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Waaxda Maamulka Faafinta Rasmiga ah  
Ee Xafiiska Garyaqaanka Guud ee Dawladda

Uruurinta Sharciyada iyo Wareegtooyinta ee Jan-December 2020

Qiiimaha waa \$XXX Dollar, lambar waliba – **RUKUNKA:** Sanaddii waa \$XXX Dollar, Soomaaliya gudaheeda – Dibaddeedana waa \$XXX Dollar. Rukunka la weydiisto waqtiga loo gooyay wuxuu ka bilaabmaa 1 Janaayo. Qiiimaha Qoritaanku F.R halkii sadar iyo wixii ka yar waa \$XXX Dollar – Rukunka iyo Qoritaanku waxaa la weydiistaa Laanta Maamulka Faafinta Rasmiga ah – Lacagta waxaa lagu bixiniyaa Xafiiska Canshuuraha ee Wasaaradda Maaliyadda.

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**TALOOYIN, ISGAARSIIN, OGAYSIIS, IWM**

**SANADKA**

**2020**

**ANSIXINTA SHARCIGA HESHIISKA QARAMADA MIDOOBAY EE  
LA-DAGAALANKA MUSUQ-MAASUQA**

**MADAXWAYNAHA J.F.S**

**MARKUU ARKAY:** Qodobka 87aad, Faqradda 1aad iyo Faqradda 2aad ee Dastuurka KMG

**MARKUU ARKAY:** Qodobka 90aad, Xarafka “q” ee Dastuurka KMG

**MARKUU ARKAY:** Warqadda Guddoomiyaha Golaha Shacabka GSH/348/2/B-10/20 Taariikh: 29/12/2020 kuna saabsan ansixinta Sharciga Heshiiska Qaramada Midoobay ee La-Dagaalanka Musuq-maasuqa

**MARKUU TIXGELIYAY:** Baahida loo qabo in la ansixiyo lana meel-mariyo Sharcigan

***Waxa Madaxweynuhu soo saaray Sharcigan:***

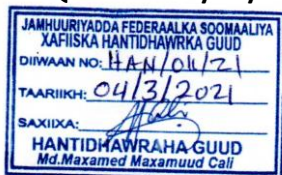
**Qodobka 1aad**

Laga bilaabo marka uu Madaxweynuhu saxiixo Sharcigan, waxa si rasmi ah loo oggolaaday Sharciga Heshiiska Qaramada Midoobay ee La-Dagaalanka Musuq-maasuqa

**Qodobka 2aad**

Marka uu Madaxweynaha JFS saxiixo Sharcigan, waxaa lagu soo daabici doonaa Faafinta Rasmiga ah ee Jamhuuriyadda Federaalka Soomaaliyeed.

**MUQDISHO: 31/12/2020**



Madaxweynaha J.F.S  
Maxamed Cabdullaahi Maxamed (Farmaajo)



# **HESHIISKA QARAMADA MIDOOBAY EE LA-DAGAALLANKA MUSUQ-MAASUQA**

*Waxaa Turjumay: Wasaaradda Cadaaladda iyo Arrimaha Garsoorka*

*2020*

**CUTUBKA I**  
**QODOBBO GUUD**

**QODOBKA 1<sup>AAD</sup>**  
**UJEEDDADA HESHIISKAN**

**Ujeeddada Heshiiskan waa:**

- (a) in kor loo qaado lana xoojiyo tallaabooyinka looga hortagayo la- dagaallanka musuq-maasuqa si hufan oo wax-ku-ool ah;
- (b) in kor loo qaado loona taageero iskaashiga caalamiga ah iyo farsamada Caawinta ka hortagga iyo la-dagaallanka musuq-maasuqa, oo ay ku jirto dib u soo-celinta hantida; iyo
- (c) in kor loo qaado hufnaanta, isla-xisaabtanka iyo maareyn hab-sami leh ee arrimaha dadweynaha iyo hantida dadweynaha.

**QODOBKA 2<sup>AAD</sup>**  
**QEEXID**

Si waafaqsan ujeeddooyinka Heshiiskan, waxaa ereyadan soo socda lagu qeexayaa:

(a) “Sarkaalka dadweynaha” waxaa loola jeedaa: (i) qof kasta oo haya xafiis sharci-dejin, fulin, maamul ama garsoor ee Dawlad Xubin ah, ha ahaado qof la magacaabay ama la doortay, mid ku-meel-gaar ah ama mid joogta ah, qof lacag qaadanaya ama qof aan lacag qaadan, iyadoo aan loo eegin qofkaas darajadiisa; (ii) qof kasta oo kale oo qabta shaqo guud, oo ay ku jiraan hay'ad dawladeed ama shirkad dadweyne, ama bixiya adeeg dadweyne, sida lagu qeexay sharciga gudaha ee Dawladda Xubinta ah iyo sida loogu dabaqay qeybta ku habboon ee sharciga Dawladda Xubinta ah; iyo (iii) qof kasta oo kale oo lagu qeexay inuu yahay “sarkaal dawladeed” sharciga gudaha ee Dawlad Xubin ah. Si kastaba, si waafaqsan ujeeddooyinka qaar kamid ah tallaabooyinka gaarka ah ee ku xusan Cutubka II ee Heshiiskan, “sarkaal dawladeed” waxaa lagu macnayn karaa qof kasta oo qabta hawl dadweyne ama bixiya adeeg dadweyne sida lagu qeexay sharciga gudaha ee Dawladda Xubinta ah iyo sida loogu dabaqay sharciga ku habboon ee Dawladda Xubinta ah;

(b) “Sarkaal Dadweyne ee Shisheeye” waxaa loola jeedaa qof kasta oo haya jago sharci-dejin, fulin, maamul ama jago garsoor dal shisheeye, ha ahaado mid la magacaabay ama la doortay, si ku-meel-gaar ah ama joogto ah,

iyo qof kasta oo qabta shaqo dadweyne, sida hay'ad dadweyne ama ama shirkad dadweyne;

(c) "Sarkaal dadweyne ee urur caalami ah" waxaa loola jeedaa shaqaale dadweyne oo caalami ah ama sarkaal ama qof kasta oo ay magacowdo hay'ad caalami ah, isagoo u matalaya wakiil ahaan.

(d) "Hanti" waxaa loola jeedaa hanti nooc kasta oo ay tahay, walax la taaban karo ama aan la taaban karin, guurto ama ma-guurto, iyo dokumentiyo qaanuuneed ama aalado caddeynaya lahaansho ama dan la xiriirta hantidaas;

(e) "Faa'iidooyin fal-dembiyeed" waxaa loola jeedaa wixii hanti ah oo ka yimaada ama lagu helay fal-dembiyeed, toos ama dadab, loo maray gelitaanka xad-gudub;

(f) "Xannibaad" ama "Xayiraad" waxaa loola jeedaa ku-soo-rogid xayiraad ku-meel-gaar ah, wareejinta, caddeyn, dhaqdhaqaaq hanti, ama gacan-ku-hayn ku-meel-gaar ah ama ilaalin hanti, si ku saleysan amar maxkamadeed ama hay'ad kale oo awood u leh;

(g) "La-wareegid" waxaa loola jeedaa la-wareegid hanti si joogta ah amar ka soo baxay maxkamad ama hay'ad kale oo awood u leh;

(h) "Xad-gudub dahsoon" waxaa loola jeeda dembi kasta oo ka dhasha Faa'iidooyinka laga helo fal-dembiyeed in uu noqonayo xad-gudub sida ku qeexay Qodobka 23<sup>aad</sup> ee Heshiiskan;

(i) "Gudbin xakameysan" waxaa loola jeedaa farsamada u oggolaanaysa shixnadaha sharci-darrada ah ama tuhun ku jiro inay ka gudbaan, gudaha ama galaan hal waddan ama in ka badan, iyadoo la raacayo aqoonta iyo kormeerka hay'adaha awoodda u leh, iyadoo aragtidu tahay baaritaan Xad-gudub iyo aqoonsiga shakhsiyaadka ku lugta leh gelitaanka xad-gudubka

### **QODOBKA 3<sup>AAD</sup>**

#### **BAAXADDA HESHIISKAN**

1. Iyadoo la dabaqayo Heshiiskan iyo si waafaqsan qodobbadiisa ku saabsan Baarista, dacwad-oogista ee musuq-maasuqa, xannibaada, xayiraada, la-wareegidda iyo dib-u-soo-celinta hantida laga faa'iiday fal-dembiyeed si waafaqsan Heshiiskan.

2. Si waafaqsan ujeeddooyinka lagu hirgelinayo Heshiiskan, ma ahan lagama-maarmaan, marka laga reebo in si kale loogu sheego halkan, si ku aaddan xad-gudubyada ku xusan isaga dhexdiisa in laga dhaxlo waxyeello ama dhaawac hantida dawladda.

## **QODOBKA 4<sup>AAD</sup>**

### **ILAALINTA MADAX-BANNAANIDA**

1. Dawladaha Xubnaha ah waxay u fulinayaan waajibaadkooda si ku aaddan Heshiiskan ee qaab waafaqsan mabaadi'da sinnaanta madax-bannaanida iyo in aan la faro-gelin arrimaha gudaha ee Dawladaha kale.

2. Ma jiraan wax Heshiiskan dhexdiisa ah oo u jideynaya Dawlad Xubin ah in ay ka qabato xuduuda Dawlad kale fulinta ikhtisaas iyo waxqabad shaqooyin si buuxda loogu gaar-yeelay hay'adaha Dawladaas kale si waafaqansan sharcigeeda gudaha.

## **CUTUBKA II**

### **HAL-BEEGYO KA-HORTEGITAAN**

## **QODOBKA 5<sup>AAD</sup>**

### **SIYAASADO IYO WAXQABADYO KA-HORTIGITAAN EE LA-DAGAALLANKA MUSUQ-MAASUQA**

1. Dawlad kasta oo xubin ah waxay, si waafaqsan mabaadi'da asaasiga ah ee nidaamka qaanuunkeeda, horumarinaysaa oo hirgelinaysaa ama adkeynaysaa si wax-ku-ool ah, siyaasado la-dagaallan musuq-maasuq oo iskuduwana oo kor u qaadaya ka-qeyb-qaadashada bulshada iyo adeegsiga mabaadi'da talinta sharciga, maareyn hab-sami leh ee arrimaha dadweynaha iyo hantida dadweynaha, hufnaan, daah-furnaan iyo isla-xisaabtan.

2. Dawlad kasta oo xubin ah waxay ku dadaalaysaa dejinta qaab wax-ku-ool ah oo looga hortagayo musuq-maasuqa.

3. Dawlad kasta oo xubin ah heshiiskan, waxay ku dadaalaysaa sameynta qiimeyn-xilliyeed shuruucda khuseysa iyo tallaabooyin maamul, iyadoo looga gol-leeyahay in lagu go'aamiyo ku-filnaanshahooda ku aaddan ka-hortagga iyo la-dagaallanka musuq-maasuqa.

4. Dawladaha Xubnaha ah waxay, si ku habboon oo waafaqsan mabaadi'da asaasiga ah ee nidaamka qaanuunkooda, iska kaashanayaan dhexdooda iyo si khuseysa ururrada caalamiga ah iyo kuwa gobolkeed si kor loogu qaado oo loo horumariyo hab-beegyada lagu tilmaaman Qodobkan. In iskaashiga ay kamid noqonayaan ka-qeyb-galka barnaamijyada iyo mashaariicda caalamiga ah ee looga gol-leeyahay hortagga musuq-maasuqa.

## **QODOBKA 6<sup>AAD</sup>**

### **GUDDI AMA GUDDIYO KA-HORTEGID LA-DAGAALLAN MUSUQ-MAASUQ**

1. Dawlad kasta oo Xubin ah waxay, si waafaqsan mabaadi'da asaasiga ah ee nidaamka qaanuunkeeda, xaqiijinaysaa jiritaanka Guddi ama Guddiyo,

sida ugu habboon, oo ka hortaga musuq-maasuqa si ku aaddan hannaankaas sida:

(a) Dhaqan-gelinta siyaasadaha lagu xusay Qodobka 5<sup>aad</sup> ee Heshiiskan iyo, halka ku habboon, kor-joogteynta iyo iskuduwidda hirgelinta siyaasadahaas; iyo

(b) Kordhinta iyo faafinta aqoonta ku saabsan la-dagaallanka musuq-maasuqa.

2. Dawlad kasta oo Xubin ah waxay siinaysaa Hay'adda ama Hay'adaha ku xusan Faqradda 1<sup>aad</sup> ee isla Qodobkan madax-bannaanida lagama-maarmaanka u ah, si waafaqsan mabaadi'da asaasiga ah ee nidaamka qaanuunkeeda, si awood loogu siiyo Guddigaas ama Guddiyaashaas in hawlahooda u gutaan si wax-ku-ool ah kana xor ah saameyn kasta oo aan loo baahnayn, waxaana loo baahan yahay in loo oggolaado helidda agab iyo shaqaale takhasus leh, sidoo kale waxyaabaha ay u baahan yihiin shaqaalahaas oo uu kamid yahay tababar si ay waajibaadkooda ugu gutaan sida looga baahnaa.

3. Dawlad kasta oo Xubin ah waa in ay gaarsiisaa Xoghayaha Guud ee Qaramada Midoobay magaca iyo cinwaanka Hay'adda ama Hay'adaha hay'adda ama mas'uuliyiinta laga yaabo in ay ka caawiyaan dawladaha kale ee xubnaha ka ah heshiiskan hormarinta iyo hirgelinta tallaabooyinka gaarka ah oo looga hortagayo musuq-maasuqa.

## **QODOBKA 7<sup>AAD</sup>**

### **QEYBTA DADWEYNAHA**

1. Dawlad kasta oo xubin ah waxay, halka ku habboon iyo si waafaqsan mabaadi'da asaasiga ah ee nidaamka qaanuunkeeda, ku dadaalaysaa in ay dejiso, sugto, oo xoojiso nidaamyada ku aaddan shaqaaleysiinta, qoridda, haynta, dallacsiinta iyo hawl-gabnimada shaqaalaha rayidka ah iyo, halka ku habboon, saraakiisha dadweynaha ee kale ee aan la dooran:

(a) Taasi waxay ku saleysan tahay mabaadi'da wax-ku-oolnimo, daah-furnaanta, shuruuda hadafka sida mudnaanta, sinnaanta iyo kartida;

(b) Waxay isugu jirtaa hab-raacyo ku habboon xulashada iyo tababarka shakhsiyaadka si loogu wareejiyo jagooyinka dawliga ah ee loo tixgelinayo in ay tahay musuq-maasuq si gaar ah iyo in la hubiyo in loo magacaabay jagooyinka markii loo baahnaa;

(c) Waxay ku dhiirri-gelinaysaa in ay helaan mushaar ku filan oo si siman loo bixiyey iyadoo la raacayo heerka horumarka dhaqaale ee Dawladda Xubinta ah; iyo

(d) Waxay ku dhiirri-gelinaysaa in loo sameeyo aqoon-kororsi iyo tababar si ay ugu suurto-gasho shaqaalahaas in ay u gutaan waajibaadkooda shaqo oo ay u hayeen bulshada sida saxda ah, sharaf leh, waxqabad wanaagsan, iyo in loo oggolaado in ay helaan tababar gaar ah oo ku habboon si ay u helaan wacyi-gelin buuxda khatarta musuq-maasuqa ka dhex-jira shaqadooda Barnaamijyada noocan ah waxay noqon karaan tixraac iyo hal-beeyo wanaagsan meelaha looga dhaqmo sharcigan.

2. Dawlad kasta oo xubin ah waa in ay tixgelisaa qaadashada sharci-dejin ku habboon iyo tallaabooyin maamul oo waafaqsan ujeeddadooyinka heshiiskan iyo si waafaqsano mabaadi'da asaasiga ah ee sharcigeeda gudaha, si loo qeexo shuruuda khuseysa musharaxnimada iyo doorashada xafiis dadweyne.

3. Dawlad kasta oo xubin ka ah heshiiskan waa in ay tixgelisaa qaadista tallabooyin sharci-dejin iyo maamul ee ku habboon si joogta ah iyadoo raacaysa ujeeddooyinka heshiiskan iyo si waafaqsan mabaadi'da asaasiga ah sharcigeeda gudaha, si kor loogu qaado daah-furnaanta maal-gelinta musharaxiinta ee loo doortay xafiis dadweyne iyo, halka ku habboon, maal-gelinta axsaabta siyaasadeed.

4. Dawlad kasta oo xubin ah si waafaqsan mabaad'ideeda asaasiga ah ee shuruucda dalkeeda waxay isku dayeysaa in ay qaadato, joogteyso oo xoojiso nidaamyada dhiirri-gelinaya daah-furnaanta iyo ka-hortagga khilaafaadka danahooda

## **QODOBKA 8<sup>AAD</sup>**

### **XEERARKA ANSHAXA EE SARAAKIISHA DADWEYNAHA**

- 1- Si loola dagaalamo musuq-maasuqa, Dawlad kasta oo Xubin ah waxay ka shaqeyneysaa hormarinta daah-furnaanta, amaanada iyo si ay ku dheehan tahay mas'uuliyad shaqaalaheeda dhexdooda si waafaqsan mabaad'ideed asaasiga ah ee shuruucda dalkeeda.
- 2- Si gaar ah Dawlad kasta oo Xubin ah waxay ku dadaaleysaa in ay ku dabaqdo nidaamyadeeda hay'adeed iyo mid sharciyeed ,xeerarka iyo hal-beegyada wanaagsan si ay u gutaan waajibaadkooda shaqo oo ay u hayeen bulshada sida saxda ah



- 3- Ujeeddada fulinta faqrada qodobkan Dawlad kasta oo Xubin ah iyadoo raacaysa mabaad'ideeda asaasiga ah ee shuruucda dalkeeda in ay fiiro gaar ah u yeelato dadaalada xiriirka la leh oo ay qaadanayaan ururada gobolka iyo gobolada kala duwan sida xeerka anshaxa-marinta caalamiga ah ee shaqaalaha dawladda oo ku jira lifaaqa qaraarka guud ee dib-u-heshiisiinta 15/59 12/ December 1996.
- 4- Dawlad kasta oo Xubin ah iyadoo raacaysa mabaad'ideeda asaasiga ah ee shuruucda dalkeeda, waa in ay tixgelisaa abuurista tallaabooyin iyo nidaamyada lagu fududeenayo soo-gudbinta mas'uuliyiinta Dawladda ee ku dhaqaaqa musuq-maasuqa ,hay'adaha awoodda uleh, marka ay falalka noocaan oo kale ah ay ku ogaadaan gudashada waajibaadkooda.
- 5- Dawlad kasta oo Xubin ah waxay ku dadaaleysaa si waafaqsan mabaad'ideeda asaasiga ah iyo shuruucda dalkeeda in ay dejiso hal-beegyada iyo nidaamyada ku waajibnaayo shaqaalaha dawladdaas loogu muujiyo hay'adaha loo xilsaaray waxyaabo qaarkood oo ay ku jiraan waxqabadkooda dibadda, maal-gashiga, tabarucaada, faa'iidooyin badan oo u horseedi kara isku-dhac danta shaqadooda shaqaale dawladeed ahaan .
- 6- Dawlad kasta oo Xubin ah waxay ku dadaaleysaa si waafaqsan mabaad'ideeda asaasiga ah iyo shuruucda dalkeeda in ay qaado anshax-marinta iyo tallaabooyin kale oo ka dhan ah shaqaalaha dawladda kuwaasoo ku xad-gudbay xeerarka iyo hal-beegyada lagu asaasay xeerkan si waafaqsan qodobkan.

### **QODOBKA 9<sup>AAD</sup>**

#### **SOO-GADASHO GUUD IYO MAAREYNTA DHAQAALAHADA DADWEYNAHA**

Dawladda kasta oo Xubin ah si waafaqsan mabaadi'deeda asaasiga ah iyo shuruucda dalkeeda, waxay qaadeysaa tallabooyinka lagama-maarmaanka ah si loo abuuro nidaamyada ku habboon wax-soo-gadashada, kuna saleysan daah-furnaanta, tartanka iyo ujeeddada dhabta ah ee go'aan-qaadashada, kuwaasoo wax-ku-ool ah, kana hortegayo musuq-maasuqa, nidaamyada noocaan ah oo tixgelin kara qiimeynta heerka ugu habboon ee codsigooda, waxaa kamid ah arrimaha soo socda:

(a) qeybinta xogta la xiriirta hab-raacyada iyo heshiisyada wax-gadashada oo ay ku jiraan warbixinnada ama dukumintiyada xiriirka la leh heshiisyada, casuumaadaha ka-qeyb-galka, warbixinnada la xiriira heshiiska ama bixinta qandaraasyada, oggolaashaha suurto-galka ah ee qandaraasleyaasha iyadoo la siinayo waqti ku filan oo ay ku diyaariyaan kuna soo gudbiyaan qandaraasyadooda;

(b) in horay loo sii sameeyey loona baahiyey shurudaha ka-qeyb-galka oo

ay kamid yihiin xulashada iyo shuruudaha abaal-marinta ‘xeerarka hindisaha yareynta;

(c) adeegsiga ujeedooyinka iyo shuruudaha horay loo qorsheeyey si loo qaato go'aan la xiriira wax-soo-gadashada dawladeed, oo loo fududeeyo xaqiijinta adeegsiga saxda ah ee xeerarka ama hab-raacyada;

(d) in la sameeyo Nidaam wax-ku-ool ah oo dib-u-eegis gudaha ah, oo ay ku jirto nidaamka rafcaan-qaadashada, si loo hubiyo waddo sharci ah oo lagu gudbiyo cabashada iyo dib-u-hagaajinta haddii ay dhacdo in la raaci waayo xeerarka ama hab-raacyada loo dejiyey sida ku xusan faqraddan; iyo

(e) in la qaado tallabooyin wax-ku-ool ah markii loo baahdo si loogu habeeyo arrimaha xiriirka la leh shaqaalaha mas'uulka ka ah soo gadashada, sida in la ogeysiyo maslaxad kasta oo ku jirta in dawladda ay soo gadato waxyaabo gaar ah iyo hab-raaca baaritaannada iyo baahiyaha tababarka.

2. Dawlad kasta oo Xubin ah waxay qaadeysaa si waafaqsan mabaadi'deeda asaasiga ah iyo shuruucda dalkeeda tallaabooyinka ku habboon si kor loogu qaado daah-furnaanta iyo isla-xisaabtanka maamulka maaliyadeed ee dawladda. Tallaabooyinka noocan oo kale ah waa inay ka kooban yihiin waxyaabahan soo socda:

- (a) hab-raacyada ee ku tiirsan tahay miisaaniyadda dawladda;
- (b) In si ku-meel-gaar ah looga warbixiyo dakhliga soo galay iyo kharashaadka ka baxay ;
- (c) Nidaamka xisaabaadka iyo hal-beegyada heerarka xisaabinta iyo kormeerka la xiriira;
- (d) Nidaamyada wax-ku-oolka ah ee saameynta leh ee la xiriira maareynta halista ah iyo xakameynta gudaha; iyo
- (e) in ay qaado markay ku habboon tahay, tallaabo sixitaan ah oo ku saabsan dacwadaha lagu guul-daraysto in loo hoggaansamo shuruudaha lagu asaasay faqraddan 3. dawladda kasta oo xubin ah waxay qaadaysaa talaabooyin madani iyo mid maamul intaba, iyadoo la raacayo mabaadi'da asaasiga ah ee shuruucda dalkeeda , si loo ilaaliyo bad-qabka buugaagta xisaabaadka, diiwaannada, bayaannada maaliyadeed ama dukumiintiyo kale ee la xiriira kharashka dawladda iyo dakhliga iyo in laga hortago been-abuurka dukumintiyada noocan oo kale ah.

## **QODOBKA 10<sup>AAD</sup>**

### **WARBIXINTA DADWEYNAHA**

Iyadoo la tixgelinayo baahida loo qabo la-dagaallanka musuq-maasuqa, Dawlad kasta oo xubin ka ah heshiiskan, si waafaqsan mabaadi'deeda asaasiga ah ee shuruucda dalkeeda, waxay qaadeysaa tallaabooyinka lagama-

maarmaanka u ah in kor loogu qaado daah-furnaanta maamulkeeda dawladeed, oo ay kamid tahay qaabka ay u nidaamineyso hawladeeda, shaqaaleysiinta iyo go'aan-qaadashadeeda iyadoo la tixraacayo markii loo baahdo tallaabooyinka noocan oo kale ah waxaa kamid noqon kara:

- (a) ku-tiirsanaanta hab-raacyo ama xeerar u oggolaanaya dadka oo dhan in ay helaan, macluumaad ku saabsan qaabka ay u nidaamineyso hawladeeda, shaqaaleysiinta iyo go'aan-qaadashadeeda iyadoo la tixraacayo markii loo baahdo Tallaabooyinka noocan oo kale ah , shaqeynta iyo geedi-socodka go'aan-qaadashada ee maamulkeeda iyadoo la ixtiraamayo ilaalinta macluumaadka gaarka ah iyo macluumaadka shakhsiga, go'aanada iyo ficillada sharciga ee walaac ka muujinaya xubnaha dadweynaha;
- (b) fududaynta nidaamyada maamul, markii loo baahdo, si loogu fududeyo dadweynaha gaaritaanka hay'adda awoodda uleh ee go'aanka qaadaneyso; iyo
- (c) baahinta macluumaadka, oo ay kujirto warbixino xilliyeed oo kusaabsan halista Musuq-maasuqa uu ku leeyahay maamulkiisa dawladeed.

### **QODOBKA 11<sup>AAD</sup>**

#### **HAL-BEEGYADA LA XIRIIRA GARSOORKA IYO ADEEGYADA DACWAD-OOGISTA**

1. Iyadoo maanka lagu hayo madax-bannaanida Garsoorka iyo tallaabooyinka muhiimka ah ee la-dagaallanka musuq-maasuqa, dawlad kasta oo xubin ah waxay si waafaqsan Mabaadi'da Asaasiga ah ee Nidaamkeeda sharci ee aan ka hor-imaanaynin madax-bannaanida Garsoorka, waxay qaadaysaa tallaabooyin lagu xoojinayo ee looga hortagayo fursadaha musuq-maasuqa ee xubnaha Garsoorka. Tallaabooyinka noocan oo kale ah waxaa kamid noqonaya Xeererka la xiriira Anshaxee Xubnaha Garsoorka.
2. Tallaabooyinka la qaaday iyadoo la raacayo faqradda (1) ee qodobkan, waxaa lagu soo bandhigayaa laguna dabaqayaa adeegga dacwad-oogista ee Dawladaha Xubnaha ah taasoo aysan kamid aheyn qeybta Garsoorka laakiin waxay xaq u yeelanayo madax-bannaani la mid ah Adeegga Garsoorka.

### **QODOBKA 12<sup>AAD</sup>**

#### **HAY'ADAHA GAARKA AH**

1. Dawlad kasta oo xubin ah waxay qaadaysaa talaabooyin ku saleysan mabaadi'da asaasiga ah ee shuruucdeeda, si looga hortago musuq-maasuqa la xiriira hay'adaha gaarka ah, xoojinta xisaabinta iyo hal-beegyada hanti-

dhawridda ee hay'adaha gaarka ah iyomarka ay ku habboon tahay bixinta wax-ku-ool ah ee saami-qeybsiga iyo ganaaxyada madaniga ah, maamulka ama ciqaabta fal-dembiyeedyadaciqaabta dembiyada ee ku guul-dareysiga u hoggaansanaanta tallaabooyinka noocaas ah.

2. Tallaabooyinka lagu gaarayo ujeedooyinkan waxaa kamid noqonaya:-

(a) dhiirri-gelinta wada-shaqeynta hay'adaha sharci-fulinta iyo hay'adaha gaarka

ah;

(b) dhiirri-gelinta horumarinta hal-beegyada iyo hab-raacyada loogu tala-galaydhawridda Hufnaanta hay'adaha gaarka ah oo ay ku jiraan Xeerarka anshaxa ee dhaqan-galka ah, sharafta iyo wax-qabadka saxda ah ee hawlaha ganacsiga iyo dhammaan xirfadaha la xiriira iyo ka-hortagga khilaafaadka danaha, iyo sare u-qaadista adeegsiga dhaqamada ganacsiga wanaaga ee ganacsatada dhexdooda iyo xiriirka qandaraas ee ganacsatada Dawladda;

(c) dhiirri-gelinta daah-furnaanta hay'adaha gaarka ah oo ay ku jirto marka ay ku habboon tahay tallaabooyinka la xiriira aqoonsi sharci iyo dadka caadiga ah ee ku lug leh Asaasidda iyo maareynta Iskaashiga hay'adaha;

(d) ka-hortagga si xun u adeegsiga nidaamyada lagu maamulayo hay'adaha gaarka ah oo ay ku jiraan habr-aacyada ku saabsan kaabida iyo shatiyadaay siiso dawladdu hawlaha Ganacsiga;

(e) ka-hortagga khilaafaadka danaha soo rogaya xayiraad, sida ku habboon ee waqtiga macquulka ah, hawlaha xirfadeed ee saraakiishii hore ee dadweynaha ama shaqaaleysiinta saraakiisha dadweynaha ee hay'adaha gaarka ah kaddib marka ay is casilaan ama hawl-gab noqdaan, marka ay hawlahaas ama shaqooyinkasi toos ula xiriiraan Hawlaha ay hayaan ama kormeerayaan saraakiisha dadweynaha muddadii ay xilka haayeen;

(f) hubinta hay'adaha gaarka ah iyadoo tixgelinayo qaab-dhismeedka iyo cabirka

ay leeyihiin kontarool hanti-dhawra gudaha ah oo ka caawinayso ka-hortagga iyo oggaanshaha falalka musuq-maasuqa iyo akoonnada iyo warbixinnada maaliyadeed ee loo baahan yahay ee hay'adaha gaarka ah oo ay ku xiran yihiin hanti-dhawridda ku habboon iyo hab-raacyada shahaadada.

3. Si looga hortago musuq-maasuqa, dawlad kasta oo xubin ah waxay qaadaysaa

tallaabooyinka ku habboon, iyadoo la raacayo shuruucdeeda iyo Xeer-hoosaadyadeeda la xiriira dib-u-habeynta dukumintiyada iyo diiwaannada, saacinta warbixinada maaliyadeed iyo xisaabinta iyo hal-beegyada hanti-

dhawridda, si loo reebo falalka soo socda ee lagu fuliyey ujeeddada mid kamid ah dembiyadii lagu asaasay si waafaqsan heshiiskan.

- (a) asaasidda xisaabaadka ka baxsan buugaagta;
- (b) saameynta buugaagta ka baxsan ama aan ku filnayn macaamil ganacsi lacageed;
- (c) diiwaan-gelinta kharashaad aan jirin;
- (d) soo-gelitaanka deymo leh aqoonsi aan sax aheyn ee sheeyadooda;
- (e) adeegsiga dukumiintiyada beenta ah; iyo
- (f) u burburinta si ula kac ah dukumiintiyada keydsan ee horay sharcigu u sheegay.

4. Dawlad kasta oo xubin ah waxay u diidaysaa canshuur-dhimista kharashyada inay noqdaan laaluush, tan waa mid kamid ah waxyaabaha tiirarka u ah dembiyada lagu asaasay si waafaqsan qodobbada 15 iyo 16 ee heshiiskan iyo, marka ay ku habboon tahay, kharashyada kale ee la xiriira wanaajinta anshaxa.

### **QODOBKA 13<sup>AAD</sup>**

#### **KA-QEYB-GALKA BULSHADA**

1. Dawlad kasta oo xubin ah waxay qaadaysaa talaabooyinka ku habboon oo waafaqsan mabaadi'da asaasiga ah ee shuruucdooda, si kor loogu qaado ka-qeyb-galka shakhsiyaadka firfircoon iyo kooxaha ka baxsan hay'adaha dadweynaha, sida bulshada rayidka, ururada aan-dawliga ahayn iyo ururada ku saleysan bulshada ee ka-hortagga iyo la-dagaallanka musuq-maasuqa iyo in kor loo qaado wacyi-gelinta dadweynaha ee xiriirta jiritaanka, sababaha iyo baaxadda iyo khatarta uu leeyahay musuq-maasuqa. Ka-qeyb-galeyaasha waa in lagu xoojiyaa tallaabooyinkan:
  - (a) Kobicinta daah-furnaanta iyo kor-u-qaadista ka-qeyb-galka dadweynaha ee Hawlaha go'aan-gaarista;
  - (b) Hubinta in dadweynuhu ay si wax-ku-ool ah u helaan xogta;
  - (c) Qadashada macluumaadka hawlaha dadweynaha ee ka-qeyb-galka dulqaad-la'aanta musuq-maasuqa iyo sidoo kale barnaamijyada waxbarashada dadweynaha, oo ay ku jiraan manhajka dugsiyada iyo jaamacadaha;
  - (d) Ixtiraamka, kobicinta iyo ilaalinta xorriyadda raadinta, helitaanka, Daabicidda iyo faafinta macluumaadka khuseeyo musuq-maasuqa. Xorriyaddaas waxaa laga yaabaa inay ku xirnaato xannibaado gaar ah, laakiin kuwan waxaa kaliya oo ay noqon karaan kuwa sharcigu siiyey oo lagama-maarmaanka ah:-

- (i) in la ixtiraamo xuquuqaha ama sharafta dadka kale; iyo
- (ii) Ilaalinta amniga qaranka ama dib-u-dhac ku yimid ama caafimaadka guud ama akhlaaqda.

2. Dawlad kasta waxay qaadaysaa tallabooyinka ku habboon si loo hubiyo in guddiga la-dagaallanka musuq-maasuqa ee lagu xusay heshiiskan inay og'yihiin dadweynaha iyo bixinta waxyaalaha ay heli karaan guddigaas, marka ay ku habboon tahay warbixinta oo ay iskugu jirta si qarsoodi ah, dhacdooyin kasta oo loo arki karo inay yihiin fal-dembiyeed lagu asaasay si waafaqsan Heshiiskan.

### **QODOBKA 14<sup>AAD</sup>**

#### **HAL-BEEGYADA LOOGA HORTAGAYO LACAG-DHAQIDA**

1. Dawlad kasta oo xubin ah waxay sameynaysaa:
  - (a) nidaamyada sharci-dejin oo dhammeystiran iyo nidaam kormeer oo loogu talo-galay bankiyada iyo hay'adaha maaliyadeed ee aan ahayn bankiyada, oo ay ku jiraan shakhsiyadka caadiga ah ama kuwa sharciga ah ee bixiya adeegyo rasmi ah ama aan rasmi ahayn xagga gudbinta lacagta ama qiimaha iyo, marka ay ku habboon tahay, guddigayd kale gaarka ah ee u nugul lacag-dhaqida oo aan u laheyn Awood-xirfadeed, si looga hortaggo loona ogaado dhammaan noocyada lacag-dhaqida, marka la xoojinayo shuruudaha macaamilka iyo marka ay ku habboon tahay, aqoonsiga milkiilaha wax-tarka leh, diiwaan-gelinta iyo soo-gudbinta warbixinta macaamil ganacsi laga shakiyey; iyo
  - (b) iyadoo aan ku xad-gudbeyn qodobka 46<sup>aad</sup> ee Heshiiskan, inay hubiso maamulka, sharciyada, fulinta sharci iyo awoodaha kale u heellan la-dagaallanka lacag-dhaqida (oo isugu jirto, marka ay ku habboon tahay shuruucdooda Awoodaha Garsoorka) waxay awood u yeelanayaan iskaashi iyo is-dhaafsi macluumaadka heer Qaran iyo kuwa caalamiga ah marka loo eego shuruudaha u dagan shuruucdeeda, waxay tixgeliyaasaa asaasidda Qeyb Sir-doon-maaliyadeed oo u adeegaysa sidii xarun Qaran oo loogu talo-galay ururinta, falanqeynta iyo faafinta macluumaadka la xiriira lacag-dhaqida.
2. Dawladaha Xubnaha ah waxay tixgeliyaasaa hirgelinta hab-beegyada macquul ah oo lagu ogaanayo laguna kormeerayo dhaqdhaqaaqa lacagta caddaanka ah iyo aaladaha gorgortanka ku habboon ee laga gudbinayo xuduudahooda, iyadoo dhawraysohubinta adeegsiga macluumaadka saxda ah oo aan wax

loogu dhimeyn dhaqdhaqaaqa raasamaalka sharci dhan kasta. Hal-beegyada noocan oo kale ah waxaa kamid noqonaya shuruud ah shakhsiyaadka looga baahan yahay iyo ganacsatada iyo in ay ka soo warbixiyaan ka gudbinta xuduud lacag fara badan oo caddaan ah iyo aaladaha gorgortanka ku habboon.

3. Dawladaha Xubnaha ah waxay tixgelinayaan hirgelinta hal-beegyada loogu baahan yahay hay'adaha-maaliyadeed, oo ay ku jiraan kuwa xawaaladaha lacagta:
  - (a) Ku darista foomamka wareejinta elektarooniga ee lacagaha iyo wixii la xiriira farriimaha saxda ah iyo macluumaad macno leh oo asal ah;
  - (b) In la ilaaliyo macluumaadkaas inta lagu gudo-jiro silsiladda bixinta; iyo
  - (c) Isticmaalidda baaritaan kor loogu qaadaayo wareejinta lacagaha aan ku jirin macluumaad dhammeystiran oo ku saabsan asalkii.
4. Asaasidda nidaamyo sharci iyo kormeerid iyadoo la raacayo qodobkan iyo qodobbda kale ee heshiiskan, Dawladaha Xubnaha ah waxaa loogu yeerayaa in ay u isticmaalaan hagidda dadaallada la xiriira gobolka, inta u- dhaxeysa gobolada iyo ururro badan ee ka shaqeeya la-dagaallanka lacag-dhaqida.
5. Dawladaha Xubnaha ah waxay ku dadaalayaan horumarinta iskaashiga caalamiga ah, gobolka iyo iskaashiga laba dhinac ee Garsoorka, fulinta sharciga iyo sharci-dejinta maaliyadeed si loola dagaallamo lacag-dhaqida.

### **CUTUBKA III DEMBIYEYNTA IYO FULINTA SHARCIGA**

#### **QODOBKA 15<sup>AAD</sup>**

#### **LAALUUSHKA SARAAKIISHA DADEWEYNAHA EE QARANKA**

Dawlad kasta oo Xubin ah waxay qaadaysaa sharci-dejin kasta iyo hal-beegyada kale ee ku habboonee lagu caddeynayo fal-dembiyeed marka si ula kac ah loo geysto:

- (a) Ballan-qaadkala siinayo sarkaal dadweyn, si toos ah ama si aan toos ahayn, faa'iido aan caadi aheyn, sarkaalka naftiisa ama nafteeda ama qof kale ama hay'ad, in uu noqdo fal rasmi ama ka fogaado falka. inta uu ku gudo-jiro isaga ama ayada waajibaadkooda rasmiga ah; iyo
- (b) codsiga ama oggolaansaha sarkaal dadweyne, si toos ah ama si dadban, Faa'iido aan caad ahayn, sarkaalku nafsdiisa ama nafteeda ama qof kale ama

hay'ad, si uu u noqdo fal rasmi ah ama ka fogaado falka inta uu ku gudo-jiro isaga ama ayada waajibaadkooda rasmiga ah.

#### **QODOBKA 16<sup>AAD</sup>**

##### **LAALUUSHKA SARAAKIISHA DADWEYNAHA EE SHISHEEYE IYO SARAAKIISHA DADWEYNAHA EE URURRADA CAALAMIGA AH**

1. Dawlad kasta oo xubin ah waxay qaadaysaa sharci-dejin kasta iyo hal-beegyada kale ee ku habboon ee lagu caddeynayo fal-dembiyeed marka si ula kac ah loo galo, ballan-qaadka la siinayo sarkaal dadweyn ee shisheeye ama sarkaal ka tirsan ururrada caalamiga ah, si toos ah ama si dadban, faa'iido aan caadi ahayn, sarkaalku nafsadiisa ama nafsadeeda ama shakhsi kale ama hay'ad, si uu falka u noqdo rasmi ama ka fogaado falkainta uu ku guda jirto isaga ama ayada waajibaadkooda rasmiga ah, si uu u helo ama u sii haysto ganacsi ama faa'iidooyinka kale ee aan caadi ahayn oo la xiriira dhaqanka Caalamiga ah.
2. Dawlad kasta oo xubin ah waxay tixgelinaysaa sharci-dejin kasta iyo hal-beegyada kale eek u habboon ee lagu caddeynayo fal-dembiyeed, markii si ula kac ah loo galay, codsashada ama oggolaanshaha sarkaal dadweyn shisheeye ama sarkaal ka tirsan hay'ad caalamiga ah, si toos ah ama si dadban, faa'iido aan caadi ahayn, sarkaalka naftiisa ama nafteeda ama shakhsi kale ama hay'ad, si uu u noqdo falka rasmi ah ama ka fogaado falka inta uu ku guda-jiro isaga ama iyada waajibaadkooda rasmiga ah.

#### **QODOBKA 17<sup>AAD</sup>**

##### **KHAYAANO LUNSASHO AMA WAREEJIN KALE EE HANTI UU LEEYAHAY SARKAAL DADWEYNE**

Dawlad kasta oo xubin ah wuxuu qaadaysaa sharci-dejin kasta iyo hal-beegyada kale ee ku habboon, ee lagu caddeynayo fal-dembiyeed, markii si ula kac ah loo galo, khayaano, lunsasho ama wareejin kale ee sarkaal dadweyne isaga ama iyada faa'iido ama faa'iido qof kale ama hay'ad, hanti kasta ee guud ama hanti gaar ah ama amniga ama wax kasta oo qiimo leh oo lagu aaminay sarkaalka dadweyne, iyadoo loo maleynayo jagadiisa isaga iyo iyada Samo-fale.



**QODOBKA 18<sup>AAD</sup>**  
**SAAMEYNTA GANACSIGA**

Dawlad kasta waxay tixgelinaysaa qaadista sharci-dejin kasta iyo hal-beegyada kale ee ku habboon ee lagu caddeynayo fal-dembiyeed markii si ula kac ah loo geysto:

(a) Ballan-qaadka, la siinayo sarkaal dadweyne ama qof kale, si toos ah ama si dadban, faa'iido aan caadi aheyn uu amray sarkaal dadweyne ama qof lagu xad-gudbay isaga ama iyada ama saameyn suurta-gal ah, iyadoo ujeeddadu tahay in la helo maamul ama awood dawladeed ee dawlad xubin ka ah faa'iidooyin aan caadi ahayn oo ku saabsan falka asalka ah ama qof kasta oo kale; iyo

(b) Codsashada ama aqbalaadda sarkaal dadweyn ama qof kale, si toos ah ama si dadban, faa'iido aan caadi ahayn naftiisa ama nafteeda ama qof kale uu amray sarkaal dadweyn ama qof lagu xad-gudbay isaga ama iyada ama saameyn suurta-gal ah, iyadoo ujeeddadu tahay in laga helo maamul ama awood dawladeed ee dawlad xubin ka ah faa'iido aan caadi ahayn.

**QODOBKA 19<sup>AAD</sup>**  
**KU XAD-GUDUBKA SHAQOYINKA**

Dawlad kasta oo xubin ah waxay tixgelinaysaa sharci-dejint kasta iyo hal-beegyada kale ee ku habboon ee lagu caddeynayo fal-dembiyeed, marka si ula kac ah loo galo, ku xad-gudubka shaqooyinka ama boosaska, taasi waa, waxqabadka ama ku guul-dareysiga saameyn fal, ku xad-gudubka shuruucda, ee sarkaal dadweyne marka laga saaro shaqadiisa isaga ama iyada, ujeeddaduna tahay helitaanka faa'iido aan caadi ahayn naftiisa ama nafteeda ama qof kale ama hay'ad.

**QODOBKA 20<sup>AAD</sup>**  
**SAAMEYNTA SHARCI-DARRADA AH**

Iyadoo la tixraacayo Dastuurka iyo mabaadii'da asaasiga ah ee nidaamkeeda sharciga, Dawlad kasta oo xubin ah, waxay tixgelinayaa sharci-dejin kasta iyo hal-beegyada kale ee ku habboonee lagu caddeynayo fal-dembiyeed markii si ula kac ah loosoo galo, Saameynta Sharci-darrad ah, taasi waa siyaado kasta oo muhiim ah Hantida ee sarkaal dadweyne isaga ama iyada si macquul ah uma sharxi karto macluumaad ku saabsan dakhligiisa sharciga ah isaga/iyada.

## **QODOBKA 21<sup>AAD</sup>**

### **LAALUUSHKA HAY'ADAHA GAARKA AH**

Dawlad kasta oo xubin ah waxay tixgelinaysaa sharci-dejint kasta iyo hal-beegyada kale ee ku habboon ee lagu caddeynayo fal-dembiyeed, marka si ula kac ah loogu galo hawlaha dhaqaalaha, maaliyada ama hawlaha ganacsiga:

(a) Ballan-qaadka, la siinayo, si toos ah ama si dadban faa'iido aan caadi aheyn qof

kasta oo hagaya ama ka shaqeyanaya, awoodiisiinta hay'ad gaar ah, qofka naftiisa ama nafteeda ama qof kale, si uu u jebiyo waajibaadkiisa ama u joojiyo fal; iyo

(b) Codsashada ama aqbalaadda, si toos ah ama si dadban, faa'iido aan caadi aheyn qof kasta oo hagaya ama ka shaqeeya, awood-siinta hay'ad gaarka ah qofka laftiisa ama nafteeda ama qof kale, si uu u jabiyo waajibaadkiisa, ama u joojiyo fal.

## **QODOBKA 22<sup>AAD</sup>**

### **LUNSASHADA HANTIGA SHIRKADAHA GAARKA LOO LEEYAHAY**

Dawladda Xubinta ah Heshiiska waxay tixgelinaysaa dhaqan-gelinta Shuruucda iyo hal-beegyada kale oo ku habboon in la asaaso xad-gudubyada Dembileyaasha oo kale, marka lagu galay si Caalami ah xaalada dhaqaale, Maaliyadeed ama hawlo ganacsi, uu lunsaday Shakhsiga Agaasimaha ka ahaa ama ka shaqeeynayey, Awood kasta, hanti kasta oo ay laga leedahay Hay'ad Sharci ku dhisan, hanti gaar ah ama mid Amni, iyo walxo kale oo qiimo leh oo lagu aaminay asaga/iyada oo looga faa'iideystay Xilkiisa ama xilkeeda.

## **QODOBKA 23<sup>AAD</sup>**

### **DHAQIDA FAA'IIDADA LAGU HELAY FAL-DEMBIYEEDKA**

1. Dawlad kasta oo xubin ah waxay dhaqan-gelinaysaa si waafaqsan Mabaadi'da asaasiga ah ee Xeerarka dalka sida Shuruuxda iyo hal-beegyada kale oo ku habboon in la asaaso falal Xad-gudub ah marka lagu galo si caalami ah:
  - a) (i) heshiiska ama Xawilaada Hantida iyagoo xog ogaal loo yahay hantidaas in laga faa'iidey fal-dembiyeed ujeedadiisu tahay in la qariyo, ama lagu dhex-mile hantida Asalka ah mida Sharci-darada ah si looga caawiyo qof kasta oo qeyb ka ah Amarada falalka fal-dembiyeedka laga dhigay, si uu uga fogaado natijada tallaabada sharci .  
(ii) qarinta ama ku dhex-melida si qaab sax ah, Ilaha, goobta, hab-dhaqanka, dhaqdhaqaaqa ama Xuquuqda milkiilaha ay ku jirto Xushmada Hantida iyadoo la ogaanayo hantidaas in laga faa'iiday fal-dembiyeed;
  - b) Nuxurka oo lagu saleyey u-hoggaansanka nidaamka Sharciga;

- (i) Soo gadshada iyo Milkiyada ama isticmaalka Hantida, iyadoo la ogyahay Mudda qoraalka qaan-sheega la qaatay, hantidaas oo ah faa'iido lagu helay fal-dembiyeed;
  - (ii) Ka-qeyb qaadashada, lala xiriiriyey ama shirqool la galay, isku day galid dembi, ama gacan kasiin, fududeyn ama qarinta lagu galay Xad-gudubyo oo fal-dembiyeed ka dhigaya sida ku xusan qodonkan,
2. Iyadoo ujeeddadu tahay dhaqan-gelinta faqradda (1) ee qodobkan:
    - Dawladda kasta oo xubin ah waxay dhaqan-gelinaysaa Faqradda (1) ee Qodobkan si loo faafiyo Xaddiga fal-dembiyeedka loo cuskaday
    - a. Dawladda Xubnaha aka ah waxay kusoo darayaa fal-dembiyeedyada loo cuskaday ugu yaraan Darajada wadajirka ah ee Xad-gudubyada Dembeelaha taasoo lagu xusay heshiiskan;
    - b. Iyadoo ujeeddadu tahay faqrad-hoosaadka (b) ee kore fal-dembiyeedka ee loo cuskaday waxaa in fal-dembiyeed la galay labo jeer si wadjir ah iyo meel ka baxsay Xuduud-dhuleedka Dawladda Xubnaha ka ah iyadoo ka dhigayo Fal-dembiyeed loo cuskaday oo kaliya marka lala xiriiriyo hab-dhaqan ee fal-dembiyeedka si waafaqsan Shuruucda dalka lagu galay Fal-dembiyeedka oo ay tahay in loo tixgeliyo Fal-dembiyeed si waafaqsan Shuruucda Dalka ee Dawladda xubinta ka ah Heshiiska, dhaqa-gelinta iyo dabaqaada qodobkan sidii fal-dembiyeedka uu halkaas ka dhacay oo kale:
    - c. Dawladda kasta oo xubin ah, waxay siinaysaa nuqul shuruucdeeda kamid ah siismadaas waxay saameynaysaa qodobkan iyo Xaaladaha isbeddelaya ee ku addan shuruucdaas iyo tilmaamaha kazoo baxa Xoghaye Guud ee Qaramada Midoobay:
    - d. haddii loo baahdo Mabaadi'da asaasiga u ah shuruucda Dalka ee Dawladda xubinta ka ah Heshiiska waa suurta-gal ah inay keento fal-dembiyeedyada ku xusan faqradda (1) ee qodobkan laguma dabaqayo shakhsiyaadka galay Fal-dembiyeedka asalka ah.

## **QODOBKA 24<sup>AAD</sup>**

### **QARIN**

Iyadoo aan wax loo dhimeynin faqrada Qodobka 23aad ee heshiiskan, Dawladda kasta oo xubin ah waxay tixgelinaysaa Dhaqan-gelinta Shuruudahaas iyo Hal-beegyada kale oo ku habboon oo si fal-dembiyeed looga dhigo, marka lagu galo si niyad, marka la galo fal-dembiyeed oo dembi ka dhigayo si waafaqsan Heshiiskan, iyadoo aan la haynin cid ka qeyb-qaadatay fal-

dembiyeedka, Qarinta ama la xiriira hantida la lunsaday, marka shakhsiga qeybta ka ah ogyahay hantidaas tahay faa'iiday lagu helay fal-dembiyeed, sida ku xusan heshiiskan.

### **QODOBKA 25<sup>AAD</sup>**

#### **IS-HORTAAGA GEEDI-SOCODKA CADAALADDA**

Dawlad kasta oo Xubinta ah waxay dabaqaysaa Shuruucdaas iyo hal-beegyadooda taasoo ku habboon ee Dembi ka dhigida fal-dembiyeedka haddii loo galo si ku tallo-gal ah:

(a) isticmaalka Awood-jireed ah ama hanjbaad, cabsi-gelin, Balan aaddan Mudnaan aan Xaq loo yeelan, soo-bandhgid ama bixinta Ballan-qaad ku aaddan in la galo Markhaati-beenaad, iyo in faro-gelin lagu sameeyo gudasho markhaatiga ama gubinta Caddeymo in lagal hab-raacyo xiriir la leh falal laga dhigay dembi si waafaqsan heshiiskan:

(b) isticmaal Awood-jireed, handadaad iyo cabsi-gelin in la faro-gelin lagu sameeyo hawlaha Shaqaale Garsoor, ama saraakiisha Fuliyeaasha Sharciga oo lala xiriiriyo galay Fal-dembi laga dhigay si waafaqsan Heshiiskan, iyadoo aan wax loo dhimeynin faqrad hoosaadkan, Dawladda xubinta ka ah Heshiiska waxay xaq u yeelanaysaa in ay sameystaa Shuruuc, taasoo ilaalinaysa Xubnaha kala duwan ee Shaqaalaha Dadweynaha ah.

### **QODOBKA 26<sup>AAD</sup>**

#### **MAS'UULIYADA SHAKHSIYAADKA SIFO SHARCI LEH**

1. Dawlad kasta oo xubin ah waxay dabaqeysaa hal-beegyadan sida ku habboon, mabaadi'da Sharci oo lagu kalsoonaan, in Mas'uuliyada Shakhsiyaadka sifo sharci leh oo ka qeyb-qaatay fal-dembiyeedka laga dhigo fal-dembiyeed si waafaqsan Heshiiskan.
2. Mabaadi'da Sharci ee Dawladda Xubinta aka ah waxay u hoggaansameysaa I Shakhsiyaadka Sifo sharci leh ay qaadayaa Mas'uuliyad ay suurta-gal tahay in ay noqdaa Dembeele galay kiis Madini ah ama Maamul;
3. Mas'uuliyeed waxaa laga reebayaa Mas'uuliyda Fal-dembiyeedka uu galo shakhsi caadi ah;
4. Dawlad kasta oo xubin ah, waxay si gaar ah u hubinaysaa in Shakhsiyaadka leh sifo sharci ay u hogaasameen Mas'uuliyada si waafaqsan qodobkan si wax ku-

ool ah Dembiyada Ciqaabta ah iyo kuwa aan ahayn iyo sidoo kale Dembiyada Maaliyadeed.

### **QODOBKA 27<sup>AAD</sup>**

#### **KA-QEYB-QAADASHADA IYO ISKU-DAYGA**

1. Dawlad kasta oo xubin ah waxay dhaqan-gelinaysaa Shuruucdan iyo hal-beegyada kale oo ku habboo dembi ka dhigaya fal-dembiyeeka si waafaqsan Shuruucda dalka, ka -qeyb qaadashada awood kasta ah, gacan-kasiin, caawin, ama ku boorin, fal-dembi laga dhigay si waafaqsan heshiiskan.
2. Dawlad kasta oo xubin ah waxay dhaqan-gelinaysaa shuruucdan iyo hal-beegyada kale oo ku habboon oo ka dhigaya Fal-dembiyeed si waafaqsan shuruucda Dalka, isku-day kasta oo lagu galo fal-dembiyeed oo laga dhigay dembi si waafaqsan Heshiiskan.
3. Dawlad kasta oo xubin ah waxay dhqan-gelinaysaa shuruucdan iyo hal-beegyada kale eek u habboon oo dhigaya fal-dembiyeed si waafaqsan Shuruucda Dalka u diyaar-garobida galid Fal-dembiyeed fal-dembi laga dhigay si waafaqsan Heshiiskan.

### **QODOBKA 28<sup>AAD</sup>**

#### **OGAANSHAHA IYO NIYADA UJEEKKA TIIRARKA FAL-DEMBIYEEDKA AHAAN**

Ogaanshaha, niyada ama ujeedka waxay Caddeyn u noqonayaan dhacdooyinka laga shakisan yahay haddii lagu helo tiirarka Caddeymaha in la galay fal dembi laga dhigay si waafaqsan Heshiiskan.

### **QODOBKA 29<sup>AAD</sup>**

#### **XAALADDA XADDIDITAANKA**

Dawlad kasta oo xubin ah, waxay is waafajinayaa shuruucdeeda iyo falalka dembiga laga dhigay si waafaqsan Shuruucda dalka marka Xaaladaha Xaddidan ay kala fog tahay waxaa laga bilaabayaa Hab-raacyada Fal-dembiyeedka laga dhigay si waafaqsan heshiiskan , waxaanna la Xadidayaa Muddo dheer haddii uu Dembiluhu ka fakaday Cadaaladda iyadoo dib loo dhigayo Dacwadda si waafaqsan Heshiiskan.

### **QODOBKA 30<sup>AAD</sup>**

#### **DEMBI-OOGISTA, GAR-NAQIDA IYO CIQAABTA**

1. Dawlad kasta oo xubin ah, waxay ka dhigayaan gelitaan Falalka dembiga laga dhigay si waafaqsan Heshiiskan kana ratibmeysa mas'uliyad Ciqaabeed si loo ilaaliyo culeyska uu Dembigaas leeyihiin,
2. Dawlad kasta oo xubin ah, waxay raacaysaa hal-beegyadaas sida ku habboon si loo ilaaliyo si waafaqsan nidaamka Sharciga, iyo Mabaadi'da Dastuurka iswaafajinta isku-dheeli tirnaanta u dhaxeysa Xasaalanadaha ama Mudnaata Garsoorka oo ay siinayso Shaqaalaha si ay wax uga qabtaan Hawlhooda una gutaan waajibaadkooda sida ugu habboon, si wax-ku-ool ah, Baarinaanka, Dembi-oogista, ama Garsoorida oo ku aaddan Falalka Dembiga laga dhigay si waafaqsan Heshiiskan.
3. Dawlad kasta oo xubin ah waxay damaanad qaadayaan Saameynta waxyaalaha uu sharciga oggolaanayo iyadoo la tixgelinaayo Shuruucda dalka oo ku aaddan Baritaanka shakhsiyaadka galay falka Dembiga laga dhigay si waafaqsan Heshiiskan, si loo hubiyo in ay fuliyeen Hay'adaha Sharci-fulinta hab-raaca laga qaadanayo fal-dembiyeedka, iyadoo la tixgelinaayaa baahida loo qabo awgeed in laga waantoobo galitaanka fal-dembiyedka sidaan oo kale ah.
4. Xaaladaha Falka Dembiga laga dhigay si waafaqsan heshiiskan, Dawlad kasta oo xubin ah waxay qaadaysaa hab-raaca ku habboon si waafaqsan huruucda Dalka, iyadoo la tixgelinayo Xuquuqda Difaaca , si loo hubiyo Dammaanad-qaadka Sharciga looga dhigay in lagu daayo ilaa laga gaarayo Muddada maxkamadeynta ama racfaanka iyadoo lagama-maarmaan ay tahay joogitaanka eedeysanaha si loo raaco Hab-raaca fal-dembiyeedka.
5. Dawlad kasta oo xubin ah, waxay qaadaysaa ciqaabta ugu culuska ah ee Fal-dembiyeedka ay khuseyso, haddii la tixgelinaayo suurta-galnimada sii-deynta ama Sharciga looga dhigay Shakhsiyaadka ku eedeysan gelitaanka Dembiydaas.
6. Dawlad kasta oo xubin ah, inay is waafigiyaan Mabaadi'da asaasiga ah ee nidaamka Sharciga, iyadoo la tixgelinayo hab-raacyada ku aaddan Shaqaalaha Dadweynha kuwaas oo lagu eedeeyey Falalka Dembiga looga dhigay si waafaqsan Heshiiskan ama in laga joojiyo shaqada ama la beddelo, ama ay casilaan hay'ad awood u leh iyadoo la tixgelinaayo Mabaadi'da Dembi-la'aanta.

7. Dawlad kasta oo xubin ah waxay tixgelinaysaa marka uu culus yahay fal-dembiyeedka waa in la is waafjiyaa mabaadi'da asaasiga ah ee nidaamka Sharci, iyadoo la raacayo hab-raacyada Mas'uuliyad ka qaadida ee amar-maxkamadeed ama macna kale oo u dhigma, muddada ay xadiday shuruucda Dalka, ee ashqaasta ku eedeysan Fal-dembi laga dhigay in la galay si waafaqsan Heshiiskan waana sida soo socota:
  - a) haynta Xafiis dadweyne; iyo
  - b) haynta Xafiis ganacsi qeybi kamid ah ama gabi ahaanba ay leedahay dawladda.
8. Iyadoo aan faqradda (1) ee qodobkan wax loo dhimeynin in la isticmaalo Awood anshax-marin ee Ha'adaha Awoodda u leh ee lidka Shaqaalaha Rayidka ah.
9. Kamid ma ahan heshiiskan wax saameyn ku yeelanaya mabaadi'da Garsoorka, inuu noqdo fal-dembi laga dhigay si waafqsan heshiiskan iyo in lagu dhaqan-gelin karo tilmaamaha difaaca Sharci ama ilaalinta Mabaadi'da kale ee sharciga ee dhawraya hannaanka Shuruucda Dalka ee Dawladda xubinta ka ah Heshiiskan, iyadoo ay jiraan Baaritaan iyo Ciqaabta dembiga si waafqsan shrcigaas.
10. Dawladda xubinta ka ah Heshiiska, waxay ku dhiiri-gelinaysaa in dib-loogu soo celiyo bulshada shakhsiyaadka lagu eedeeyey gelitaanka fal-dembi laga dhigay si waafaqsan heshiiskan.

### **QODOBKA 31<sup>AAD</sup>**

#### **XAYIRAAD, XANNIBAAD IYO LA-WAREEGID**

1. Dawlad kasta oo xubin ah waxay qaadaysaa si ugu soor-galmida ah ee ugu habboon nidaamkeeda Sharci ee Dalka hab-raacyadaas taasoo ku habboon la-wareegid:
  - a) faa'iido fal-dembiyeed lagu helay eek u aaddan falal heshiiskan uu dembi ka dhigay, ama a hantida qiimihiisa ku dhigma qiimaha Faa'iidada laga helay fal-dembiyeedka; iyo
  - b) hantida, Agabka, aaladaha kale oo loo isticmaalay ama loo diyaariyey in loo isticmaalo fal-dembiyeed si waafqsan heshiiskan.
2. Dawladda xubinta ka ah Heshiiska waxay qaadayaan hal-beegyada si ku habboon si loo suurta-geliyo aqoonsiga, daba-galka, Xayiraada ama Xannibaada ee Agabyada oo ku xusan faqradda (1) ee qodobkan oo ay ujeedadu tahay la-wareegid kama-dambeys ah.

3. Dawlad kasta oo xubin ah waxay dhaqan-gelinaysaa si waafqsan Shuruucda dalka, Shuruucdaas, iyo Hal-beegyada kale oo ku habboon taasoo suurta-gal ay tahay in ay nidaamiyaan Maalmulka ha'adah Awoodda u leh xayiraada, Xannibaada ama la-wareegidda hantida sida ku xusan Faqrada (1) iyo (2) ee qodobkan.
4. Haddii faa'iidada lagu helay fal-dembiyeedka la wareejiyo ama la beddelo qeyb kamid ah ama gabi ahaan hanti kale, hantida lagasoo beddelay faa'iidada lagu helay fal-dembiyeed waxay u hoggaasamaysaa hal-beegyada ku xusan qodobkan.
5. faa'iidada lagu helay fal-dembiyeedka haddii lagu dhex-milo hanti lagu helay si sharci ah, hantidaas waxay u hogaasameysaa xayiraa, xannibaad iyo la-wareegid qiimaha lagu milay ee faa'iidad lagu helay fal-dembiyeedka, iaydoo aan wax loo dhimeynin hantida kale ee lagu helay si sharci ah.
6. Dakhliga ama faa'iidada kale oo lagu beddelay faa'iidada lagu helay fal-dembiyeedka oo lagu dhex-milay hantida lagu helay fal-dembiyeedka waxay u hoggaansamayaan sida ku xusan qodobkan isku si iyo isku qiimo oo u dhiganta faa'iidada fal-dembiyeedka lagu helay.
7. Ujeeddada qodobkan iyo qodobka 55<sup>aad</sup> heshiiskan, Dawlad kasta oo xubin ah, waxaa awood loo siinayaa Hay'adaha awoodda u leh sida maxkamadaha in ay amraan Bankiga, Maaliyadda, ganacsiga, diiwaalka in uu noqdo mid la heli karo, ama la xanibi karo,
8. Dawladda xubinta ah ma diidi karto fulinta faqrada Qodobkan iyadoo salka ku haysa sirta Bankiga.
9. Dawladda Xubinta ah, waxay tixgelinaysaa suurto-galnimada inuu caddeeyo dembiilaha ilaha dhaqaale ee lagu helay si sharci ah, oo lagu eedeynyo in laga helay fal-dembiyeed iyo hanti kale oo ay tahay in lala wareego iyadoo la raacayo Mabaadi'da Asaasiga ah ee shuruucda dalka iyo Hab-raacyada kale ee Garsoor iyo hab-raacyada kale.
10. faqrada qodobkan laguma fasiri karo Xuquuqda dhinaca seddexaad si nayad wanaag ah.
11. Qodobkan kamid ma ahan mid raad ku yeelanaya mabaadi'da Garsooka, iyadoo la fulinayo hab-raacyada la tilmaamay lana waafajinayo Shuruucda



dalka ee Dawladaha Xubnaha ka ah kuwaas ay tahay inay u hoggaansamaan qodobadan.

### **QODOBKA 32<sup>AAD</sup>**

#### **ILAALINTA MARKHAATIGA, KHUBARADDA IYO DHIBANEYAASHA**

1. Dawladda kasta oo xubin ah, waxay qaadaysaa hal-beeyo ku habboon si waafqsan heshiiskan iyo nidaamka Shuruucda dalka iyadoo u jeeddadu tahay in la siiyo ilaalin wax-ku-ool ah Markhaatiyaasha iyo Xeel-dheereyaasha kuwaas oo ku markhaati furaya Falalka Dembiga laga dhigay si waafaqsan heshiiskan, sidoo kale, qaraabooda iyo shakhsiyaadka xiriirka la leh in laga ilaaliyo aar-gudasho iyo cabsi-gelin kasta oo suurta-gal ah, iyadoo aan wax loo dhimeyn Hal-beegyada faqradda (1) ee qodobkan, ee ku aaddan Xuquuqda eedeysanaha iyadoo ay ku jirto xaqa geedi-socodka Garsoorka:
  - a) abuurida hab-raaca ilaalinta jireed ee shakhsigaas si ku habboon iyo in loo oggolaasho meel ay degaan haddii suurta-gal tahay , inaan la faafinin Macluumaadka aqoosigooda iyo meesha ay degan yihiin iyo in shardi lagu xiro faafinteeda; iyo
  - b) siinta xeer-hoosaad bixinta caddeynta Marag-furka iyo Khubaradda taasoo lagu ilaalinayo bad-qabkooda sida in loo oggolaado inay isticmaalaam Xiriirka teknoolijiyada sida Vedios ama waxyaalaha kale oo la adeegsado.
2. Dawlad kasta oo Xubinta ka ah, waxay tixgelinaysaa inay gasho heshiis amah hal-beeyo ee Dawladaha kale ee xubnaha ka ah, ee ku aaddan beddelida meelaha ay joogaan shakhsiyaadkaas sida ku xusan faqradda (1) ee qodobkan.
3. Faqradaha qodobkan waxaa lagu dabaqayaa dhibaneyaasha, marka ay yihiin Markhaatiyaal.
4. Dawlad kasta oo xubin ah waxay u hoggaansamaysaa Shuruucda dalka iyo suurta-galnimada aragtida ku aaddan dhebaneyaasha iyo ina tixgeliso marxalaha ku habboon hab-raacyada Garsoor ee lidka ku ah Dembileyaasha iyadoo aan wax loo dhimeynin xaqa difaaca.

### **QODOBKA 33<sup>AAD</sup>**

#### **ILAALINTA SHAKHSIYAADKA WARBIXIYEYAASHA**

Dawladda kasta oo xubin ah, waxay tixgelinaysaa iyadoo la kaashanaysa nidaamka Sharci ee Dalka hal-beeyo ku habboon oo la siinayo ilaalo ku aaddan dhaqan kasta oo aan loo baahnayn, oo ku aaddan shakhsi kasta oo sabab wax-ku-ool ah ku wargeliya Hay'adaha ay khuseyso si niyad-wanaag ah

dhacdo kasta oo ku saabsan Falalka dembiga laga dhigay si waafaqsan Heshiiskan.

#### **QODOBKA 34<sup>AAD</sup>**

##### **CAWAAQIBTA FALALKA MUSUQ-MAASUQA**

Iyadoo la tixgelinayo xuquuqda dhinaca seddexaad awgeed, si niyad-wanaag ah, dawlad kasta oo xubin ah, waxay qaadaysaa ha-beegyo si waafaqsan Mabaadi'ada asaasiga ah ee Shuruucda dalka, oo lagula tacaalayo caqabadaha Musuq-maasuqa. Sidaas darteed, Dawladaha Xubnaha ah waxay tixgelinaysaa musuq-maasuqa inuu yahay hawlaha ugu muhiimsan oo la qaadanyo hab-raac sharci si loo baabi'iyo ama loogala noqdo heshiiska am aka qaadida Mudnaanta ama Xasaanada iyo wixii la mid ah sida Jeegaga, iyo qaadashada hab-raacyo kale oo cadaaladeed.

#### **QODOBKA 35<sup>AAD</sup>**

##### **MAG-DHAW-KA-BIXINTA WAXYEELLO**

Dawlad kasta oo xubin ah waa inay ku dartaa shuruucda dalkeeda in magdhaw la siiyo qof walbo oo waxyeello ka soo gaarto fal-dembiyeedyada ku xusan heshiiskan, marka uu dacwad gudbisto.

#### **QODOBKA 36<sup>AAD</sup>**

##### **HAY'ADAHA AWOODDA U LEH**

Dawlad kasta oo xubin ah waa inay ku dartaa shuruucda dalkeeda hay'ad, Gollo ama shakhsiyaad awood u leh ka-hortagga Musuq-maasuqa ee fulinta sharciga. Hay'ad, Gole ama shakhsiyaad u madax-bannaan si waafaqsan shuruucdeeda Dawladda xubinta ka ah Heshiiska, si ay awood ugu yeeshaan gudshada shaqooyinkooda si hufan iyadoo wax saameyn ku yeelanin shakhsiyaadka ama shaqaalaha waxaa lagama-maarmaan ah inay helaan Hay'adaha ama Golaha tababar sare iyo agab ay ku fuliyaan.

#### **QODOBKA 37<sup>AAD</sup>**

##### **ISKAASHIGA HAY'ADAHA FULINTA SAHARCI**

1. Dawlad kasta oo xubin ah waxay qaadeysaa tallaabo ku habboon si loo dhiirri-geliyo qof kasta oo fal-dembiyeed ka qeybqaatayn sida ku xusan heshiiskan, si ay u helaan macaluumaat faa'iido leh hay'adaha awoodda u leh iyadoo u jeeddada tahay hannaanka barista caddeynta iyo ka-gacansiinta Hay'adaha awaooda u leh oo ka qeybqaadanaysaain laga-xaninbo dembiilayaasha faa'iidada ay ka heleen fal-dembiyeedka iyo dib-u-soo-celinta faa'iidadaas.

2. Dawlad kasta oo xubin ah waa in ay qaadataa suurta-galnimada, dacwadaha ku habboon si loo yareeyo ciqaabta eedeysanaha soo bandhiga iskaashi la taaban karo oo ku aaddan baaritaanka ama dacwad-oogidda dembiga si waafaqsan heshiiskan.
3. Dawlad kasta oo xubin ah heshiiskan waa in ay tixgelisaa In la siiyo xasaanad dacwad-ku-qaadidda, iyadaoo la raacayo mabaadi'da asaasiga ah ee sharcigeeda, qof kasta oo siiya iskaashi muhiim ah baaritaanka ama dacwad ku soo oogidda dembi gaar ah iyadoo la raacayo heshiiskan.
4. Badbaadinta dadkaas iyadoo la ilaalinayo kala-duwanaashada xaaladaha, sida ku xusan Qodobka 32<sup>aad</sup> ee heshiiskan.
5. Haddii lagu helo qof sida ku cad farqada (1) ee qodobkan joogana dawlad kamid ah dawladdaha Xubnaha ah waxay iskaashi wax-ku-ool ah kasiinaysaa Hay'adaha Awoodda u leh ee dawladda kale, Dawladaha Xubnaha ah ay quseyso waxay tixgelinayaan gelitaanka heshiisyada ama sida ay ukala-horeyaan si waafaqsan sharuucda dalkooda, ee ku aaddan suurto-galnimada ay siinayaan dawladda kale wada-shaqeynta sida ku xusan faqrada (2) iyo (3) ee qodobkan.

### **QODOBKA 38<sup>AAD</sup>**

#### **ISKAASHIGA U DHEXEYYA HAY'ADAHA QARAN**

Dawlad kasta oo xubin ah waxay qaadanaysaa tallaabo lagu dhiirri-geliyo, si waafaqsan shuruucdooda, iskaashiga ka dhexeeya hay'adaha Qaran, sida sarkaal dadweyne iyo dhinaca kale, Hay'adaha mas'uulka ka ah baarista dembiyada ciqaabta iyo dacwo-oogidda. Waxaa kamida iskaashiga sidan:

- b) wargelinta kama-dambaysta ah ee hay'adaha, inay jiraan sababo maangal ah oo la aaminsan yahay in dembiyo kasta oo ku xusan qodobbada 15<sup>aad</sup>, 21<sup>aad</sup> iyo 23<sup>aad</sup> ee heshiiskan; ama
- t) hay'adaha waxay siinayaan dhammaan macluumaadka lagama-maarmaanka ah marka laga soo codsado.

### **QODOBKA 39<sup>AAD</sup>**

#### **ISKAASHIGA U DHEXEYYA SHIRKAD DADWAYNE IYO SHIRKAD GAARKA Loo LEEYAHAY**

1. Dawlad kasta oo ee xubin ah waxay qaadanaysaa tallaabo lagama-maarmaanka u ah in lagu dhiirri-geliyo, iyadoo raacayso shuruucdeeda,

iskaashiga ka dhexeeya Hay'adaha baaritaanka iyo Maxkamadaha Qaran, shirkadaha gaarka loo leeyahay iyo urrurada ganacsi ee arrimaha ku aaddan galitaanka fal-dembiyeedyada ku xusan heshiiskan.

2. Dawlad kasta oo xubin ah waxay tixgelinaysaa iyadoo dhiirri-gelinayso ilaalinta muwaadiniinteeda iyo dadka kale ee leh deganaanshaha dhulkeeda si loo ogeysiiyo muwaadin hay'adaha baarista iyo dacwad-oogidda galitaanka fal-dembiyeed sida ku xusan heshiiskan.

#### **QODOBKA 40<sup>AAD</sup> SIRTA BANKIYADA**

Dawlad kasta oo xubin ah waxay hubinaysaa xaladaha baaritaan ee dembiyada ka dhaca dalkeeda sida ku xusan heshiiskan, xeer-nidaamiyaha dalkeeda markay jiraan aallado ku habboon oo suurta-gelinaya in laga gudbo caqabadaha ka imaan kara dhaqan-gelinta shuruucda sirta bankiyada.

#### **QODOBKA 41<sup>AAD</sup> DIIWAANKA DEMBIGA**

Dawlad kasta ee xubin ah waxaa u bannaan in ay qaadato waxa kaga aaddan hal-beegyada sharci-dejinta iyo hal-beegyada kale isla markaana ilaalinaysa waxyaabihii hore ee dawladda kale, iyadoo ay tahay ujeeddada si loo adeegsado macluumaadka ee looga gol-leeyahay sida ugu habboon. Hab-raaca ciqaabta ee la xiriira dembiyada ku xusan heshiiskan.

#### **QODOBKA 42<sup>AAD</sup> IKHTISAAS**

1. Dawlad kasta oo xubin ah waxay qaadanaysaa hal-beegayada kaga aaddan asaasidda iyo Ikhtisaaska dembiyada ku xusan heshiiskan haddii ay dhacaan labadan arrin:

a) haddii fal-dembiyeedka lagu galo dhul ay leedahay dawlad xubin ka ah heshiiskan; iyo

b) haddii uu fal-dembiyeedka uu ka dhaco markab dushiisa uu ka taagan yahay calanka dawladda xubinta ka ah heshiiskan, ama diyaarad ku diiwaan-gashan si waafaqsan shuruucda dalkaas, xilliga dembiga uu dhacay.

2. Iyadoo ilaalinaysa Qodobka 4<sup>aad</sup> ee heshiisakan Dawlad kasta ee xubin ah sidoo kale waxaa u bannaan inay Go'aan ka gaarto ikhtisaaka Maxkamadaha dembi kasta oo sidaan oo kale:

a) haddii uu galo dembiga qof kamid ah muwaadiniinta dawlad xubin ka ah ama;

b) haddii uu galo dembiga qof kamid ah muwaadiniinta dawlad xubin ka ah, ama qof si joogta ah u dagan ama qof jinsiyad-laawe ah oo ka haysta degenaansho joogta ah dalkeeda;

c) fal-dembiyeedyada ku xusan faqradda (1) xarafkeeda (b) (ii) qodobka 23<sup>aad</sup> ee heshiiskan, haddii fal-dembiyeedka lagu galo meel ka baxsan dhulkeeda tahayna u jeedada galid fal-dembi sida ku xusan faqradda (1) (a) ama (ii) (b) (i) ee Qodobka 23<sup>aad</sup> dhulkeeda dhaxdiisa si waafaqsan heshiiskan; ama

d) haddii dembiga laga galay dawlad xubin ka ah Heshiiskan.

3. Ujeeddada Qodobka 44<sup>aad</sup> ee heshiiskan, dawlad kasta oo xubin ah waxay qaadanaysaa talloobooyin kaga aaddan go'aanka ikhtisaaska Garsooraha dembiyada ku xusan heshiiskan markuu eedeysanaha joogo dhulkeeda ayna dhiibin qofkaas kaliya sabtoo ah wuxuu kamid yahay muwaadiniinteeda.

4. Waxaa u bannaan sidoo kale dawlad kasta oo xubin ah inay qaadato go'aanka ikhtisaaska dembiyada ku xusan heshiiskan markuu eedeysanaha joogo dhulkeeda aysan dhiibin.

5. Haddii ay ogaato Dawladda Xubinta ah waxay qaadanaysaa ikhtisaaska sida ku xusan faqradda (1) ama (2) ee qodobkan, ama ku ogaatay qaab kale, dawlad kasta ee Dawladaha Xubnaha ah waxay sameynayaan baaritaan iyo hab-raaca dacwad-oogid ee la xiriirta isla arrintaan, hay'adaha awoodda u leh ayaa qaadayaan ee dawladahaas xubinta ah, sida loogu baahado, waa inay ka tashadaan ujeeddada hab-raaca garsoor.

6. Iyadoon wax loo dhimayn hal-beegga xeerka calamiga ah kama reebayso heshiiskan ikhtisaas kasta ee dembi oo lagu asaasay shruucda Dawladda Xubinta ah.

**CUTUBKA IV**  
**ISKAASHIGA CAALAMIGA AH**  
**Qodobka 43<sup>aad</sup>**  
**Iskaashiga Caalamiga ah**

1. Dawladaha Xubnaha ah waxay iska kaashanayaan arrimaha dembiyada sida ku xusan qodobbada 44aad ilaa 50aad ee heshiiskan. Sida ugu habboon oo la jaan-qaadi kara shuruucda dalalkooda. Dawladaha Xubnaha ah

waxay tixgelinayaan inay iska caawiyaan hab-raaca baarista arrimaha ku aaddan madaniga iyo maamulka ee la xiriira Musuq-maasuqa.

2. Arrimaha iskaashiga calimaga ah, marakasta ay jiraan dembiyo kala duwan ay tahay shardi, waxaa loo qaadanayaa in la fuliyey iyadoo loo fiirinayo shuruucda Dawladda xubinta ka ah Heshiiska ee laga codsaday in ay isku si u qiimeynayaan faldembiyeedka ama eray-bixin la mid ah Dawladda xubinta ka ah Heshiiska ee soo codsatay, haddii uu yahay falka mid ku saleysan dembi ay iska caawinayaan waa fal-dembiyeed sida uu qabo shuruucda labad dawladdood.

### **Qodobka 44<sup>aad</sup> Wareejin**

1. Qodobkan waxaa lagu daaqaayaa dembiya ku usan heshiiskan haddii ay arrinta tahay qofka codsiga dib-u-celinta uu joogo dhulka Dawladda xubinta ka ah Heshiiska ee laga codsaday, waxaa loo shardinayaa dembiga codsiga wareejinta waxaa lagu ciqaabayaa sida uu qabo sharciyada dawladda laga codsaday iyo dawladda codsatay.

2. Iyadoo aan la qaadanayn faqradda (1) ee qodobkan, dawladda xubinta ah ee sharci ahaan u oggolaanaya inay wareejiso qof kasta oo kamid ah dembiyada ku xusan heshiiskan oo aan lagu ciqaabi karin sharuucda dalkeeda.

3. Haddii codsiyada wareejintu ay ku jiraan dembiyo kala duwan, oo ugu yaraan mid kamid ah lagu soo wareejin karo sida ku xusan qodobkan qaarna aan lagu soo wareejin karin sabab la xiriirta muddadooda xabsiga balse la xiriira dembiyada ku xusan heshiiskan, waxaa u bannaan dawladda laga codsaday inay dabaqdo qodobkan sidoo kale wixii la xiriira dembiyadaas.

4. Dembiyo kasta oo qodobkan lagu dabaqo waxaa loo qaadanayaa in lagu soo daro sidii dembi ciqaab ah oo lagu wareejiyo heshiis kasta oo wareejin ka dhexeysa Dawladdaha. Dawladuhu waxay ballan-qaadayaan inay ku daraan dembiyada sida dembiyada lagu wareejinayo ee heshiis kasta oo is dhaafsi ah oo lagu dhammeeyo dhexdooda. Dawladda xubinta ah oo uu sharcigeedu sidaas oggol yahay, haddii ay dhacdo in ay u adeegsato Heshiiskan inuu yahay asaaska wareejin, looma tixgelinayo mid kamid ah dembiyadii lagu asaasay iyadoo la raacayo heshiiskan inuu yahay dembi siyaasadeed.

5. Haddii dawlad xubin ah sameyso wareejin shardi ku ah jiritaanka heshiiska uu ka helo codsi wareejin dawladda kale oo aan lahayn heshiis wax-is-dhaafsi ah, waxaa loo qaadanayaa heshiiskan inuu yahay asaaska sharciga ee wareejinta marka loo fiiriyo wixii dembi ah ee qodobkan lagu dabaqayo.

6. Dawladda xubinta ah haddii ay sameyso ku wareejin shuruudo ku saabsan jiritaanka heshiiskan waa:

b) Wakhtiga la dhigayo ansixinta, aqbalaadda ama oggolaanshaha ama helitaanka heshiiskan, loo sheegayo Xoghayaha Guud ee Qaramada Midoobay waxa loo qaadanayaa Baaqaani inuu yahay asaaska sharciga ee iskaashiga ku saabsanaan dawladdaha kale ee xubinta ka ah heshiiskan; iyo

t) Haddeysan u qaadanin heshiiskan mid salka ku haya sharci iskaashi ku saabsan wareejin, in la raadiyo, meesha ku habboon, si loo soo gabagabeeyo heshiisyada ku saabsan wareejinta dawladdaha kale ee xubnaha ka ah Heshiiskan si loo hirgeliyo qodobkan.

7. Dawladdaha xubnaha ah ee aan sameyneyn shuruudaha wareejinta jiritaanka heshiiska waxay qaadayaan dembiyada uu qodobkani u adeegsanayo dembiyada wareejinta ay is-dhaafsanayaan dhexdooda.

8. Wareejinta waxay ku xirnaanaysaa shuruudaha ku xusan Sharciga dawladda xubinta ah ee laga codsaday ama heshiisyada ciqaabta ee lagu dabaqayo, oo ay ku jiraan, inta u dhexaysa, shuruudaha la xiriira ciqaabta ugu yar ee looga baahan yahay wareejinta iyo sababaha dawladda laga codsaday oo diidi karta wareejinta.

9. Dawladdaha Xubnaha ah waa in ay ku dhaqmaan sharuucda dalkooda, ayna ku dadaalaan in ay dedejiyaan hab-raacyada wareejinta iyo in ay fududeeyaan shuruudaha caddeynta ee la xiriira fal kasta oo qodobkan lagu dabaqayo.

10. Iyadoo ilaalinaysa sharuucda dalkeeda iyo heshiisyada wareejinta, waxaa u bannaan dawladda xubinta ah ee laga codsaday, markay ku qanacdo in ay tahay duruufaha ay sababayaan oo ay degdeg yihiin oo ay codsanayaan Dawladdahaas xubnaha ah, qaadashada qof loo codsaday wareejinta eedeysi qofkaas oo jooga dhulkeeda ama la hayo ama la qaado tallaabooyin kale oo ku habboon si loo hubiyo hab-raaca wareejinta.

11. Dawlad xubin ah ee dhulkeeda uu joogo dembile la sheegay, haddii ay dhacdo looma gudbin karo qofkaas ee la xariira dembiga iyadoo la ilaalinayo dhaqan-gelinta qodobkan ku saleysan yahay oo keliya ama kamid yahay muwaadiniinteeda, markuu codsiga dawlad xubin ah oo codsanaysa wareejin, waxaa waajib ku ah inay soo gudbiso dacwada iyadoo aan dib-udhac ku imaan hay'adaha awooddo u leh ay tahay ujeeddada dacwad-qaadista, hay'adaha waxay qaadanayaan go'aan hab-raaca dacwada qaab la mid ah sida fal-dembiyeed kale oo dabiici ah marka loo eego Dawladda Xubinta ah shuruucda dalkeeda, Dawladaha Xubnaha ah oo ay khusayso waa inay iskaashi yeeshaan, gaar ahaan dhinacyada hab-raaca iyo caddeymaha, si loo hubiyo wax-ku-oolnimada dacwadan oo kale.

12. Markasta oo dawlad xubin ah oo loo oggol yahay sida ku cad sharciga dalkeeda inay wareejiso ama haddii ay dhiibto mid kamid ah muwaadiniinteeda keliya shuruuda ah in qofka lagu soo celinayo dalkaas si uu ugu qaato xukunka u harsan ama dacwadda lagu soo oogay ama si loo dhammeystiro hab-raaca ee wareejinta qofka la codsaday ee Dawladda Xubinta ah ama ogaalto wareejinta iyo dawladda kale ee soo wareejinta qofka iyo ikhtiyaarka heshiisyo kale oo ay u aragto inay ku habboon yihiin, shuruudaha ku xiran wareejinta dembiilayaasha ah ama la wareejinayo ma tahay mid ku filan gudashada waajibaadka sida ku xusan faqradda (11) ee qodobkan.

13. Haddii wareejinta, loo raadsaday ujeedooyin meel-marin xukun, sababtoo ah qofkaas wuxuu yahay muwaadin ka tirsan dawladda laga codsaday, haddii uu qabo sharcigeeda gudaha si loo waafaqo codsiyada sharcigan, marka ay dabaqayso dawladda xubinta ah ee codstay. Iyadoo ay tahay waajib-ahaanshaha fulinta ciqaabta shariciga dalkeeda codsashada ama wixii ka haray.

14. Qof kasta oo khuseeya hab-raaca dacwadaha lagu qaadayo fal-dembiyeed kasta oo qodobkani dabaqayo waxaa loo dammaanad-qaadayaa in si cadaalad ah loola dhaqmayo dhammaan heerarka dacwadaha, oo ay kujiraan dhammaan xuquuqaha iyo dammaanadda sida uu qabo sharciga Dawladda xubinta ah ee uu joogo dhulkeeda qofkaasi.

15. Wax Heshiiskan ah looma fasirayo in lagu soo rogay waajib ka-saarid wareejin haddii dawladda xubinta ah ee la codsaday uu leeyahay



sababo xoojinayo oo maan-gal ah in codsigan loo sameeyey ujeedo maxkamadayn ama ciqaabid qofka sabab la xiriirta jinsi ahaan, sinjigiisa, diintiisa, dhalasho, asal ama fikrado siyaasadeed ama u-hoggaansanaanta codsiga waxay u horseedaysaa nacaybka qofka ee mid kamid ah sababahan dartood.

16. Dawladaha xubnaha ah uma bannaana inay diidaan codsi ku aaddan wareejin iyadoo ku saleyneysa oo keliya in dembigu sidoo kale uu ku lug leeyahay arrimo dhaqaale.

17. Ka hor diidmada wareejinta, Dawladda xubinta ah waxay, haddii ay habboon tahay, la-tashanaysaa Dawladda xubinta ah ee codsatay si ay u siiso fursad ku filan oo ay ku soo bandhigto fikradeeda iyo inay soo gudbiso macluumaadka la xiriira eedeynta.

18. Dawladaha Xubnaha ah waa in ay isku dayaan in ay soo gabagabeeyaan heshiisyo laba-geesood ah iyo heshiisyo dhinacyo badan leh ama habka loo fulinayo ama kor loogu qaadayo wareejin wax-ku-ool ah.

#### **QODOBKA 45<sup>AAD</sup>**

#### **WAREEJINTA XUKUMANEYAASHA**

Dawladaha Xubnaha ah waxay tixgelin karaan gelitaanka heshiis laba-geesood ah ama in ka badan oo ku saabsan wareejinta dadka lagu xukumay ciqaab xabsi ama ciqaab kale oo xoriyad-ka-qaadis ah, in ay galeen falal-dembiyeed si waafaqsan Heshiiskan si ay halkaas ugu dhammeystaan muddada xabsiga lagu xukamay.

#### **QODOBKA 46<sup>AAD</sup>**

#### **ISKAASHIGA SHARCI EE WADAAGGA AH**

1. Dawladaha Xubnaha ah waxay qaarkood qaarka kale siin karaan kaalmo sharci oo wadaag ah xilliga lagu jiro baaritaanka, daba-galka iyo maxkamadeynta la xiriirta fal-dembiyeedyada lagu xusay Heshiiskan.

2. Iskaashiga Sharci ee wadaagga ah waxaa loo bixinayaa sida ugu fiican iyadoo la raacayo shuruucda dawladda xubinta ah ee codsigaas heshay iyo heshiisyada, axdiyada la xiriira arrintan. Marka la joogo baaritaanka, daba-galka iyo maxkamadeynta gaarka ah ee fal-dembiyeedyada ay bannaan tahay in lagu qaado qofka sharciga ah, si waafaqsan Qodobka 26<sup>aad</sup> ee heshiiskan, ee dawladda xubinta ah ee codsanaysa.

3. Waxaa la oggol yahay in la codsado kaalmo sharci ee wadaag ah marka lagu bixinayo si waafaqsan qodobkan, ee ujeedooyinkan soo socda:

- (a) helidda caddeymo ama marag-fur dad;
- (b) gaarsiinta dokumentiyada Garsoorka;
- (c) fulinta hawlaha baaritaan, xannibaad, iyo xayiraad;
- (d) baaritaanka walxaha iyo goobaha;
- (e) bixinta xogaha, walxaha, caddeymaha iyo qiimeynta xeel-dheereyaasha;
- (f) bixinta asalka iyo nuqulada la xiriira oo ay ku jiraan diiwaanada dawladda, kuwa maaliyada iyo bankiyada diiwaanada shirkadaha, xarumaha ganacsiga;
- (g) caddeynta faa'iidooyinka laga helay fal-dembiyeedyada, hantida, walxaha, agabyada kale, ama waxyaabaha kale ee ujeeddada tahay in wax lagu caddeeyo;
- (h) fududeynta soo-taagidda dembileyaasha si iskood ah dawladda xubinta ah ee codsatay;
- (i) hab walba oo iskaashi ah oo aan ka hor-imaanayn shuruucda gudaha ee dawladda xubinta ah ee heshay codsiga;
- (j) caddeynta faa'iidooyinka fal-dembiyeedka sida ku cad qodobbada Cutubka 5<sup>aad</sup> ee heshiiskan, xannibaadda iyo raad-raaca; iyo
- (k) dib-u-soo-celinta Hantida sida ku cad Qodobka 5<sup>aad</sup> ee heshiiskan.

4. Iyadoo aan wax loo dhimeyn shuruucda gudaha ee dawladda xubinta ah Laamaha u xilsaaran dawladda xubinta ah iyadoo aan helin wax codsi ah waxay u diri kartaa xogaha la xiriira fal-dembiyeedyada laamaha u xilsaaran ee dawladda kale ee xubinta ah, marka ay u aragto in xogahaasi gacan ka siin karaan dawladaasi in ay sameyso baaritaan iyo maxkamadeyn ku dhammaanaysa si guul ah, ama ay keento in loo gudbiyo dawladda xubinta ah ee kale codsi waafaqsan Heshiiskan.

5. Laamaha ay khuseyso ee helaysa xogaha waa in ay qarisaa xogahaasi, si ku-meel-gaar ah, ama waxay ku soo rogeysaa xadidaad isticmaal ka xogahaasi. Waxaase ka reebneyn dawladda xubinta ah ee codsiga heshay in ay faafiso xogahaasi si ay u bariyeesho qof eedeysane ah, marka ay halkaasi joogto dawladda xubinta ee heshay codsiga waxay gaarsiinaysaa dawladda kale ee xubinta ah ee soo dirtay codsiga inta aysan faafineyso xogahaasi, waxay la tashaneysaa dawladda xubinta ah ee soo dirtay codsiga haddii sidaa laga soo codsado. Haddii ay ku dhici weyso sidaas xaalad gaar ah awgeed,

Dawladda Xubinta ah ee heshay codsiga waxay gaarsiineysaa dawladda xubinta ah ee soo dirsatay codsiga faafinta xogahaasi si daahid-la'aan ah.

6. Axkaamta ku xusan qodobkan ma taabanayso waajibaadka ka dhalanaya heshiis kale, oo labo-geesood ah ama in ka badan ee xukumaya ama xukumi doona qeyb ahaan ama dhammaan iskaashiga sharciga ee wadaagga ah.

7. Faqrada 9<sup>aad</sup> ilaa 20<sup>aad</sup> ee qodobkan ayaa lagu dabaqayaa codsiyada lagu soo gudbiyo si waafaqsan qodobkan, haddii dawlada xubnaha uu khuseeyo aysan ku xirneyn heshiis is-dhaafsi kaalmo sharci. Haddii ay dawlada xubnaha ku xiran yihiin heshiis noocaasi ah, waxaa waajib ku ah in ay dhaqan-geliyaan axkaamta ku aaddan ee heshiiskaas, haddii aysan dawlada xubnaha isku raacin dhaqan-gelinta faqrada 9<sup>aad</sup> ilaa 29<sup>aad</sup> ee qodobkan bedelkiisa. Waxaa si adag loogu boorinayaa dawlada xubnaha ah in ay dhaqan-geliyaan faqrada haddii ay u sahlan tahay.

8. Dawlada Xubnaha ah, waxaa ka-reebbaan in ay diidaan bixinta kaalmo sharciga ee wadaagga ah, si waafaqsan qodobkan iyagoo xujo ka dhiganaya qarsoodidda Bankiyada.

9. (a) Dawlada xubinta ee heshay codsiga rabtana inay aqbasho codsiga kaalmada sharciga, si waafaqsan qodobkan iyadoo ka maran is-dhex-gelinta fal-dembiyeedyada, waxay isha ku haynaysaa ujeeddada Heshiiskan sida lagu soo caddeeyey Qodobka 1<sup>aad</sup> ee heshiiskan; iyo

(b) Dawlada xubinta ah, waxaa u bannaan inay diido bixinta kaalmada sharci iyadoo la dhaqan-gelinayo is-dhex-galka dembiyada sida ku cad qodobkan.

10. Waxaa la oggol yahay wareejinta qof walba oo xayiran ama looga xukumay ciqaab dhul dawlad xubin ah lagana doonayo inuu yimaado dawlad xubin ah oo kale si loo aqoonsado ama uu u bixiyo marag-fur, ama uu gacan ka geysan karo sidii loo heli lahaa caddeymo looga gol-leeyahay baaritaan, dagaal ama maxkamadeyn ku saabsan fal-dembiyeedyada ku jira heshiiskan, haddii labadan shardi ee soo socda la helo:

(a) oggolaanshaha qofkaasi si xor iyo oggaal leh; iyo

(b) heshiiska laamaha ay khuseeyso ee labada dawladdood oo xubnaha ah, iyagoo ku xiraya shuruudaha ay u arkaan inay ku habboon yihiin.

11. Ujeedooyinka faqrada 10<sup>aad</sup> ee Qodobkan:

(a) dawladda xubinta ah ee laga soo wareejiyey qofka waxay u xilsaaran tahay kuna waajib ah inay hayso, haddii aysan dawladda xubinta ah ee laga soo wareejiyey qofkaasi diidin ama laga oggolaansho-weydiin;

(b) dawladda xubinta ah ee laga soo wareejiyey qofka waa inay u fulisaa si aan dib-u-dhac lahayn waajibka ka saaran dib-ugu-celinta gacanta dawladda xubinta ah ee laga soo wareejiyey sida horey la iskugu raacay ama si walba oo kale. Laamaha ay khuseyso ee labo dawladdood oo xubino ah;

(c) dawladda xubinta ah ee lagu soo wareejiyey qofka waxaa ka-reebbaan inay shardi uga dhigto dawladda xubinta ah ee wareejiyey bilaabista hab-raaca la-wareegidda si dib loogu celiyo qofkaas; iyo

(d) waxaa lagu tirinayaa muddada uu qofka ku xiran yahay dawladda xubinta ah ee lagu soo wareejiyey inay ku jirto muddada ciqaabta lagaga xukumay dawladda kale ee xubinta ah ee laga soo wareejiyey.

12. Ma bannaana in la daba-galo qofka lagu soo wareejiyo si waafaqsan faqrada 10<sup>aad</sup> iyo 11<sup>aad</sup> ee qodobkan, jinsiyada uu rabo ha wato, ama in la xayiro, ama la ciqaabo ama in lagu soo rogo xadidaad xoriyad-kaqaadis dhulka dawladda xubinta loo wareejiyey, sabab ah fal ama eedeyn hore oo ah ka-bixid dhulka dawladda xubinta ah ee loo wareejiyey. Haddii aysan oggolaan dawladda xubinta ah ee loo soo wareejiyey.

13. Dawlad walba oo xubin ah waxay magacaabeysaa awood dhexe oo qaadata mas'uuliyada iyo qabashada codsiyada kaalmo sharci oo wadaag ah, sidoo kale fulinta codsiyadaas iyo u gudbinta laamaha ay khuseyso fulinteeda. Haddiise dawladda xubinta ah leedahay goob gaar ah ama gobol gaar ah oo leh nidaam madax-bannaan ee kaalmo sharci oo wadaag ah waxaa u bannaan dawladdaas inay magacaabato kaligeed awood dhexe oo qabata isla hawlaha ay qabtaan gobolkaas, dawladda dhexena waxay qaadanaysaa fulinta codsiyada ay heshay iyo inay si degdeg u gudbiso hab munaasib ah. Dawladda dhexe waxay u gudbineysaa codsiga laamaha ay khuseyso fulinta codsigaas. Iyadoo ku dhiiri-gelinaysa laamaha ay khuseyso fulinta codsigaas sida degdeg ah oo nabad ah. waxaa la gaarsiinayaa Xoghayaha Guud ee Qaramada Midoobay iyadoo loo marayo laanta dhexe eek u magacaaban ujeedkan waqtiga ay dawladda xubinta ah gudbineyso dukumentiyadeeda meel-marinta heshiiskan ama aqbalaadda ama oggolaanshaha ama kamid-noqoshada. Codsiyada kaalmada sharciga ee wadaaga ah iyo dhambaalada la xiriiira waxaa lagu hagaajinayaa ama loo dirayaa laamaha dhexe oo ay soo magacaabayaan dawladda xubinta ah. Codsiyadan wax uma dhimayaan xaqa dawladda xubinta ee ah inay ku shardiso ku hagaajinta codsiyada iyo

dhambaalda iyadoo loo marayo marinnada diblamaasiyadeed. Xaaladaha degdega ah haddii ay labada dawladdood ee xubinta ah isku-raacaan inay isku mariyaan ururka Booliska caalamiga eek a hortagga dembiyada, haddii ay suurta-gal tahay.

14. Codsiyada waxaa lagu soo-gudbinaa iyagoo qoraal ah, ama haddii ay suurta-gal tahay hab kale oo abuuri kara dukumenti qoraal ah, luqada laga oggol yahay dawladda xubinta ah ee codsiga loo diray sidoo kale inuu qoraalka noqdo mid ay dawladda xubinta hubin karto sax ahaanshihiisa. Waxaa loogu gudbinaa Xoghayaha Guud ee Qaramada Midoobay luqad ama luqadaha laga oggol yahay dawladda xubnaha ah marka ay gudbineyso warqada oggolaanshaha heshiiskan ama aqbalidda ama sixiixidda ama kamid-noqoshada. Xaaladaha degdega ah marka labo dawladdood isku waafaqaan sidaas waxaa la oggol yahay in codsiyada laga soo gudbiyo si hadal ah (oral) kaddibna laga dhigo qoraal.

15. Codsiga kaalmada sharciga wadaagga ah wuxuu ka koobnaanayaa:

- (a) Aqoonsiga dawladda codsiga gudbineysa;
- (b) Mawduuca iyo nooca baaritaanka, dacwad-qaadista ama hab-raaca garsoorka ee la xiriira iyo magaca maamulka qabanaya baaritaanka, dacwad-qaadista iyo hab-raaca garsoorka;
- (c) Qoraal kooban oo la xiriira mawduuca, marka laga reebo waxyaabaha ku saabsan codsiyada lagu soo gudbiyey ujeeddo ah gaarsiinta dekontiyada garsoorka;
- (d) Sharraxaad kaalmada la sheegay iyo faahfaahinta hab-raacyada gaarka ah oo ay dawladda xubinta ah ee codsanaysa rabto inay raacdo;
- (e) Aqoonsiga qofka ay khuseyso, halka uu joogo iyo jinsiyadiisa, marka ay suurta-gal tahay; iyo
- (f) Ujeeddada laga doonayo caddeymaha, xogta ama hab-raacyada.

16. Dawladda xubinta ah, ee codsiga heshay waxaa loo oggol yahay inay dalbato xogaha dheeriga ah marka ay u aragto inuu yahay lagama-maarmaan fulinta codsiga si waafaqsan shuruucdeeda gudaha, ama suurta-gal tahay inay fududeyso fulinteeda.

17. Codsiyada waxaa loo fulinayaa si waafaqsan shuruucda gudaha ee dawladda xubinta ah ee heshay codsiga, iyo sidoo kale si waafaqsan hab-raaca ku xadiddan codsiga, marka ay u suurta-gal tahay haddii uusan ka hor-imaanayn shuruucda gudaha ee dawladda xubinta ah ee heshay codsiga.

18. Haddii qof jooga dhulka dawlad xubin ah, lagana rabo in la maqlo marag-furkiisa, ama xeel-dheere looga baahdo inuu horyimaado laamaha garsoorka dawlad kale oo xubin ah ayna suurta-gal tahay lana jaan-qaadaysa mabaadi'da asaasiga ah ee shuruucda gudaha dalkaas, waxaa u bannaan dawladda xubinta ah ee kowaad inay oggolaato, iyadoo fulinaysa codsiga dawladda xubinta ah ee kale. Qabashada fadhi dhageysi iyadoo la adeegsanayo fogaan-arag (video) haddii ay adkaato hor keenista qofka garsoorka dawlad xubinta ah ee codsiga leh, waxaa u bannaan labada dawladdood ee xubnaha ah inay isku raacaan maamulidda fadhiga gar-maqalka laanta garsoorka ee dawladda xubinta ah ee codsiga wadata ayna goobjoog ka noqdaan laamaha garsoorka ee dawladda xubinta ah ee heshay codsiga.

19. Dawladda Xubinta ah ee codsiga leh uma bannaana in xogaha iyo caddeymaha ay ka heshay dawladda xubinta ee codsiga heshay inay u isticmaasho baaritaano iyo maxkameyn aan ku jirin codsiga ay soo gudbisay iyadoo aan oggolaansho hore ka haysanin dawladda xubinta ah ee codsiga loo gudbiyey. Faqraddan kuma jiro wax u diidayo dawladda xubinta ee codsiga gudbisay inay faafiso hab-raacyada, xogaha iyo caddeymaha barriyeelayo qof eedeysane ah. Marka halkaas marayso dawladda xubinta ah ee codsanaysa inta aysan faafinta xogaha iyo caddeymaha waa inay ogeysiisaa kana talagelisaa dawladda xubinta ee codsiga heshay marka laga dalbado. Haddii ay suura-geli weyso iyadoo jirto xaalad gaar ah waxay ogeysiinaysaa dawladda xubinta ah ee codsiga heshay inay faafiso si tartiib ah.

20. Waxaa u bannaan dawladda xubinta ah ee codsiga leh inay ku shardiso dawladda xubinta ah ee codsiga heshay inay ilaaliso sir ahaanshaha codsiga iyo ujeedkiisa, marka laga reebo inta lagama-maarmaanka u ah fulintiisa. Haddii ay noqon weyso dawladda xubinta ah ee codsiga heshay waa inay u hoggaansantaa shardiga qarsoodida, waxaa waajib ku ah gaarsiinta dawladda xubinta ah ee codsiga leh si degdeg ah.

21. Waxaa bannaan diidmada bixinta kaalmada sharciga ee wadaagga ah haddii ay jiraan arrimahan soo socda:

- a) Haddii aan lagu soo-gudbin si waafaqsan axkaamta qodobkan;
- b) Haddii ay dawladda xubinta ah ee heshay codsiga u aragto fulintiisa mid wax-u-dhimaya madax-bannaanideeda, nabadgelyadeeda, nidaamkeeda guud iyo danaheeda asaasiga ah;

- c) Haddii uu shuruucda gudaha ee dawladda xubinta ah ee codsiga heshay ka reebayo laamaheeda inay fuliyaan hab-raacyada laga codsaday ee ku saabsan fal-dembiyeedyada la mid ka ah, xitaa haddii uu fal-dembiyeedkaasi ku jiro gacanta laamaha garsoorka si baaritaan, iyo daba-gal loogu sameeyo; iyo
- d) Haddii ka-jawaabista codsiga ay ka hor-imaanayso nidaamka sharci ee dawladda xubinta ah ee codsiga heshay inta ku saabsan kaalmada sharci ee wadaagga ah.

22. Dawladda xubinta ah uma bannaana inay u diido codsiga kaalmada sharciga ee wadaagga ah inuu la xiriiro arrimo maaliyadeed awgeed.

23. Waa in la sheegaa sababaha diidmo walba oo ku saabsan kaalmada sharci ee wadaagga ah.

24. Dawladda xubinta ah ee heshay codsiga waxay fulinaysaa codsiga kaalmada sharci ee wadaagga ah xilliga ugu sokeeya ee suurta-galka ah, waxay ilaalinaysaa waqtiga ugu gaaban oo ay codsatay dawladda xubinta ah, waxaa la rabaa in sababaha lagu sheego codsiga, dawladda xubinta ah ee codsiga leh waxaa u bannaan inay u soo gudbisno weydiimaheeda maan-galka ah si ay u hesho xoggo ku aaddan hab-raacyada ay u martay dawladda xubinta ee codsiga heshay ka-jawaabidda codsigeeda iyo hormaradda ay ka sameysay arrintaas. Dawladda xubinta ah ee heshay codsiga waa inay kaga jawaabta weydiimahaas iyo horumarka laga gaaray fulinta codsiga. Dawladda xubinta ah ee codsanaysa waxay si degdeg ah u gaarsiinaysaa codsigeeda ah baahida ay u qabto kaalmo sharci.

25. Dawladda xubinta ah ee heshay codsiga waxaa u bannaan inay dib u dhigto kaalmada sharci ee wadaagga ah inay ka hor-imaanayso baaritaanada iyo hab-raaca garsoor ee socda awgeed.

26. Ka hor inta aan la diidin codsiga sida ku cad faqradda 21<sup>aad</sup> ee qodobkan ama aan dib loo dhigin sida ku xusan faqradda 25<sup>aad</sup> ee qodobkan, dawladda xubinta ah ee heshay codsiga waxay la tashan doontaa dawladda xubinta ee gudbisay codsiga si ay uga fiirsato ay bixin karta caawinaad sharci, iyadoo ay ku xiran tahay shuruudaha iyo shuruudaha sida ay u aragto in loo baahan yahay. Haddii dawladda xubinta ah ee codsanaysa ay aqbasho caawinnaadda ku saleysan shuruudahaas, waa inuu u hoggaansamaa leh shuruudaha.

27. Iyadoo aan wax loo dhimmeyn dabaqaadda faqradda 12<sup>aad</sup> ee qodobkan, ma bannaano in la daba-galo, la soo xiro ama la ciqaabo markhaati ama xeel-dheere ama qof kale, iyadoo laga duulayo codsiga dawladda xubinta ah ee codsiga leh iany soo gudbisoo marag-furkeeda hab-raaca garsoor, ama in ay gacan ka geystaan baaritaanka iyo daba-galka iyo hab-raaca garsoorka ka jira dhulka dawladda xubinta ah ee codsatay.

28. Dawladda xubinta ah ee codsiga heshay waxay qaadanaysaa bixinta lacagaha caadiga ah ee ku baxa fulinta codsiga, haddii aysan labada dawladdood ee xubnaha ah aysan isku raacin si kale. Haddiise fulinta codsiga uu ku baxayo kharash fara badan labada dawladdood ee xubnaha ah ay khuseyso arrinta ayaa ka wada-tashanayo xadididda iyo fulinta qodobada iyo shuruudaha lagu heshiiyey, iyo sidoo kale qaabka loo bixinayo kharashaadkaas.

29. Dawladda Xubinta ah ee laga codsaday:

(a) waxay siinaysaa dawladda xubinta ah ee codsiga soo gudbisay nuqullo kamid ah diiwaanada, dekumentiyada iyo xogaha dawladeed ee u oggolaanayo shuruudaha dalkaas inay helaan dadweynahooda;

(b) dawladda xubinta ah ee heshay codsiga waxaa loo oggol yahay inay siiso dawladda xubinta ah ee soo gudbisay codsiga dhammaan ama qeyb kamid ah shuruudaha ay u aragto inay habboon yihiin, nuqullo kamid ah diiwaanada, dekumentiyada iyo xogaha dawladeed ee u oggolaanaya shuruudaha dalkaas inay helaan dadweynahooda.

30. Dawladaha Xubnaha ah waxay tixgelineyaan, haddii ay lama-huraan tahay, suurta-galnimada in ay dhammeystiraan heshiisyo iyo afgaradyo labo-geesood ah ama ka badan oo u adeegaya ujeedooyinka dhaqangelinta Qodobkan ama horumarinta axkaamtiisa.

## **QODOBKA 47<sup>AAD</sup>**

### **WAREEJINTA DACWADAHADA FAL-DEMBIYEEDYADA**

Dawladaha Xubnaha ah waxay tixgelineyaan suurta-galnimada isu-wareejinta dhexdooda ee maxkamadaynta fal-dembiyeed lagu abuuray si waafaqsan Heshiiskan ee dacwadaha wareejintaas loo tixgelinayo in ay noqdaan kuwo ku saleysan danaha maamul hab-sami leh ee cadaalad, gaar ahaan dacwadaha ay ku shuqlan yihiin dhawr ikhtisaas, oo looga gol-leeyahay in diirrada la saaro maxkamadeynta.



**QODOBKA 48<sup>AAD</sup>**  
**ISKAASHIGA FULINTA SHARCIGA**

1. Dawladaha Xubnaha ah waxay yeelanayaan iska-kaashi adag oo dhexdooda ah, si ku aaddan nidaamyadooda gudaha ee sharci iyo maamul, si ay u horumariyaan waxtarnimada falka fulinta sharciga si looga hortago fal-dembiyeedyada ku xusan Heshiiskan. Dawladaha Xubnaha ah waxay, si gaar ah, u qaadayaan tallaabooyin waxtar leh:
  - (a) In la horumariyo iyo, haddii ay lama-huraan tahay, in la abuurto marino xiriir ee hay'adahooda awoodda leh, wakaaladaha iyo adeegyada si loo fududeeyo is-dhaafsiga xogaha si nabdoon oo degdeg ah dhammaan qeybaha fal-dembiyeedka ee ku xusan Heshiiskan, sida, haddii ay dawladaha xubnaha ah ee ay khusayso la habboonaato, isku-xirnaansho hawlaha fal-dembiyeed ee kale;
  - (b) In la kaashado dawladaha kale ee xubnaha ah, si loo fuliyo baaritaano la xiriira fal-dembiyeedyada ku xusan Heshiiskan ee khuseeya:
    - (i) Aqoonsiga dadka looga shakisan yahay inay gacan ku leeyihiin fal-dembiyeedka iyo meelaha laga heli karo iyo hawlaha, sidoo kale goobaha ay ku sugan yihiin dadka kale ee uu khuseeyo;
    - (ii) Dhaqdhaqaaqa faa'iidada laga helay fal-dembiyeedka iyo hantida laga helo gelidda fal-dembiyeedka; iyo
    - (iii) Dhaqdhaqaaqa hantida ama agabka ama qalabka kale ee loo isticmaalay ama ujeeddada ahayd in lagu galo fal-dembiyeed;
  - (c) Sameynta marka lagama-maarmaanka ay tahay in la bixiyo noocyada iyo tirada walxaha iyadoo ujeedka yahay fal-dembiyeedka iyo baaritaan;
  - (d) Dawladaha Xubnaha ah waxay yeelanayaan isweydaarsi xogaha marinnada iyo hababka loo isticmaalo fal-dembiyeedyada ku xusan heshiiskan, sidoo kale isticmaalka dhalashooyinka been-abuurka ah iyo dukumentiyada been-abuurka ah iyo hababka kale ee qarinta hawlaha;
  - (e) Si loo fududeeyo isku-duwid wax-ku-ool ah oo u dhexeysa mas'uuliyiinta awoodda u leh, wakaaladaha iyo adeegyada si loo dardar-geliyo isweydaarsiga saraakiisha iyo xeel-dheereyaasha kale, si waafaqsan heshiisyada labo-geesoodka ah ama heshiisyada u dhexeeya Dawladaha Xubnaha ah; iyo
  - (f) In la isweydaarsado macluumaadka iyo isku-duwid hawlaha maamul, iyo hab-raacyada ku habboon ee loo qaadayo iyadoo ujeeddada tahay ka-hortagga fal-dembiyeedyada ku xusan heshiiskan;
1. Iyadoo la dhaqan-gelinayo heshiiskan, Dawladaha Xubnaha ah waxay gelayaan heshiisyo iyo is-af-garad labo-geesood ah ama in ka badan si ay iskaashi toos ah u yeeshaan laamaha ay khuseeyso fulinta sharciga. Marka wax-

ka-bedel lagu saameynayo heshiiska iyo af-garadka jiro. Haddii uusan jirin heshiis iyo af-garad u dhexeeya Dawladaha Xubnaha ah oo ku saabsan iskaashiga sharci waxaa u bannaan dawladda xubinta ah inay heshiiskan ka dhigto mid bud-dhig u ah iskaashiga sharci ee wadaagga ah marka la fulinayo sharciga ujeedkiisa yahay fal-dembiyeedyada ku xusan heshiiskan. Dawladaha Xubnaha ah waxay ka faa'ideysanayaan heshiisyada iyo af-garadka, ayna ku jiraan hay'adaha caalamiga ah iyo kuwa gobolka si loo adkeeyo xiriirka iskaashi ee dawladdaha ay khuseyso.

2. Dawladaha Xubnaha ah waxay yeelanayaan iskaashi inta ay awoodooda gaarsiisan tahay si ay uga hortagaan fal-dembiyeedyada ku xusan heshiiskan ee lagu galay aaladaha casriga ah.

#### **QODOBKA 49<sup>AAD</sup>**

##### **BAARITAANNADA WADAAGGA AH**

Dawladda xubinta ah waxay eegaysaa gellida heshiisyo iyo af-garadyo labo-geesood ah ama ka badan oo u oggolaanayo laamaha ay khuseyso inay asaasaan hay'ado baaritaan oo wadaag ah, daba-gal iyo garsoor u dhexeeya dawlad iyo wax ka badan. Marka aysan wax heshiis ah ama is-af-garasho oo arrintan ku saabsan waxaa la oggol yahay sameynta baaritaan wadaag ah sida ay tahayba. Dawladaha Xubnaha ah oo ay khuseyso waxay damaanad-qaadayaan ilaalinta iyo ixtiraamka madax-banaanida dawladda xubinta ah ee baaritaannada ka wada dhulkeeda.

#### **QODOBKA 50<sup>AAD</sup>**

##### **HAB-RAACYADA BAARITAANKA GAARKA AH**

1. Si loola dagaallamo musuq-maasuqa si hufan, Dawlad kasta oo Xubin ah, Awoodda oggolaansho ee mabaadi'da asaasiga ah ee sharciyadeeda iyadoo la raacayo shuruudaha uu farayo sharcigeeda, qaado tallaabooyinkan oo kale sida loogu baahan yahay, iyadoo loo adeegsanayo, in loo oggolaado adeegsiga munaasib ah Mas'uuliyiinta karti u leh gaarsiinta la xakameeyey iyo, meeshii ay u aragto inay ku habboon tahay, mid kale farsamooyinka baarista gaarka ah, sida elektiroonigga ama qaabab kale oo ka war-haynta iyo baadhitaan hawleed, gudaha dhulkiisa, iyo in loo oggolaado oggolaanshaha gudaha maxkamadda caddeynta laga soo saaray halkaas.
2. Ujeeddada baarista dembiyada kooban ee Heshiiskani gaaray, Dawladaha Xubnaha ah waxaa lagu dhiirri-gelinayaa inay soo gabagabeeyaan, marka lagama-maarmaanka ay tahay, heshiisyada, dhinacyo badan ama

qabanqaabooyin loo adeegsanayo baaritaanka noocaas ah hab-raacyada macnaha guud ee iskaashiga heerka caalamiga ah. Heshiisyada noocan oo kale ah ama qabanqaabooyinka waa in la soo gabagabeeyaa lana hirgeliyaa si buuxda u-hoggaansanaanta mabda'a sinnaanta madax-bannaanida dawladaha, waa in si adag loogu fuliyaa iyadoo la raacayo shuruudaha heshiisyadaas.

3. Marka aanu jirin heshiiska ku xusan faqradda (2) ee qodobkan, go'aannada loo adeegsado hab-raacyada baarista khaaska ah ee Heerka caalamiga ah waa in lagu saleeyaa kiis-kiis iyadoo ay suurta-gal tahay, markii loo baahdo, tixgeliyaana abaabulka dhaqaale iyo fahamka si qaddarin leh Ku dhaqmidda awoodda Dawladaha Xubnaha ah.
4. Go'aannada loo adeegsado keenista la xakameynayo heerarka caalamiga ah, waxaa oggolaanaya Dawladaha Xubnaha ka ah heshiiska, waxaa kamid ah habab ay kamid yihiin go'aannadaha iyo u oggolaanshaha badeecadda ama lacagaha inay sii socdaan ama laga saaro ama lagu beddelo gabi ahaan.

## **CUTUBKA V SOO-CELINTA HANTIDA MUUQATA**

### **QODOBKA 51<sup>AAD</sup> XUKUN GUUD**

Soo-celinta hantida sida ku xusan cutubkan waa mabda' asaas u ah heshiiska, iyo Dawladaha Xubnaha ah waa inay midba midka kale u awoodi karo iskaashi dhinacan oo kale ah.

### **QODOBKA 52<sup>AAD</sup> KA-HORTAGGA IYO OGAANSHADA WAREEJINTA FAA'IIDOOYINKA FAL- DEMBIYEEDKA**

1. Iyadoon ka marnayn qodobka 14aad ee heshiiskan, Dawlad kasta waxay qaadaysaa talaabooyinka loo baahdo, si waafaqsan shuruucdeeda, hay'adaha maaliyadda u baahan xaddiddaada si loo xaqiijiyo aqoonsiga macaamiisha, inay qaadaan talaabooyin suurta-gal ah, si loo go'aamiyo aqoonsiga milkiilayaasha ka faa'iida Lacagta lagu shubay xisaabaadka qiimahoodu sareeya iyo in la sameeyo kor-jooqteyn kor loogu qaadayo akoonadaas oo la dalbaday laguna matalayo shakhsiyaadka, ku aaminay shaqooyin caan ah oo bulshada ka tirsan iyo xubnaha qoyskooda iyo xiritaan dhow iskaashatada.

Baaritaanka la xoojinayo waa in loo sababeeyaa si suurta-gal ah ee loogu talo-galay in lagu ogaado shaki macaamil ganacsi oo loogu talo-galay in lagu wargaliyo mas'uuliyiinta kartida leh mana aha inay ahaato waxaa loo dhisay sidii looga niyad-jebin lahaa ama looga mabnuuci lahaa hay'adaha maaliyadeed inay ganacsi sameeyaan oo ay la jiraan macaamiil sharci ah.

2. Si loo fududeeyo fulinta qorshaha qoran ee faqradda (1) ee qodobkan, Dawlad kasta, si waafaqsan shuruucdeeda, waxa dhiirri-geliyey dadaallo ku habboon oo ka socda gobolka, dhex-dhexaadin iyo dhinacyo badan ururada ka dhanka ah lacagta la dhaqay.

(a) Bixinta tallaabooyinka ku saabsan noocyada shakhsiyad qaanuuneed, xisaabaadka hay'adaha maaliyadeed ee ku jira xaddidiisa sharciga ayaa la filayaa inay ku dabaqaan kor-u-qaadida kormeerka, noocyada xisaabaadka iyo macaamil ganacsiyeedka si gaar ah loogu bixiyo feejignaan iyo furitaan xisaabeed oo munaasib ah, dayactir iyo diiwaan-gelin tallaabooyin la qaado oo la xiriira xisaabaadkaas; iyo

(b) Gaarsiinta hay'adaha maaliyadda ka tirsan ikhtsaasyeyada garsoorka marka xukunka lagu dhisayo codsi Dawlad xubin ka ah oo kale ama iskiis u gaar ah, ee aqoonsiga khaas ahaan kuwa dabiiciga ah ama kuwa sharciga ah oo akoonnada ay hay'addu yeelan doonto lala xisaabtami doono, waxaa la rajeynayaa in lagu dabaqo baaritaan kor loo qaaday, marka lagu daro kuwa dhaqaalaha haysta Hay'aduhu haddii kale way garan karaan.

3. Sida ku cad faqradda (2)(b) ee qodobkan, Dawlad kasta waxay yeelanaysaa fulin tallaabooyin lagu hubinayo in hay'adda maaliyada ay ilaalin ku filan diiwaan-geliyaan, muddo ku habboon oo waqti ah, akoonnada iyo macaamillada ku lug leh shakhsiyaadka lagu sheegay faqradda (1) ee qodobkan, oo ay ugu yar tahay, waxaa ku jira macluumaad la xiriira aqoonsiga macmiilka, iyo inta suurta-gal ah, milkiilaha waxtarka leh.

4. Ujeeddada laga leeyahay ka-hortagida iyo ogaanshaha wareejinta faa'iidooyinka fal-dembiyada lagu asaasay si waafaqsan hesiiska, Dawlad kasta waxay yeelanaysaa qorsha tallaabooyin ku habboon oo wax-ku-ool ah si looga hortago, iyadoo la kaashanayo hayadaha sharciga ah iyo kormeerka, saameynta maamullo aan lahayn Jiritaankaas oo aan ku lug lahayn ururo maaliyadeed nidaamsan. Waxaa intaa dheer, Qeybaha Dawladaha ayaa laga yaabaa inay tixgeliyaan inay u baahan yihiin hay'adaha maaliyadeed inay diidaan inay galaan in la sii wado ama la sii socodsiiyo xiriir banki oo xiriir la leh.

5. Dawlad kasta waxay tixgelin doontaa asaaska, si waafaqsan sharcdeeda, in la unko nidaam wax-ku-ool ah oo maaliyadeed looguna talo-galay shaqaalaha guud ee rasmiga ah. Dawlad kasta oo xubin ah waxay sidoo kale tixgelinaysaa qaadista tallaabooyinka sida lagama-maarmaanka u ah oggolaanshaha awoodaheeda gaarka ah inay macluumaadkaas la wadaagaan mas'uuliyiinta kartida u leh Qeybaha kale ee Dawladaha Xubnaha ah marka ay lagama-maarmaan tahay in la hubiyo faa'iidooyinka laga helay fal-dembiyeedka, si waafaqsan heshiiskan.
6. Dawlad kasta waxay tixgelinaysaa qaadidda tallaabooyinkaas, iyadoo waafaqsan shuruucdeeda, laguna waajib yeelo shaqaalaha guud Saraakiisha dano ka leh koonto maaliyadeed oo waddan shisheeye ah looga warbixiyo xiriirkaas inuu la leeyahay mas'uuliyiinta ku habboon iyo diiwaannada habboon ee la xiriira xisaabaadkooda.

#### **QODOBKA 53<sup>AAD</sup>**

##### **TALLAABOYINKA DIB-U-SOO-CELINTA TOOSKA AH EE HANTIDA**

Dawlad kasta waa inay waafajisaa shuruucdeeda in ay:

- a. Qaado tallaabooyin lagama-maarmaan u ah inay u oggolaato Dawlad dhinac kale in lagu oogo dacwad madani ah maxkamadda horteeda si loo caddeeyo lahaansho hanti lagu helay fal-dembiyeedka la asaasay iyadoo la raacayo heshiiskan, ama si loo caddeeyo milkiyadahaas;
- b. Qaado tallaabooyin lagama-maarmaan u ah in ay maxkamadda oggolaato si loo amro kuwa galay fal-dembiyadka, si waafaqsan heshiiskan in ay magdhaw bixiso dawladda dhinaca ka ah waxyeelada ka dhalatay fal-dembiyeedkaas;
- c. Qaado qorshaha waajibka ah si ay u oggolaato maxkamaddeeda ama awoodeheeda gaarka ah, marka ay go'aansato qaadashada arrimaha soo baxay, si ay u aqoonsato dalabka dawlad dhinac kale ah ay la wareegto hantida laga helay fal-dembiyeed lagu asaasay si waafaqsan heshiiskan.

#### **QODOBKA 54<sup>AAD</sup>**

##### **HAB-RAACYADA DIB-U-SOO-CELINTA HANTIDA IYADOO LOO MARAYO ISKAASHI CAALAMI AH EE DHINACYADA WADA-SHAQEYNTA LEH**

1. Dawlad kasta, si uu u bixiyo iskaashi sharciyeed wadajirka ah sida ku xusan Qodobka 55<sup>aad</sup> ee heshiiskan oo la xiriira hantida laga helay fal-dembiyeedka uu galy iyadoo la waafajinayo heshiiskan ama la xiriirta hawsha, si waafaqsan shuruucdeeda waa in ay:

(a) Qaado waxa ku waajibinaya qorshaha saamaxaada, si awoodda gaarka ah loo fuliyo ama amarka la-wareegista ee ay soo saartay maxkamad Dawlad dhinac kale ah;

(b) Qaado waxa ku waajibinayo qorshaha saamaxaada, marka ay tahay ikhtisaaska garsooraha, inay amarto la-wareegista hantida asal ahaan shisheeye ah, iyadoo loo xukumayo arrimo fal-dembiyeed lacag dhaqis ah ama dembiyo kale, taa oo ka tirsan ikhtisaaskeeda garsoor ama hab-raacyo kale oo loo oggol yahay shuruucdeeda; iyo

(c) Iyadoo loo eegayo qaadista qorshaha saamaxaadda ka soo baxday la wareegidda hantidaas iyadoo aan dembi lagu xukumin dacwadaha suurto-galka ahayn sabab taasoo la xiriirta geeri, ama ka-carar, ama ka-maqaansho ama xaalad kale oo munaasib ah.

2. Dawlad kasta oo xubin ka ah, si ay u suurawdo horudhac iskaashi sharci taasoo ku dhisan dalab la soo qadimayo iyadoo la dhaqan-gelinayo faqradda (2) ee qodobka (55) ee heshiiskan, si waafaqsan shuruucdeeda, waa in ay:

(a) Qaado waajibnimadka qorshaha saamaxaada awoodeheeda gaarka ah ee xannimaada ama xayiraad hantiyadeed, iyadoo lagu dhisayo amarka xannibaada ama xayiraada ka soo baxda maxkamada ama awoodda gaarka ah ee dawlad xubin ka ah asaaska suurta galka ah ee keenaya codsiga dawlad xubin ka ah oo la aamino iyadoo ay kala kulantay codsi, sababahaas oo dhammays tirayo qaadashada qorshaha qabiilkan in hantidaas ay u quduucdo si qaado ah amarka la-wareegista ah ujeedooyinka faqradda (1)(b) ee qodobkan;

(b) Qaado waajibnimadka qorshaha saamaxaada awoodeheeda gaarka ah ee xannimaada ama xayiraad hantiyadeed, iyadoo lagu dhisayo amarka xannibaada ama xayiraada ka soo baxda maxkamada ama awoodda gaarka ah ee dawlad xubin ka ah asaaska suurta-galka ah ee keenaya codsiga dawlad xubin ka ah oo la aamino iyadoo ay kala kulantay codsi, sababahaas oo dhammays tirayo qaadashada qorshaha qabiilkan in hantidaas ay u quduucdo si qaado ah amarka la-wareegista ah ujeedooyinka faqradda (1)(b) ee qodobkan;

(c) Iyadoo la eegayo qaadashada qorshahan laguna biirinayo saamaxaada si awoodeeda gaarka ah ay oogu ilaaliso hantidaas oo lala wareegayo awgeed, iyadoo lagu dhisayo tusaalahan ama tuhmo fal-dembiyeed la xiriira xayiraada hantidaas.

## **QODOBKA 56<sup>AAD</sup>**

### **WADA-SHAQEYN GAAR AH**

Iyadoo aan loo kala eexaneyn sharciga wadanka, dawlad kasta oo qeyb ka ah heshiiskan waxay ku dadaaleysaa inay qaado tallaabooyin ay ugu

oggolaaneyso inay ku gudbiso, iyadoo aan laga hor-imaanin baaritaankeeda, dacwad-qaadista ama nidaamka garsoorka, macluumaadka ku saabsan ka-hortagga dembiyada lagu asaasay si waafaqsan heshiiskan, dawladaha kale ee qeybta ka ah iyadoo aan horay loo sii sheegin codsi hore, marka ay u aragto siidaynta macluumaadka oo ay ka caawin karto dawladaha gobolka bilaabida ama sameynta baaritaannada, dacwad-qaadista ama habsami-u-socodka garsoorka, ama wax kasta oo ay codsadaan dawladaha gobolka ee lagu xusay cutubyada heshiiskan.

### **QODOBKA 57<sup>AAD</sup>**

#### **SOO-NOQOSHADA IYO TUURISTA HANTIDA**

1. Hantida lagu wareejiyey dawladaha gobolka iyadoo la raacayo Qodobka 31 ama 55 ee heshiiskan, oo ay ku jiraan soo-celinta hantiyeed dawladaha gobolku usoceliyaan milkiilayaashii hore ee sharciga, waa in la siiyaa iyadoo la raacayo faqradda (3) ee Qodobkan, dawladaha gobolka iyadoo la raacayo qodobbada lagu sheegay qodobkan lagu heshiiyey Heshiis iyo sharciga. Dawlad kasta oo qeybta ka ah waxay asaasay sharci-dejin iyo talaabooyin kale ee lagama-maarmaanka u ah, iyadoo la raacayo mabaadi'da asaasiga ah ee sharcigeeda, si awood loogu siiyo mas'uuliyiinta awoodda u leh inay soo celiyaan hantida la la wareegay, iyagoo raacaya codsiyada ay soo gudbiyeen dawladaha kale ee qeybta ka ah, iyadoo la raacayo heshiiskan, lana tixgelinayo xuquuqda dhinac saddexaad si niyad-wanaag leh.
2. Sida ku xusan qodobbada 46aad iyo 55aad ee heshiiskan iyo faqradda (1) iyo (2) ee qodobkan, dawladaha qeybta ka ah waxaa laga codsanayaa: (a) Dhacdada lunsiga hantida dadweynaha ama ku-takri-falidda hantida guud sida ku xusan qodobbada 17aad iyo 23aad ee heshiiskan. Marka la wareejiyo sida ku xusan qodobka 55aad iyo ku saleysan xukunka kama dambaysta ah ee laga codsaday dawladaha gobolka, waxaa lagama-maarmaan ah in laga codsado dawladaha qeybta ka ah, iyaga oo ku celinaya hantida la wareejiyey ay codsaden dawladaha kale ee xafladda; (b) Marka laga hadlayo wixii ka soo baxa fal-dembiyeed kasta oo lagu xusay heshiiskan, wareejinta fulinta si waafaqsan qodobka 55aad ee heshiiskan iyadoo ku saleysan xukunka kama dambaysta ah ee looga codsanayo dawladaha Gobolka, shuruudaha looga tanaasuli karo dawladaha Gobolka codsiyadooda, soo-celinta hantida lala wareegay ee dawladaha Gobolka. Dhinacyada codsanaya, markay codsanayaan dawladaha qeybta ka ah inay si macquul ah u muujiyaan lahaanshiyaha hantida la la wareegayo ee dawladuhu codsadeen, iyo goorta la codsaday ama la aqoonsaday waxyeelada ka imaanaysa codsiga dawladaha oo ah asaaska soo-celinta hantida la wareejiyey; (c) si wadajir ah.

3. Xaaladaha kale, kala hormarinta ku soo-celinta hantida la gu wareejiyey codsigii dawladda, soo-celinta hantidaas milkiilayaashii hore ee sharciga lagu susay ama mag-dhaw dhibanayaasha dembiga laga galay.

4. Dawladaha qeybta ka ah heshiiskan ee laga codsaday waxay awood u leeyihiin, markasta oo loo baahdo, haddii aysan labada dawladdood go'aan kale ka gaarin, in laga jaro kharashaadka macquulka ah ee la xiriira baaritaanka, tijaabooyinka, ama nidaamka garsoorka ee keenaya soo-celinta ama tuurista hantida la wareejiyey sida ku xusan qodobka 5aad, Dawladaha Xubnaha ah waa inay sida ku habboon u tixgeliyaan gaar ahaan xilliga heshiisyada ama qabanqaabada la aqbali karo ee labada dhinac, iyadoo loo eegayo xaalad-xaalad, ugu dambayntii ku-wareejinta hantida la wareejiyey.

### **QODOBKA 58<sup>AAD</sup>**

#### **QEYBTA SIR-DOONKA DHAQAALAHA**

Dhinacyada dawladdaha qeybta ka ah heshiiskan waa inay iska kaashadaan midba midka kale ujeedooyinka ka-hortagga iyo la dagaalanka wareejinta lacagaha ka soo baxay dembiyada cayiman sida ku xusan heshiiskan iyo in la dhiiri geliyo dariiqyada iyo qaababka dib loogu soo celinayo hawlahaan, ilaa iyo dhammaadka, waxay tixgelinaysaa saameynta waax sir-doon maaliyadeed oo loo idmaday. Waxayna mas'uul ka tahay helitaanka, falanqaynta iyo daabacaadda warbixinnada macaamil ganacsi oo laga shakiyey ee mas'uuliyiinta awoodda u leh.

### **QODOBKA 59<sup>AAD</sup>**

#### **HESHIISYO LABO-GEESOOD AH IYO HESHIISYO DHINACYO BADAN LEH**

Dhinacyadu waa inay tixgeliyaan heshiis labo-geesood ah iyo heshiisyo dhinacyo badan leh iyo in la diyaariyo laguna xoojinayo wax-ku-oolnimada iskaashiga caalamiga ah ee la qabta ka ah iyadoo la raacayo cutubka heshiiskan.

### **CUTUBKA VI**

#### **CAAWIMAAD HEER SARE AH IYO IS-WEYDAARSI MACLUUMAAD**

### **QODOBKA 60<sup>AAD</sup>**

#### **TABABAR IYO TAAGEERO FARSAMO**

1. Dawlad kasta oo qeyb ka ah heshiiskan waxay u istaageysaa sida ugu macquulsan bilaabida hormarinta ama hagaajinta barnaamijyo tababaro gaar ah oo loogu talo-galay shaqaalaheeda ka mas'uulka ah ka-hortagga iyo la-dagaallanka musuq-maasuqa. Barnaamijyada tababbarka ayaa laga yaabaa inay wax ka qabtaan, iskana kaashadaan, qeybaha soo socda:



- a) Tallaabooyin wax-ku-ool ah oo looga hortagayo, laguna ogaanayo, baarista, ciqaabanaha iyo la-dagaallanka musuq-maasuqa, oo ay ku jiraan adeegsiga cadaymaha-ururinta iyo hababka baaritaanka;
  - b) Awood-dhisidda dejinta iyo qorsheyn siyaasad istiraatiijiyadeed oo lagula dagaallamayo musuq-maasuqa;
  - c) Tababbarashada mas'uuliyiinta awoodda u leh diyaarinta codsiyada kaamo sharci ee labada dhinac ah kaasoo fulinaya shuruudaha heshiiskan;
  - d) qiimeynta iyo xoojinta hay'adaha, maareynta hawlaha guud, iyo maareynta lacagaha dadweynaha, oo ay ku jiraan soo iibsi dawladeed, iyo waaxda gaarka loo leeyahay;
  - e) Ka-hortagga iyo la-dagaallanka soo-celinta lacagaha, fal-dembiyeedyada la cayimay si waafaqsan heshiiskan iyo dib u soo-celinta lacagahaas;
  - f) Ogaanshaha iyo ku keydinta wareejinta lacagaha dembiyada la cayimay oo loo asaasay si waafaqsan heshiiskan;
  - g) La-socoshada dhaqdhaqaaqa lacagaha dembiga lagu qeexay heshiiskan iyo qaababka loo adeegsado wareejinta, qarinta ama qarsashada hawlaha;
  - h) Qaabab sharci oo hufan iyo hab maamul si loogu fududeeyo soo-celinta natiijooyinka dembi ee lagu aqoonsaday si waafaqsan heshiiskan;
  - i) Qaababka loo ilaaliyo dhibbaneyaasha iyo markhaati-foreyaasha la shaqeeya hay'adaha garsoorka; iyo
  - j) Tababbarka xeerarka qaranka iyo kuwa caalamiga ah, luqadaha.
2. Dawlad kasta oo qeybka ah waa inay tixgelisaa, sida ay awood uguleeyihiin, midba midakale uguna deeqdo heerka ugu sareeya ee xagga farsamo ku caawinta, gaar ahaan ka faaiidaysiga wadamada soo koraya, qorshayaasha iyo barnaamijyada lagula dagaallamayo musuq-maasuqa, waxaa kale oo kamid ah taageero dhaqaale iyo tababar si waafaqsan faqradda (1) ee qodobkan, iyo isweydaarsiga labada dhinac khibradaha iyo aqoon isweydaarsi gaar ah, taas oo fududeyneysa iskaashiga caalamiga ah ee ka dhexeeya dhinacyada gobolka ee is-dhaafsada kaalmada sharci ee labada dhinac ah.
  3. Dawladaha qeybta ka ah heshiiskan waxaa lagama-maarmaan ah sare-uqaadidda dadaallada lagu kordhinayo hawlaha hawl-galka iyo tababarada inta ugu badan ee macquulka ah ee hay'adaha caalamiga ah iyo kuwa gobolka, qaab dhismeedka heshiisyada iskaashi ee labada dhinac iyo abaabullada.
  4. Dawladaha qeybta ka ah waa inay tixgeliyaan caawinta dhexdooda, marka la codsado, iyagoo fulinaya qiimeynta, daraasadaha iyo cilmi-baaris la xiriirta noocyadooda, sababaha iyo saameyntooda.

5. Kharashaadka musuq-maasuqa ee dalalkooda, iyadoo ujeedadu tahay in la horumariyo istiraatiijiyadaha la-dagaallanka musuq-maasuqa iyo qorshayaasha waxqabadka iyadoo ay ka qeyb-gelayaan mas'uuliyiin karti u leh iyo bulshada.
6. Si loo fududeeyo soo kabashada natiijooyinka dembiyada lagu asaasay si waafaqsan heshiiskan, Gobollada waxay iska kaashan karaan bixinta midba midka kale magacyada khabiiro gacan ka geysan kara gaarista ujeeddadaas.
7. Dawladaha qeybta ka ah heshiiskan waa inay tixgeliyaan adeegsiga shirar-hoosaadyo, iyadoo lala soconayo inay dhaqaale ku biiriso dadaalada wadamada soo koraya iyo wadamada xaaladaha kala-guurka ah ku jira si loogu dabaqo heshiiskan barnaamijyada caawinta iyo farsamooyinka.
8. Dawlad kasta oo xubin ah waxay taabo-gelinaysaa xafiiska Qaramada Midoobay ee la-dagaallanka Maan-dooriyaha iyo Dembiyada ujeedkoodu yahay kobcinta, iyadoo loo marayo Xafiiska, barnaamijyada iyo mashaariicda ka socota waddamada soo koraya iyadoo ujeeddadu tahay hirgelinta heshiiskan.

#### **QODOBKA 61<sup>AAD</sup>**

#### **URURINTA IS-DHAAFSIGA IYO FALANQAYNTA MACLUUMAADKA LA XIRIIRA MUSUQ-MAASUQA**

1. Dawlad kasta oo qeyb ka ah heshiiskan waa inay tixgelisaa falanqaynta, iyadoo lagala tashanayo khubaro ku xeel-dheer isbeddelada musuq-maasuqa ee ka jira dhulkeeda, sidaa soo kale waxaa la mid ah duruufaha ay sababeen dembiyada musuq-maasuqa.
2. Dhinacyada Dawladaha Qeybta ka ah heshiiskan waa inay tixgeliyaan saameynta tirakoobka iyo wadaagida qeybaheeda kale iyadoo ay tiro koobayaan ururo caalami ah iyo kuwa gobolka, is-dhaafsigu khibradaha falanqeynta la xiriira musuq-maasuqa iyo macluumaadkiisa, in wax waliba la wadaago iyadoo la sameynayo qeexitaan wadajir ah sida ugu macquulsan, sidoo kale macluumaad ku saabsan dhaqamada wanaagsan ee looga hortago musuq-maasuqa.
3. Dawladaha qeybta ka ah heshiiskan waa inay tixgeliyaan la-socodka siyaasadiisa iyo tallaabooyinka lagula dagaallamayo musuq-maasuqa iyo saameynta qiimeynta waxtar iyo hufnaan.

## QODOBKA 62<sup>AAD</sup>

### TALLAABOYIN KALE: HIRGELINTA HESHIISKA IYADOO LOO MARAYO HORUMARINTA DHAQAALAHA IYO KAALMADA FARSAMADA

1. Dawladaha qeybta ka ah heshiiskan waa in ay qaadaan talaabooyin ku habboon dhaqan-gelinta heshiiskan, sida ugu macquulsan, iyadoo loo marayo iskaashi heer caalami ah, si loo maareeyo saameynta xun ee musuq-maasuqa ku yeeshay bulshada guud ahaan, iyo gaar ahaanba horumarka joogtada ah.
2. Dawladaha qeybta ka ah heshiiskan waa in ay qaadaan dadaalo wax-ku-ool ah, sida ugu macquulsan una wada shaqeyn karaan midba mida kale, sidoo kale ururada caalamiga iyo kuwa gobolka:
  - (a) In la xoojiyo iskaashiga heerarkiisa kala duwan ee wadamada soo koraya, iyadoo la eegayo xoojinta awoodaha dambe ee ka-hortagga la-dagaallanka musuq-maasuqa;
  - (b) Si kor loogu qaado kaalmo maaliyadeedka iyo agabyada lagu taageerayo dadaallada wadamada soo koraya, si loola dagaallamo musuq-maasuqa iyo caawin wax-ku-ool ah, si loo meel-mariyo heshiiskan;
  - (c) Waxay taageero farsamo siineysaa wadamada soo koraya iyo kuwa kujira xilliga kala-guurka, si looga caawiyo baahiyahooda hirgelinta Heshiiskan. Si taas loo gaaro, dhinacyada Dawladaha xubnaha ah waxay ku dadaalayaan in ay ku taageeraan dhaqaale ku filan oo joogto ah, sidoo kale waxaa lagu bixinayaa qaab-xisaabeed si gaar ah loogu cayimay habka maal-gelinta Qaramada Midoobay. Dawladaha Gobolka sidoo kale waxay bixinayaan caawimaad hab-raac gaara leh, iyadoo adeegsanaysa sharciyadeeda iyo qodobbada heshiiskan, in gacan laga geeysto qoondada lacagta ama lacag la mid ah oo ka soo baxda macaashka dembiga ama hantida la wareejiyey si waafaqsan qodobbada heshiiskan; iyo
  - (d) In la dhiirri-geliyo lagana dhaadhiciyo Dawladaha kale iyo hay'adaha maaliyadeed sida ugu habboon, dadaallada lagu sameeyey si waafaqsan Qodobkan, gaar ahaan iyadoo la siinayo barnaamijyo badan oo ay kamid yihiin tababar iyo qalab casri ah, wadamada soo koraya si looga caawiyo inay gaaraan ujeedooyinka heshiiskan.
3. Tallaabooyinkan ma aha inay kala soocaan, intii suurta-gal ah, waajibaadka kaalmada shisheeye ama abaabullada kale ee iskaashiga maaliyadeed ee labo-geesoodka ah, heer gobol ama caalami.
4. Dawladaha qeybta ka ah waxey soo gabagabeynayaan heshiisyo labo-geesood ah ama heshiisyo dhinacyo badan leh ama qabanqaabo ku saabsan agabka iyo kaalmada saadka, iyadoo la tixgelinayo hab maaliyadeedka lagama-

maarmaanka u laha habka iskaashiga caalamiga ah ee lagu fulinayo heshiiskan si uu u noqdo mid waxtar u leh ka-hortaga iyo xakameynta musuq-maasuqa.

## **CUTUBKA VII QAABABKA HIRGELINTA**

### **QODOBKA 63<sup>AAD</sup>**

#### **SHIRKA WADA-TASHIGA DAWLADAH QEYBTA KA AH HESHIISKAN**

1. Shirweynayaasha Dawladaha Qeybta ka ah Shirka ayaa lagu wadaa in lagu asaasay halkan si kor loogu qaado awoodda Dawladaha, iyo iskaashi kasta si loo gaaro himmilooyinka ku xusan iyo iskaashiga ka dhexeeya dhinacyada Dawladaha si loo gaaro ujeedooyinka ku xusan heshiiskan, iyo in la dardar-geliyo hirgelintooda iyo dib-u-eegistooda.
2. Waxaa lagu casuumayaa Xoghayaha Guud ee Qaramada Midoobay Shirweynayaasha Dawladaha inuu qabto ugu dambeyn hal sano kaddib dhaqan-gelida heshiiskan. Intaa kaddib, Shirka Wadatashiga Gobollada waa la qabanayaa iyadoo la raacayo qawaaniinta iyo hab-raacyada Shirku ansaxiyey.
3. Shirweynaha dawlada qeybta ka ah heshiiskan wuxuu asaasayaa qawaaniin iyo hab-raacyo xukumaya falalka ku xusan Qodobkan, ay kamid yihiinxeerka la xiriira aqbalida, ka-qeyb-galeyaasha, kormeerayaasha iyo bixinta kharashaadka ku baxaya fulinta hawlaha.
4. Shirka dawlada qeybta ka ah heshiiskan waa inay ka heshiiyaan hawlaha, hab-raacyada iyo qaababka shaqada si loo gaaro ujeedooyinka ku xusan faqradda(1) ee qodobkan, sida soo socota:
  - (a) Fududeynta hawlaha dawlada qeybta ka ah ee hoos yimaada qodobbada 60 iyo 62 iyo cutubyada II to V ee heshiiskan, oo ay ku jiraan dhiirri-gelinta abaabulka iyo deeq-bixiyeyaasha;
  - (b) Fududeynta isweydaarsiga macluumaadka u dhexeeya labada dhinac ee ku saabsan qaababka iyo isbeddelada musuq-maasuqa, dhaqangalinta ku guuleysiga ka-hortagga iyo la-dagaallanka iyo soo-celinta natiijooyinka fal-dembiyeedyada, iyadoo loo marayo, faafinta macluumaadka la xiriira sida ku xusan qodobkan.
  - (c) Wada-shaqeynta ururada caalamiga ah iyo kuwa gobolka sida ugu habboon iyo farsamooyinka, iyo ururada aan-dawliga ahayn;

- (d) Adeegsiga ku habboon macluumaadka la xiriira saareenta habka caalamiga ah iyo midka gobolada kale soo-jeedinlanka ka-hortaga musuq-maasuqa si looga fogaado in shaqada aan la beddelin;
  - (e) Dib-u-eegis xilliga ku-meel-gaarka ah oo lagu dhaqan-gelinayo heshiiska ay gaareen gobollada heshiisku ka dhexeeyo;
  - (f) Soo-jeedinta talooyinka si loo hagaajiyo heshiiska iyo dhaqan-gelintiisa; iyo
  - (g) Iyadoo la tixgelinayo baahiyaha kaalmada farsamo Dawladaha Qeybta ka ah heshiiskan ee la xiriira dhaqan-gelinta Heshiiskan iyo soo-jeedinta ficil kasta oo loo arko inuu lagama-maarmaan u yahay arrinkan.
5. Ujeedooyinka faqradda (4) ee qodobkan, shirka dawladaha qeybta ka ah waxay helayaan aqoonta lagama-maarmaanka u ah tallaabooyinka ay qaadayan dawladaha gobolku si loo meel-mariyo heshiiskan, sidoo kale dhibaatooyinka ay kala kulman marka ay soo bandhigayaan macluumaadka iyo hababka dib-u-eegista dhammeystirka ee Shirweynaha dawladaha qeybta ka ah ee lagu dhisayo.
6. Dawlad kasta oo qeybka ah heshiiskan waxay bixineysaa warbixin ku saabsan barnaamijyadeeda, qorshayaasheeda iyo dhaqan-gelintooda, sidoo kale tallaabooyinka sharci-dejinta iyo maamulka si loo meel-mariyo heshiiskan, sida uu farayo xeer hoosaadyada dawladaha gobolka, heshiiska Dawladaha qeybta ka ah waa in ay eegaan habka ugu wax-ku-oolsan ee loo helayo macluumaadka, ay kamid yihiin, macluumaadka laga helo qeybaha Dawladaha iyo ururrada caalamiga ah ee kartida u leh. Waxyaabaha ka soo baxa ururrada aan-dawliga ahayn oo ay quseyso arrimahaan sharciga ahaan looguna aqoonsaday sifo sharci ah iyadoo loo marayo hab-raacyada ay go'aaminayaan hashiisyada dawladaha qeybta ka ah.
7. Iyadoo la raacayo faqrooyinka 4 ilaa 6 ee qodobkan, Shirarka Dawladaha qeybta ka ah heshiiskan, way dhisayaan haddii ay isla qaataan inay lagama-maarmaan tahay, asaaska hannaan kasta oo macquul ah ama hay'ad kasta oo gacan ka geysaneysa hirgelinta iyo fulinta heshiiskan.

### **QODOBKA 64<sup>AAD</sup> XOGHEYNTA**

1. Wuxuu maamulayaa Xoghayaha Guud ee Qaramada Midoobay u diyaarinta Adeegyada Xogheynta lagama-maarmaanka u ah ee Shirka Dawladaha Xubnaha ah Heshiiskan.

2. Xoghayuhu wuxuu qabanayaa Arrimaha soo socda:
- a. Kaalmada Dawladaha ka qeyb-gelaya Shirka iyadoo lafiirinayo wax-qabadka uu tilmaamayo Qodobka 63aad ee Heshiiskan iyo qaadashada kala hormarinta fulinta fadhiyada Shirka Dawladaha ka qeyb-gelaya, iyo u diyaarinta Adeegyada lagama-maarmaanka ah;
  - b. Kaalmada Dawladaha ka qeyb-gelaya marka ay ka codsadaan Warbixinta ay u soo gudbiyaan Dawladaha Shirka ka qeyb-gelaya sida ku cad Faqradda 5aad iyo 6aad ee Heshiiskan; iyo
  - c. Xaqiijinta isku xirka lagama-maarmaanka ah iyadoo xoghaya Dawliga ah iyo kuwa heer-gobol ah oo ay xiriir leeyihiin.

## **CUTUBKA 8AAD QODOBBO GEBENGABO AH**

### **QODOBKA 65<sup>AAD</sup> FULINTA HESHIISKA**

1. Dawlad walba oo ka qeyb-gashay Shirka waxay yeelanaysaa iyadoo la waafajinayo Mabaadi'da asaasiga u ah Qaanuunkeeda gudaha ah iyo wixii lagama-maarmaan u ah Hab-raacyada ku habboon taas oo kamid tahay tallaabooyin sharci ah iyo mid maamul sidii loo heli lahaa kalsoonida fulinta waxa ka dhalanaya heshiiskaas.
2. Waxaa u bannaan Dawlad walba oo ka qeyb-gashay shirka in ay cuskato hab-raacyada cadcad ama aad loo adkeeyey oo ah hab-raacyada lagu caddeeyey heshiiskaas si loo joojiyo Musuq-maasuqa loolana dagaallamo.

### **QODOBKA 66<sup>AAD</sup> BAABI'INTA DOODAHA AMA IS-QABQABSIGA**

1. Dawladaha Shirka ka qeybgalay waxey u Suxul-duubayaan joojinta Doodaha la xiriira Caddeynta ama dhaqan-gelinta heshiiskan hab wada-hadal ah.
2. Wuxuu soo bandhigayaa dood walba oo ka billaabato labo Dawladdood ama wax ka badan oo kamid ah dawladaha heshiiska qeybta ka ah xaaladda fasiraadda heshiiska ama dhaqan-gelintiisa, waxaana la adkeynayaa ku dhammeynta muranka hab wada-hadal muddo kooban gudaheed oo meel-mar ah ah. Sidaas darteed, waxaa lama-huraan ah in loo xukuntamo Maxkamadaha iyadoo lagu dhisayo Arrinkaas codsi ay soo gudbiso Dawlad kamid ah Dawladahii ku heshiiyey Shirkaas, haddeysan u suurta-gelin Dawladaha ka qeyb-galay Shirka 6 bilood kaddib taariikhdiis codsiga Xukunka ee ay soo gudbisey Dawlad kamid ah kuwa heshiiska wada galay. Heshiiska waxaa

kamid ah in la nidaamiyo Xukunka, waxaana u bannaan Dawlad walba oo Dawladahan kamid ah inay u wareejiso Dawladaha Maxkamadaha Caddaaladda Adduunka iyadoo loo marayo Codsi loo soo gudbinayo iyadoo waafaqsan nidaamka Asaasiga ah ee Maxkamadda.

3. Dawlad walba oo kamid ah Dawladaha wada saxiixay Heshiiska waxaa u bannaan inay Caddeeyso waqtiga Saxiixa Heshiiska ama Oggolaansho ama aqbalaad, ama sugidda Go'aankeeda, ama ku-biiridda ayada nafteeda, u arkimeyso mid ku qasban faqradda 2<sup>aad</sup> ee Qodobkan mana ahaaneyso Dawladaha kale oo ka ka-qeyb-galay shirka. Marka loo fiiriyo dhanka Dawlad walba oo ka qeyb-gashay oo muujisay hab digtoonaa ah.
4. Dawlad walba oo kamid ah Dawladaha wada saxiixay Heshiiska waxaa u bannaan inay muujiso Digtoonaa markii loo fiitriyo faqradda 3<sup>aad</sup> ee Qodobkan inay ka baxdo iska ilaalintaas. Waqti walba oo ay dareento inuu ku soo aaddan yahay Xoghayaha Guud ee Qaramada Midoobay.

#### **QODOBKA 67<sup>AAD</sup>**

##### **SAXIIXA, ANSIXINTA, OGGOLAANSHAHA, AQBALID IYO KU-BIIRID**

1. Waxaa loo furayaa albaabka saxiixa Heshiiskaas dhammaan Dawladaha 9<sup>ka</sup> ilaa 11<sup>ka</sup> Diseembar 2003 Madrid, Mexico kaddibna xarunta Qaramada Midoobay ee New York ilaa 9<sup>ka</sup> Diseembar 2005.
2. Waxaa loo furayaa albaabka saxiixa heshiiska, sidaas oo kale dhammaan hay'adaha dhammeystirka dhaqaalaha ee heer gobol taas oo loo shardinayo in ay ahaato in dawladba ugu yeraan qof uu u saxiixo si waafaqsan faqradda kowaad ee Qodobkan.
3. Shirweynahan wuxuu ku xiran yahay ansixinta, aqbalida ama oggolaanshaha. Qalabka ansixinta, aqbalaadda ama oggolaanshaha waxaa lagu keydin doonaa Xoghayaha Guud ee Qaramada Midoobay. Urur is-dhex-galka dhaqaale ee gobolka ayaa dhigi kara qalabkiisa ansixinta, aqbalida ama oggolaanshaha haddii ugu yaraan mid kamid ah Dawladaha Xubnaha ah uu sidaas oo kale sameeyey. Hab-raaca ansixinta, aqbalaadda ama oggolaanshaha, hay'addan oo kale waxay ku dhawaaqi doontaa inta ay la'eg tahay kartideeda marka la eego arrimaha uu xukumayo heshiiskan. Ururkan oo kale wuxuu sidoo kale ogeysiinayaa dhigaalka wixii is-beddel ah ee la xiriira wax-ka-beddelka heerka ay gaarsiisan tahay kartidiisu.

4. Shirweynahani wuxuu u furan yahay gelitaanka gobol kasta ama urur kasta oo is-dhex-galka dhaqaale ee ugu yaraan hal xubin ka ah Shirweynahan. Agabyada kaabayaasha waxaa lagu keydin karaa Xoghayaha Guud ee Qaramada Midoobay. Waqtiga loo qoondeeyey, hay'adaha is-dhex-galka dhaqaalaha ee gobolka ayaa sheegi doonta heerka awoodda ay u leedahay arrimaha khuseeya heshiiskan. Hay'adda noocan oo kale ah waa inay sidoo kale ogeysiisaa dhigista wixii isbeddel ah ee la xiriira wax-ka-beddelka heerka uu gaarsiisan yahay kartideedu.

**QODOBKA 68<sup>AAD</sup>**  
**BILOWGA FULINTA**

1. Axdigan wuxuu dhaqan-gelayaa maalinta sagaalaad taariikhda ka dambeysa taariikhda la xareeyey qeybta saddexaad ee ansaxinta, aqbalaada, oggolaanshaha ama ka-qeyb-galka. Ujeeddada cutubkan, qalab kasta oo ay soo gudbiso hay'ad isku-dhaf ah dhaqaalaha looma tirin doono inay dheeraad u yihiin kuwa ay ku shubeen dalalka xubnaha ka ah ururkaas.
2. Gobol kasta ama urur kasta oo is-dhex-galka dhaqaalaha ansixiyo, aqbalo ama aqbalo Shirweynahan kaddib markii la soo diro hab-raacii soddonka ah, Shirweynahaan wuxuu dhaqan gelayaa maalinta soddonaad kaddib taariikhda ay soo saareen Gobolka ama ururka aaladda ay khusayso ama taariikhda uu heshiiskani dhaqan-gelayo iyadoo la raacayo sadarka 1<sup>aad</sup> ee maqaalkan.

**QODOBKA 69<sup>AAD</sup>**  
**WAX-KA-BEDELKA**

1. Markay dhammaato shan sano laga bilaabo dhaqan-gelinta heshiiskan, Dhinac Gobol wuxuu soo jeedin karaa wax-ka-bedel wuxuuna u gudbiyaa Xoghayaha Guud ee Qaramada Midoobay, kaas oo markaa ku soo gudbin doona wax-ka-beddelka la soo jeediyey Dhinacyada Gobollada iyo Shirka Dawladaha Qeybaha ka ah Shirweynaha ujeeddadiisu tahay tixgelinta iyo go'aaminta soo-jeedinta.
2. Shirka Dhinacyada Gobollada waxay sameyn doonaan dadaal kasta si ay u gaaraan is-waafajin is-badel kasta. Haddii dhammaan dadaalladii lagu heshiiyey ay dhammaadeen oo aan heshiis la gaarin, wax-ka-beddelka ayaa, ugu dambayn doona, u baahan ansaxinta saddex-meelood labo cod-bixinta Gobollada goob-joogga ah iyo ka-codeynta kulanka Shirka Gobollada ee Dhinacyada.



3. Ururrada isku-dhafka dhaqaalaha ee gobolka, arrimaha ku saabsan kartidooda, waxay ku dhaqmayaan xaqa ay u leeyihiin inay ku doortaan qodobkan iyadoo leh tiro codad ah oo la mid ah tirada Dawladaha Xubnaha ah ee kamid ah Axdigan. Hay'adahan oo kale ma isticmaali doonaan xuquuqdooda ay wax ku dooran karaan haddii Dawladaha Xubnaha ah ay isticmaalaan iyo wixii ku soo kordha.
4. Wax-ka-bedelidda la qaatay sida ku xusan faqradda 1aad ee qodobkan waxaa ku xusan ansixinta, aqbalaada ama oggolaanshaha qeybaha Dawladaha.
5. Wax-ka-bedelka lagu dhaqmayo sida ku xusan faqradda 1aad ee qodobkan wuxuu dhaqan-gelayaa marka laga hadlayo dhinac Gobol sagaashan maalmood kaddib taariikhda la dhigayo Xoghayaha Guud ee Qaramada Midoobay aalad ansaxinta, aqbalaadda ama oggolaanshaha wax-ka-bedelka noocan oo kale ah.
6. Markii wax-ka-beddelku dhaqan-galo, waxay ku qasbanaan doonaan Dhinacyada Gobollada muujiyey oggolaanshahooda in lagu xiro. Qeybaha kale ee Dawladaha waxaa weli ku waajibin doona qodobbada Heshiiskan iyo wixii is-bedel ah ee horay ay u ansixiyeen, aqbaleen ama oggolaadeen.

**QODOBKA 70<sup>AAD</sup>  
KA-NOQOSHO**

1. Dawladda Xubinta ah ayaa ka noqon kara heshiiskan isagoo ogeysiis qoraal ah u gudbinaya Xoghayaha Guud ee Qaramada Midoobay. Ka-noqoshada noocan oo kale ah waxay dhaqan-geleysaa hal sano kaddib taariikhda la helo ogeysiiska Xoghayaha Guud.
2. Urur is-dhex-galka dhaqaale ee gobolka waa in uu joojiyaa in uu Noqdo mid dhinac ka ah Shirkan markii Dawladaha Xubnaha ah oo dhami ay ka noqdaan.

**QODOBKA 71<sup>AAD</sup>  
KEYDKA IYO LUQADAHA**

1. Xoghayaha Guud ee Qaramada Midoobay waxaa loogu talo-galay in uu keydiyo heshiiskan.
2. Asalka axdigan, kaas oo Carabi, Shiinays, Ingiriis, Faransiis, Ruush iyo Isbaanish qoraaladoodu isku mid yihiin, waa in lagu meeleeeyaa Xoghayaha Guud ee Qaramada Midoobay.  
SI MARKHAATI LEH, mas'uuliyiinta hoos ku saxiixan, iyagoo awood ka haysta Dawladaha ay wakiilada ka yihiin, waxay saxiixeen heshiiskan.



# UNITED NATIONS CONVENTION AGAINST CORRUPTION





UNITED NATIONS OFFICE ON DRUGS AND CRIME  
Vienna

UNITED NATIONS CONVENTION  
AGAINST CORRUPTION



UNITED NATIONS  
New York, 2004



## Foreword

Corruption is an insidious plague that has a wide range of corrosive effects on societies. It undermines democracy and the rule of law, leads to violations of human rights, distorts markets, erodes the quality of life and allows organized crime, terrorism and other threats to human security to flourish.

This evil phenomenon is found in all countries—big and small, rich and poor—but it is in the developing world that its effects are most destructive. Corruption hurts the poor disproportionately by diverting funds intended for development, undermining a Government's ability to provide basic services, feeding inequality and injustice and discouraging foreign aid and investment. Corruption is a key element in economic underperformance and a major obstacle to poverty alleviation and development.

I am therefore very happy that we now have a new instrument to address this scourge at the global level. The adoption of the United Nations Convention against Corruption will send a clear message that the international community is determined to prevent and control corruption. It will warn the corrupt that betrayal of the public trust will no longer be tolerated. And it will reaffirm the importance of core values such as honesty, respect for the rule of law, accountability and transparency in promoting development and making the world a better place for all.

The new Convention is a remarkable achievement, and it complements another landmark instrument, the United Nations Convention against Transnational Organized Crime, which entered into force just a month ago. It is balanced, strong and pragmatic, and it offers a new framework for effective action and international cooperation.

The Convention introduces a comprehensive set of standards, measures and rules that all countries can apply in order to strengthen their legal and regulatory regimes to fight corruption. It calls for preventive measures and the criminalization of the most prevalent forms of corruption in both public and private sectors. And it makes a major breakthrough by requiring Member States to return assets obtained through corruption to the country from which they were stolen.

These provisions—the first of their kind—introduce a new fundamental principle, as well as a framework for stronger cooperation between States to prevent and detect corruption and to return the proceeds. Corrupt officials will in future find fewer ways to hide their illicit gains. This is a particularly important issue for many developing countries where corrupt high officials have

plundered the national wealth and where new Governments badly need resources to reconstruct and rehabilitate their societies.

For the United Nations, the Convention is the culmination of work that started many years ago, when the word corruption was hardly ever uttered in official circles. It took systematic efforts, first at the technical, and then gradually at the political, level to put the fight against corruption on the global agenda. Both the Monterrey International Conference on Financing for Development and the Johannesburg World Summit on Sustainable Development offered opportunities for Governments to express their determination to attack corruption and to make many more people aware of the devastating effect that corruption has on development.

The Convention is also the result of long and difficult negotiations. Many complex issues and many concerns from different quarters had to be addressed. It was a formidable challenge to produce, in less than two years, an instrument that reflects all those concerns. All countries had to show flexibility and make concessions. But we can be proud of the result.

Allow me to congratulate the members of the bureau of the Ad Hoc Committee for the Negotiation of a Convention against Corruption on their hard work and leadership, and to pay a special tribute to the Committee's late Chairman, Ambassador Héctor Charry Samper of Colombia, for his wise guidance and his dedication. I am sure all here share my sorrow that he is not with us to celebrate this great success.

The adoption of the new Convention will be a remarkable achievement. But let us be clear: it is only a beginning. We must build on the momentum achieved to ensure that the Convention enters into force as soon as possible. I urge all Member States to attend the Signing Conference in Merida, Mexico, in December, and to ratify the Convention at the earliest possible date.

If fully enforced, this new instrument can make a real difference to the quality of life of millions of people around the world. And by removing one of the biggest obstacles to development it can help us achieve the Millennium Development Goals. Be assured that the United Nations Secretariat, and in particular the United Nations Office on Drugs and Crime, will do whatever it can to support the efforts of States to eliminate the scourge of corruption from the face of the Earth. It is a big challenge, but I think that, together, we can make a difference.

*Kofi A. Annan*  
*Secretary-General*

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**General Assembly resolution 58/4  
of 31 October 2003**

**United Nations Convention  
against Corruption**

*The General Assembly,*

*Recalling* its resolution 55/61 of 4 December 2000, in which it established an ad hoc committee for the negotiation of an effective international legal instrument against corruption and requested the Secretary-General to convene an intergovernmental open-ended expert group to examine and prepare draft terms of reference for the negotiation of such an instrument, and its resolution 55/188 of 20 December 2000, in which it invited the intergovernmental open-ended expert group to be convened pursuant to resolution 55/61 to examine the question of illegally transferred funds and the return of such funds to the countries of origin,

*Recalling also* its resolutions 56/186 of 21 December 2001 and 57/244 of 20 December 2002 on preventing and combating corrupt practices and transfer of funds of illicit origin and returning such funds to the countries of origin,

*Recalling further* its resolution 56/260 of 31 January 2002, in which it requested the Ad Hoc Committee for the Negotiation of a Convention against Corruption to complete its work by the end of 2003,

*Recalling* its resolution 57/169 of 18 December 2002, in which it accepted with appreciation the offer made by the Government of Mexico to host a high-level political conference for the purpose of signing the convention and requested the Secretary-General to schedule the conference for a period of three days before the end of 2003,

*Recalling also* Economic and Social Council resolution 2001/13 of 24 July 2001, entitled "Strengthening international cooperation in preventing and combating the transfer of funds of illicit origin, derived from acts of corruption, including the laundering of funds, and in returning such funds",

*Expressing its appreciation* to the Government of Argentina for hosting the informal preparatory meeting of the Ad Hoc Committee for the Negotiation of a Convention against Corruption in Buenos Aires from 4 to 7 December 2001,

*Recalling* the Monterrey Consensus, adopted by the International Conference on Financing for Development, held in Monterrey, Mexico, from 18 to 22 March 2002,<sup>1</sup> in which it was underlined that fighting corruption at all levels was a priority,

*Recalling also* the Johannesburg Declaration on Sustainable Development, adopted by the World Summit on Sustainable Development, held in Johannesburg, South Africa, from 26 August to 4 September 2002,<sup>2</sup> in particular paragraph 19 thereof, in which corruption was declared a threat to the sustainable development of people,

*Concerned* about the seriousness of problems and threats posed by corruption to the stability and security of societies, undermining the institutions and values of democracy, ethical values and justice and jeopardizing sustainable development and the rule of law,

1. *Takes note* of the report of the Ad Hoc Committee for the Negotiation of a Convention against Corruption,<sup>3</sup> which carried out its work at the headquarters of the United Nations Office on Drugs and Crime in Vienna, in which the Ad Hoc Committee submitted the final text of the draft United Nations Convention against Corruption to the General Assembly for its consideration and action, and commends the Ad Hoc Committee for its work;

2. *Adopts* the United Nations Convention against Corruption annexed to the present resolution, and opens it for signature at the High-level Political Signing Conference to be held in Merida, Mexico, from 9 to 11 December 2003, in accordance with resolution 57/169;

3. *Urges* all States and competent regional economic integration organizations to sign and ratify the United Nations Convention against Corruption as soon as possible in order to ensure its rapid entry into force;

4. *Decides* that, until the Conference of the States Parties to the Convention established pursuant to the United Nations Convention against Corruption decides otherwise, the account referred to in article 62 of the Convention will be operated within the United Nations Crime Prevention and Criminal Justice Fund, and encourages Member States to begin making adequate voluntary contributions to the above-mentioned account for the provision to developing

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<sup>1</sup>*Report of the International Conference on Financing for Development, Monterrey, Mexico, 18-22 March 2002* (United Nations publication, Sales No. E.02.II.A.7), chap. I, resolution 1, annex.

<sup>2</sup>*Report of the World Summit on Sustainable Development, Johannesburg, South Africa, 26 August-4 September 2002* (United Nations publication, Sales No. E.03.II.A.1 and corrigendum), chap. I, resolution 1, annex.

<sup>3</sup>A/58/422 and Add.1.

countries and countries with economies in transition of the technical assistance that they might require to prepare for ratification and implementation of the Convention;

5. *Also decides* that the Ad Hoc Committee for the Negotiation of a Convention against Corruption will complete its tasks arising from the negotiation of the United Nations Convention against Corruption by holding a meeting well before the convening of the first session of the Conference of the States Parties to the Convention in order to prepare the draft text of the rules of procedure of the Conference of the States Parties and of other rules described in article 63 of the Convention, which will be submitted to the Conference of the States Parties at its first session for consideration;

6. *Requests* the Conference of the States Parties to the Convention to address the criminalization of bribery of officials of public international organizations, including the United Nations, and related issues, taking into account questions of privileges and immunities, as well as of jurisdiction and the role of international organizations, by, inter alia, making recommendations regarding appropriate action in that regard;

7. *Decides* that, in order to raise awareness of corruption and of the role of the Convention in combating and preventing it, 9 December should be designated International Anti-Corruption Day;

8. *Requests* the Secretary-General to designate the United Nations Office on Drugs and Crime to serve as the secretariat for and under the direction of the Conference of the States Parties to the Convention;

9. *Also requests* the Secretary-General to provide the United Nations Office on Drugs and Crime with the resources necessary to enable it to promote in an effective manner the rapid entry into force of the United Nations Convention against Corruption and to discharge the functions of secretariat of the Conference of the States Parties to the Convention, and to support the Ad Hoc Committee in its work pursuant to paragraph 5 above;

10. *Further requests* the Secretary-General to prepare a comprehensive report on the High-level Political Signing Conference to be held in Merida, Mexico, in accordance with resolution 57/169, for submission to the General Assembly at its fifty-ninth session.



## *Annex*

# **United Nations Convention against Corruption**

## **Preamble**

*The States Parties to this Convention,*

*Concerned* about the seriousness of problems and threats posed by corruption to the stability and security of societies, undermining the institutions and values of democracy, ethical values and justice and jeopardizing sustainable development and the rule of law,

*Concerned also* about the links between corruption and other forms of crime, in particular organized crime and economic crime, including money-laundering,

*Concerned further* about cases of corruption that involve vast quantities of assets, which may constitute a substantial proportion of the resources of States, and that threaten the political stability and sustainable development of those States,

*Convinced* that corruption is no longer a local matter but a transnational phenomenon that affects all societies and economies, making international cooperation to prevent and control it essential,

*Convinced also* that a comprehensive and multidisciplinary approach is required to prevent and combat corruption effectively,

*Convinced further* that the availability of technical assistance can play an important role in enhancing the ability of States, including by strengthening capacity and by institution-building, to prevent and combat corruption effectively,

*Convinced* that the illicit acquisition of personal wealth can be particularly damaging to democratic institutions, national economies and the rule of law,

*Determined* to prevent, detect and deter in a more effective manner international transfers of illicitly acquired assets and to strengthen international cooperation in asset recovery,

*Acknowledging* the fundamental principles of due process of law in criminal proceedings and in civil or administrative proceedings to adjudicate property rights,

*Bearing in mind* that the prevention and eradication of corruption is a responsibility of all States and that they must cooperate with one another, with the support and involvement of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, if their efforts in this area are to be effective,

*Bearing also in mind* the principles of proper management of public affairs and public property, fairness, responsibility and equality before the law and the need to safeguard integrity and to foster a culture of rejection of corruption,

*Commending* the work of the Commission on Crime Prevention and Criminal Justice and the United Nations Office on Drugs and Crime in preventing and combating corruption,

*Recalling* the work carried out by other international and regional organizations in this field, including the activities of the African Union, the Council of Europe, the Customs Cooperation Council (also known as the World Customs Organization), the European Union, the League of Arab States, the Organisation for Economic Cooperation and Development and the Organization of American States,

*Taking note with appreciation* of multilateral instruments to prevent and combat corruption, including, inter alia, the Inter-American Convention against Corruption, adopted by the Organization of American States on 29 March 1996,<sup>1</sup> the Convention on the Fight against Corruption involving Officials of the European Communities or Officials of Member States of the European Union, adopted by the Council of the European Union on 26 May 1997,<sup>2</sup> the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, adopted by the Organisation for Economic Cooperation and Development on 21 November 1997,<sup>3</sup> the Criminal Law

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<sup>1</sup>See E/1996/99.

<sup>2</sup>*Official Journal of the European Communities*, C 195, 25 June 1997.

<sup>3</sup>See *Corruption and Integrity Improvement Initiatives in Developing Countries* (United Nations publication, Sales No. E.98.III.B.18).

Convention on Corruption, adopted by the Committee of Ministers of the Council of Europe on 27 January 1999,<sup>4</sup> the Civil Law Convention on Corruption, adopted by the Committee of Ministers of the Council of Europe on 4 November 1999,<sup>5</sup> and the African Union Convention on Preventing and Combating Corruption, adopted by the Heads of State and Government of the African Union on 12 July 2003,

*Welcoming* the entry into force on 29 September 2003 of the United Nations Convention against Transnational Organized Crime,<sup>6</sup>

*Have agreed as follows:*

## **Chapter I** **General provisions**

### *Article 1. Statement of purpose*

The purposes of this Convention are:

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

### *Article 2. Use of terms*

For the purposes of this Convention:

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

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<sup>4</sup>Council of Europe, *European Treaty Series*, No. 173.

<sup>5</sup>*Ibid.*, No. 174.

<sup>6</sup>General Assembly resolution 55/25, annex I.

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

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

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

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

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

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

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

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

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

### *Article 3. Scope of application*

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



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

#### *Article 4. Protection of sovereignty*

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

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

## **Chapter II Preventive measures**

#### *Article 5. Preventive anti-corruption policies and practices*

1. Each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability.

2. Each State Party shall endeavour to establish and promote effective practices aimed at the prevention of corruption.

3. Each State Party shall endeavour to periodically evaluate relevant legal instruments and administrative measures with a view to determining their adequacy to prevent and fight corruption.

4. States Parties shall, as appropriate and in accordance with the fundamental principles of their legal system, collaborate with each other and with relevant international and regional organizations in promoting and developing the measures referred to in this article. That collaboration may include participation in international programmes and projects aimed at the prevention of corruption.

## *Article 6. Preventive anti-corruption body or bodies*

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

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

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

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

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

## *Article 7. Public sector*

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

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

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

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

(d) That promote education and training programmes to enable them to meet the requirements for the correct, honourable and proper performance of public functions and that provide them with specialized and appropriate training to enhance their awareness of the risks of corruption inherent in the

performance of their functions. Such programmes may make reference to codes or standards of conduct in applicable areas.

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

3. Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties.

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

#### *Article 8. Codes of conduct for public officials*

1. In order to fight corruption, each State Party shall promote, inter alia, integrity, honesty and responsibility among its public officials, in accordance with the fundamental principles of its legal system.

2. In particular, each State Party shall endeavour to apply, within its own institutional and legal systems, codes or standards of conduct for the correct, honourable and proper performance of public functions.

3. For the purposes of implementing the provisions of this article, each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, take note of the relevant initiatives of regional, interregional and multilateral organizations, such as the International Code of Conduct for Public Officials contained in the annex to General Assembly resolution 51/59 of 12 December 1996.

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

5. Each State Party shall endeavour, where appropriate and in accordance with the fundamental principles of its domestic law, to establish measures

and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials.

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

*Article 9. Public procurement and management  
of public finances*

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

(a) The public distribution of information relating to procurement procedures and contracts, including information on invitations to tender and relevant or pertinent information on the award of contracts, allowing potential tenderers sufficient time to prepare and submit their tenders;

(b) The establishment, in advance, of conditions for participation, including selection and award criteria and tendering rules, and their publication;

(c) The use of objective and predetermined criteria for public procurement decisions, in order to facilitate the subsequent verification of the correct application of the rules or procedures;

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

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

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

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

- (b) Timely reporting on revenue and expenditure;
- (c) A system of accounting and auditing standards and related oversight;
- (d) Effective and efficient systems of risk management and internal control; and
- (e) Where appropriate, corrective action in the case of failure to comply with the requirements established in this paragraph.

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

#### *Article 10. Public reporting*

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

- (a) Adopting procedures or regulations allowing members of the general public to obtain, where appropriate, information on the organization, functioning and decision-making processes of its public administration and, with due regard for the protection of privacy and personal data, on decisions and legal acts that concern members of the public;
- (b) Simplifying administrative procedures, where appropriate, in order to facilitate public access to the competent decision-making authorities; and
- (c) Publishing information, which may include periodic reports on the risks of corruption in its public administration.

#### *Article 11. Measures relating to the judiciary and prosecution services*

1. Bearing in mind the independence of the judiciary and its crucial role in combating corruption, each State Party shall, in accordance with the fundamental principles of its legal system and without prejudice to judicial independence, take measures to strengthen integrity and to prevent opportunities for corruption among members of the judiciary. Such measures may include rules with respect to the conduct of members of the judiciary.

2. Measures to the same effect as those taken pursuant to paragraph 1 of this article may be introduced and applied within the prosecution service in those States Parties where it does not form part of the judiciary but enjoys independence similar to that of the judicial service.

### *Article 12. Private sector*

1. Each State Party shall take measures, in accordance with the fundamental principles of its domestic law, to prevent corruption involving the private sector, enhance accounting and auditing standards in the private sector and, where appropriate, provide effective, proportionate and dissuasive civil, administrative or criminal penalties for failure to comply with such measures.

2. Measures to achieve these ends may include, inter alia:

(a) Promoting cooperation between law enforcement agencies and relevant private entities;

(b) Promoting the development of standards and procedures designed to safeguard the integrity of relevant private entities, including codes of conduct for the correct, honourable and proper performance of the activities of business and all relevant professions and the prevention of conflicts of interest, and for the promotion of the use of good commercial practices among businesses and in the contractual relations of businesses with the State;

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

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

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

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

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

- (a) The establishment of off-the-books accounts;
- (b) The making of off-the-books or inadequately identified transactions;
- (c) The recording of non-existent expenditure;
- (d) The entry of liabilities with incorrect identification of their objects;
- (e) The use of false documents; and
- (f) The intentional destruction of bookkeeping documents earlier than foreseen by the law.

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

### *Article 13. Participation of society*

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

- (a) Enhancing the transparency of and promoting the contribution of the public to decision-making processes;
- (b) Ensuring that the public has effective access to information;
- (c) Undertaking public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including school and university curricula;
- (d) Respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption. That freedom may be subject to certain restrictions, but these shall only be such as are provided for by law and are necessary:
  - (i) For respect of the rights or reputations of others;

- (ii) For the protection of national security or *ordre public* or of public health or morals.

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

#### *Article 14. Measures to prevent money-laundering*

1. Each State Party shall:

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

(b) Without prejudice to article 46 of this Convention, ensure that administrative, regulatory, law enforcement and other authorities dedicated to combating money-laundering (including, where appropriate under domestic law, judicial authorities) have the ability to cooperate and exchange information at the national and international levels within the conditions prescribed by its domestic law and, to that end, shall consider the establishment of a financial intelligence unit to serve as a national centre for the collection, analysis and dissemination of information regarding potential money-laundering.

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

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

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



- (b) To maintain such information throughout the payment chain; and
- (c) To apply enhanced scrutiny to transfers of funds that do not contain complete information on the originator.

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

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

### **Chapter III** **Criminalization and law enforcement**

#### *Article 15. Bribery of national public officials*

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

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

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

#### *Article 16. Bribery of foreign public officials and officials of public international organizations*

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

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

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

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

*Article 18. Trading in influence*

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

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

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

*Article 19. Abuse of functions*

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the abuse of functions or position, that is, the performance of or failure to perform an act, in violation of laws, by a public official in the

discharge of his or her functions, for the purpose of obtaining an undue advantage for himself or herself or for another person or entity.

#### *Article 20. Illicit enrichment*

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

#### *Article 21. Bribery in the private sector*

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

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

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

#### *Article 22. Embezzlement of property in the private sector*

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

#### *Article 23. Laundering of proceeds of crime*

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

- (a) (i) The conversion or transfer of property, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the predicate offence to evade the legal consequences of his or her action;
- (ii) The concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of crime;
- (b) Subject to the basic concepts of its legal system:
  - (i) The acquisition, possession or use of property, knowing, at the time of receipt, that such property is the proceeds of crime;
  - (ii) Participation in, association with or conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the offences established in accordance with this article.

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

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

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

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

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

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

#### *Article 24. Concealment*

Without prejudice to the provisions of article 23 of this Convention, each State Party shall consider adopting such legislative and other measures as may

be necessary to establish as a criminal offence, when committed intentionally after the commission of any of the offences established in accordance with this Convention without having participated in such offences, the concealment or continued retention of property when the person involved knows that such property is the result of any of the offences established in accordance with this Convention.

#### *Article 25. Obstruction of justice*

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

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

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

#### *Article 26. Liability of legal persons*

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

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

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

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

*Article 27. Participation and attempt*

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

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

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

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

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

*Article 29. Statute of limitations*

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

*Article 30. Prosecution, adjudication and sanctions*

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

2. Each State Party shall take such measures as may be necessary to establish or maintain, in accordance with its legal system and constitutional principles, an appropriate balance between any immunities or jurisdictional

privileges accorded to its public officials for the performance of their functions and the possibility, when necessary, of effectively investigating, prosecuting and adjudicating offences established in accordance with this Convention.

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

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

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

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

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

- (a) Holding public office; and
- (b) Holding office in an enterprise owned in whole or in part by the State.

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

9. Nothing contained in this Convention shall affect the principle that the description of the offences established in accordance with this Convention

and of the applicable legal defences or other legal principles controlling the lawfulness of conduct is reserved to the domestic law of a State Party and that such offences shall be prosecuted and punished in accordance with that law.

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

### *Article 31. Freezing, seizure and confiscation*

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

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

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

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

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

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

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

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



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

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

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

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

### *Article 32. Protection of witnesses, experts and victims*

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

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

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

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

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

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

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

#### *Article 33. Protection of reporting persons*

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

#### *Article 34. Consequences of acts of corruption*

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

#### *Article 35. Compensation for damage*

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

#### *Article 36. Specialized authorities*

Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies or persons specialized in combating corruption through law enforcement. Such body or bodies or persons shall be granted the necessary independence, in accordance with the fundamental principles of the legal system of the State Party, to be able to carry out

their functions effectively and without any undue influence. Such persons or staff of such body or bodies should have the appropriate training and resources to carry out their tasks.

*Article 37. Cooperation with law enforcement authorities*

1. Each State Party shall take appropriate measures to encourage persons who participate or who have participated in the commission of an offence established in accordance with this Convention to supply information useful to competent authorities for investigative and evidentiary purposes and to provide factual, specific help to competent authorities that may contribute to depriving offenders of the proceeds of crime and to recovering such proceeds.

2. Each State Party shall consider providing for the possibility, in appropriate cases, of mitigating punishment of an accused person who provides substantial cooperation in the investigation or prosecution of an offence established in accordance with this Convention.

3. Each State Party shall consider providing for the possibility, in accordance with fundamental principles of its domestic law, of granting immunity from prosecution to a person who provides substantial cooperation in the investigation or prosecution of an offence established in accordance with this Convention.

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

5. Where a person referred to in paragraph 1 of this article located in one State Party can provide substantial cooperation to the competent authorities of another State Party, the States Parties concerned may consider entering into agreements or arrangements, in accordance with their domestic law, concerning the potential provision by the other State Party of the treatment set forth in paragraphs 2 and 3 of this article.

*Article 38. Cooperation between national authorities*

Each State Party shall take such measures as may be necessary to encourage, in accordance with its domestic law, cooperation between, on the one hand, its public authorities, as well as its public officials, and, on the other hand, its authorities responsible for investigating and prosecuting criminal offences. Such cooperation may include:

- (a) Informing the latter authorities, on their own initiative, where there are reasonable grounds to believe that any of the offences established in accordance with articles 15, 21 and 23 of this Convention has been committed; or
- (b) Providing, upon request, to the latter authorities all necessary information.

*Article 39. Cooperation between national authorities and the private sector*

1. Each State Party shall take such measures as may be necessary to encourage, in accordance with its domestic law, cooperation between national investigating and prosecuting authorities and entities of the private sector, in particular financial institutions, relating to matters involving the commission of offences established in accordance with this Convention.

2. Each State Party shall consider encouraging its nationals and other persons with a habitual residence in its territory to report to the national investigating and prosecuting authorities the commission of an offence established in accordance with this Convention.

*Article 40. Bank secrecy*

Each State Party shall ensure that, in the case of domestic criminal investigations of offences established in accordance with this Convention, there are appropriate mechanisms available within its domestic legal system to overcome obstacles that may arise out of the application of bank secrecy laws.

*Article 41. Criminal record*

Each State Party may adopt such legislative or other measures as may be necessary to take into consideration, under such terms as and for the purpose that it deems appropriate, any previous conviction in another State of an alleged offender for the purpose of using such information in criminal proceedings relating to an offence established in accordance with this Convention.

*Article 42. Jurisdiction*

1. Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when:

- (a) The offence is committed in the territory of that State Party; or
- (b) The offence is committed on board a vessel that is flying the flag of that State Party or an aircraft that is registered under the laws of that State Party at the time that the offence is committed.

2. Subject to article 4 of this Convention, a State Party may also establish its jurisdiction over any such offence when:

- (a) The offence is committed against a national of that State Party; or
- (b) The offence is committed by a national of that State Party or a stateless person who has his or her habitual residence in its territory; or
- (c) The offence is one of those established in accordance with article 23, paragraph 1 (b) (ii), of this Convention and is committed outside its territory with a view to the commission of an offence established in accordance with article 23, paragraph 1 (a) (i) or (ii) or (b) (i), of this Convention within its territory; or
- (d) The offence is committed against the State Party.

3. For the purposes of article 44 of this Convention, each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when the alleged offender is present in its territory and it does not extradite such person solely on the ground that he or she is one of its nationals.

4. Each State Party may also take such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when the alleged offender is present in its territory and it does not extradite him or her.

5. If a State Party exercising its jurisdiction under paragraph 1 or 2 of this article has been notified, or has otherwise learned, that any other States Parties are conducting an investigation, prosecution or judicial proceeding in respect of the same conduct, the competent authorities of those States Parties shall, as appropriate, consult one another with a view to coordinating their actions.

6. Without prejudice to norms of general international law, this Convention shall not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

## **Chapter IV**

### **International cooperation**

#### *Article 43. International cooperation*

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

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

#### *Article 44. Extradition*

1. This article shall apply to the offences established in accordance with this Convention where the person who is the subject of the request for extradition is present in the territory of the requested State Party, provided that the offence for which extradition is sought is punishable under the domestic law of both the requesting State Party and the requested State Party.

2. Notwithstanding the provisions of paragraph 1 of this article, a State Party whose law so permits may grant the extradition of a person for any of the offences covered by this Convention that are not punishable under its own domestic law.

3. If the request for extradition includes several separate offences, at least one of which is extraditable under this article and some of which are not extraditable by reason of their period of imprisonment but are related to offences established in accordance with this Convention, the requested State Party may apply this article also in respect of those offences.

4. Each of the offences to which this article applies shall be deemed to be included as an extraditable offence in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them. A State Party whose law so permits, in case it uses this Convention as the basis for extradition,

shall not consider any of the offences established in accordance with this Convention to be a political offence.

5. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention the legal basis for extradition in respect of any offence to which this article applies.

6. A State Party that makes extradition conditional on the existence of a treaty shall:

(a) At the time of deposit of its instrument of ratification, acceptance or approval of or accession to this Convention, inform the Secretary-General of the United Nations whether it will take this Convention as the legal basis for cooperation on extradition with other States Parties to this Convention; and

(b) If it does not take this Convention as the legal basis for cooperation on extradition, seek, where appropriate, to conclude treaties on extradition with other States Parties to this Convention in order to implement this article.

7. States Parties that do not make extradition conditional on the existence of a treaty shall recognize offences to which this article applies as extraditable offences between themselves.

8. Extradition shall be subject to the conditions provided for by the domestic law of the requested State Party or by applicable extradition treaties, including, *inter alia*, conditions in relation to the minimum penalty requirement for extradition and the grounds upon which the requested State Party may refuse extradition.

9. States Parties shall, subject to their domestic law, endeavour to expedite extradition procedures and to simplify evidentiary requirements relating thereto in respect of any offence to which this article applies.

10. Subject to the provisions of its domestic law and its extradition treaties, the requested State Party may, upon being satisfied that the circumstances so warrant and are urgent and at the request of the requesting State Party, take a person whose extradition is sought and who is present in its territory into custody or take other appropriate measures to ensure his or her presence at extradition proceedings.

11. A State Party in whose territory an alleged offender is found, if it does not extradite such person in respect of an offence to which this article applies

solely on the ground that he or she is one of its nationals, shall, at the request of the State Party seeking extradition, be obliged to submit the case without undue delay to its competent authorities for the purpose of prosecution. Those authorities shall take their decision and conduct their proceedings in the same manner as in the case of any other offence of a grave nature under the domestic law of that State Party. The States Parties concerned shall cooperate with each other, in particular on procedural and evidentiary aspects, to ensure the efficiency of such prosecution.

12. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State Party to serve the sentence imposed as a result of the trial or proceedings for which the extradition or surrender of the person was sought and that State Party and the State Party seeking the extradition of the person agree with this option and other terms that they may deem appropriate, such conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 11 of this article.

13. If extradition, sought for purposes of enforcing a sentence, is refused because the person sought is a national of the requested State Party, the requested State Party shall, if its domestic law so permits and in conformity with the requirements of such law, upon application of the requesting State Party, consider the enforcement of the sentence imposed under the domestic law of the requesting State Party or the remainder thereof.

14. Any person regarding whom proceedings are being carried out in connection with any of the offences to which this article applies shall be guaranteed fair treatment at all stages of the proceedings, including enjoyment of all the rights and guarantees provided by the domestic law of the State Party in the territory of which that person is present.

15. Nothing in this Convention shall be interpreted as imposing an obligation to extradite if the requested State Party has substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on account of that person's sex, race, religion, nationality, ethnic origin or political opinions or that compliance with the request would cause prejudice to that person's position for any one of these reasons.

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

17. Before refusing extradition, the requested State Party shall, where appropriate, consult with the requesting State Party to provide it with ample



opportunity to present its opinions and to provide information relevant to its allegation.

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

#### *Article 45. Transfer of sentenced persons*

States Parties may consider entering into bilateral or multilateral agreements or arrangements on the transfer to their territory of persons sentenced to imprisonment or other forms of deprivation of liberty for offences established in accordance with this Convention in order that they may complete their sentences there.

#### *Article 46. Mutual legal assistance*

1. States Parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by this Convention.

2. Mutual legal assistance shall be afforded to the fullest extent possible under relevant laws, treaties, agreements and arrangements of the requested State Party with respect to investigations, prosecutions and judicial proceedings in relation to the offences for which a legal person may be held liable in accordance with article 26 of this Convention in the requesting State Party.

3. Mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes:

- (a) Taking evidence or statements from persons;
- (b) Effecting service of judicial documents;
- (c) Executing searches and seizures, and freezing;
- (d) Examining objects and sites;
- (e) Providing information, evidentiary items and expert evaluations;
- (f) Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records;
- (g) Identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes;
- (h) Facilitating the voluntary appearance of persons in the requesting State Party;

(i) Any other type of assistance that is not contrary to the domestic law of the requested State Party;

(j) Identifying, freezing and tracing proceeds of crime in accordance with the provisions of chapter V of this Convention;

(k) The recovery of assets, in accordance with the provisions of chapter V of this Convention.

4. Without prejudice to domestic law, the competent authorities of a State Party may, without prior request, transmit information relating to criminal matters to a competent authority in another State Party where they believe that such information could assist the authority in undertaking or successfully concluding inquiries and criminal proceedings or could result in a request formulated by the latter State Party pursuant to this Convention.

5. The transmission of information pursuant to paragraph 4 of this article shall be without prejudice to inquiries and criminal proceedings in the State of the competent authorities providing the information. The competent authorities receiving the information shall comply with a request that said information remain confidential, even temporarily, or with restrictions on its use. However, this shall not prevent the receiving State Party from disclosing in its proceedings information that is exculpatory to an accused person. In such a case, the receiving State Party shall notify the transmitting State Party prior to the disclosure and, if so requested, consult with the transmitting State Party. If, in an exceptional case, advance notice is not possible, the receiving State Party shall inform the transmitting State Party of the disclosure without delay.

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

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

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

9. (a) A requested State Party, in responding to a request for assistance pursuant to this article in the absence of dual criminality, shall take into account the purposes of this Convention, as set forth in article 1;

(b) States Parties may decline to render assistance pursuant to this article on the ground of absence of dual criminality. However, a requested State Party shall, where consistent with the basic concepts of its legal system, render assistance that does not involve coercive action. Such assistance may be refused when requests involve matters of a *de minimis* nature or matters for which the cooperation or assistance sought is available under other provisions of this Convention;

(c) Each State Party may consider adopting such measures as may be necessary to enable it to provide a wider scope of assistance pursuant to this article in the absence of dual criminality.

10. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for investigations, prosecutions or judicial proceedings in relation to offences covered by this Convention may be transferred if the following conditions are met:

(a) The person freely gives his or her informed consent;

(b) The competent authorities of both States Parties agree, subject to such conditions as those States Parties may deem appropriate.

11. For the purposes of paragraph 10 of this article:

(a) The State Party to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State Party from which the person was transferred;

(b) The State Party to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State Party from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States Parties;

(c) The State Party to which the person is transferred shall not require the State Party from which the person was transferred to initiate extradition proceedings for the return of the person;

(d) The person transferred shall receive credit for service of the sentence being served in the State from which he or she was transferred for time spent in the custody of the State Party to which he or she was transferred.

12. Unless the State Party from which a person is to be transferred in accordance with paragraphs 10 and 11 of this article so agrees, that person, whatever his or her nationality, shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in the territory

of the State to which that person is transferred in respect of acts, omissions or convictions prior to his or her departure from the territory of the State from which he or she was transferred.

13. Each State Party shall designate a central authority that shall have the responsibility and power to receive requests for mutual legal assistance and either to execute them or to transmit them to the competent authorities for execution. Where a State Party has a special region or territory with a separate system of mutual legal assistance, it may designate a distinct central authority that shall have the same function for that region or territory. Central authorities shall ensure the speedy and proper execution or transmission of the requests received. Where the central authority transmits the request to a competent authority for execution, it shall encourage the speedy and proper execution of the request by the competent authority. The Secretary-General of the United Nations shall be notified of the central authority designated for this purpose at the time each State Party deposits its instrument of ratification, acceptance or approval of or accession to this Convention. Requests for mutual legal assistance and any communication related thereto shall be transmitted to the central authorities designated by the States Parties. This requirement shall be without prejudice to the right of a State Party to require that such requests and communications be addressed to it through diplomatic channels and, in urgent circumstances, where the States Parties agree, through the International Criminal Police Organization, if possible.

14. Requests shall be made in writing or, where possible, by any means capable of producing a written record, in a language acceptable to the requested State Party, under conditions allowing that State Party to establish authenticity. The Secretary-General of the United Nations shall be notified of the language or languages acceptable to each State Party at the time it deposits its instrument of ratification, acceptance or approval of or accession to this Convention. In urgent circumstances and where agreed by the States Parties, requests may be made orally but shall be confirmed in writing forthwith.

15. A request for mutual legal assistance shall contain:

- (a) The identity of the authority making the request;
- (b) The subject matter and nature of the investigation, prosecution or judicial proceeding to which the request relates and the name and functions of the authority conducting the investigation, prosecution or judicial proceeding;
- (c) A summary of the relevant facts, except in relation to requests for the purpose of service of judicial documents;
- (d) A description of the assistance sought and details of any particular procedure that the requesting State Party wishes to be followed;

(e) Where possible, the identity, location and nationality of any person concerned; and

(f) The purpose for which the evidence, information or action is sought.

16. The requested State Party may request additional information when it appears necessary for the execution of the request in accordance with its domestic law or when it can facilitate such execution.

17. A request shall be executed in accordance with the domestic law of the requested State Party and, to the extent not contrary to the domestic law of the requested State Party and where possible, in accordance with the procedures specified in the request.

18. Wherever possible and consistent with fundamental principles of domestic law, when an individual is in the territory of a State Party and has to be heard as a witness or expert by the judicial authorities of another State Party, the first State Party may, at the request of the other, permit the hearing to take place by video conference if it is not possible or desirable for the individual in question to appear in person in the territory of the requesting State Party. States Parties may agree that the hearing shall be conducted by a judicial authority of the requesting State Party and attended by a judicial authority of the requested State Party.

19. The requesting State Party shall not transmit or use information or evidence furnished by the requested State Party for investigations, prosecutions or judicial proceedings other than those stated in the request without the prior consent of the requested State Party. Nothing in this paragraph shall prevent the requesting State Party from disclosing in its proceedings information or evidence that is exculpatory to an accused person. In the latter case, the requesting State Party shall notify the requested State Party prior to the disclosure and, if so requested, consult with the requested State Party. If, in an exceptional case, advance notice is not possible, the requesting State Party shall inform the requested State Party of the disclosure without delay.

20. The requesting State Party may require that the requested State Party keep confidential the fact and substance of the request, except to the extent necessary to execute the request. If the requested State Party cannot comply with the requirement of confidentiality, it shall promptly inform the requesting State Party.

21. Mutual legal assistance may be refused:

(a) If the request is not made in conformity with the provisions of this article;

(b) If the requested State Party considers that execution of the request is likely to prejudice its sovereignty, security, *ordre public* or other essential interests;

(c) If the authorities of the requested State Party would be prohibited by its domestic law from carrying out the action requested with regard to any similar offence, had it been subject to investigation, prosecution or judicial proceedings under their own jurisdiction;

(d) If it would be contrary to the legal system of the requested State Party relating to mutual legal assistance for the request to be granted.

22. States Parties may not refuse a request for mutual legal assistance on the sole ground that the offence is also considered to involve fiscal matters.

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

24. The requested State Party shall execute the request for mutual legal assistance as soon as possible and shall take as full account as possible of any deadlines suggested by the requesting State Party and for which reasons are given, preferably in the request. The requesting State Party may make reasonable requests for information on the status and progress of measures taken by the requested State Party to satisfy its request. The requested State Party shall respond to reasonable requests by the requesting State Party on the status, and progress in its handling, of the request. The requesting State Party shall promptly inform the requested State Party when the assistance sought is no longer required.

25. Mutual legal assistance may be postponed by the requested State Party on the ground that it interferes with an ongoing investigation, prosecution or judicial proceeding.

26. Before refusing a request pursuant to paragraph 21 of this article or postponing its execution pursuant to paragraph 25 of this article, the requested State Party shall consult with the requesting State Party to consider whether assistance may be granted subject to such terms and conditions as it deems necessary. If the requesting State Party accepts assistance subject to those conditions, it shall comply with the conditions.

27. Without prejudice to the application of paragraph 12 of this article, a witness, expert or other person who, at the request of the requesting State Party, consents to give evidence in a proceeding or to assist in an investigation, prosecution or judicial proceeding in the territory of the requesting State Party shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in that territory in respect of acts, omissions or

convictions prior to his or her departure from the territory of the requested State Party. Such safe conduct shall cease when the witness, expert or other person having had, for a period of fifteen consecutive days or for any period agreed upon by the States Parties from the date on which he or she has been officially informed that his or her presence is no longer required by the judicial authorities, an opportunity of leaving, has nevertheless remained voluntarily in the territory of the requesting State Party or, having left it, has returned of his or her own free will.

28. The ordinary costs of executing a request shall be borne by the requested State Party, unless otherwise agreed by the States Parties concerned. If expenses of a substantial or extraordinary nature are or will be required to fulfil the request, the States Parties shall consult to determine the terms and conditions under which the request will be executed, as well as the manner in which the costs shall be borne.

29. The requested State Party:

(a) Shall provide to the requesting State Party copies of government records, documents or information in its possession that under its domestic law are available to the general public;

(b) May, at its discretion, provide to the requesting State Party in whole, in part or subject to such conditions as it deems appropriate, copies of any government records, documents or information in its possession that under its domestic law are not available to the general public.

30. States Parties shall consider, as may be necessary, the possibility of concluding bilateral or multilateral agreements or arrangements that would serve the purposes of, give practical effect to or enhance the provisions of this article.

#### *Article 47. Transfer of criminal proceedings*

States Parties shall consider the possibility of transferring to one another proceedings for the prosecution of an offence established in accordance with this Convention in cases where such transfer is considered to be in the interests of the proper administration of justice, in particular in cases where several jurisdictions are involved, with a view to concentrating the prosecution.

#### *Article 48. Law enforcement cooperation*

1. States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the

effectiveness of law enforcement action to combat the offences covered by this Convention. States Parties shall, in particular, take effective measures:

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

(b) To cooperate with other States Parties in conducting inquiries with respect to offences covered by this Convention concerning:

- (i) The identity, whereabouts and activities of persons suspected of involvement in such offences or the location of other persons concerned;
- (ii) The movement of proceeds of crime or property derived from the commission of such offences;
- (iii) The movement of property, equipment or other instrumentalities used or intended for use in the commission of such offences;

(c) To provide, where appropriate, necessary items or quantities of substances for analytical or investigative purposes;

(d) To exchange, where appropriate, information with other States Parties concerning specific means and methods used to commit offences covered by this Convention, including the use of false identities, forged, altered or false documents and other means of concealing activities;

(e) To facilitate effective coordination between their competent authorities, agencies and services and to promote the exchange of personnel and other experts, including, subject to bilateral agreements or arrangements between the States Parties concerned, the posting of liaison officers;

(f) To exchange information and coordinate administrative and other measures taken as appropriate for the purpose of early identification of the offences covered by this Convention.

2. With a view to giving effect to this Convention, States Parties shall consider entering into bilateral or multilateral agreements or arrangements on direct cooperation between their law enforcement agencies and, where such agreements or arrangements already exist, amending them. In the absence of such agreements or arrangements between the States Parties concerned, the States Parties may consider this Convention to be the basis for mutual law enforcement cooperation in respect of the offences covered by this Convention. Whenever appropriate, States Parties shall make full use of agreements or arrangements, including international or regional organizations, to enhance the cooperation between their law enforcement agencies.



3. States Parties shall endeavour to cooperate within their means to respond to offences covered by this Convention committed through the use of modern technology.

*Article 49. Joint investigations*

States Parties shall consider concluding bilateral or multilateral agreements or arrangements whereby, in relation to matters that are the subject of investigations, prosecutions or judicial proceedings in one or more States, the competent authorities concerned may establish joint investigative bodies. In the absence of such agreements or arrangements, joint investigations may be undertaken by agreement on a case-by-case basis. The States Parties involved shall ensure that the sovereignty of the State Party in whose territory such investigation is to take place is fully respected.

*Article 50. Special investigative techniques*

1. In order to combat corruption effectively, each State Party shall, to the extent permitted by the basic principles of its domestic legal system and in accordance with the conditions prescribed by its domestic law, take such measures as may be necessary, within its means, to allow for the appropriate use by its competent authorities of controlled delivery and, where it deems appropriate, other special investigative techniques, such as electronic or other forms of surveillance and undercover operations, within its territory, and to allow for the admissibility in court of evidence derived therefrom.

2. For the purpose of investigating the offences covered by this Convention, States Parties are encouraged to conclude, when necessary, appropriate bilateral or multilateral agreements or arrangements for using such special investigative techniques in the context of cooperation at the international level. Such agreements or arrangements shall be concluded and implemented in full compliance with the principle of sovereign equality of States and shall be carried out strictly in accordance with the terms of those agreements or arrangements.

3. In the absence of an agreement or arrangement as set forth in paragraph 2 of this article, decisions to use such special investigative techniques at the international level shall be made on a case-by-case basis and may, when necessary, take into consideration financial arrangements and understandings with respect to the exercise of jurisdiction by the States Parties concerned.

4. Decisions to use controlled delivery at the international level may, with the consent of the States Parties concerned, include methods such as intercepting and allowing the goods or funds to continue intact or be removed or replaced in whole or in part.

## **Chapter V**

### **Asset recovery**

#### *Article 51. General provision*

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

#### *Article 52. Prevention and detection of transfers of proceeds of crime*

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

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

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

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

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

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

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

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

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

#### *Article 53. Measures for direct recovery of property*

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

(a) Take such measures as may be necessary to permit another State Party to initiate civil action in its courts to establish title to or ownership of property acquired through the commission of an offence established in accordance with this Convention;

(b) Take such measures as may be necessary to permit its courts to order those who have committed offences established in accordance with this Convention to pay compensation or damages to another State Party that has been harmed by such offences; and

(c) Take such measures as may be necessary to permit its courts or competent authorities, when having to decide on confiscation, to recognize another State Party's claim as a legitimate owner of property acquired through the commission of an offence established in accordance with this Convention.

*Article 54. Mechanisms for recovery of property through international cooperation in confiscation*

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

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

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

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

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

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

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

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

*Article 55. International cooperation for purposes of confiscation*

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

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

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

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

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

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

(b) In the case of a request pertaining to paragraph 1 (b) of this article, a legally admissible copy of an order of confiscation upon which the request is

based issued by the requesting State Party, a statement of the facts and information as to the extent to which execution of the order is requested, a statement specifying the measures taken by the requesting State Party to provide adequate notification to bona fide third parties and to ensure due process and a statement that the confiscation order is final;

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

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

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

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

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

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

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

#### *Article 56. Special cooperation*

Without prejudice to its domestic law, each State Party shall endeavour to take measures to permit it to forward, without prejudice to its own investigations, prosecutions or judicial proceedings, information on proceeds of offences

established in accordance with this Convention to another State Party without prior request, when it considers that the disclosure of such information might assist the receiving State Party in initiating or carrying out investigations, prosecutions or judicial proceedings or might lead to a request by that State Party under this chapter of the Convention.

*Article 57. Return and disposal of assets*

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

2. Each State Party shall adopt such legislative and other measures, in accordance with the fundamental principles of its domestic law, as may be necessary to enable its competent authorities to return confiscated property, when acting on the request made by another State Party, in accordance with this Convention, taking into account the rights of bona fide third parties.

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

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

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

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

4. Where appropriate, unless States Parties decide otherwise, the requested State Party may deduct reasonable expenses incurred in investigations,

prosecutions or judicial proceedings leading to the return or disposition of confiscated property pursuant to this article.

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

#### *Article 58. Financial intelligence unit*

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

#### *Article 59. Bilateral and multilateral agreements and arrangements*

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

## **Chapter VI**

### **Technical assistance and information exchange**

#### *Article 60. Training and technical assistance*

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

(a) Effective measures to prevent, detect, investigate, punish and control corruption, including the use of evidence-gathering and investigative methods;

(b) Building capacity in the development and planning of strategic anti-corruption policy;

(c) Training competent authorities in the preparation of requests for mutual legal assistance that meet the requirements of this Convention;



(d) Evaluation and strengthening of institutions, public service management and the management of public finances, including public procurement, and the private sector;

(e) Preventing and combating the transfer of proceeds of offences established in accordance with this Convention and recovering such proceeds;

(f) Detecting and freezing of the transfer of proceeds of offences established in accordance with this Convention;

(g) Surveillance of the movement of proceeds of offences established in accordance with this Convention and of the methods used to transfer, conceal or disguise such proceeds;

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

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

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

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

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

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

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

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

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

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

*Article 61. Collection, exchange and analysis of information on corruption*

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

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

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

*Article 62. Other measures: implementation of the Convention through economic development and technical assistance*

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

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

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

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

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

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

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

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

## **Chapter VII**

### **Mechanisms for implementation**

#### *Article 63. Conference of the States Parties to the Convention*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### *Article 64. Secretariat*

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

2. The secretariat shall:

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

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

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

### **Chapter VIII** **Final provisions**

#### *Article 65. Implementation of the Convention*

1. Each State Party shall take the necessary measures, including legislative and administrative measures, in accordance with fundamental principles of its domestic law, to ensure the implementation of its obligations under this Convention.

2. Each State Party may adopt more strict or severe measures than those provided for by this Convention for preventing and combating corruption.

#### *Article 66. Settlement of disputes*

1. States Parties shall endeavour to settle disputes concerning the interpretation or application of this Convention through negotiation.

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

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

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

#### *Article 67. Signature, ratification, acceptance, approval and accession*

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

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

3. This Convention is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations. A regional economic integration organization may deposit its instrument of ratification, acceptance or approval if at least one of its member States has done likewise. In that instrument of

ratification, acceptance or approval, such organization shall declare the extent of its competence with respect to the matters governed by this Convention. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

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

#### *Article 68. Entry into force*

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

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

#### *Article 69. Amendment*

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

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

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

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

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

#### *Article 70. Denunciation*

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

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

#### *Article 71. Depositary and languages*

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

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

IN WITNESS WHEREOF, the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Convention.



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