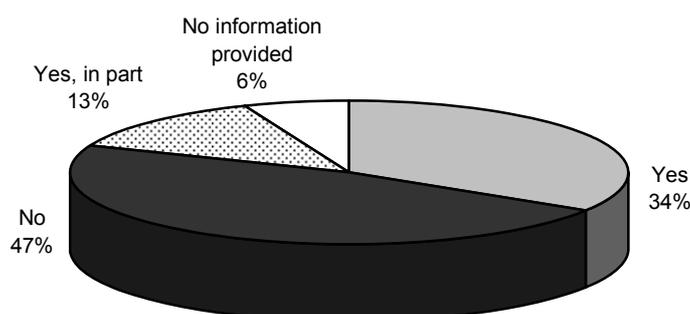
Figure 29  
Global implementation of article 16 (reporting parties)



(a) Group of African States

53. Rwanda and Tunisia reported full compliance with article 16. Rwanda cited its Law on the Prevention and Repression of Corruption and Related Offences, and Tunisia cited its penal code. Neither Rwanda nor Tunisia fulfilled the optional reporting item of providing examples of the successful use or implementation of the article under review. Egypt and Kenya reported partial compliance with the requirement to criminalize active bribery of foreign public officials and officials of public international organizations, set forth in paragraph 1. Egypt excerpted a relevant passage of its penal code, and Kenya cited relevant legislation. Egypt and Kenya further indicated that they had not criminalized passive bribery of foreign public officials and officials of public international organizations in accordance with the non-mandatory provision of paragraph 2. While Morocco reported partial compliance with article 16, Angola, Mauritania, Mauritius, Sierra Leone and Uganda reported that they had not established active and passive bribery of foreign public officials and officials of public international organizations as criminal offences, as required by article 16.

Figure 30  
Implementation of article 16 by parties from the Group of African States



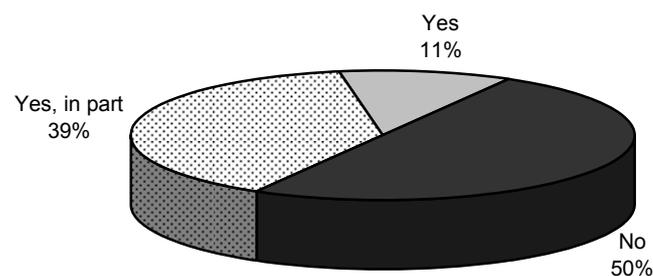
(b) Group of Asian and Pacific States

54. Afghanistan, Brunei Darussalam and Yemen indicated partial compliance with article 16, while Fiji reported the establishment of active and passive bribery of

foreign public officials and officials of public international organizations as criminal offences, in full implementation of the article. Mongolia and Tajikistan indicated that they had not implemented article 16. China also reported that it had not implemented article 16; Hong Kong, China, however, reported full compliance. Afghanistan provided details on draft amendments to the penal code to ensure full compliance with the Convention. Brunei Darussalam stated that, while the implementation of article 16 was generally covered by its Prevention of Corruption Act, the Act needed to be amended in order to introduce a specific section on offences relating to bribery of a foreign public official. While indicating that the offence of active bribery of such officials was not contained in its Prevention of Bribery Promulgation 2007, Fiji stated that active and passive bribery of foreign public officials or of officials of public international organizations was incorporated in the common-law offences of bribery or misconduct in public office as applicable in Fiji. Pakistan reported partial implementation of the article under review and referred to the National Accountability Ordinance 1999 as the relevant normative framework. The Republic of Korea reported that it had criminalized active bribery of foreign public officials and officials of public international organizations, in full compliance with paragraph 1, but stated that it had not implemented the non-mandatory provision of paragraph 2, concerning passive bribery of foreign public officials or officials of public international organizations.

Figure 31

**Implementation of article 16 by parties from the Group of Asian and Pacific States**



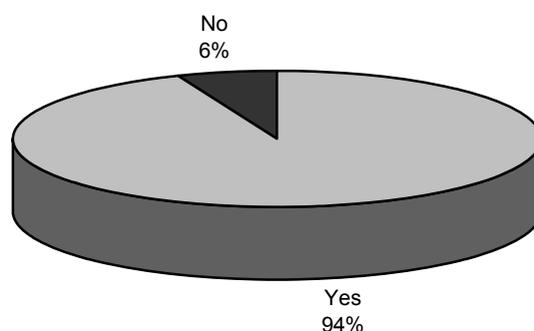
**(c) Group of Eastern European States**

55. All reporting parties—Armenia, Azerbaijan, Bulgaria, Hungary, Serbia and Slovenia—indicated full compliance with article 16. The reporting parties referred to their respective penal codes as applicable legislation, while Bulgaria and Serbia also provided the explicit definition of foreign public official as contained in their penal codes. According to the excerpted text, the definition established by Bulgaria encompassed officials of public international organizations. The definition of foreign officials as excerpted by Serbia also provided for the inclusion of officials of public international organizations. Croatia provided an update of its previous submission and reported full implementation of the provision under review. Furthermore, Croatia excerpted relevant legislation and clarified that such legislation was applicable to domestic and foreign officials, although this was not indicated in the excerpted texts. In addition to quoting relevant legislation, Hungary

provided examples of the successful implementation of the article (an optional reporting item).

Figure 32

**Implementation of article 16 by parties from the Group of Eastern European States**

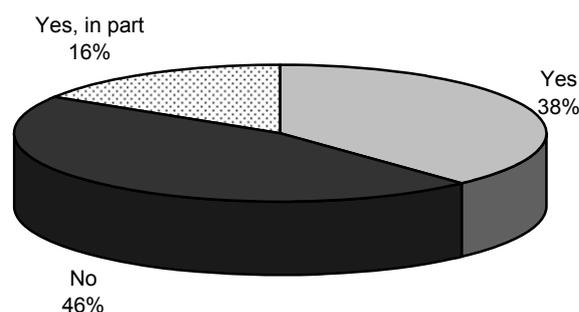


**(d) Group of Latin American and Caribbean States**

56. Panama reported that it had established active and passive bribery of a foreign public official or of an official of a public international organization as criminal offences. Panama cited its Law 14 of 2007 as applicable legislation, but did not provide substantiating examples of the successful implementation of the article (an optional reporting item). Guatemala indicated that it had criminalized active bribery of foreign public officials or officials of public international organizations, in accordance with paragraph 1, but reported that it was not in compliance with the non-mandatory provision of paragraph 2, regarding the criminalization of passive bribery of foreign public officials and officials of public international organizations. Cuba and Ecuador stated that they had not implemented the mandatory provisions of article 16.

Figure 33

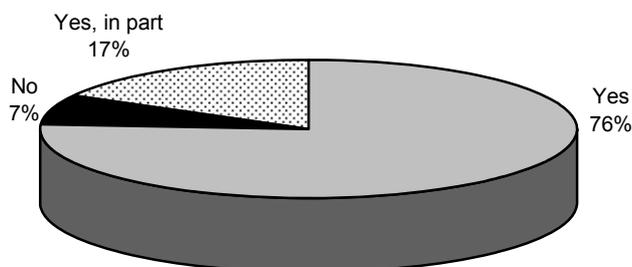
**Implementation of article 16 by parties from the Group of Latin American and Caribbean States**



**(e) Group of Western European and Other States**

57. Greece and Malta reported that they had criminalized active and passive bribery of foreign public officials and officials of public international organizations, in accordance with article 16. Australia reported the criminalization of active bribery of foreign public officials and officials of public international organizations, as prescribed by paragraph 1, but indicated that it had not taken measures to criminalize the passive bribery of such officials, in accordance with paragraph 2. While Greece referred to the ratification of the Organization for Economic Cooperation and Development Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, Malta indicated that relevant legislation could be found in its criminal code. Both parties stated that there were no examples available to date. As an update to its previous submission, the United Kingdom reported full compliance with article 16 and provided a detailed example substantiating the successful implementation of the article, which is presented in box 5.

Figure 34

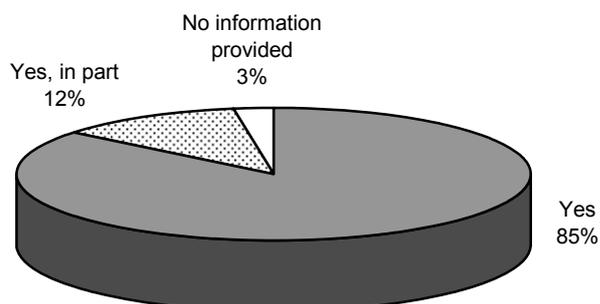
**Implementation of article 16 by parties from the Group of Western European and Other States****Box 5****Example of good implementation of article 16**

- **United Kingdom:** The managing director of a British company was convicted and given a suspended sentence for making corrupt payments amounting to £83,000 to a Ugandan Government adviser.

**3. Embezzlement, misappropriation or other diversion of property by a public official (article 17)**

58. The global implementation of article 17 (including implementation by parties that reported prior to 30 November 2007) is illustrated in figure 35. From the 91 per cent of States parties that had reported full compliance with article 17 as at 30 November 2007, the compliance rate has fallen to 87 per cent.

Figure 35  
Global implementation of article 17 (reporting parties)

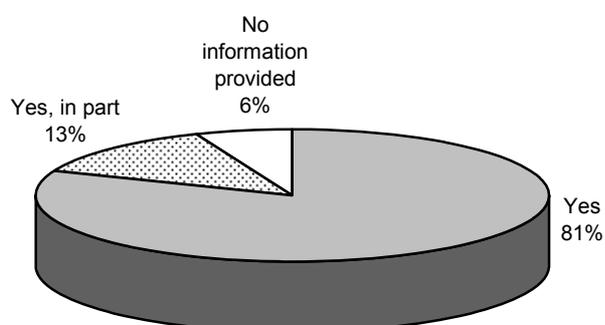


(a) Group of African States

59. Angola, Egypt, Mauritania, Mauritius, Morocco, Rwanda, Tunisia and Uganda reported full compliance with article 17 and cited measures adopted to establish embezzlement, misappropriation or other diversion of property by a public official as criminal offences. Mauritania and Mauritius further excerpted relevant passages of their criminal codes, while Mauritius stated that several cases were pending trial, thereby fulfilling an optional reporting item. Rwanda also provided examples of the successful implementation of the provision under review (also an optional reporting item). Kenya and Sierra Leone indicated partial implementation of the provision and cited applicable legislation, and also provided an example of implementation, as presented in box 6.

Figure 36

Implementation of article 17 by parties from the Group of African States



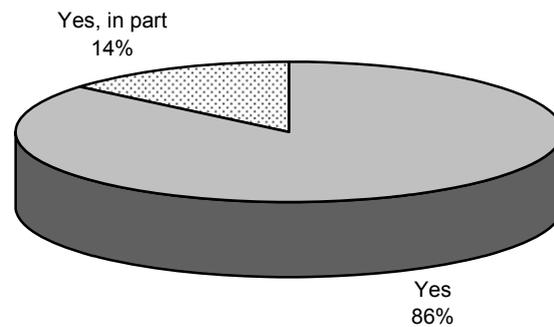
(b) Group of Asian and Pacific States

60. Afghanistan, Brunei Darussalam, China (including Hong Kong), Fiji, Mongolia, Pakistan, the Republic of Korea and Tajikistan reported that they had adopted measures to criminalize embezzlement, misappropriation or other diversion of property by a public official to pursue full compliance with article 17 of the Convention. Providing an update of its previous self-assessment report, the Philippines indicated full compliance with article 17 and cited its revised penal code as applicable legislation. Yemen assessed its legislation as being in partial

compliance with the article under review. Afghanistan, Fiji and Mongolia provided a detailed account of their applicable legislation, while Pakistan cited relevant provisions of its penal code. China excerpted its applicable legislation. Brunei Darussalam, China and Mongolia did not provide examples of successful implementation of the provision under review (an optional reporting item).

Figure 37

**Implementation of article 17 by parties from the Group of Asian and Pacific States**

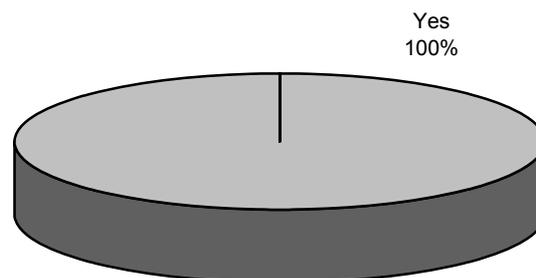


**(c) Group of Eastern European States**

61. All reporting parties—Armenia, Azerbaijan, Bulgaria, Hungary, Serbia and Slovenia—indicated that they had established embezzlement, misappropriation or other diversion of property by a public official as criminal offences, in accordance with the mandatory provision of article 17. Providing an update of its previous submission, Croatia reported full compliance with the provision under review and excerpted relevant passages of its criminal code. While all parties indicating full compliance with the provision under review also cited or quoted relevant legislation, only Azerbaijan and Croatia fulfilled the optional reporting item of providing examples of successful implementation.

Figure 38

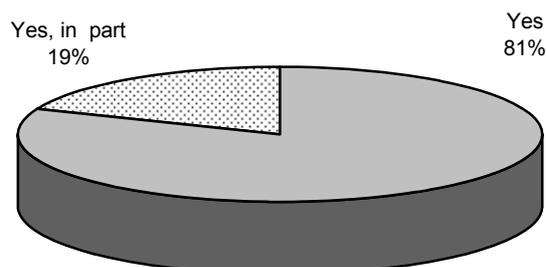
**Implementation of article 17 by parties from the Group of Eastern European States**



**(d) Group of Latin American and Caribbean States**

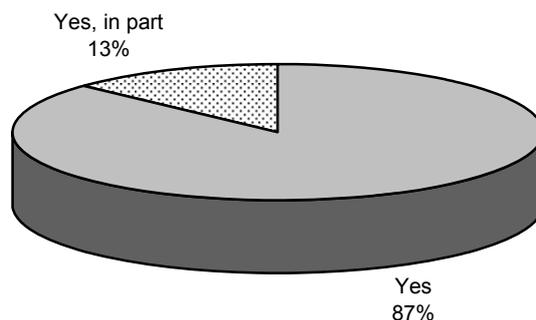
62. Three of the four reporting parties—Cuba, Guatemala and Panama—indicated that they had adopted measures providing for the criminalization of embezzlement, misappropriation or other diversion of property by a public official, as required by article 17, and cited relevant legislation. Colombia (update), Cuba and Guatemala also provided details on case law, while Ecuador reported partial implementation of such measures.

Figure 39

**Implementation of article 17 by parties from the Group of Latin American and Caribbean States****(e) Group of Western European and Other States**

63. Australia and Greece indicated full compliance with article 17 by citing measures adopted to establish embezzlement, misappropriation or other diversion of property by a public official as criminal offences. Updating its previous submission, the United Kingdom reported full implementation of the article under review. Malta assessed its criminal code as being partially compliant with the provision. Greece stated that further information could be found in the annual reports of the General Inspector of Public Administration to the parliament, and the United Kingdom substantiated its reported compliance by providing an example of recent prosecution.

Figure 40

**Implementation of article 17 by parties from the Group of Western European and Other States**

## Box 6

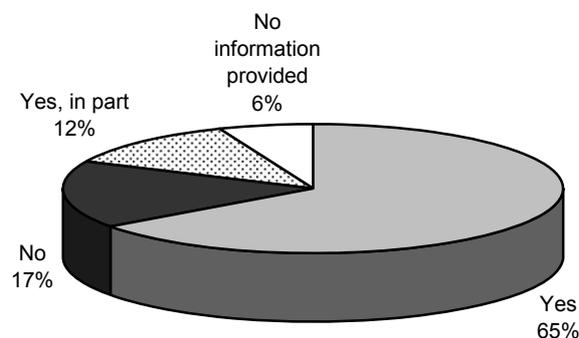
**Example of good implementation of article 17**

- **Sierra Leone:** In addition to criminalizing the misappropriation of public funds, Sierra Leone criminalizes the misappropriation of international aid.

**4. Laundering of proceeds of crime (article 23)**

64. The global implementation of article 23 (including implementation by parties that reported prior to 30 November 2007) is illustrated in figure 41. From the 71 per cent of States parties that reported full compliance with article 23 as at 30 November 2007, the compliance rate has risen to 79 per cent.

Figure 41

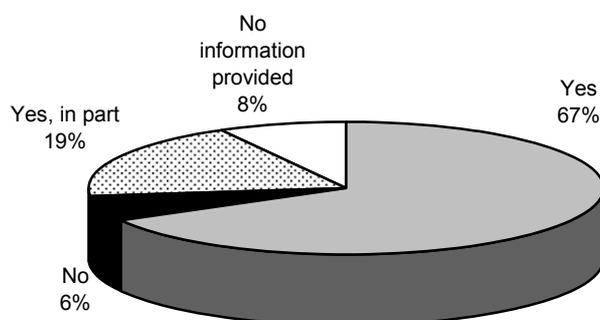
**Global implementation of article 23 (reporting parties)****(a) Group of African States**

65. Egypt, Morocco, Rwanda and Tunisia indicated that measures to fully implement article 23 of the Convention had been adopted and cited relevant legislation. However, none of them fulfilled the optional reporting item of providing examples of the successful implementation of the article. Uganda indicated that it had not criminalized the laundering of proceeds of crime, as required by article 23. Reporting on the notification obligation set forth in paragraph 2 (d), Egypt and Tunisia stated that they had provided the Secretary-General with copies of their laws giving effect to article 23, and their subsequent modifications. Kenya, Mauritania and Sierra Leone reported partial compliance with paragraph 1 (a), requiring the establishment of the conversion or transfer of property proceeds of crime as a criminal offence, and substantiated their answers by citing relevant legislation, while Mauritius reported full compliance with this provision. Furthermore, Mauritius quoted applicable legislation and provided examples of the successful implementation of the provision (an optional reporting item). Angola did not provide information on the implementation of paragraph 1 (a) (an obligatory reporting item). While Mauritius and Sierra Leone reported full implementation of the provision of paragraph 1 (b) that prescribes the criminalization of the acquisition, possession or use of property proceeds of crime, Angola, Kenya and Mauritania reported partial implementation. Angola, Kenya, Mauritania and Sierra Leone cited applicable legislation, while Mauritius quoted its relevant laws and

provided examples of their successful use, thereby fulfilling an optional reporting item. Reporting on paragraphs 2 (a), (b), (c) and (e), on predicate offences in the laundering of proceeds of crime, Angola and Sierra Leone stated that their legislation was fully compliant with the requirements of the Convention. As applicable legislation, Angola cited its penal code and Sierra Leone its Anti-Corruption Act 2008. Reporting on the same matter, Kenya, Mauritania and Mauritius indicated partial compliance with the provision under review. Kenya provided information about its soon-to-be-adopted Proceeds of Crime and Anti-Money-Laundering Bill, while Mauritania cited its law on combating money-laundering as relevant legislation. Mauritius indicated the need to amend its legislation in order to achieve full compliance with the article under review. Angola, Kenya, Mauritania, Mauritius, Sierra Leone and Uganda stated that they had not furnished copies of their respective laws giving effect to article 23 to the Secretary-General, as required by paragraph 2 (d); nor had they complied with the requirement of submitting them to UNODC with their self-assessment reports. Rwanda attached such legislation to its self-assessment report.

Figure 42

**Implementation of article 23 by parties from the Group of African States**



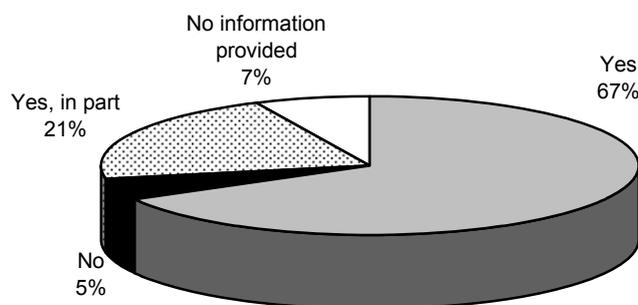
**(b) Group of Asian and Pacific States**

66. Fiji, Mongolia, Pakistan, the Republic of Korea and Tajikistan reported that their legislation was fully compliant with the requirement of the Convention to criminalize the conversion, transfer, acquisition, possession or use of property proceeds of crime, and that they had established a wide range of predicate offences for the laundering of proceeds of crime, as prescribed by article 23. China reported partial implementation of the measures set forth in article 23, while Hong Kong, China, stated that it was in full compliance with regard to such measures. Brunei Darussalam did not provide information on article 23, thereby not complying with an obligatory reporting item. Fiji, Mongolia and Pakistan provided a detailed account of their legislation implementing article 23. The Republic of Korea assessed its Criminal Proceeds Concealment Regulation and Punishment Act as being fully compliant with the article under review. Afghanistan and Yemen reported that they had criminalized the conversion or transfer of property proceeds of crime, in full compliance with paragraph 1 (a). Afghanistan indicated full implementation and Yemen partial implementation of paragraph 1 (b), concerning the acquisition, possession or use of property proceeds of crime. Reporting on the implementation of paragraphs 2 (a), (b), (c) and (e), concerning predicate offences in the laundering

of proceeds of crime, Mongolia stated that all criminal offences indicated in the Convention had been included as predicate offences in its criminal code. Pakistan assessed its Anti-Money-Laundering Ordinance 2007 and its penal code as consistent with the provisions of article 23. It stated that the Ordinance had been promulgated recently and that cases investigated under it were pending before the Accountability Courts at the time of submitting its report. Yemen also reported that it had fully implemented the provisions under review, while Afghanistan assessed its legislation as being partially in compliance. Afghanistan, China, the Republic of Korea and Tajikistan indicated that they had not furnished copies of their laws giving effect to article 23 to the Secretary-General, as prescribed in paragraph 2 (d), while Yemen did not provide information on that provision, thereby not complying with an obligatory reporting item. As requested, Afghanistan provided copies of such laws to UNODC, together with its self-assessment report. While Tajikistan excerpted the relevant passage of its criminal code, China and the Republic of Korea did not comply with the requirement to submit such copies together with their self-assessment reports to UNODC.

Figure 43

**Implementation of article 23 by parties from the Group of Asian and Pacific States**



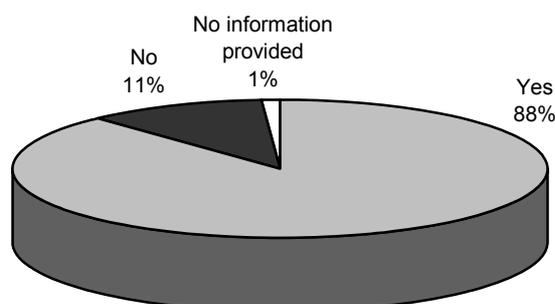
**(c) Group of Eastern European States**

67. Armenia, Bulgaria, Hungary, Serbia and Slovenia reported the adoption of domestic measures to ensure full compliance with article 23. Providing an update of its previous submission, Croatia reported full implementation of the article and quoted the relevant legislation. Reporting on the criminalization of conversion or transfer of property proceeds of crime, as prescribed in paragraph 1 (a), Azerbaijan indicated full compliance and quoted its criminal code as relevant legislation. Bulgaria, Serbia and Slovenia assessed their respective penal codes as fully compliant with the provision under review. Regarding the criminalization of the acquisition, possession or use of property proceeds of crime (para. 1 (b)), Azerbaijan indicated full compliance and quoted its criminal code as applicable legislation. Concerning the same provision, Bulgaria provided information on the relevant parts of its penal code, while Hungary, Serbia and Slovenia indicated that the provision had been implemented through their respective criminal codes. Concerning domestic measures establishing the range of predicate offences subject to the application of anti-money-laundering laws (paras. 2 (a), (b), (c) and (e)), Azerbaijan reported that no measures had been taken to implement the provisions. Bulgaria provided a detailed description of the all-crime approach adopted and

quoted relevant provisions of its penal code; Hungary, Serbia and Slovenia also indicated that an all-crime approach had been adopted. Slovenia further explained its all-crime approach and reported that an alleged offender liable for the predicate offence could also be liable for the offence of money-laundering. Slovenia also indicated that offences committed outside Slovene jurisdiction were generally subject to the application of the double-criminality principle. However, none of the reporting parties substantiated their compliance by providing examples of the successful use or implementation of the article under review (an optional reporting item). While Bulgaria, Hungary and Slovenia stated that they had complied with the obligation to furnish copies of the laws giving effect to article 23 to the Secretary-General, Serbia indicated that it had not yet done so, but would fulfil this obligation soon. Bulgaria also quoted the relevant legislation in its self-assessment report. With regard to the obligation to provide copies of such laws to the Secretary-General, Armenia stated that it was not aware of whether it had been fulfilled, and indicated the laws that should be provided to the Secretary-General. Azerbaijan reported that it had not furnished copies of its laws giving effect to article 23 to the Secretary-General, but quoted such laws in its self-assessment report.

Figure 44

**Implementation of article 23 by parties from the Group of Eastern European States**



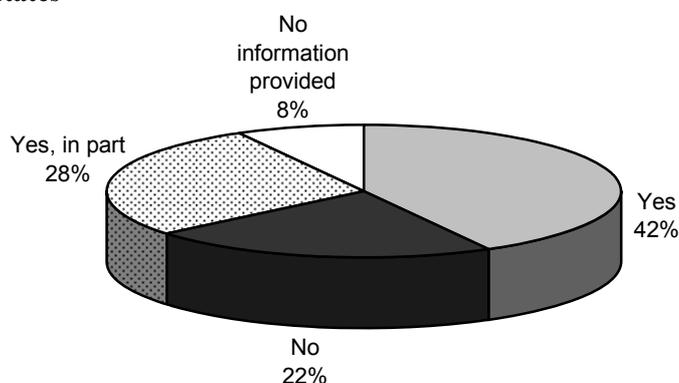
**(d) Group of Latin American and Caribbean States**

68. Panama indicated full implementation of article 23 of the Convention, but did not report on its compliance with the notification obligation set forth in paragraph 2 (d), a mandatory reporting item. While Panama referred to its penal code, which criminalized the conversion or transfer of property proceeds of crime, it did not define predicate offences subject to the application of money-laundering laws (paras. 2 (a), (b), (c) and (e)), but explained that its penal law was applicable to all offences committed on the national territory or otherwise subject to Panama's jurisdiction. Cuba, Ecuador and Guatemala indicated partial implementation of the article under review. All reporting parties cited or quoted relevant measures adopted to provide for the criminalization of the acquisition, possession or use of proceeds of crime. While Ecuador reported partial compliance with the provisions prescribing the criminalization of the acquisition, possession or use of the proceeds of crime, it highlighted its Government's readiness to amend the relevant law. Cuba and Ecuador indicated that they had not established predicate offences as prescribed in paragraphs 2 (a), (b), (c) and (e). Guatemala assessed its Law against the

Laundrying of Money and Other Assets as being fully compliant with the requirement to criminalize the conversion, transfer, acquisition, possession or use of the proceeds of crime, as prescribed in paragraphs 1 (a) and (b). With regard to establishing predicate offences, as required in paragraph 2 (a), (b), (c) and (e), Guatemala reported partial implementation. Guatemala added that, by interpreting the Law against the Laundrying of Money and Other Assets, all offences included in its national legislation could be regarded as predicate offences with respect to paragraph 2 (a). Therefore, it reported that the predicate offences were not limited to those set forth in the Convention, the minimum requirement prescribed by paragraph 2 (b). Furthermore, Guatemala stated that, while its legislation provided for the prosecution of offences committed within and outside of its jurisdiction, its normative framework did not take into consideration the principle of double criminality, as set forth in para. 2 (c). Colombia (update), Guatemala and Panama further provided substantiating examples of the successful implementation of the article (an optional reporting item).

Figure 45

#### Implementation of article 23 by parties from the Group of Latin American and Caribbean States



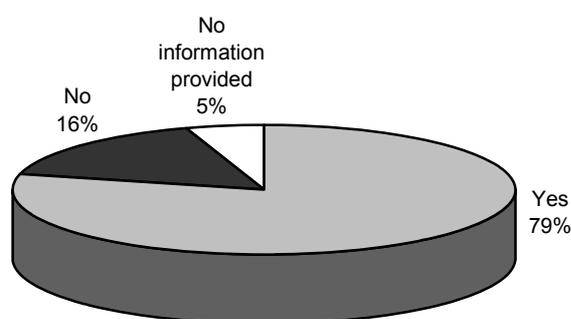
#### (e) Group of Western European and Other States

69. All reporting parties—Australia, Greece and Malta—indicated that they had criminalized the laundrying of proceeds of crime, as prescribed by article 23 of the Convention. Providing an update of its previous submission, the United Kingdom reported full compliance with article 23. Australia assessed its criminal code as being fully compliant with article 23, while Greece cited Law 2331/1995, which criminalized the offence of money-laundrying and established a list of predicate offences. Greece further highlighted that its legislation had recently been amended in order to incorporate European Commission directives. With regard to examples of the successful implementation of the article under review (an optional reporting item), Greece stated that information on money-laundrying cases was available on the website of its Supreme Court. Malta cited its Prevention of Money-Laundrying Act as relevant legislation and annexed to its report copies of its laws giving effect to article 23. The United Kingdom also cited the applicable legislation and annexed copies thereof. Malta indicated that no prosecutions had been undertaken with regard to the conversion, transfer, acquisition, possession or use of property proceeds of crime and that no money-laundrying cases currently *sub iudice* were related to proceeds-of-corruption offences. With regard to paragraph 2 (d), Australia

and Malta indicated that they had not furnished copies of their laws giving effect to article 23 to the Secretary-General. Australia did not comply with the requirement of providing such laws to UNODC together with its self-assessment reports. The United Kingdom substantiated its reported compliance by providing an example from case law.

Figure 46

**Implementation of article 23 by parties from the Group of Western European and Other States**



Box 7

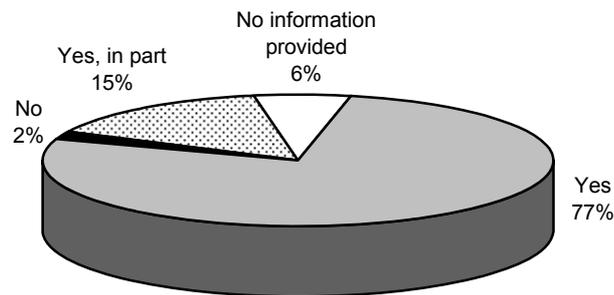
**Examples of good implementation of article 23**

- **Bulgaria:** The range of predicate offences related to the commission of money-laundering is not limited.
- **Hungary:** Money-laundering can be committed in relation to any criminal offences under Hungarian law (all-crime approach).
- **Philippines:** A list of predicate offences has been established in accordance with article 23, paragraphs 2 (a), (b), (c) and (e). The list contains, inter alia, kidnapping, drug-related offences, graft and corruption, plunder, robbery, illegal gambling, piracy, qualified theft, swindling, smuggling, computer hacking and piracy, violations of the Consumer Act, hijacking, terrorism and securities fraud.
- **Republic of Korea:** The Criminal Proceeds Concealment Regulation and Punishment Act was invoked in 740 cases in 2008.

**5. Obstruction of justice (article 25)**

70. The global implementation of article 25 (including implementation by parties that reported prior to 30 November 2007) is illustrated in figure 47. As at 30 November 2007, 76 per cent of States parties reported full compliance with article 25, and the compliance rate has remained stable (78 per cent as at 14 August 2009).

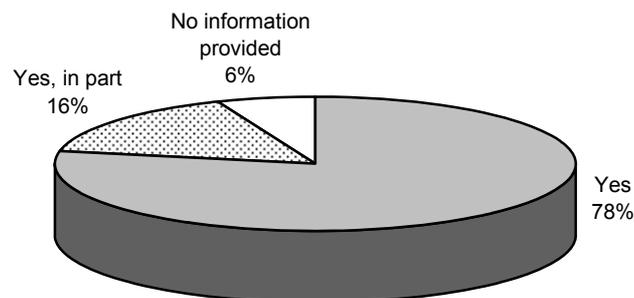
Figure 47  
Global implementation of article 25 (reporting parties)



(a) Group of African States

71. Angola and Uganda assessed their legislation as being partially compliant with the requirement to criminalize the use of inducement, threats or force to interfere with witnesses or officials (para. (a)) and reported that they had fully criminalized interference with actions of judicial or law enforcement officials, in accordance with paragraph (b). Egypt, Mauritania, Mauritius, Morocco, Rwanda, Sierra Leone and Tunisia reported that they had fully implemented measures to comply with the requirements set forth in article 25. While all parties cited relevant legislation, Mauritania and Mauritius also provided excerpts of the applicable legislation, such as the criminal code of Mauritania and the Prevention of Corruption Act of Mauritius. None of the reporting parties indicating full compliance with article 25 substantiated their reports with examples of successful implementation (an optional reporting item). Kenya indicated that it had partially implemented article 25 and cited relevant legislation.

Figure 48  
Implementation of article 23 by parties from the Group of African States



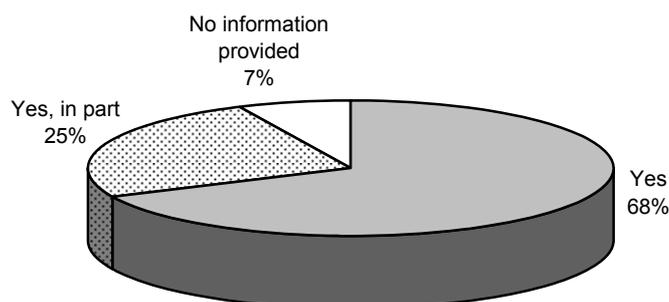
(b) Group of Asian and Pacific States

72. Afghanistan, China (including Hong Kong), Fiji, Mongolia, Pakistan and Yemen indicated that they had criminalized obstruction of justice, in full compliance with article 25. Providing an update of its previous submission, the Philippines also

reported full compliance with the article under review and quoted relevant passages of its revised penal code. Tajikistan stated that it was in partial compliance with article 25 and quoted the relevant article of its criminal code. Brunei Darussalam did not report on the implementation of article 25, thereby not complying with an obligatory reporting item. Afghanistan and China excerpted the relevant passages of their applicable legislation, while Fiji provided a detailed explanation of its legislative framework governing the implementation of the article under review, namely, the Fiji Independent Commission against Corruption Promulgation and the penal code. Fiji did not fulfil the optional reporting requirement of providing examples of successful implementation of the article under review. Pakistan referred to its Constitution, the penal code and the National Accountability Ordinance. Mongolia quoted relevant passages of its criminal code. The Republic of Korea reported that it had partially complied with the provision prescribing the criminalization of the use of inducement, threats or force to interfere with witnesses or officials (para. (a)). Mongolia reported full compliance with paragraph (b), concerning the criminalization of interference with actions of judicial or law enforcement officials. An analysis of the legal texts provided indicated that the majority of reporting States parties had criminalized obstruction of justice without specifically relating this offence to corruption.

Figure 49

**Implementation of article 25 by parties from the Group of Asian and Pacific States**



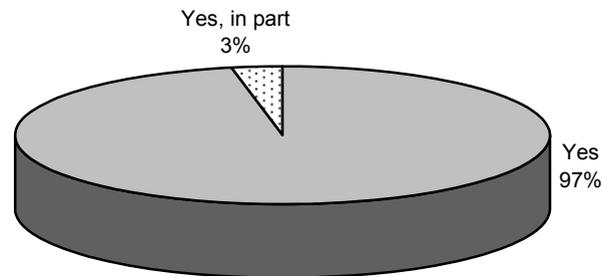
**(c) Group of Eastern European States**

73. Armenia, Azerbaijan, Bulgaria, Hungary and Slovenia reported that they had adopted measures to achieve full compliance with the requirement set forth in article 25. Croatia provided an update of its previous submission and, quoting relevant legislation, indicated full compliance with the article under review. Armenia, Azerbaijan, Hungary and Slovenia quoted relevant provisions of their respective criminal codes, while Bulgaria referred to measures contained in its penal code. However, none of the parties reporting full implementation provided examples of successful implementation (an optional reporting item). Serbia, while reporting full implementation of the provision on the criminalization of interference with actions of judicial and law enforcement officials, as set forth in paragraph (b), indicated partial compliance with the requirement to criminalize the use of inducement, threats or force to interfere with witnesses or officials (para. (a)). In both cases, Serbia referred to its criminal code as relevant legislation. An analysis of

the legal texts provided indicated that the majority of reporting States parties had criminalized obstruction of justice without specifically relating this offence to corruption.

Figure 50

**Implementation of article 25 by parties from the Group of Eastern European States**

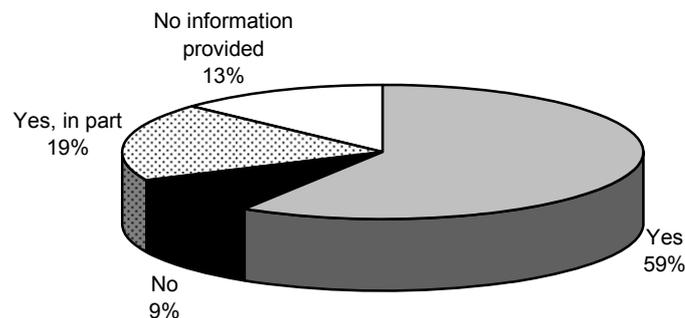


**(d) Group of Latin American and Caribbean States**

74. Ecuador and Panama did not provide information on the implementation of article 25 (a mandatory reporting item). Cuba indicated full implementation of article 25 and quoted its penal code as applicable legislation. Moreover, Cuba substantiated its reported compliance by stating that various convictions of judicial or law enforcement officials had taken place. As an update to its previous submission, Colombia provided examples of the successful implementation of article 25 (an optional reporting item). Guatemala reported that it had not criminalized the use of physical force, threat or intimidation to interfere with witnesses or officials in relation to the commission of offences established in accordance with the Convention (para. (a)). With regard to the establishment as a criminal offence of the use of physical force, threat 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 the Convention (para. (b)), Guatemala stated that it had adopted relevant measures in partial compliance.

Figure 51

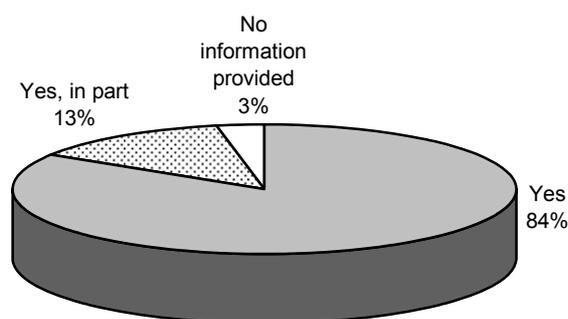
**Implementation of article 25 by parties from the Group of Latin American and Caribbean States**



**(e) Group of Western European and Other States**

75. Australia and Greece reported that their legislation was fully compliant with the requirements set forth in article 25 of the Convention, and they excerpted or annexed relevant legislation. The United Kingdom, providing an update of its previous submission, stressed that the criminalization of the use of threats, force or inducement to interfere with witnesses, judicial, law enforcement or any other officials was not limited to proceedings related to corruption, but applied to other crimes as well. Malta reported that it had criminalized interference with actions of judicial or law enforcement officials, as prescribed by paragraph (b), and provided examples from case law to substantiate its answer. Malta indicated partial compliance with the mandatory provision of paragraph (a), requiring the criminalization of the use of inducements, threats or force to interfere with witnesses or officials. Australia did not provide examples of successful implementation of the article under review (an optional reporting item). While Greece indicated that such examples could be found in law journals and on the website of the Supreme Court, the United Kingdom indicated that no specific corruption-related examples were known.

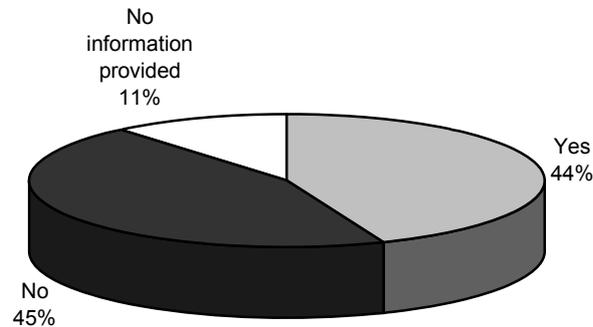
Figure 52

**Implementation of article 25 by parties from the Group of Western European and Other States****Box 8****Example of good implementation of article 25**

- **Malta:** Several cases have been decided, resulting in two years' imprisonment in each case.

## C. International cooperation (chapter IV of the Convention)

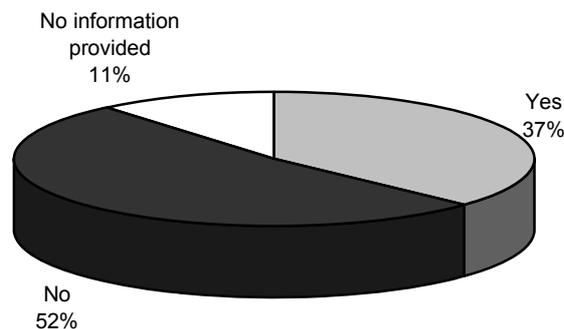
Figure 53  
Global implementation of chapter IV



### 1. Extradition (article 44)

76. The global implementation of article 44 (including implementation by parties that reported prior to 30 November 2007) is illustrated in figure 54. From the 49 per cent of States parties that reported full compliance with article 44 as at 30 November 2007, the compliance rate has fallen to 37 per cent.

Figure 54  
Global implementation of article 44



#### (a) Group of African States

77. All reporting parties indicated that they had not notified the Secretary-General as to whether they would take the Convention as the legal basis for cooperation on extradition with other States parties to the Convention, as required by article 44, paragraph 6 (a). As an update to its previous submission, Algeria reported that, since it did not make extradition conditional on the existence of a treaty, it had not notified the Secretary-General. Mauritania stated that, according to its criminal procedures, a bilateral agreement was necessary as a legal basis for the granting of extradition, but did not specify whether the Convention, as a multilateral agreement, could serve that purpose. Similarly, Tunisia stated that extradition was regulated by its code of criminal procedure, but did not specify whether it made extradition

conditional on the existence of a treaty or whether it took the Convention as the legal basis for cooperation on extradition. Sierra Leone reported that any request for extradition was subject to its Extradition Act, but did not clarify whether that Act made extradition conditional on the existence of a treaty. Kenya stated that extradition had to be regulated by bilateral treaties and that ratification of the Convention alone would not be sufficient for the granting of extradition. Rwanda attached its applicable legislation.

**(c) Group of Asian and Pacific States**

78. While Fiji, Mongolia and Pakistan stated that they had fulfilled the notification obligation under paragraph 6 (a), Afghanistan, China and Uganda indicated that they had not provided the Secretary-General with information on whether they would take the Convention as the legal basis for cooperation on extradition. When asked to provide the required information together with its self-assessment report, Afghanistan explained that the Convention had been considered and used by its Government as the legal basis for extradition. It provided further detail on a corruption case in which the Convention had been used as the legal basis for extraditing two offenders. China stated that it cooperated with other countries on extradition issues in accordance with its Extradition Law. However, it did not specify whether that law included the option of taking the Convention as the legal basis for extradition. Hong Kong, China, reported that it had conveyed such information to the Secretary-General. Uganda did not provide the requisite information, thereby not complying with an obligatory reporting item. Tajikistan indicated that, as it was a signatory at the time of reporting, it had not notified the Secretary-General, as prescribed by paragraph 6 (a). Brunei Darussalam, the Republic of Korea and Yemen did not provide information in respect of paragraph 6 (a), thereby not complying with an obligatory reporting item.

**(c) Group of Eastern European States**

79. Armenia, Azerbaijan, Hungary, Serbia and Slovenia reported that they had notified the Secretary-General as to whether they would take the Convention as the legal basis for cooperation on extradition. Bulgaria and Serbia indicated that they had not fulfilled the notification obligation set forth in paragraph 6 (a). Bulgaria added that it did not make the execution of extradition requests conditional upon the existence of a treaty. It further referred to the Law on Extradition and European Arrest Warrants and stated that, in the absence of a treaty, that law would apply, on the condition of reciprocity.

**(d) Group of Latin American and Caribbean States**

80. With regard to the notification obligation of paragraph 6 (a), Cuba, Guatemala and Panama stated that they had provided the requisite information to the Secretary-General. Ecuador did not report on whether it had notified the Secretary-General, thereby not complying with an obligatory reporting item.

**(e) Group of Western European and Other States**

81. Australia stated that it had not notified the Secretary-General as to whether it would take the Convention as the legal basis for cooperation on extradition, since it did not make extradition conditional on the existence of a treaty. Greece and Malta

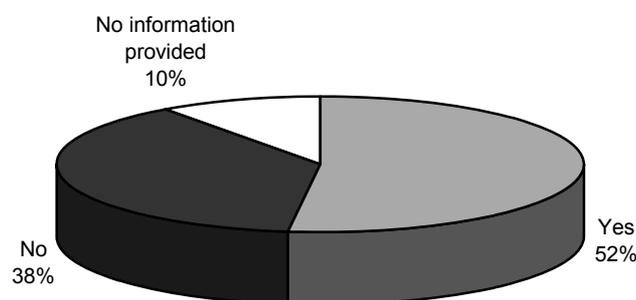
drew attention to the fact that, at the time of reporting, they had not yet ratified the Convention and therefore had not provided the requisite information to the Secretary-General. Greece added that it intended to accept the Convention as the basis for extradition, provided that extradition would not affect the fundamental human rights of the person concerned and would not facilitate the imposition of a death sentence in the requesting State. Greece and Malta did not update their information on the article under review after ratifying the Convention.

## 2. Mutual legal assistance (article 46)

82. The global implementation of article 46 (including implementation by parties that reported prior to 30 November 2007) is illustrated in figure 55. From the 64 per cent of States parties that reported full compliance with article 46 as at 30 November 2007, the compliance rate has fallen to 52 per cent.

Figure 55

### Global implementation of article 46



#### (a) Group of African States

83. Concerning the obligation to notify the Secretary-General of the designation of a central authority responsible for receiving requests for mutual legal assistance, as required by paragraph 13, Algeria provided an update of its previous submission and indicated that it had not fulfilled this obligation. However, Algeria did not provide this information together with its self-assessment report, an obligatory reporting item. Egypt, Tunisia and Uganda indicated that they had notified the Secretary-General of the designation of a central authority responsible for receiving requests for mutual legal assistance. Uganda specified that the Attorney-General's Chambers in the Ministry of Justice and Constitutional Affairs were mandated to receive all requests for mutual legal assistance and extradition. While Angola, Mauritania, Mauritius, Morocco and Sierra Leone reported that they had not notified the Secretary-General, Angola added that the specialized authorities were the Court of Account, the Attorney-General and the High Authority against Corruption. Mauritania and Mauritius did not fulfil the mandatory reporting item of providing the information together with their self-assessment reports, while Sierra Leone designated the Commissioner of the Anti-Corruption Commission as the authority to receive such requests. Kenya provided no information on paragraph 13 and therefore did not fulfil the obligatory reporting item. Rwanda attached its relevant regulations.

**(b) Group of Asian and Pacific States**

84. China (including Hong Kong), Mongolia and Pakistan stated that they had notified the Secretary-General of their designated central authority responsible for receiving mutual legal assistance requests, in accordance with paragraph 13. Afghanistan and Fiji reported that they had not done so. While Afghanistan explained that requests for mutual legal assistance were processed through diplomatic channels, it specified that it was considering designating a special central authority to receive and process such requests. Fiji did not fulfil the mandatory reporting item of providing this information to UNODC jointly with its self-assessment report. Tajikistan indicated that it had not conveyed such information to the Secretary-General, as it had reported while a signatory to the Convention. The Republic of Korea reported that it had not notified the Secretary-General of the designation of a central authority responsible for receiving requests for mutual legal assistance, but submitted such information together with its self-assessment report. It stated that the International Criminal Affairs Division of the Ministry of Justice had been designated as the central authority and that requests had to be made through diplomatic channels. Brunei Darussalam and Yemen did not provide information on paragraph 13, thereby not complying with an obligatory reporting item.

**(c) Group of Eastern European States**

85. While Azerbaijan, Bulgaria, Hungary and Slovenia indicated that they had fulfilled the obligation of notifying the Secretary-General of their respective designated authorities responsible for receiving mutual legal assistance requests, Serbia stated that it had not complied with this notification obligation at the time of depositing its instrument of ratification. Serbia further indicated that the designated central authority was the Ministry of Justice and that it had so notified the Secretary-General in May 2008. Armenia did not provide information on the provision under review, thereby not complying with an obligatory reporting item.

**(d) Group of Latin American and Caribbean States**

86. Concerning the notification obligation set forth in paragraph 13, Guatemala reported that it had informed the Secretary-General of its designated central authority responsible for receiving mutual legal assistance requests. Cuba indicated that it had not provided the requisite information. When asked to do so, Cuba submitted, together with its self-assessment report, a detailed account of the mutual legal assistance procedures to be followed and explained that the Ministry of Foreign Affairs was the authority designated to receive mutual legal assistance requests unless otherwise specified in bilateral agreements. Ecuador and Panama did not meet the reporting requirement related to the article under review.

**(e) Group of Western European and Other States**

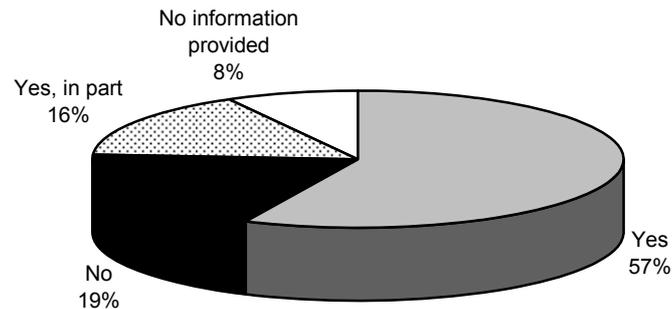
87. Australia stated that it had not informed the Secretary-General of its designated central authority responsible for receiving mutual legal assistance requests (para. 13). In its self-assessment report, Australia provided the requisite information and indicated that the Attorney-General's Department was the central authority designated to receive mutual legal assistance requests. Greece and Malta

highlighted that, at the time of submitting their respective reports, they had not yet ratified the Convention, and therefore had not notified the Secretary-General, as required by paragraph 13. Greece reported its intention to designate the Ministry of Justice as the central authority. Neither Greece nor Malta provided updates on this article after their ratification of the Convention.

#### D. Asset recovery (chapter V of the Convention)

Figure 56

##### Global implementation of chapter V

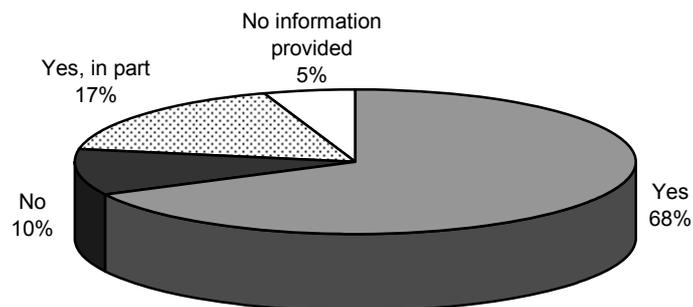


##### 1. Prevention and detection of transfer of proceeds of crime (article 52)

88. The global implementation of article 52 (including implementation by parties that reported prior to 30 November 2007) is illustrated in figure 57. From the 27 per cent of the States parties that reported full compliance with article 52 as at 30 November 2007, the percentage of States parties reporting full compliance has risen drastically, to 68 per cent, while the percentage of States parties reporting partial compliance fell from 71 per cent as at 30 November 2007 to 17 per cent as at 14 August 2009.

Figure 57

##### Global implementation of article 52



##### (a) Group of African States

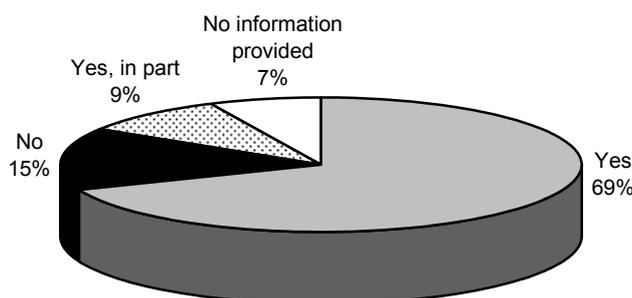
89. Egypt, Rwanda, Tunisia and Uganda reported full implementation of measures to prevent and detect the transfer of proceeds of crime and cited applicable

legislation. However, Egypt and Tunisia did not substantiate their reported compliance with article 52 by providing examples of successful implementation. Rwanda did so with regard to several provisions of the article under review (an optional reporting item). Morocco also reported full compliance with article 52, with the exception of the non-mandatory provision of paragraph 6, regarding measures to require public officials to report foreign financial accounts, in relation to which partial compliance was reported. Angola reported no implementation of article 52. With regard to the verification of the identity of customers and enhanced scrutiny of accounts in financial institutions, as prescribed by paragraph 1, Mauritania indicated that it had not implemented measures, while Kenya and Sierra Leone reported partial compliance and cited applicable legislation and regulations. Uganda reported full compliance with the provision under review and provided details on the verification of the identity of customers, but did not provide information on the conduct of enhanced scrutiny. Reporting on the issuance of advisories to financial institutions (para. 2 (a)), Algeria updated its previous submission, indicated full implementation of the provision under review and cited relevant legislation. Mauritania also reported full compliance with the provision and cited relevant legislation, but did not specify whether it provided for the issuance of advisories to financial institutions. With regard to the same provision, Mauritius indicated full compliance and reported that the Bank of Mauritius had issued guidance notes on combating money-laundering and the financing of terrorism to banks and financial institutions. Mauritius added that the Central Bank had further issued “know your customer” rules and that licensees were required to follow them. On the other hand, Kenya and Sierra Leone reported no compliance with the provision under review. With regard to notifying financial institutions of the identity of account holders for enhanced scrutiny, as prescribed by paragraph 2 (b), Mauritania and Mauritius reported full implementation, while Kenya and Sierra Leone indicated no compliance. Mauritania cited applicable legislation, and Mauritius provided a detailed description of the Financial Intelligence and Anti-Money-Laundering Act, explaining that under that Act, banks and other financial institutions are required to report suspicious transactions to the Financial Intelligence Unit. Providing information on the required content of such a report, Mauritius indicated that it had to identify the party or parties to the transaction. Uganda also reported full compliance with the provision under review; however, information provided in the self-assessment report did not specify whether Uganda had notified financial institutions of the identity of account holders for enhanced scrutiny. Mauritania and Mauritius reported that they had fully implemented and Kenya that it had partially implemented measures to require financial institutions to maintain adequate records, in compliance with paragraph 3. To substantiate its answer, Mauritania cited the relevant legislation and indicated that such records had to be kept for a minimum of 10 years. Mauritius excerpted parts of the Banking Act 2004 stating that financial institutions should keep a full and true record of every transaction for at least 10 years after the completion of the transaction. Kenya did not specify for how long financial institutions are required to keep adequate records. Sierra Leone indicated no implementation of paragraph 3, while Uganda stated that such records had to be kept for at least six years. While Mauritania and Mauritius also indicated that they had prevented the establishment of banks having no physical presence or affiliation with a regulated financial group, in full compliance with paragraph 4, Mauritius did not provide specific information on the applicable laws or other measures, thereby not complying with a reporting requirement. Mauritania

indicated that every private financial activity was subject to prior authorization by the central bank, but did not specify whether its central bank was required to deny such authorization to banks that had no physical presence and that were not affiliated with a regulated financial group. Kenya reported partial implementation and Sierra Leone no implementation of the provision under review. Further to its indication of partial compliance, Kenya stated that its Banking Act and the Central Bank of Kenya Act prohibited the conduct of business with an institution that had no physical presence in the country and that was also not licensed by the Central Bank. Kenya and Mauritania indicated partial compliance and Mauritius and Sierra Leone full compliance with the non-mandatory provision of paragraph 5. The legislation excerpted by Mauritius did not provide information on the establishment of financial disclosure systems for public officials. Kenya, Mauritania and Sierra Leone cited applicable legislation, in addition to which Kenya described the relevant provisions of its Public Officer Ethics Act 2003. Uganda reported full compliance with the non-mandatory provisions of paragraphs 5 and 6, and stated that public officials were required to disclose their bank accounts. Both Mauritania and Mauritius stated partial compliance, Kenya no compliance and Sierra Leone full compliance with paragraph 6, requiring public officials to report foreign financial accounts. Furthermore, Mauritius mentioned that certain categories of public officers had to submit a declaration of assets, including cash at bank. Mauritania and Mauritius did not provide examples of successful implementation of the article under review.

Figure 58

#### Implementation of article 52 by parties from the Group of African States



#### (b) Group of Asian and Pacific States

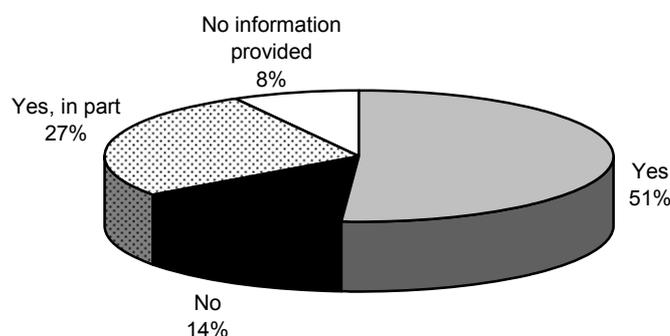
90. Fiji reported that it had fully implemented measures for the prevention and detection of transfers of proceeds of crime, as prescribed by article 52. As an update to its previous submission, the Philippines also reported full compliance with the article under review. Afghanistan and Brunei Darussalam indicated that they required financial institutions to verify the identity of their customers and to conduct enhanced scrutiny of accounts sought or maintained by or on behalf of individuals who were or had been entrusted with prominent public functions, their family members and close associates, in accordance with paragraph 1. However, while the legislation excerpted by Afghanistan contained details on the verification of customers' identities, it did not include provisions concerning the conduct of enhanced scrutiny of accounts. Brunei Darussalam did not report on the implementation of paragraph 2 (a) to paragraph 6, thereby not complying with an

obligatory reporting item. The Republic of Korea did not provide information in relation to the article under review (an obligatory reporting item).

91. Reporting full implementation of measures requiring financial institutions to ensure verification of the identity of certain customers and enhanced scrutiny of accounts (para. 1), Fiji cited its Financial Transactions Reporting Act 2004 as relevant legislation and stated that financial institutions had to identify a customer upon entering into a continuing business relationship. Furthermore, Fiji provided a detailed account of its legislation concerning the conduct of enhanced scrutiny. China (including Hong Kong) also reported full compliance with the provision under review, while Mongolia, Pakistan, Tajikistan and Yemen reported partial implementation of measures providing for verification of identity and enhanced scrutiny. However, the legislation excerpted by China did not include requirements concerning the conduct of enhanced scrutiny. Pakistan reported that its State Bank had issued guidelines on corporate and commercial banking, including regulations on “know your customer” policies, the requirement of detailed verification of customer identification documents and due diligence measures required for customer profiling. Pakistan added that all banks and financial institutions were required to report suspicious transactions to the State Bank and the National Accountability Bureau. Tajikistan further explained that, under article 15 of the Law on the Fight against Corruption 2005, while property or other assets acquired as a result of the commission of a corruption-related offence were subject to seizure by the State, in accordance with procedures established by its legislation, there was no mechanism for implementing this article. The Philippines cited the national Anti-Money-Laundering Act 2001 as applicable legislation and further specified that anonymous accounts were prohibited.

Figure 59

**Implementation of article 52 by parties from the Group of Asian and Pacific States**



92. Furthermore, the Philippines reported that a memorandum to all banks and non-bank financial intermediaries performing quasi-banking functions recommended that they use the Basel paper on customer due diligence for banks in the design of their respective “know your customer” programmes. Reporting on the issuance of advisories to financial institutions (para. 2 (a)), Afghanistan reported full compliance and quoted its Anti-Money-Laundering Law. However, while the passages quoted allowed for the judicial authorities to order the monitoring of bank accounts and accessing of computer systems, they did not contain information on whether Afghanistan issued advisories regarding the types of natural or legal

persons to whose accounts financial institutions were required to apply enhanced scrutiny. Pakistan indicated full compliance and mentioned that banks and financial institutions should develop guidelines for customer due diligence, including a description of the types of customers that were likely to pose a higher-than-average risk to a bank or financial institution. China reported no issuance of advisories to financial institutions (para. 2 (a)), while Hong Kong, China, stated that it issued such advisories. The Philippines reported that enhanced due diligence was generally undertaken for certain categories of customers, business relationships or transactions, and listed such categories in its self-assessment report. Mongolia reported partial compliance and Tajikistan no compliance with the provision under review, while Yemen assessed its legislation as fully compliant with the requirements of the provision. An example of good implementation of the provision by Pakistan is presented in box 9. Fiji indicated full compliance with paragraph 2 (b), on notifying financial institutions of the identity of account holders for enhanced scrutiny, and specified that the Director of Public Prosecutions could apply for a monitoring order from the court to direct a financial institution to give information about transactions conducted through an account held by a particular person, but did not explain whether it notified financial institutions about the identity of persons to whose accounts they were expected to apply enhanced scrutiny in addition to the persons otherwise identified by the financial institutions. Afghanistan reported partial compliance with the provision under review. With regard to notifying financial institutions of the identity of account holders for enhanced scrutiny, as prescribed by paragraph 2 (b), Pakistan reported that its State Bank had issued, under its prudential regulations, detailed instructions to all banks and financial institutions to pay special attention to all complex or unusually large transactions. Pakistan added that banks and financial institutions had to report to the State Bank if they suspected or had reasonable grounds to suspect that funds were proceeds of crime. Once high-risk accounts had been identified, the relevant information was then disseminated to other banks and financial institutions. With regard to the requirement of notifying financial institutions of the identity of account holders for enhanced scrutiny (para. 2 (b)), China reported partial compliance and Hong Kong SAR full compliance. While the legislation excerpted by China included detail on the cooperation of financial institutions with judicial bodies and law enforcement agencies, it did not specify whether financial institutions were notified of the identity of account holders to whose accounts enhanced scrutiny had to be applied. Mongolia reported full compliance with the provision under review and cited its applicable legislation. Tajikistan stated that it had not implemented the provision under review, while Yemen reported full compliance.

93. With regard to the implementation of measures to require financial institutions to maintain adequate records (para. 3), Fiji cited its Banking Act 1995 as relevant legislation. It also provided excerpts of that Act and stated that, as a general requirement, all licensed financial institutions were required to retain all cheques and bank drafts in their possession for seven years from the time of collection of the information or the closure of the account, whichever was later. Afghanistan reported full compliance with the provision under review. However, the excerpted legislation did not contain details on whether financial institutions were required to maintain adequate records of accounts and transactions involving individuals who were or had been entrusted with prominent public functions, their family members and close

associates. China (including Hong Kong) and the Philippines reported that they required financial institutions to maintain such records for a minimum of five years, while Mongolia reported partial compliance with the provision under review. Pakistan indicated that it had implemented measures to require financial institutions to maintain adequate records, as set forth in paragraph 3, and specified that all banks and financial institutions were required to maintain all necessary records on transactions for a minimum of five years. Tajikistan reported no compliance with the provision under review, while Yemen reported that it required financial institutions to maintain adequate records.

94. Fiji stated that it had fully implemented measures to prevent the establishment of banks having no physical presence or affiliation with a regulated financial group (para. 4). It cited the Banking Act and the Financial Transactions Reporting Act as relevant legislation and specified that only licensed financial institutions could carry out banking business in Fiji. Afghanistan assessed its Banking Law as being fully compliant with the provision under review and specified that banks without a physical presence and/or affiliation with a credible financial institution were not permitted to obtain a licence and operate in Afghanistan. China (including Hong Kong) also assessed its legislation as fully compliant with the requirements of paragraph 4. However, while the quoted legislation concerned the opening of bank accounts without identification documents, it did not include provisions on the prevention of the establishment of banks having no physical presence or affiliation with a regulated financial group. The Philippines also reported full implementation of the provision under review and specified that financial institutions had to refuse to enter into or continue a correspondent banking relationship with shell banks. Mongolia and Tajikistan indicated that they had not implemented paragraph 4, while Yemen reported partial compliance with the provision under review. Regarding the implementation of measures to prevent the establishment of banks having no physical presence or affiliation with a regulated financial group (para. 4), Pakistan indicated full compliance. Furthermore, it pointed out that bank inspections were carried out to ensure that correspondent banking relationships did not involve relationships with shell banks or banks not regulated by any supervisory authority.

95. China reported no establishment of a financial disclosure system for public officials and no implementation of measures requiring public officials to report foreign financial accounts, as prescribed by the non-mandatory provisions of paragraphs 5 and 6, respectively; Hong Kong, China, however, stated that it was in full compliance with the provisions under review. Afghanistan, Fiji, Pakistan and the Philippines reported full compliance, while Yemen indicated partial implementation of measures establishing a financial disclosure system for public officials and of measures requiring public officials to report foreign financial accounts (paras. 5 and 6). In addition to citing the applicable legislation, Afghanistan provided a detailed account of which officials were required to disclose their assets. Fiji cited its Proceeds of Crime Act 1998 as applicable legislation, and Pakistan explained that its State Bank and the National Accountability Bureau had powers to call for such information to be provided if needed. While Mongolia and Tajikistan reported partial compliance with the requirements of the Convention concerning the establishment of financial disclosure systems for public officials, as set forth in paragraph 5, they stated that they did not require public officials to report foreign financial accounts (para. 6). China did not provide examples of

successful implementation of the provisions in respect of which it reported full compliance, thereby not fulfilling an optional reporting item.

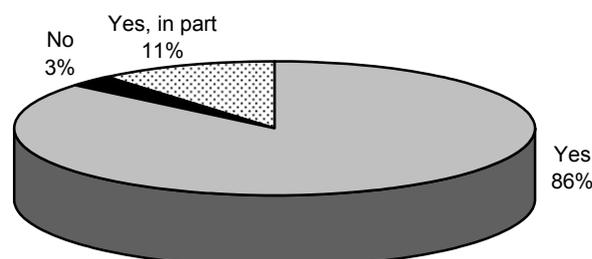
**(c) Group of Eastern European States**

96. Armenia, Azerbaijan, Bulgaria, Hungary and Slovenia reported full implementation of measures to prevent and detect transfers of proceeds of crime, in accordance with article 52 of the Convention. As required, they cited applicable legislation, but Armenia, Azerbaijan and Hungary did not fulfil the optional reporting item of providing examples of successful implementation of the article under review. Croatia updated its previous submission and reported full implementation of article 52. Croatia stated that articles 51 to 58 of the Convention had not been implemented through a specific act, but indicated that, pursuant to its Constitution, the relevant provisions of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (1990), as well as the provisions of the Act on International Legal Assistance in Criminal Matters, were applicable. Reporting on measures taken to require financial institutions to verify the identity of customers and to conduct enhanced scrutiny of accounts sought or maintained by or on behalf of certain customers (para. 1), Croatia quoted its applicable legislation. However, the legislation did not clarify under which circumstances enhanced scrutiny had to be applied. In this context, Azerbaijan reported that the opening of anonymous accounts was strictly prohibited and that banks were required to conduct enhanced scrutiny of accounts sought or maintained by or on behalf of individuals who were or had been entrusted with prominent public functions and their family members and close associates. Bulgaria and Slovenia stated that financial institutions were obliged to identify their clients when establishing business relations, as well as when conducting transactions of over 30,000 leva (Bulgaria) or 15,000 euros (Slovenia). While Hungary reported full compliance with the provision under review, it did not comply with the obligatory reporting item of citing applicable legislation. Serbia reported partial implementation of measures to require financial institutions to verify the identity of their customers and apply enhanced scrutiny, as prescribed in paragraph 1, and cited applicable legislation. With regard to the issuance of advisories to financial institutions, as required by paragraph 2 (a), and the notification of financial institutions of the identity of persons to whose accounts enhanced scrutiny had to be applied (para. 2 (b)), Croatia excerpted relevant parts of its legislative framework. However, the texts did not clarify whether advisories were to be issued or whether Croatia notified financial institutions of the identity of such customers. Reporting on paragraph 2 (a), Azerbaijan indicated that, according to the methodological guidance prepared by the National Bank, all customers had to be classified in risk categories to determine the appropriate scrutiny to be applied. Bulgaria cited the relevant legislation, but did not specify whether it issued advisories to financial institutions. Serbia indicated partial implementation of the provision and cited its law containing an obligation to develop and apply a list of indicators that could give reasons for suspicion. Azerbaijan further indicated that, to notify financial institutions of the identity of customers to whose accounts enhanced scrutiny had to be applied (para. 2 (b)), a list of individuals considered terrorists by the United Nations and the United States of America was kept on the website of its National Bank. With regard to the same provision, Bulgaria indicated that its Agency for Financial Intelligence could request information regarding questionable clients from

the Bulgarian National Bank and credit institutions, but did not specify whether it notified financial institutions of the identity of account holders for enhanced scrutiny. Serbia reported that it had not taken measures providing for such notifications. Reporting on the implementation of measures to require financial institutions to keep adequate records, as prescribed in paragraph 3, Azerbaijan stated that such records had to be kept for a minimum of 5 years after termination of the customer relationship, while Croatia indicated that such records had to be kept for 4 or 10 years, depending on their nature. Bulgaria stated that its Agency for financial intelligence kept a register of questionable clients and payments, but did not indicate whether it required financial institutions to maintain adequate records. Serbia reported full compliance with the provision under review and added that such records had to be kept for a minimum of 10 years. Slovenia also reported that such records had to be kept for at least 10 years after termination of the business relationship or completion of a transaction. With regard to the prevention of the establishment of banks having no physical presence or affiliation with a registered financial group (para. 4), Croatia quoted applicable legislation. Azerbaijan reported that special supervision by the banks' internal control systems should be applied to the opening of corresponding accounts of non-resident banks and to transactions involving such accounts. However, Azerbaijan did not clarify how the establishment of banks with no physical presence in Azerbaijan was prevented. Bulgaria stated that its National Bank regulated and controlled the activities of other banks in the country, but did not clarify whether the National Bank prevented the establishment of banks having no physical presence in the country. Serbia reported partial compliance with the provision under review, but did not cite applicable legislation, thereby not complying with an obligatory reporting item. With regard to the establishment of a financial disclosure system for public officials, as prescribed in the non-mandatory provision of paragraph 5, and the reporting of foreign financial accounts, in accordance with the non-mandatory provision of paragraph 6, Bulgaria provided lists of all officials subject to declaration of property, income and expenses in the country and abroad. Slovenia reported that approximately 5,000 top officials were subject to its financial disclosure system. Serbia indicated full compliance with the provisions under review and excerpted relevant legislation. With regard to paragraph 6, Serbia added that, under the Law on Foreign Exchange Relations, it was forbidden for Serbian citizens to have an account abroad. An example of implementation by Serbia concerning the establishment of financial disclosure systems for public officials, as prescribed by paragraph 5, is presented in box 9.

Figure 60

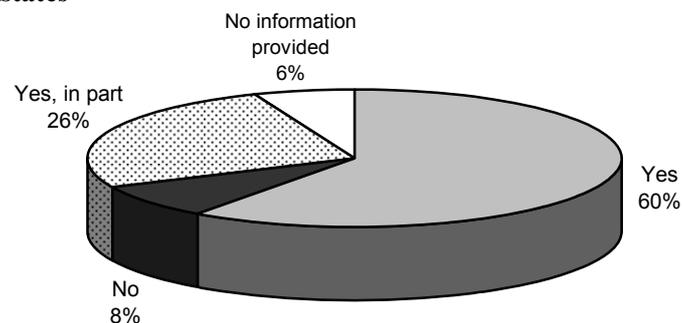
**Implementation of article 52 by parties from the Group of Eastern European States**



**(d) Group of Latin American and Caribbean States**

97. Ecuador reported full implementation of measures to prevent and detect transfers of proceeds of crime, as prescribed by article 52, and cited its applicable legislation. However, Ecuador did not substantiate its answers by providing examples of successful implementation (an optional reporting item). Updating its previous submission, Colombia provided examples of successful implementation of article 52. Cuba and Panama reported that they had required financial institutions to verify the identity of their customers and to conduct enhanced scrutiny of accounts sought by or on behalf of certain persons (para. 1). To that end, Cuba provided information about its “know your customer” rules and indicated that such rules included regulations on the verification of clients’ identities and on due diligence, while Panama cited its applicable legislation. Guatemala indicated partial compliance with the provision under review and provided an extensive account of its applicable legislation. Furthermore, Cuba, Guatemala and Panama reported full compliance with paragraph 2 (a) and stated that they had issued guidelines to their financial institutions. In application of paragraph 2 (b), Guatemala reported that it had notified its financial institutions of the identity of customers for enhanced scrutiny, in full compliance with the provision under review. However, Cuba and Panama did not report on the implementation of paragraph 2 (b), thereby not complying with an obligatory reporting item. Cuba, Guatemala and Panama also reported full implementation of measures requiring financial institutions to maintain adequate records, as prescribed by paragraph 3. Cuba further specified that financial institutions were required to keep such records for at least five years. Cuba did not report on the implementation of paragraphs 3 to 6, thereby not complying with an obligatory reporting item. Reporting on the prevention of the establishment of banks having no physical presence or no affiliation with a regulated financial group, as prescribed by paragraph 4, Guatemala and Panama assessed their legislation as fully compliant. In relation to the establishment of financial disclosure systems for public officials, as prescribed by the non-mandatory provision of paragraph 5, Colombia provided an update of its previous submission and indicated partial compliance, while Guatemala and Panama indicated that they had established such systems, in full compliance with paragraph 5. However, Guatemala indicated that its public officials were not required to report foreign financial accounts (non-mandatory provision of para. 6), while Panama did not provide information on this provision, thereby not complying with an obligatory reporting item.

Figure 61

**Implementation of article 52 by parties from the Group of Latin American and Caribbean States**

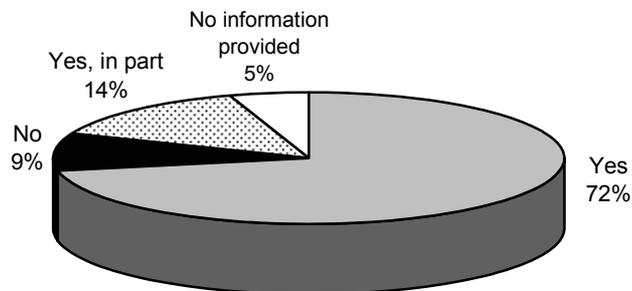
**(e) Group of Western European and Other States**

98. Australia and Greece reported full compliance with article 52, but Australia did not substantiate its answers by providing examples of successful implementation (an optional reporting item). Apart from the non-mandatory provisions of paragraphs 5 and 6, on financial disclosure systems, in relation to which partial compliance was reported, Malta also indicated that it had fully implemented article 52. As an update to its previous submission, the United Kingdom also reported full compliance with article 52. Reporting on financial institutions being required to verify the identity of customers and to conduct enhanced scrutiny of accounts sought or maintained by or on behalf of certain customers (para. 1), Australia indicated that the Australian Transaction Reports and Analysis Centre (AUSTRAC) had an enhanced Financial Intelligence Unit and a stronger regulatory role under the new anti-money-laundering and counter-terrorism financing regime. Furthermore, Australia stated that its rules specifically drew attention to certain customer types, including politically exposed persons. Greece provided an overview of the types of transactions and customers that required enhanced due diligence, but did not provide further detail on the verification of customers' identity. Concerning the issuance of advisories to financial institutions, as prescribed by paragraph 2 (a), Australia reported that AUSTRAC issued guidelines and circulars informing banks and financial institutions on how to identify suspicious transactions. Malta also indicated full compliance with the provision under review and specified that its Financial Services Authority periodically issued lists of persons requiring scrutiny. Concerning the notification to financial institutions of the identity of account holders for enhanced scrutiny, as prescribed by paragraph 2 (b), Australia reported that AUSTRAC had issued circulars designating persons and organizations to which financial institutions had to pay special attention. Furthermore, it indicated that the Department of Foreign Affairs and Trade also listed some politically exposed persons, and stated that the private sector could have access to such lists. In application of paragraph 3, concerning the implementation of measures to require financial institutions to maintain adequate records, Greece reported that financial institutions were required to retain records of contracts for five years. With regard to the prevention of the establishment of banks having no physical presence or affiliation with a regulated financial group (para. 4), Australia reported that the Australian Prudential Regulation Authority made it impossible for such banks to operate in Australia. Concerning the same provision, Greece reported that it did not allow or approve the establishment of shell banks; it indicated that banks were required to have a physical presence in Greece and that the head offices of credit institutions that had registered offices and operated in Greece had to be situated in Greece. Reporting on the establishment of a financial disclosure system, as prescribed by the non-mandatory provision of paragraph 5, and on public officials being required to report foreign financial accounts, as prescribed by the non-mandatory provision of paragraph 6, Australia indicated that it had established a financial disclosure system for senior-level public officials, which required the annual disclosure of their and their close relatives' private interests. Greece also reported the establishment of a financial disclosure system encompassing foreign financial accounts. Malta reported that it was considering financial disclosure systems and specified that, as a result of parliamentary custom, ministers and parliamentary secretaries were obligated to disclose their income and financial links and associations, covering both their official income as office holders and any other

income they had received. Malta reported that such information was made publicly available and was subject to parliamentary scrutiny.

Figure 62

**Implementation of article 52 by parties from the Group of Western European and Other States**



**Box 9**

**Examples of good implementation of article 52**

- **Colombia:** The establishment of a bank without a physical presence is made impossible by requiring a licence issued by the Financial Superintendence of Colombia to operate in the country. One of the requirements to obtain such a licence is to have a physical presence in the country. To ensure that all requirements are met, the Financial Superintendence can carry out site visits at the entities it regulates.
- **Pakistan:** Prudential regulations issued by the State Bank of Pakistan state that banks and financial institutions are required to develop guidelines for customer due diligence, including a description of the types of customers that are likely to pose a higher-than-average risk to banks and financial institutions.
- **Serbia:** In application of article 52, paragraph 5, of the Convention, Serbia has introduced a financial disclosure system requiring all public officials to submit a disclosure report concerning their property and income, as well as that of their spouses or common-law partners and underage children living in the same household, within 30 days from the time of appointment, election or nomination and within 30 days from the time of termination.
- **Malta:** The Malta Financial Services Authority, in its capacity as regulatory authority, periodically issues lists of persons to whose accounts enhanced scrutiny is to be applied.
- **Mauritania:** All private financial activities are subject to prior authorization by the Central Bank.

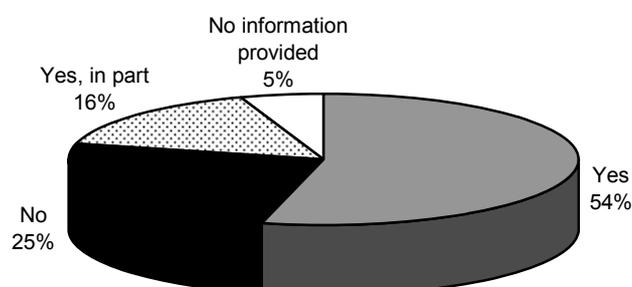
**2. Measures for direct recovery of property (article 53)**

99. The global implementation of article 53 (including implementation by parties that reported prior to 30 November 2007) is illustrated in figure 63. As at 30 November 2007, 51 per cent of States parties reported full compliance with

article 53, and the compliance rate has remained stable (54 per cent as at 14 August 2009). However, it is worth noting that, while 11 per cent of the reporting States parties indicated no compliance with the article under review as at 30 November 2007, that percentage had risen to 25 per cent as at 14 August 2009.

Figure 63

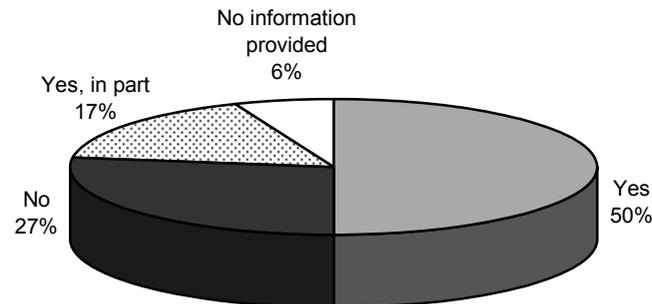
**Global implementation of article 53**



**(a) Group of African States**

100. Egypt, Rwanda and Tunisia reported full compliance with article 53 and cited applicable legislation. However, they did not substantiate their answers by providing examples of successful implementation (an optional reporting item). Morocco reported full compliance with the article under review, with the exception of paragraph (c), providing for domestic courts or competent authorities to recognize another State party's claim of legitimate ownership of property proceeds of crime, in respect of which it assessed its legislation as non-compliant. Angola, Mauritania and Sierra Leone reported no compliance with paragraph (a), requiring States parties to establish measures permitting another State party to initiate civil action in their courts. Kenya and Mauritius indicated partial compliance and Uganda full compliance with this provision and quoted or cited relevant legislation. Subsequently, Angola indicated that its civil code and its code of civil procedure were in partial compliance with the requirements of paragraph (b), prescribing that measures to permit its courts to order payments of compensation or damages had to be taken. Sierra Leone also reported partial compliance, citing and describing relevant legislation. Kenya, Mauritania, Mauritius and Uganda indicated no implementation of this provision. Rwanda indicated that no case relevant to the provision had occurred. With regard to measures to permit courts or competent authorities to recognize another State party's claim of legitimate ownership of property proceeds of crime, as prescribed by paragraph (c), Angola, Kenya, Mauritania and Uganda reported that they had not implemented such measures, while Mauritius and Sierra Leone reported partial compliance with the provision and cited relevant legislation.

Figure 64

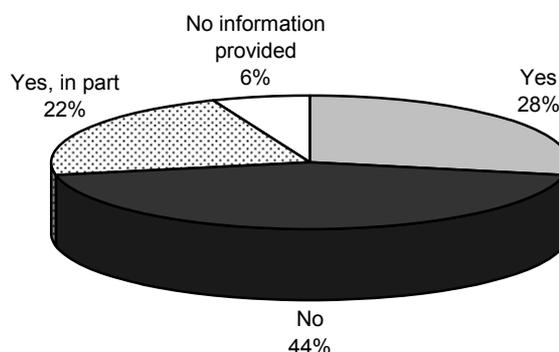
**Implementation of article 53 by parties from the Group of African States****(b) Group of Asian and Pacific States**

101. Fiji and the Republic of Korea reported full compliance, while Tajikistan underscored the lack of implementation of measures for direct recovery of property, as prescribed by article 53. While Brunei Darussalam reported no implementation of measures to permit another State party to initiate civil action in its courts (para. (a)), it did not provide information on the implementation of paragraphs (b) and (c). The Philippines provided an update of its previous submission and reported full implementation of measures for direct recovery of property, as prescribed by article 53. Fulfilling an optional reporting item, the Philippines also provided examples of successful implementation of the article under review and stated that, as at 31 December 2007, the Anti-Money-Laundering Council had recovered funds amounting to more than \$800,000 in two cases. Afghanistan and China indicated no compliance with the article under review; Hong Kong, China, however, stated that it had fully implemented article 53. Mongolia and Yemen reported that they had taken measures to permit another State party to initiate civil action in their courts, in full compliance with paragraph (a), while Pakistan indicated partial compliance with the provision and cited its code of civil procedure as applicable legislation. With regard to the provision under review, the Republic of Korea indicated that, even though there were no provisions directly following the model of article 53, States parties were not barred from having standing in courts pursuant to general principles governing civil litigation. However, Mongolia assessed its legislation as not being in compliance with paragraph (b), concerning the implementation of measures permitting its courts to order payment of compensation or damages. Pakistan and Yemen indicated partial compliance with the provision under review. Also in respect of paragraph (b), the Republic of Korea indicated that, even though it had no provisions directly following the model of article 53, States parties were not barred from having standing in courts pursuant to general principles governing civil litigation. In application of paragraph (c), Mongolia and Pakistan stated that their courts or competent authorities had permission to recognize another State party's claim of legitimate ownership of property proceeds of crime, and thus reported full compliance with the provision under review. Yemen indicated that its legislation was partially in compliance with the provision under review. Fiji, Mongolia and Pakistan cited their codes of criminal procedure as applicable legislation, while, with regard to the implementation of measures to permit another State party to

initiate civil action in its courts, as prescribed by paragraph (a), Fiji indicated that such measures were included in common law.

Figure 65

**Implementation of article 53 by the Group of Asian and Pacific States**



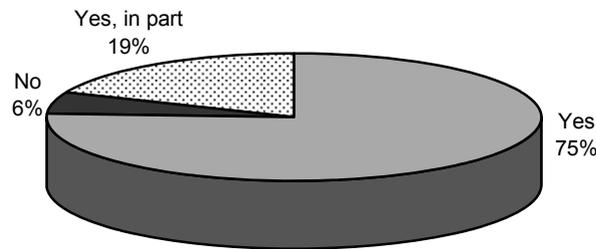
**(c) Group of Eastern European States**

102. Bulgaria and Slovenia reported full implementation of measures prescribed by article 53 and provided an account of their relevant legislation. Croatia provided an update of its previous submission and indicated full compliance with article 53. Furthermore, Croatia cited the applicable legislation, but did not provide examples of successful implementation (an optional reporting item). In respect of measures to permit another State party to initiate civil action in their courts, as prescribed by paragraph (a), Armenia and Hungary, reporting partial compliance, and Azerbaijan, indicating full implementation of such measures, cited their respective applicable legislation. However, Armenia specified that its code of civil procedure did not provide for the right of other States to initiate legal action in an Armenian court, while Azerbaijan indicated that, according to its code of criminal procedure, legal persons were entitled to be recognized as victims in criminal cases investigated and prosecuted in Azerbaijan. Serbia indicated full compliance with the provision under review and stated that its code of civil procedure contained such measures. With regard to measures to permit its courts to order payment of compensation or damages to another State party (para. (b)), Armenia reported partial compliance while Azerbaijan and Hungary indicated full implementation of such measures. Azerbaijan further specified that its courts could order that compensation be paid to a competent authority of a foreign State, provided that it was recognized as a victim of crime according to the Azerbaijan code of criminal procedure. It further clarified that, when such a case was prosecuted in a foreign jurisdiction, the decision of the foreign court had to be submitted to the competent court in Azerbaijan for implementation. Such implementation could occur if the decision did not contradict the interests of the country or its legislation. Serbia reported that it had not taken measures to implement paragraph (b). Concerning measures to permit their courts or competent authorities to recognize another State party's claim of legitimate ownership of property proceeds of crime, as prescribed by paragraph (c), Armenia, Azerbaijan and Hungary reported partial implementation of such measures. While

indicating full compliance with the provision under review, Serbia did not comply with the obligatory reporting item of citing applicable legislation.

Figure 66

**Implementation of article 53 by parties from the Group of Eastern European States**

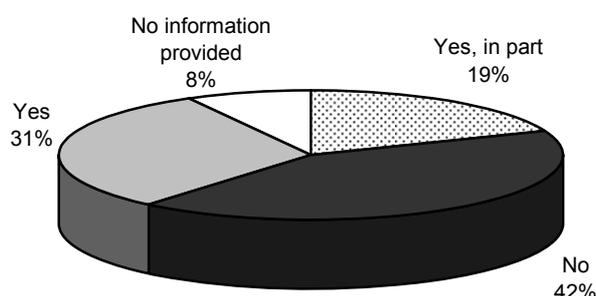


**(d) Group of Latin American and Caribbean States**

103. Panama did not report on measures for direct recovery of property, as prescribed by article 53, thereby not complying with an obligatory reporting item, while Ecuador assessed its legislation as non-compliant with the requirements of the Convention. Updating its previous submission, Peru reported no compliance with article 53. Cuba indicated that it had adopted measures to permit another State party to initiate civil action in its courts (para. (a)) and cited relevant articles of its penal code, while Guatemala stated that its legislation was not in compliance with the provision under review. With regard to the implementation of measures to permit their courts to order the payment of compensation or damages to another State party, in accordance with paragraph (b), Cuba indicated full compliance, while Guatemala indicated partial adherence to the provision. However, Cuba did not provide information on paragraph (c), concerning the ability of courts or competent authorities to recognize another State party's claim of legitimate ownership of property proceeds of crime, thereby not complying with an obligatory reporting item. Guatemala reported full compliance with the provision under review but stated that no cases existed that could be used as examples of successful implementation. Reporting no compliance with the provisions under review, Peru indicated that, while no specific measures had been adopted, domestic laws did not prevent its courts from complying with paragraphs (b) and (c).

Figure 67

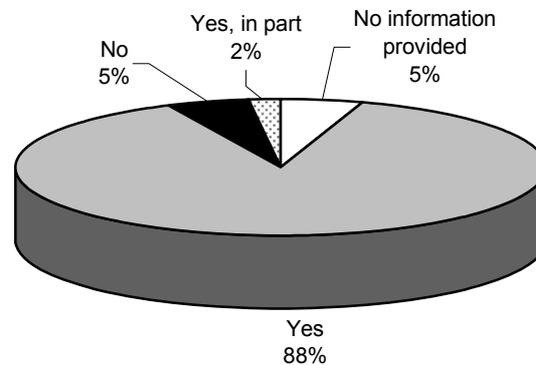
### Implementation of article 53 by parties from the Group of Latin American and Caribbean States



#### (e) Group of Western European and Other States

104. Australia reported full implementation of measures for the direct recovery of property, as prescribed by article 53, and cited applicable legislation, but did not provide examples to substantiate its response (an optional reporting item). Greece and the United Kingdom, which provided an update of its previous report, also assessed their legislation as fully compliant with the article under review. Reporting on the implementation of measures to permit another State party to initiate civil action in its courts (para. (a)), Greece indicated that the general provisions establishing the jurisdiction of Greek courts was sufficient for such purposes and further stated that, since Greece was a signatory at the time of reporting, a legislative drafting committee had been tasked with ensuring that Greek legislation was in compliance with the Convention prior to ratification by Greece. Malta reported partial implementation of the provision under review and indicated that, while its civil code did not preclude foreign States from instituting a claim before Maltese courts, no specific provisions existed in this regard. Concerning the implementation of measures to permit its courts to order payment of compensation or damages (para. (b)), Greece indicated full compliance and referred to the work of its legislative drafting committee to ensure compliance with the Convention. Australia reported that its Proceeds of Crime Act 2002 did not provide for the court to order an offender to pay compensation to the State party victim of the offence. However, Australia stated that the Act made provision for a person with an interest in property that had been restrained to seek the exclusion of such property from the process and its return. Malta assessed its criminal code as being fully compliant with the requirements of the provision under review. In addition to reporting full implementation of the provision and citing the applicable legislation, the United Kingdom also stated that over £2 million had been returned in two Nigerian cases of politically exposed persons. Concerning the implementation of measures to permit its courts or competent authorities to recognize another State party's claim of legitimate ownership of property proceeds of crime (para. (c)), Greece referred to its legislative drafting committee. Malta indicated that it had not taken such measures.

Figure 68  
**Implementation of article 53 by parties from the Group of Western European and Other States**



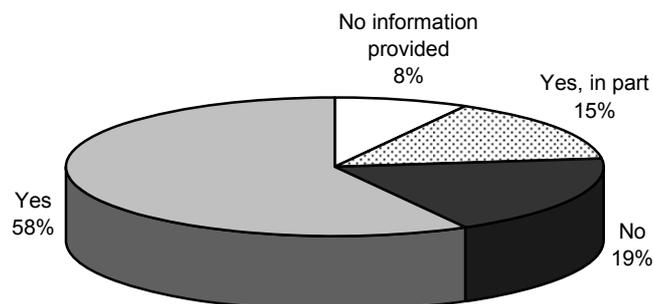
Box 10  
**Examples of implementation of article 53**

- **Azerbaijan:** Courts can order payments of compensation to competent authorities of foreign States recognized as victims of crime if the trial takes place in Azerbaijan. If the trial takes place outside Azerbaijani jurisdiction, the decision of the court should be submitted to the competent court of Azerbaijan and can be implemented if it does not run counter to the interests of Azerbaijan or its legislation.
- **Fiji:** In application of article 53, Fiji laws do not prohibit foreign governments from initiating civil lawsuits in Fiji courts to establish title to or ownership of property acquired through the commission of an offence established in accordance with the Convention.
- **Slovenia:** Concerning the ability of other States parties to initiate civil action in Slovene courts (para. (a)), claims for indemnification form part of the criminal procedure, provided that the determination of such claims does not significantly protract the procedure. Otherwise, the injured party is instructed to seek satisfaction in civil proceedings. In both criminal and civil proceedings, States have the same rights as other persons.

### 3. Mechanisms for recovery of property through international cooperation in confiscation(article 54)

105. The global implementation of article 54 (including implementation by parties that reported prior to 30 November 2007) is illustrated in figure 69. From the 38 per cent of States parties that reported full compliance with article 54 as at 30 November 2007, the compliance rate had reached 59 per cent as at 14 August 2009. However, it is worth noting that, while only 2 per cent of the reporting States parties indicated no compliance with the article under review as at 30 November 2007, that percentage had risen to 18 per cent as at 14 August 2009.

Figure 69  
Global implementation of article 54



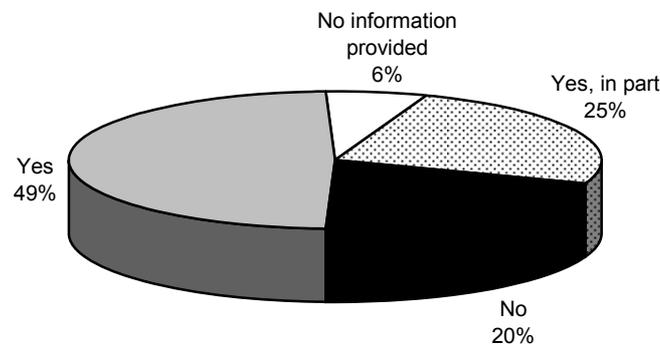
(a) Group of African States

106. Rwanda and Tunisia reported that their legislation was fully compliant with the requirements of article 54 and cited relevant texts, but did not provide examples of successful implementation (an optional reporting item). Rwanda reported that draft bills had had an impact on legislation governing the implementation of article 54. Similarly, with the exception of the non-mandatory provision of paragraph 1 (c), concerning the confiscation of property acquired through corruption without a criminal conviction, Egypt reported full compliance, but did not substantiate its response by providing examples of successful implementation (an optional reporting item). Angola and Uganda reported no compliance with article 54. With regard to the requirement to permit their competent authorities to give effect to an order of confiscation issued by a court of another State party, as set forth in paragraph 1 (a), Sierra Leone reported full compliance and Kenya, Mauritania, Mauritius and Morocco partial compliance. Kenya clarified that, while foreign confiscation orders could not be enforced directly, the Kenyan Anti-Corruption Commission could apply to the High Court of Kenya for an order prohibiting the transfer or disposal of property acquired through corruption. Mauritania further specified that a special bilateral agreement was needed to this effect, while Mauritius provided excerpts and a detailed description of the relevant legislation. Mauritania reported no implementation of measures on the confiscation of property of foreign origin, as prescribed by paragraph 1 (b), while Kenya, Mauritius, Morocco and Sierra Leone indicated partial compliance with that provision. Kenya further stated that its Anti-Corruption and Economic Crimes Act of 2003 provided that any conduct of a person that took place outside Kenya constituted an offence under that Act if it was against any law making it an offence in Kenya. Mauritius did not provide information on applicable legislation, thereby not complying with an obligatory reporting item. Reporting on the confiscation of property acquired through corruption without a criminal conviction, as prescribed by the non-mandatory provision of paragraph 1 (c), Morocco reported that its measures were in full compliance. Mauritania indicated partial compliance with the provision and cited applicable legislation, while Kenya and Sierra Leone reported no implementation of such measures. However, Mauritania did not cite applicable legislation (an obligatory reporting item). With regard to the freezing or seizing of property upon issuance of a foreign freezing or seizure order (para. 2 (a)), Kenya reported no compliance, while Mauritania, Morocco and Sierra Leone indicated

partial compliance and cited the applicable legislation. Mauritius also stated partial compliance with the provision under review, but did not comply with the obligatory reporting item of citing applicable legislation. Furthermore, Mauritania, Mauritius, Morocco and Sierra Leone indicated partial compliance with the provision of paragraph 2 (b), providing for the freezing or seizing of property upon a request that provided a reasonable basis for taking such action, while Kenya indicated no compliance with this provision. Mauritius did not provide information on applicable legislation (an obligatory reporting item). Reporting on the preservation of property for confiscation, as prescribed in the non-mandatory provision of paragraph 2 (c), Kenya indicated no compliance; Mauritania, Morocco and Sierra Leone indicated partial compliance and cited applicable legislation. Mauritius also reported partial implementation of such measures, but did not provide an account of its applicable legislation (an obligatory reporting item).

Figure 70

#### Implementation of article 54 by parties from the Group of African States



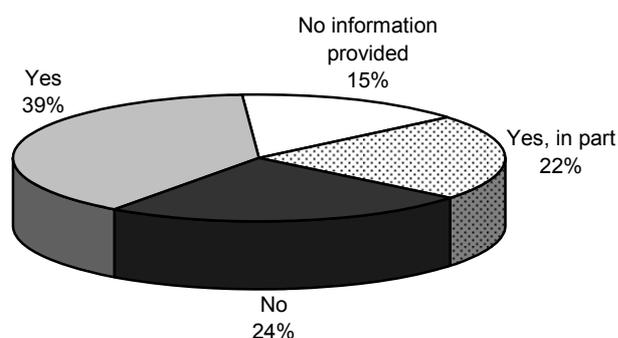
#### (b) Group of Asian and Pacific States

107. Fiji and Mongolia reported full compliance with article 54, governing mechanisms for the recovery of property through international cooperation in confiscation, and provided a detailed account of their relevant legislation. With the exception of paragraph 1 (c), regarding the confiscation of property acquired through corruption without a criminal conviction, in relation to which partial compliance was indicated, Pakistan also assessed its legislation as being fully compliant with the article under review. To explain its partial compliance with paragraph 1 (c), Pakistan stated that proceedings could be continued in the event of death. Tajikistan reported no compliance with the article under review. While Brunei Darussalam reported no implementation of measures to permit its competent authorities to give effect to orders of confiscation issued by courts of another State party (para. 1 (a)), it did not provide information on the implementation of paragraphs 1 (b) to 2 (c), thereby not complying with an obligatory reporting item. The Republic of Korea and Yemen reported full implementation of measures to permit their competent authorities to give effect to orders of confiscation issued by courts of another State party. Afghanistan reported partial compliance and quoted its Anti-Money-Laundering and Crime Proceeds Law, stating that it could carry out searches and seizures upon request. The Republic of Korea further stated that it had fully implemented and Afghanistan and Yemen that they had partially implemented paragraph 1 (b), concerning the confiscation of property of foreign origin. While the

Republic of Korea indicated that it had not implemented the non-mandatory provision of paragraph 1 (c), concerning the confiscation of property acquired through corruption without a criminal conviction, Afghanistan and Yemen reported partial compliance. Afghanistan specified that, if the offence that generated the proceeds could not be prosecuted, the Public Prosecutor's Office could request the judge to order the confiscation of the seized funds and property. Reporting on the freezing or seizure of property upon a foreign freezing or seizure order (para. 2 (a)), Afghanistan, the Republic of Korea and Yemen assessed their legislation as fully compliant with the requirements. However, the Republic of Korea did not cite applicable legislation, thereby not complying with an obligatory reporting item. In application of paragraph 2 (b), concerning the freezing or seizure of property upon a foreign request providing sufficient grounds, and the non-mandatory provision of paragraph 2 (c), concerning the preservation of property for confiscation, Afghanistan and Yemen reported partial compliance and the Republic of Korea full compliance. China did not report on the implementation of mechanisms for the recovery of property through international cooperation in confiscation; Hong Kong, China, however, indicated full compliance with the article under review.

Figure 71

**Implementation of article 54 by parties from the Group of Asian and Pacific States**



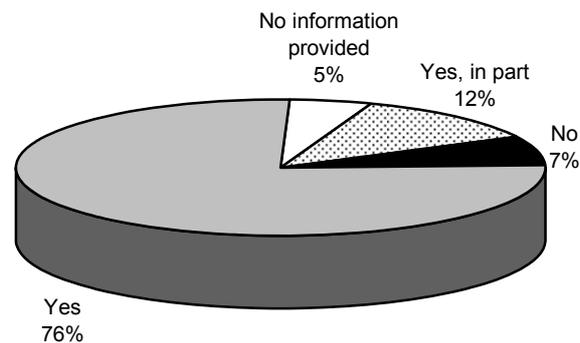
**(c) Group of Eastern European States**

108. Bulgaria and Slovenia indicated full implementation of article 54 and provided a detailed account of their relevant legislation, while Hungary reported that its legislation was partially compliant with the article under review. Providing an update of its previous submission, Croatia reported full compliance with article 54 and cited applicable legislation. Reporting on measures to permit its competent authorities to give effect to orders of confiscation issued by courts of another State party, as prescribed by paragraph 1 (a), Armenia and Serbia indicated full compliance. Armenia cited its code of criminal procedure as applicable legislation, while Serbia quoted its Law on Mutual Legal Assistance in Criminal Matters. Azerbaijan reported that it had not taken such measures. Concerning the confiscation of property of foreign origin (para. 1 (b)), Armenia and Serbia reported full implementation of the provision and cited the relevant legislation. Azerbaijan, on the other hand, stated that it had not implemented the provision. Armenia and Azerbaijan indicated that they had not taken measures to permit the confiscation of property acquired through corruption without a criminal conviction (non-mandatory

provision, para. 1 (c)), while Serbia reported partial implementation of such measures and described its relevant legislative framework. With regard to the freezing or seizure of property upon a foreign freezing or seizure order by a court or competent authority of a requesting State party (para. 2 (a)), Armenia, Azerbaijan and Serbia indicated full compliance. Armenia, Azerbaijan and Serbia further reported full implementation of measures allowing for the freezing or seizure of property upon a foreign request providing a reasonable basis to believe that there are sufficient grounds for taking such actions (para. 2 (b)). Reporting on the preservation of property for confiscation (non-mandatory provision, para. 2 (c)), Armenia, Azerbaijan and Serbia indicated that they had adopted relevant measures.

Figure 72

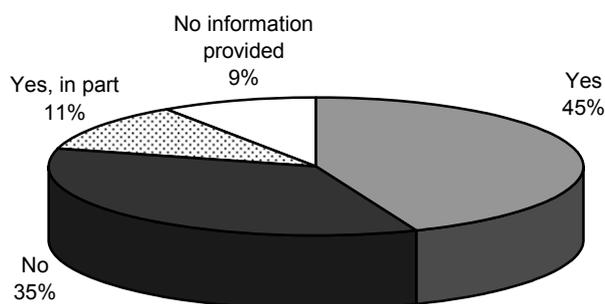
**Implementation of article 54 by parties from the Group of Eastern European States**



**(d) Group of Latin American and Caribbean States**

109. Cuba reported full implementation of mechanisms for the recovery of property through international cooperation in confiscation, as prescribed by article 54, while Panama did not report on the implementation of article 54, thereby not complying with an obligatory reporting item. However, Cuba did not provide examples of successful implementation of the provision under review to substantiate its response (an optional reporting item); Colombia included such examples in its updated submission. With the exception of the confiscation of property acquired through corruption without a criminal conviction (non-mandatory provision, para. 1 (c)), in respect of which it reported full implementation, Ecuador reported no implementation of mechanisms for recovery of property through international cooperation in confiscation. Guatemala also reported no implementation of article 54, except for paragraph 1 (b), concerning the confiscation of property of foreign origin, with which it assessed itself as being partially in compliance. Updating its previous submission, Peru reported full compliance with the article under review, with the exception of measures allowing for the freezing or seizure of property upon a foreign request providing a reasonable basis to believe that there are sufficient grounds for taking such actions (para. 2 (b)) and the preservation of property for confiscation (non-mandatory provision, para. 2 (c)), which it reported not having implemented. Peru further provided an update of the applicable legislation cited in its previous submission.

Figure 73

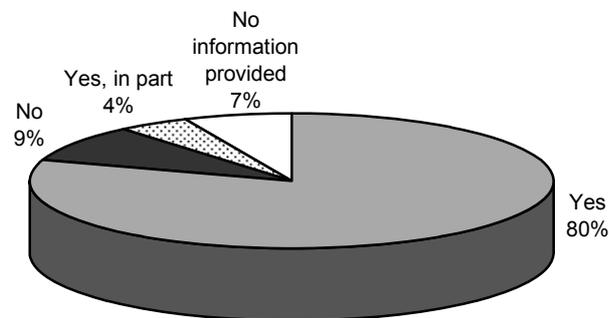
**Implementation of article 54 by parties from the Group of Latin American and Caribbean States****(e) Group of Western European and Other States**

110. With the exception of measures on the confiscation of property acquired through corruption without a criminal conviction, as prescribed in the non-mandatory provision of paragraph 1 (c), in respect of which partial compliance was reported, Australia assessed its legislation as fully compliant with the requirements of article 54. Greece reported full compliance with article 54, except for the freezing or seizure of property upon a foreign request providing sufficient grounds (para. 2 (b)), in respect of which it indicated no compliance. Reporting on the implementation of measures to permit its competent authorities to give effect to orders of confiscation issued by courts of another State party (para. 1 (a)), Australia stated that the Attorney-General could authorize the registration of foreign forfeiture and pecuniary orders made in respect of a serious foreign offence when a person had been convicted of the offence. Australia further clarified that forfeiture was the equivalent of a confiscation order. Greece did not elaborate on its legislative framework governing the implementation of the provision under review, but indicated that its mutual legal assistance system was well organized and fully operational. Furthermore, Greece indicated that foreign requests for confiscation were considered, on average, within three weeks of their arrival at the Ministry of Justice and were subsequently forwarded to the competent prosecutor and then to the Council at the Court of First Instance to obtain a decision on the legality and regularity of the request. Reporting on the same provision, Malta assessed its legislation as partially compliant with the requirements. With regard to the confiscation of property of foreign origin (para. 1 (b)), Greece clarified that its money-laundering legislation applied, irrespective of whether the predicate offence had been committed in Greece or abroad. Malta indicated partial implementation of the provision under review. Australia indicated partial implementation of measures allowing for the confiscation of property acquired through corruption without a criminal conviction, as prescribed in the non-mandatory provision of paragraph 1 (c), and stated that, while under its Mutual Assistance in Criminal Matters Act 1987, a conviction for an offence was required before an order could be registered, under the Proceeds of Crime Act 2002, action to confiscate property without a criminal conviction might be initiated. Furthermore, Australia reported that action to forfeit proceeds of crime under the Proceeds of Crime Act 2002 may be taken in respect of a suspected foreign indictable offence or other serious

offence. An example of successful implementation of the non-mandatory provision of paragraph 1 (c) provided by Greece is presented in box 11. Malta indicated that it had not taken measures to implement the provision under review. Concerning the freezing or seizure of property upon foreign freezing or seizure order (para. 2 (a)) and the freezing or seizure of property upon a foreign request providing sufficient grounds (para. 2 (b)), Australia indicated that under the Mutual Assistance in Criminal Matters Act 1987, the Attorney-General could authorize the registration of a restraining order, which, once registered, had the effect of freezing assets. Australia further drew attention to the possibility of applying for an interim restraining order in advance of the receipt of a restraining order from a foreign country. Malta also reported full implementation of these provisions, while Greece reported that it had not taken measures to implement paragraph 2 (b).

Figure 74

#### Implementation of article 54 by parties from the Group of Western European and Other States



Box 11

#### Examples of good implementation of article 54

- **Colombia:** Independently of penal action, property or assets directly or indirectly proceeding from a crime against public administration can be expropriated. This expropriation overrides all existing rights related to the assets.
- **Greece:** Usually, the prosecution authority must establish a link between the offences for which a person is convicted and the assets. However, in money-laundering and predicate-offence cases, the Anti Money-Laundering Law provides for a form of civil forfeiture and a reversal of the burden of proof. If the defendant has been sentenced to at least three years' imprisonment for one of the offences listed in article 1 of the Anti Money-Laundering Law, the Greek State can initiate a civil case against the convicted person. Any property the person has acquired during the five years prior to the commission of the crime is presumed to have been acquired from one of the predicate crimes, even if there has been no prosecution or conviction for such crimes. The burden of proof subsequently falls on the convicted to prove that the property was legitimately acquired.
- **Kenya:** While foreign confiscation orders cannot be enforced directly (para. 1 (a)), as they must comply with the procedure stated in the Foreign

Judgements Act, the Kenyan Anti-Corruption Commission can apply to the High Court of Kenya for an order prohibiting the transfer or disposal of or dealing with property or evidence that the property was acquired as a result of corruption.

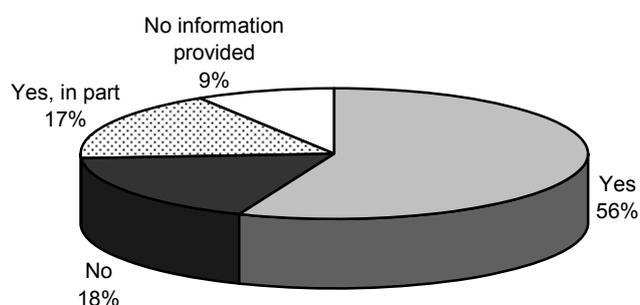
- **Pakistan:** Concerning the confiscation of property of foreign origin (para. 1 (b)), Pakistani courts can issue appropriate orders with respect to property connected with the offence.

#### 4. International cooperation for purposes of confiscation (article 55)

111. The global implementation of article 55 (including implementation by parties that reported prior to 30 November 2007) is illustrated in figure 75. From the 67 per cent of States parties that reported full compliance with article 55 as at 30 November 2007, the compliance rate had fallen to 58 per cent as at 14 August 2009.

Figure 75

##### Global implementation of article 55



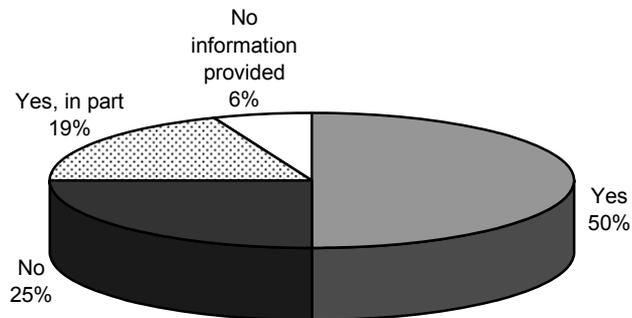
##### (a) Group of African States

112. Egypt, Tunisia and Rwanda reported full compliance with article 55 and cited applicable legislation. However, they did not substantiate their answers by providing examples of the successful implementation of the provision under review (an optional reporting item). When asked to cite the applicable legislation, Tunisia did not indicate specific legislation, but referred to the international, regional and bilateral conventions it had ratified. Mauritania and Uganda reported no implementation of article 55. With regard to the implementation of paragraph 1, requiring the submission of a request for order of confiscation to competent authorities, Angola, Mauritius, Morocco and Sierra Leone reported partial compliance and cited applicable legislation, while Kenya indicated that its legislative framework was not in compliance with the provision. Mauritius did not cite applicable legislation, thereby not complying with an obligatory reporting item. Angola and Kenya further indicated no compliance with paragraph 2, calling for the identification, tracing, freezing or seizure of proceeds of crime for eventual confiscation. Concerning the same provision, Mauritius, Morocco and Sierra Leone indicated partial compliance. While Sierra Leone cited relevant legislation, Mauritius did not provide an account of its applicable legislation (an obligatory reporting item). Reporting on the required content of a request for order of

confiscation, as prescribed by paragraph 3, Angola, Kenya and Sierra Leone indicated no implementation, while Mauritius and Morocco indicated partial compliance. However, Mauritius did not cite applicable legislation (an obligatory reporting item).

Figure 76

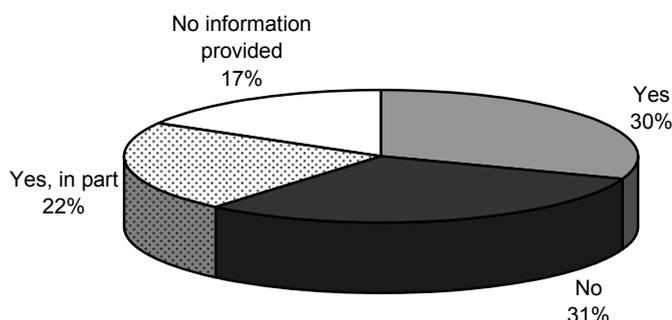
**Implementation of article 55 by parties from the Group of African States**



**(b) Group of Asian and Pacific States**

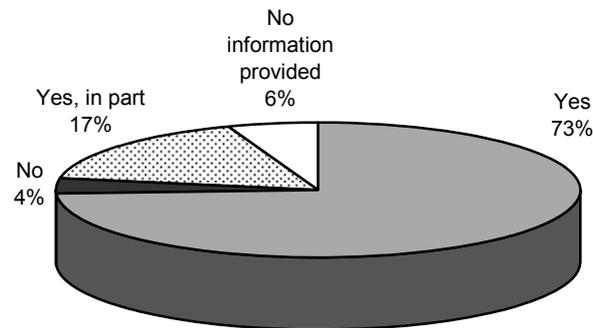
113. Afghanistan reported partial implementation of international cooperation for purposes of confiscation, in accordance with article 55. While Brunei Darussalam reported no implementation of paragraph 1, concerning the submission of requests for orders of confiscation to competent authorities, it did not report on the implementation of paragraphs 2 and 3, thereby not complying with an obligatory reporting item. China did not report on international cooperation for purposes of confiscation; Hong Kong, China, however, indicated full compliance. Fiji and Tajikistan reported that they had not implemented article 55, while Mongolia assessed its code of criminal procedure as fully compliant with the requirements of the article and provided the relevant texts. The Republic of Korea also reported full compliance with the requirements regarding international cooperation for purposes of confiscation. Yemen reported partial compliance with the article under review. Pakistan reported full compliance with paragraph 1, concerning the submission of requests for order of confiscation to competent authorities, and paragraph 2, concerning the identification, tracing, freezing or seizure of proceeds of crime for eventual confiscation. However, it did not report on the implementation of paragraph 3, regarding the contents of requests for orders of confiscation, thereby not complying with an obligatory reporting item.

Figure 77

**Implementation of article 55 by parties from the Group of Asian and Pacific States****(c) Group of Eastern European States**

114. Bulgaria indicated full compliance with article 55 and explained its relevant legislation in detail. Serbia and Slovenia also reported full compliance, while Hungary assessed its legislation as partially compliant with the requirements of article 55. However, Bulgaria and Slovenia did not fulfil the optional reporting item of providing examples of successful implementation of the provision under review. Reporting on the submission of a request for order of confiscation to competent authorities, in accordance with paragraph 1, Armenia indicated partial compliance and added that its code of criminal procedure did not permit the issuance of a confiscation order on the basis of foreign requests. Azerbaijan stated that its legislation was in full compliance with the provision under review, but did not substantiate its answers by providing examples of the successful use or implementation of the provision (an optional reporting item). With regard to the identification, tracing, freezing or seizure of proceeds of crime, as required by paragraph 2, Armenia stated that its legislation was fully compliant and cited the applicable texts, while Azerbaijan indicated partial compliance with paragraph 2. Concerning the contents of requests for orders of confiscation, as prescribed by paragraph 3, Armenia and Azerbaijan assessed their legislation as being in full compliance. While both cited relevant legislation, neither provided examples of successful implementation (an optional reporting item).

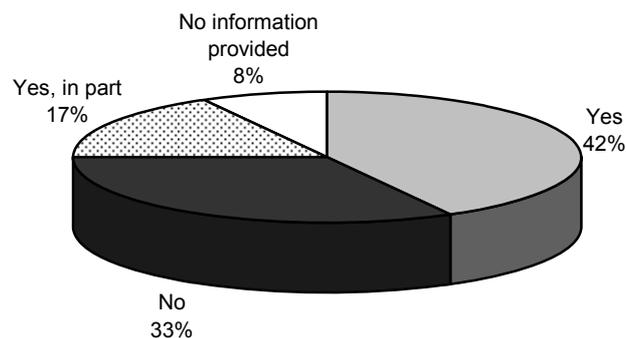
Figure 78  
**Implementation of article 55 by parties from the Group of Eastern European States**



**(d) Group of Latin American and Caribbean States**

115. Panama did not report on the implementation of article 55, concerning international cooperation for purposes of confiscation, thereby not complying with an obligatory reporting item. Cuba reported full compliance with the article under review and cited applicable legislation. However, the legislation excerpted in relation to paragraph 3, concerning the content of requests for order of confiscation, did not describe that content. Cuba did not provide examples of the successful use or implementation of the article under review to underpin its answers, while Colombia did so in an update to its previous submission. Ecuador reported that it had not implemented article 55. Guatemala assessed its legislation as non-compliant with the article under review, with the exception of paragraph 1, concerning measures for the submission of a request for order of confiscation to competent authorities, which was reported to have been partially implemented. Peru provided an update to its previous submission and reported full implementation of measures on the submission of a request for order of confiscation to competent authorities, as set forth in paragraph 1, and partial implementation of paragraphs 2 and 3. Furthermore, Peru provided an update of its applicable legislation.

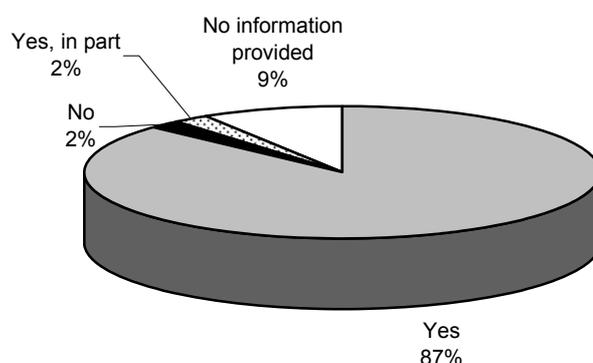
Figure 79  
**Implementation of article 55 by parties from the Group of Latin American and Caribbean States**



**(e) Group of Western European and Other States**

116. Malta reported that its legislation was fully compliant with the requirements of the Convention concerning international cooperation for purposes of confiscation, as set forth in article 55. Australia reported full implementation of measures for the submission of a request for order of confiscation to competent authorities, as prescribed by paragraph 1. Greece also indicated full compliance with the provision under review and provided a detailed account of the procedure any request would undergo once received by the Ministry of Justice. Australia indicated that its legislation was in full compliance with paragraph 2, concerning the identification, tracing, freezing or seizure of proceeds of crime for eventual confiscation, while Greece stated that it had not implemented the provision. However, Australia did not report on the content of a request for order of confiscation (para. 3), an obligatory reporting item. Greece indicated that it had fully implemented the provision under review.

Figure 80

**Implementation of article 55 by parties from the Group of Western European and Other States**

Box 12

**Examples of good implementation of article 55**

- **Philippines:** In application of paragraph 3, the required content of requests for orders of confiscation are sufficient particulars about the identity of the person concerned; sufficient particulars to identify any institution believed to possess information; documents that might be of assistance to the investigation or prosecution; specifications about the manner in which information is to be produced; and all particulars needed for the issuance of the writs, order and processes required by the requesting State.
- **Bulgaria:** The Convention's provisions on the content of requests for mutual legal assistance are directly applicable (para. 3).

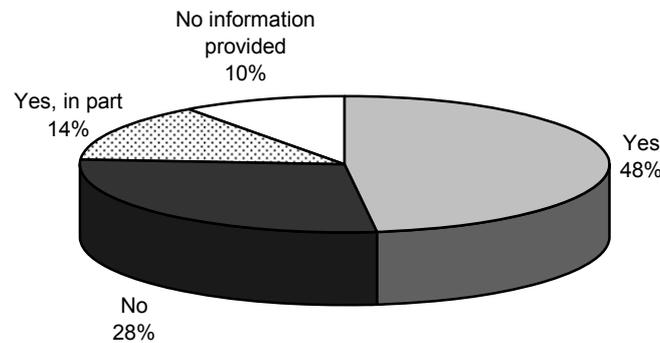
**5. Return and disposal of assets (article 57)**

117. The global implementation of article 57 (including implementation by parties that reported prior to 30 November 2007) is illustrated in figure 81. From the

44 per cent of States parties that reported full compliance with article 57 as at 30 November 2007, the compliance rate had risen to 49 per cent as at 14 August 2009. However, it is worth noting that, while only 7 per cent of reporting States parties indicated no compliance with the article under review as at 30 November 2007, that percentage had risen to 29 per cent as at 14 August 2009.

Figure 81

**Global implementation of article 57**



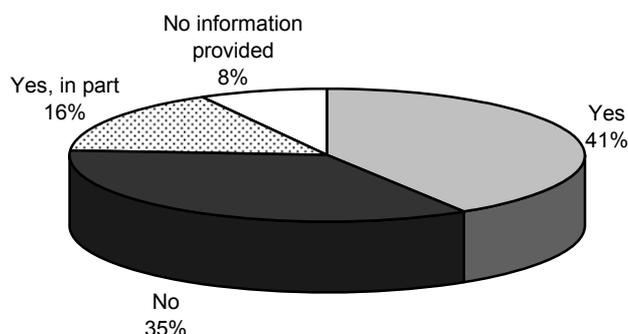
**(a) Group of African States**

118. Angola, Mauritania and Uganda reported no implementation of article 57, while Egypt and Tunisia indicated that their legislation was in full compliance. As required, Egypt and Tunisia cited applicable legislation, but did not provide examples of successful implementation of the article to underpin their responses (an optional reporting item). Mauritania reported partial implementation of the article, but did not cite the applicable legislation, an obligatory reporting item. Reporting on the disposal of confiscated property (para. 1), Kenya, Morocco and Yemen reported partial compliance and Rwanda full compliance. While Kenya cited applicable legislation, Rwanda provided information about draft legislation on the matter. Sierra Leone indicated that it had not implemented this provision. With regard to measures for the return of confiscated property upon request by another State party, as prescribed by paragraph 2, Kenya and Sierra Leone indicated no implementation of such measures. Rwanda stated full compliance with the provision and provided an account of draft legislation concerning its implementation. Morocco and Yemen assessed their legislation as being in partial compliance with the provision under review. Kenya reported that no measures had been taken to enable the return of property confiscated pursuant to article 55, as prescribed by article 57, paragraph 3, while Rwanda reported full implementation and Morocco, Sierra Leone and Yemen partial implementation of the provision. Yemen did not provide information on the non-mandatory provisions of paragraphs 4 and 5, thereby not complying with an obligatory reporting item. Furthermore, Kenya, Morocco and Sierra Leone stated that they had not implemented paragraph 4, concerning the deduction of expenses incurred in the return or disposal of confiscated property. Rwanda did not provide information on this provision, thereby not complying with an obligatory reporting item. With regard to the conclusion of agreements on the final disposal of confiscated property (para. 5), Kenya and Morocco indicated partial

implementation. Kenya further specified that the Kenyan Anti-Corruption Commission had stipulated a memorandum of understanding with the Ugandan Inspector General of Government. Rwanda and Sierra Leone stated that they had not taken measures to implement this provision.

Figure 82

**Implementation of article 57 by parties from the Group of African States**



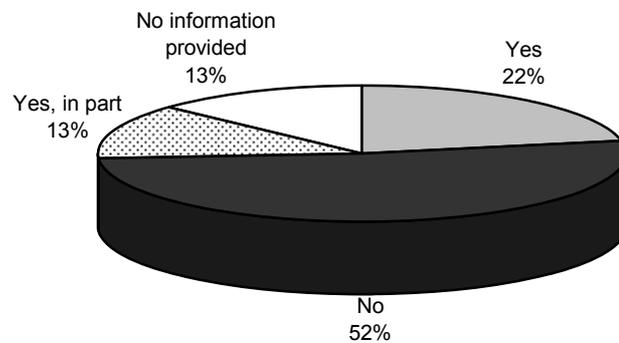
**(b) Group of Asian and Pacific States**

119. Afghanistan reported partial compliance with the requirements of article 57, concerning the return and disposal of assets, and cited its relevant legislation. Fiji reported full compliance with the article under review and provided a detailed account of its applicable legislation. Brunei Darussalam reported no implementation of paragraphs 1 and 2, concerning the disposal of confiscated property and the return of confiscated property upon request by another State party. It did not provide information on the implementation of paragraphs 3, 4 and 5, thereby not complying with an obligatory reporting item. China did not report on the implementation of article 57, thus not complying with an obligatory reporting item; Hong Kong, China, however, stated that it was in full compliance with the article under review. Tajikistan assessed its legislation as being non-compliant with the article under review. Reporting on the disposal of confiscated property (para. 1), Mongolia, Pakistan and the Republic of Korea stated that they had fully implemented the provision and provided a description of their relevant legislation. While Mongolia indicated that it was not in compliance with paragraph 2, concerning the return of confiscated property upon request by another State party, Pakistan and the Republic of Korea reported full compliance with the provision and cited relevant legislation. Mongolia assessed its legislation as non-compliant with paragraph 3, regarding the return of property confiscated pursuant to article 55, while Pakistan indicated partial compliance and the Republic of Korea full compliance with the provision under review. In application of the non-mandatory provision of article 57, paragraph 4, on the deduction of expenses incurred in the return or disposal of confiscated property, Mongolia reported full compliance and quoted applicable legislation. Pakistan and the Republic of Korea assessed their legislation as being non-compliant with the provision under review. While Pakistan reported partial compliance with the non-mandatory provision of paragraph 5, concerning the conclusion of agreements on the final disposal of confiscated property, Mongolia stated that it had not implemented the provision. The Republic of Korea indicated that it was in full

compliance with the requirements of the Convention regarding the conclusion of agreements on the final disposal of confiscated property, as set forth in paragraph 5.

Figure 83

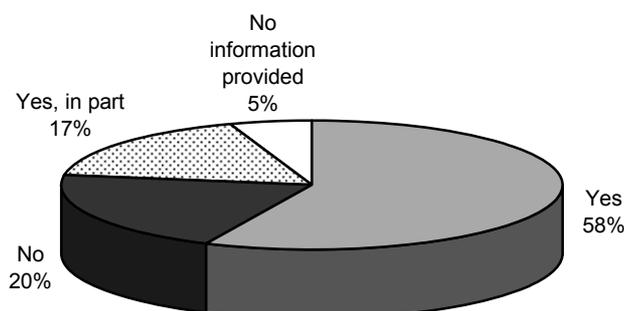
**Implementation of article 57 by parties from the Group of Asian and Pacific States**



**(c) Group of Eastern European States**

120. Bulgaria and Serbia reported full compliance with the requirements of article 57, but did not substantiate their answers by providing examples of successful implementation (an optional reporting item). With regard to the disposal of confiscated property, as prescribed by paragraph 1, Armenia indicated full compliance and cited the applicable legislation. Slovenia also reported full compliance with the provision under review. Azerbaijan and Hungary stated that they were in partial compliance with the requirements of the same provision. Reporting on measures for the return of confiscated property upon request by another State party, as prescribed by paragraph 2, Armenia and Slovenia stated that their cited legislation was fully compliant, while Azerbaijan and Hungary indicated partial implementation of the provision. Concerning the return of property confiscated pursuant to article 55 of the Convention (art. 57, para. 3), Armenia and Slovenia reported full implementation and Azerbaijan and Hungary partial implementation of the relevant measures. Armenia further indicated full compliance with paragraph 4, concerning the deduction of expenses incurred in the return or disposal of confiscated property, while Azerbaijan reported partial implementation. Hungary and Slovenia indicated that their legislation was not in compliance with the provision under review. Armenia, Azerbaijan, Hungary and Slovenia stated that they had not taken measures to implement the non-mandatory provision of paragraph 5, on the conclusion of agreements on the final disposal of confiscated property. In relation to the article as a whole, Armenia did not substantiate its reported full compliance by providing examples of successful use or implementation (an optional reporting item).

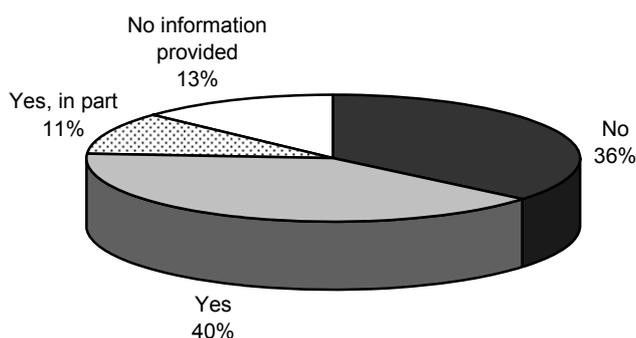
Figure 84  
**Implementation of article 57 by parties from the Group of Eastern European States**



**(d) Group of Latin American and Caribbean States**

121. Panama did not report on the return and disposal of assets, as prescribed by article 57, thereby not complying with an obligatory reporting item. Cuba reported full compliance with the article under review, with the exception of the non-mandatory provisions of paragraphs 4 and 5, concerning the deduction of expenses incurred in the return or disposal of confiscated property and the conclusion of agreements on the final disposal of confiscated property. Cuba assessed its legislation as being non-compliant with the requirements of those provisions. Ecuador and Guatemala assessed their legislation as being non-compliant with article 57. As an update to its previous submission, Colombia provided an example of successful implementation of paragraph 4. Peru also updated its previous submission and reported partial compliance with the article under review, with the exception of paragraph 1, on the disposal of confiscated property, in respect of which it reported full implementation. Furthermore, Peru provided an update of applicable legislation cited in its previous submission.

Figure 85  
**Implementation of article 57 by parties from the Group of Latin American and Caribbean States**



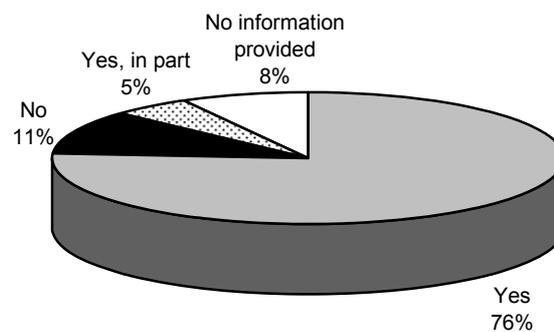
**(e) Group of Western European and Other States**

122. Australia reported full implementation of article 57. With regard to the disposal of confiscated property (para. 1), the return of confiscated property upon

request by another State party (para. 2) and the return of property confiscated pursuant to article 55 of the Convention (art. 57, para. 3), Australia indicated that disposal could be made in accordance with the Equitable Sharing Scheme. Greece reported that its code of criminal procedure was fully compliant with paragraph 1, concerning the disposal of confiscated property, and paragraph 2, on the return of confiscated property upon request by another State party, while Malta indicated partial compliance with those provisions. Reporting on the return of property confiscated in accordance with article 55 of the Convention (art. 57, para. 3), and the deduction of expenses incurred in the return or disposal of confiscated property (non-mandatory provision, para. 4), Greece and Malta indicated that they were not in compliance. Reporting on the conclusion of agreements on the final disposal of confiscated property (non-mandatory provision, para. 5), Australia indicated that its ministers had discretion to repatriate forfeited proceeds of crime through equitable sharing or recognition of registered forfeiture orders relating to proceeds of crime. Furthermore, it stated that the ministers might also direct that property be disposed of in a particular way. Greece reported full compliance with the provision under review, while Malta stated that it had not implemented paragraph 5.

Figure 86

#### Implementation of article 57 by parties from the Group of Western European and Other States



Box 13

#### Examples of good implementation of article 57

- **Australia:** Concerning the disposal of confiscated property (para. 1), the Equitable Sharing Scheme allows for payments to be made to foreign countries where the Commonwealth shares with a foreign country a proportion of any proceeds of any unlawful activity recovered under a Commonwealth law if, in the Minister's opinion, the foreign country has made a significant contribution to the recovery of those proceeds or to the investigation or prosecution of the unlawful activity.
- **Colombia:** With regard to the disposal of confiscated property (para. 1), Colombia returns such property to its bona fide third-party owners to protect their rights.
- **Pakistan:** While courts generally issue orders on the disposal of confiscated property (para. 1) upon conclusion of a case, interim orders for the custody or disposal of property can be issued.

- **Slovenia:** When the confiscation of property is enforced on the basis of a foreign judicial decision that has been duly recognized by Slovene courts, the amount confiscated from the perpetrator or any other connected persons will be returned to the injured party (para. 3).

## E. Other information

### (a) Group of African States

123. Mauritius indicated that it would like to benefit from the Global Programme against Corruption and greater assistance from UNODC. Sierra Leone indicated that, while its legislation was mostly in compliance with the Convention, it urgently required technical assistance to implement the Convention. In particular, Sierra Leone reported the need to strengthen and improve the capacity of staff of the Anti-Corruption Commission.

### (b) Group of Asian and Pacific States

124. Mongolia provided information on mutual legal assistance agreements it had concluded with 18 States, while the Philippines reported on the implementation of provisions not contained in the self-assessment checklist. Tajikistan reiterated its need for technical assistance to implement the Convention.

### (c) Group of Latin American and Caribbean States

125. Cuba added that no Cuban citizens could be extradited to other States.

### (d) Group of Western European and Other States

126. Greece indicated that a specially appointed legislative drafting committee was tasked with ensuring that any discrepancies between its domestic legal framework and the Convention were rectified before ratification. The United Kingdom provided information about its Independent Police Complaints Commission, an independent body set up to have guardianship over the police complaints system.

## III. Overview of compliance by a reporting signatory

127. One signatory State, Haiti, reported on its implementation of the Convention. Its responses are reflected in the table below:

### Reported implementation by Haiti of the articles under review

<i>Article</i>														
5	6	9	15	16	17	23	25	44	46	52	53	54	55	57
Yes	Yes	In part	Yes	No	Yes	Yes	In part	No	No	In part				

## IV. Conclusions and recommendations

128. The analysis provided in the present report lends itself to several conclusions, some related to the information-gathering tool and the reporting process, others related to the outcome of the reporting exercise. In relation to the first aspect, a number of reporting parties fulfilled optional reporting items by quoting or annexing measures to implement the articles under review. Other reporting parties cited such measures but did not provide examples to substantiate their ability to meet the specific requirements of the Convention. As a result, the present report, to a large extent, does not delve into qualitative analysis. To address the issue, at its second session, the Conference of the States Parties requested the Secretariat to explore the option of modifying the self-assessment checklist to create a comprehensive information-gathering tool that might serve as a useful starting point for collecting implementation information in any future reviews (resolution 2/1). In furtherance of that resolution, a comprehensive self-assessment checklist has been developed and will be presented to the Conference at its third session.

129. The provision of information on implementation efforts in a substantiated manner will inevitably open new horizons in terms of how to take substantive action in the future. The present report, incomplete as it may be, is the result of the analysis of over 1,500 pages of information received by the Secretariat, including the self-assessment reports and annexed documentation and legislation. Several reporting States supplemented their replies by providing a large number of links to the World Wide Web, where additional information was to be found. The inevitable limitations of the present report in reflecting such a wealth of information and the paucity of the resources available to the Secretariat to make a more in-depth analysis of compliance with the Convention are self-evident.

130. To provide the Conference with an example of an in-depth analysis of the information provided through the self-assessment checklist, the Secretariat has prepared a detailed analysis of the information received in relation to articles 23, 52, 53, 54, 55 and 57. That analysis has been conducted in the context of the Stolen Asset Recovery initiative and will be brought to the attention of the Conference separately.

131. Irrespective of the decision on the mechanism for the review of implementation of the Convention, the Conference may wish to further simplify the reporting exercise while allowing for the collection of detailed and substantiated information. This may be accomplished by endorsing the computer-based comprehensive checklist containing templates of answers, which has been developed to minimize reporting effort by seeking only information necessary to review the implementation of the specific requirements of the Convention. This, coupled with the employment of qualitative analysis programmes offered by modern information technology applications, would further facilitate the provision and subsequent analysis of information on implementation.

132. The regional breakdown of response rates is another factor that the Conference may wish to consider. While an overall rate of 57 per cent may be regarded as encouraging, the highly uneven regional breakdown requires close attention and needs to be addressed. The Conference may wish to identify ways to assist States of the two regional groups whose response rates are below 50 per cent.

## Box 14

**Regional breakdown of rate of response to the self-assessment checklist**

Group of Eastern European States: 80 per cent of the members of the Group that are parties to the Convention

Group of Western European and Other States: 79 per cent of the members of the Group that are parties to the Convention

Group of Latin American and Caribbean States: 67 per cent of the members of the Group that are parties to the Convention

Group of Asian and Pacific States: 45 per cent of the members of the Group that are parties to the Convention

Group of African States: 39 per cent of the members of the Group that are parties to the Convention

133. The Conference may also wish to act upon the substantive findings of the reporting exercise. Considerations are to be formulated after taking into account that some 50 per cent of the parties that reported implementation cited, but did not quote or annex, measures adopted to implement the Convention, thus impairing the ability of the Secretariat to substantiate stated compliance. Fulfilling optional reporting items, 50 per cent of the respondents submitted, in full or in part, copies of national legislation. The provision of such legislation was often regarded as sufficient to state full compliance with the article under review. However, a preliminary legal analysis indicated that only one piece of legislation out of three was able to meet the specific requirements of the article in respect of which it had been provided.

134. In reporting on preventive measures (chap. II), the large majority of the reporting parties stated that anti-corruption policies (art. 5) and bodies (art. 6) had been established. The compliance rate in relation to the implementation of measures for public procurement and management of public funds (art. 9) is even higher (75 per cent), with 12 per cent of the reporting parties providing no information. In reporting on criminalization and law enforcement (chap. III), measures providing for the criminalization of bribery of national public officials (art. 15) and embezzlement of public funds (art. 17) enjoy the highest rate of compliance (over 80 per cent each). Similarly, three out of four reporting parties have criminalized obstruction of justice (art. 25). In contrast, the compliance rate for the provisions for the criminalization of money-laundering (art. 23) is the second-lowest of the entire chapter, while provisions for the criminalization of bribery of foreign public officials (art. 16) are the least frequently implemented (51 per cent non-compliance rate).

135. With regard to international cooperation (chap. IV), since the review of implementation of measures adopted to implement chapter IV was limited to the fulfilment of notification obligations, no meaningful conclusions can be drawn.

136. Lastly, with regard to asset recovery (chap. V), of the four chapters of the Convention under review, the rate of compliance in respect of chapter V is the lowest (57 per cent), and the percentage of parties reporting non-compliance is the highest.