



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

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## Integrating technical assistance in the review process

### Note by the Secretariat

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## **I. Introduction**

### **A. Legislative framework and mandate**

1. The Conference of the States Parties to the United Nations Convention against Corruption was established pursuant to article 63 of the Convention in order to improve the capacity of and cooperation between States parties to achieve the Convention's objectives, and to promote and review its implementation. These objectives require the Conference to take note of the technical assistance requirements of States with regard to the implementation of the Convention and to recommend any necessary action in that respect.

2. To promote the implementation of the Convention, States should 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 (art. 60, para. 2). States Parties shall further 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 (art. 60, para. 7). In this regard, it is important to acquire the necessary knowledge through information provided by the States parties regarding measures they have taken to implement the Convention and the difficulties they have encountered in doing so (art. 63, para. 5).

3. The Conference, at its first session in Jordan, held from 10 to 14 December 2006, emphasized the cross-cutting nature of technical assistance and its significant role in implementing the Convention. Accordingly, the Conference established an interim open-ended intergovernmental working group to advise and assist in the implementation of its mandate on technical assistance (resolution 1/5).

4. At its second session in Indonesia, held from 28 January to 1 February 2008, the Conference decided that the Open-ended Intergovernmental Working Group on Technical Assistance should continue to advise and assist the Conference on the implementation of its mandate on technical assistance and submit reports on its activities (resolution 2/4).

5. During its third session in Doha, Qatar, held from 9 to 13 November 2009, the Conference, reaffirming the importance of technical assistance, decided that the Implementation Review Group should be in charge of following up and continuing the work of the Open-ended Intergovernmental Working Group on Technical Assistance (resolution 3/1). The purpose of the review process includes, in accordance with its terms of reference, assisting States parties in their implementation of the Convention, helping States to identify and substantiate specific needs for technical assistance and to promote and facilitate the provision of technical assistance, and providing the Conference with information on successes, good practices and challenges of States in implementing and using the Convention (CAC/COSP/IRG/2010/6). Included in the information contemplated for analysis is the data collected from the comprehensive self-assessment checklist, a computer-based information-gathering tool that is used to facilitate the provision of information on implementation of the Convention.

6. In accordance with the terms of reference for the mechanism for the review of implementation of the United Nations Convention against Corruption (Review Mechanism), the functions of the Implementation Review Group shall be to have an overview of the review process in order to identify challenges and good practices, and to consider technical assistance requirements in order to ensure effective implementation of the Convention. The Review Mechanism is currently in its first year of the first cycle. Each cycle consists of five years, and the present cycle reviews the implementation of chapters III (Criminalization and law enforcement) and IV (International cooperation) of the Convention. The second cycle will review chapters II (Preventive measures) and V (Asset recovery) (resolution 3/1).

7. The Conference endorsed a country-led and country-based, integrated and coordinated technical assistance programme delivery for further implementation of the Convention (resolution 3/4) (CAC/COSP/IRG/2010/6). This was further highlighted by the Implementation Review Group during its resumed first session in Vienna, held from 29 November to 1 December 2010. The Group reiterated that one of the goals for the Review Mechanism was to help States parties to identify and substantiate specific needs for technical assistance, and to promote and facilitate the provision of technical assistance (CAC/COSP/IRG/2010/7/Add.1).

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

8. The present report contains a summary of the technical assistance needs identified by States parties under review in the first year of the first cycle of the Review Mechanism, which had completed their self assessment responses to the two chapters of the Convention currently under review, as of 21 March 2011.

9. The report is based on the information contained in the self assessment reports received from the countries under review. In future, the information will be based on the findings in the country review reports. This was not possible at the time of writing this report, as no country reports had been finalized.

10. For each provision under review, States parties were asked whether they had adopted the measures required by that provision. The possible answers were: (a) yes; (b) yes, in part; and (c) no. When partial compliance or non-compliance was reported (“yes, in part” or “no”), States were requested to identify the type of technical assistance that, if available, would facilitate the implementation of the relevant provisions of the Convention. States were also offered the opportunity to describe technical assistance needs, other than those listed in the checklist, or to state that no assistance was required.

11. States parties also furnished further information on whether technical assistance necessary to implement the Convention was already being provided. In case of an affirmative response, they were requested to specify by whom assistance was provided and whether an extension or expansion of such assistance would further facilitate the implementation of the provision under review.

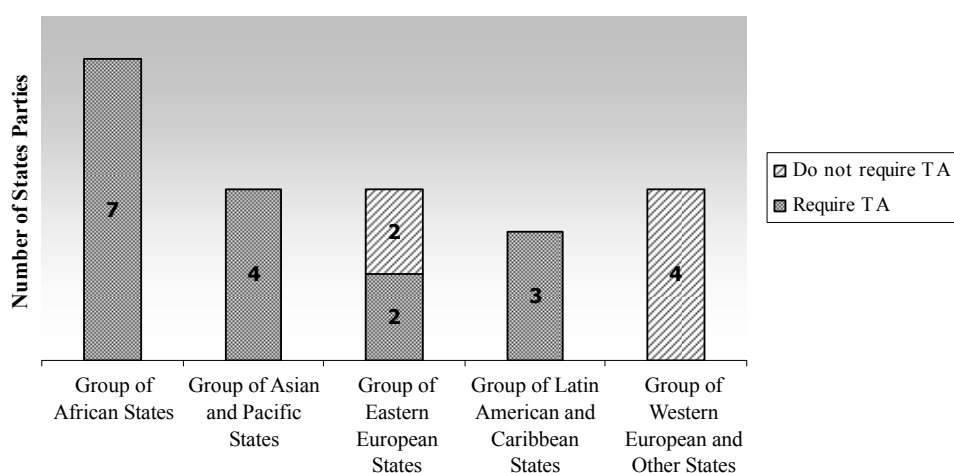
12. As requested by the Implementation Review Group during its resumed first session, the aim of this report is to provide a thematic overview of technical assistance needs with a regional focus (CAC/COSP/IRG/2010/7/Add.1). As it is

based on a limited number of responses, it does not purport to be exhaustive regarding overall technical assistance needs.

13. A total of 22 States parties had completed the self-assessment checklist at the time of writing this report; namely, seven States parties from the Group of African States,<sup>1</sup> four from the Group of Asian and Pacific States,<sup>2</sup> four from the Group of Eastern European States,<sup>3</sup> three from the Group of Latin American and Caribbean States,<sup>4</sup> and four from the Group of Western European and Other States.<sup>5</sup> Out of these, 16 reported technical assistance needs. Details by region are presented in figure 1. Countries belonging to the Group of Western European and Other States reported no technical assistance needs and have not been included in the analysis.

Figure 1

**Technical assistance needs for chapters III and IV, by region**



## II. Analysis of technical assistance needs for the implementation of chapters III and IV of the United Nations Convention against Corruption

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

14. Figure 2 reflects the overall technical assistance needs of reporting States parties on chapter III (Criminalization and law enforcement). The following analysis

<sup>1</sup> Burundi, Morocco, Niger, Rwanda, Togo, Uganda, and Sao Tome and Principe.

<sup>2</sup> Bangladesh, Indonesia, Jordan and Mongolia.

<sup>3</sup> Bulgaria, Croatia, Lithuania and Ukraine.

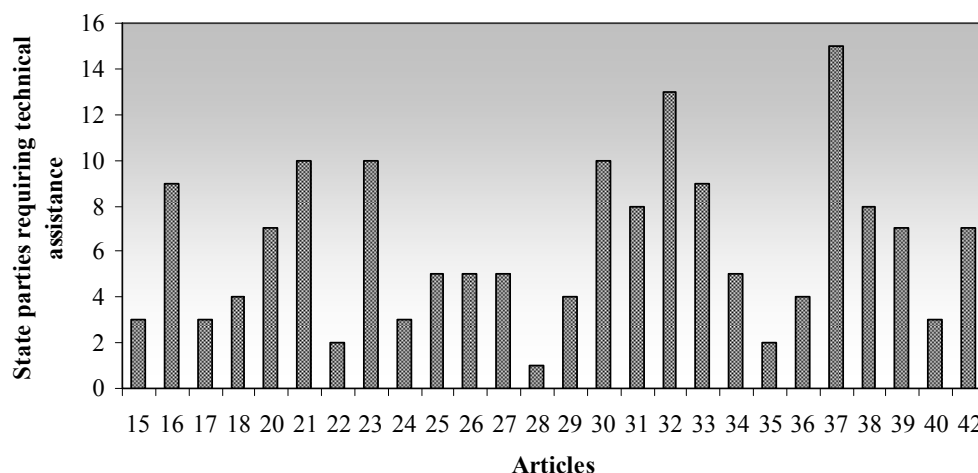
<sup>4</sup> Argentina, Brazil and Chile.

<sup>5</sup> Finland, France, Spain and the United States of America.

is conducted on those 7 articles of chapter III<sup>6</sup> for which the highest number of technical assistance needs was reported.

Figure 2

### Chapter III. Criminalization and law enforcement



#### 1. Cooperating offenders, witnesses and reporting persons (articles 32, 33 and 37)

15. The analysis of the self assessment responses for chapter III (Criminalization and law enforcement) highlights specifically the areas that relate to what could be referred to as the wider field of cooperation by law enforcement authorities with witnesses, persons who participated in an offence and reporting persons. The specific needs are identified below on an article-by-article basis. It should also be noted that the reporting countries belonging to the Group of Eastern European States did not report any technical assistance needs for the implementation of these three articles.

##### (a) Cooperation with law enforcement authorities (article 37)

16. Most countries under review in the Group of African States, the Group of Asian and Pacific States and the Group of Latin American and Caribbean States indicated a need for assistance with the implementation of article 37 on cooperation with law enforcement authorities. The types of assistance ranged widely, but with a clear majority of countries expressing a need for legal advice, legislative drafting and being provided with good practices and lessons learned. The below figures provide a regional breakdown of the types of assistance required. Interestingly, both the countries under review belonging to the Group of African States and those in the Asia and Pacific Region, indicated the need for capacity-building programmes for authorities responsible for establishing and managing protection programmes.

<sup>6</sup> Articles 16 (Bribery of foreign public officials and officials of public international organizations), 21 (Bribery in the private sector), 23 (Laundering of proceeds of crime), 30 (Prosecution, adjudication and sanctions), 32 (Protection of witnesses, experts and victims), 33 (Protection of reporting persons), 37 (Cooperation with law enforcement authorities).

Figure 3  
Group of African States

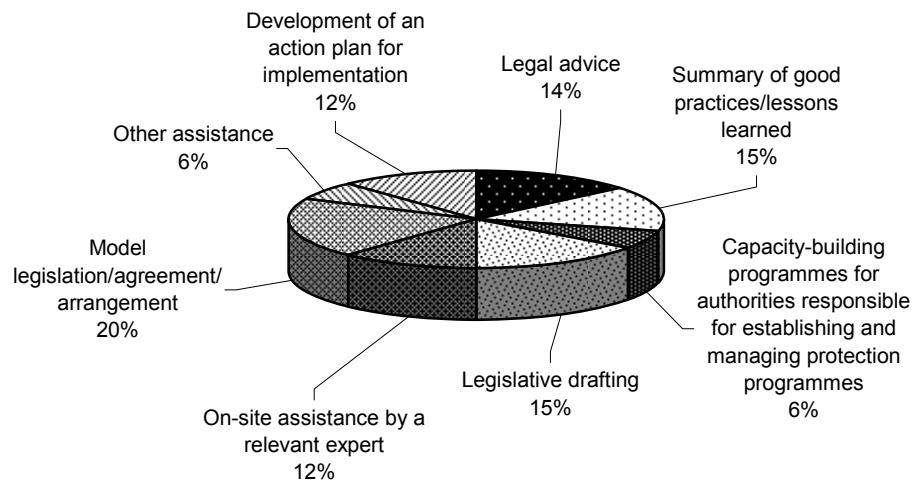


Figure 4  
Group of Asian and Pacific States

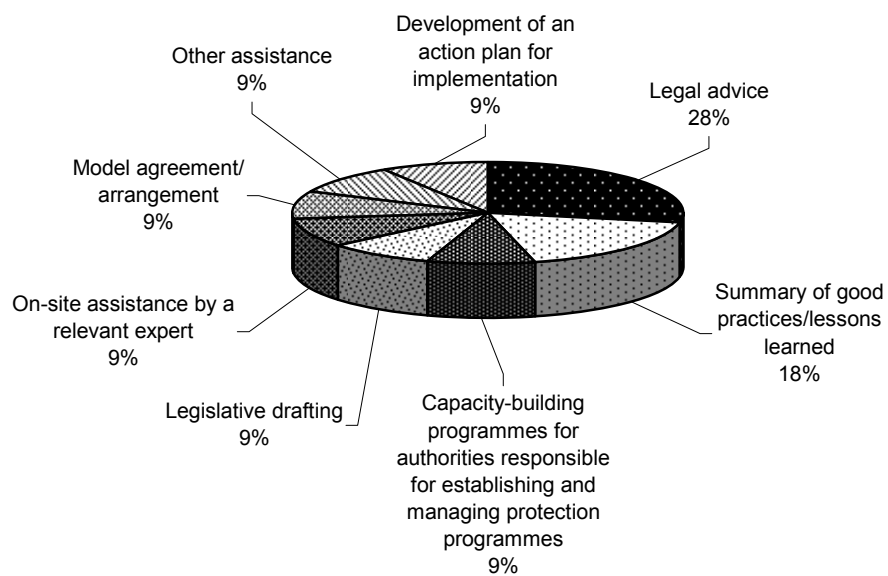
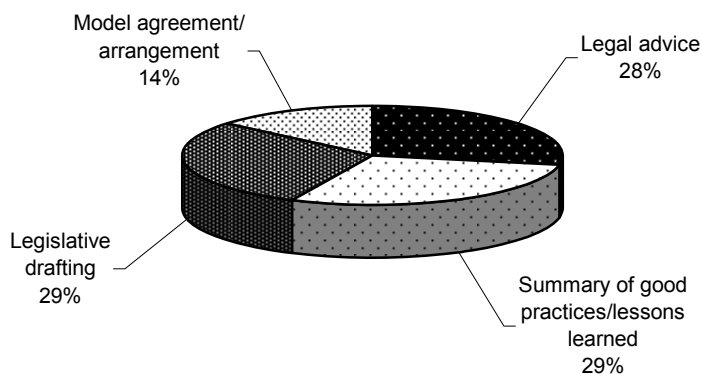


Figure 5  
Group of Latin American and Caribbean States



**(b) Protection of witnesses, experts and victims (article 32)**

17. Technical assistance for implementing article 32 on the protection of witnesses, experts and victims, was the second highest need identified by responding countries. This is an area closely related to the cooperation with law enforcement agencies. A large number of self assessment reports indicated the need for capacity-building programmes for authorities responsible for establishing and managing witness, expert and victim protection programmes. Other priority types of assistance in all regions were legal advice, summary of good practices and lessons learned, and model legislation, agreements and arrangements.

Figure 6  
Group of African States

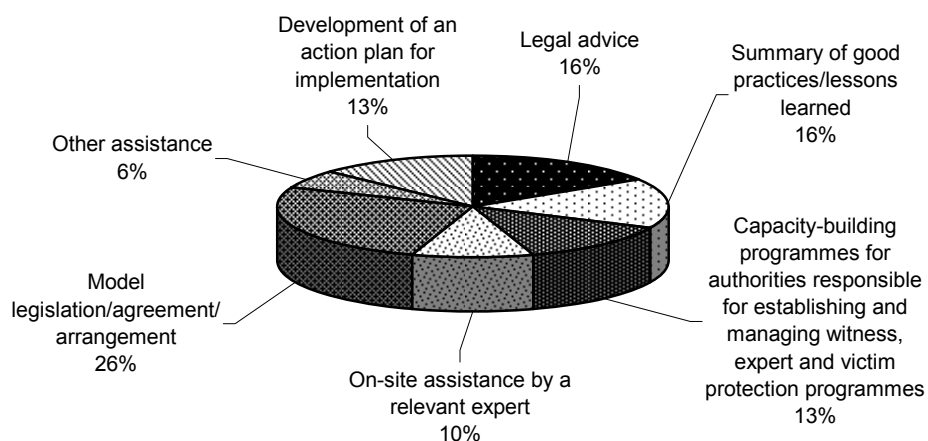


Figure 7  
Group of Asian and Pacific States

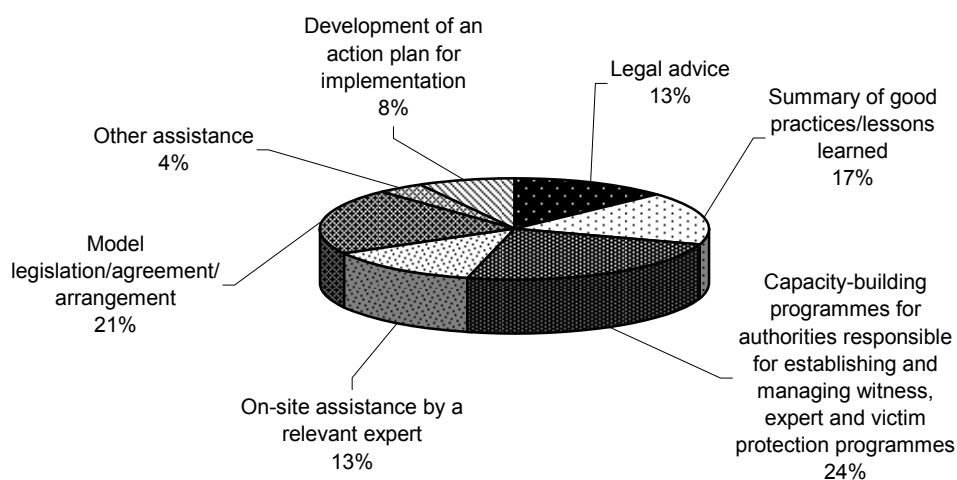
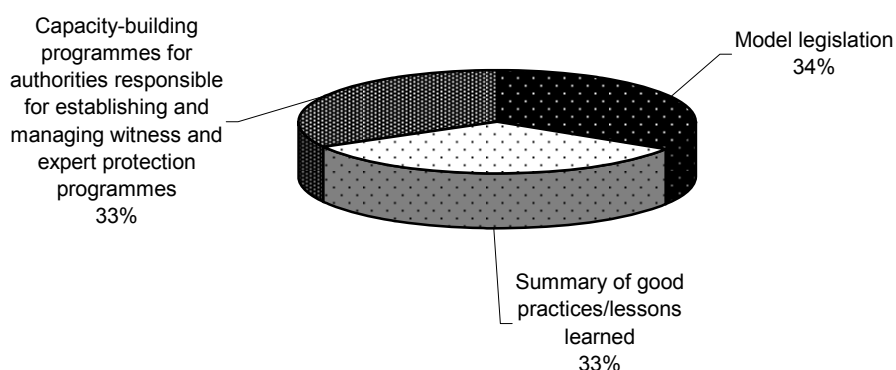


Figure 8  
Group of Latin American and Caribbean States



**(c) Protection of reporting persons (article 33)**

18. Another related area is the protection of reporting persons as contained in article 33. Also, in the implementation of this article, many countries expressed a need for technical assistance. The Group of African States prioritized the need for good practices and lessons learned, as well as on-site assistance by an anti-corruption expert. The Group of Asian and Pacific States expressed an equal need for legal advice, good practices and lessons learned, capacity-building programmes for authorities responsible for the establishment and management of reporting



programmes and mechanisms, development of an action plan for implementation and on-site assistance by an anti-corruption expert. Similarly, the needs indicated by the Group of Latin American and Caribbean States were in the areas of good practices and lessons learned, capacity-building programmes for authorities responsible for the establishment and management of reporting programmes and mechanisms, and development of an action plan for implementation.

Figure 9  
Group of African States

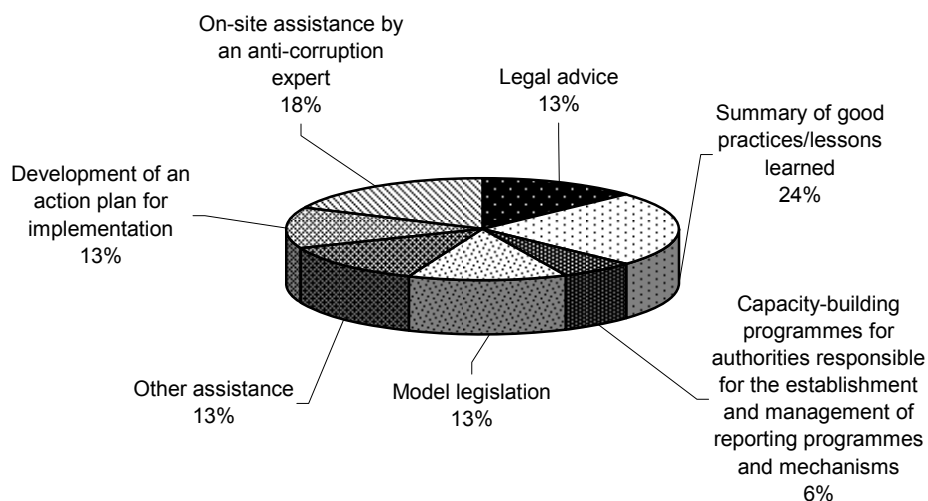


Figure 10  
Group of Asian and Pacific States

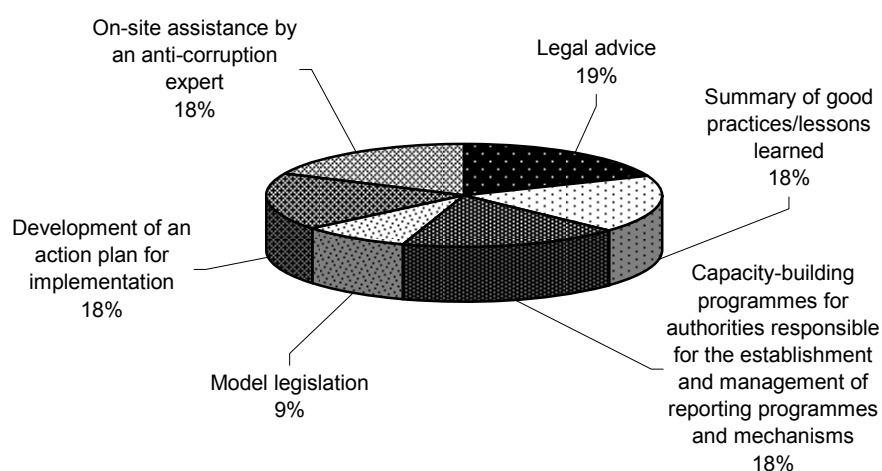
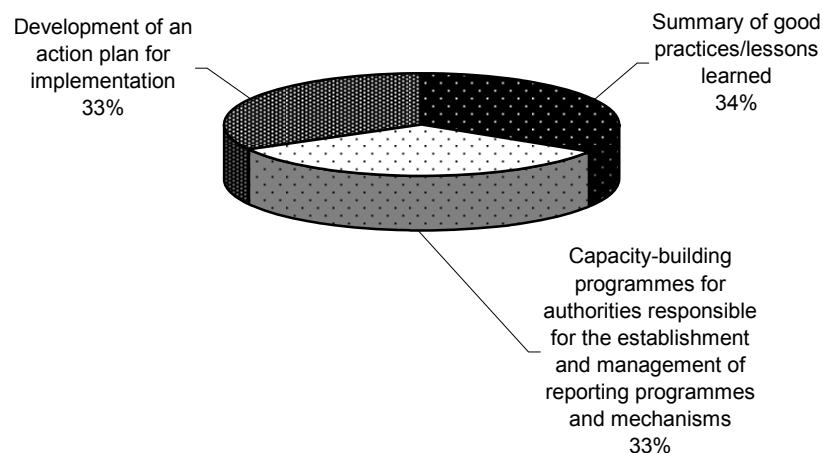


Figure 11  
Group of Latin American and Caribbean States



## 2. Foreign bribery and bribery in the private sector (articles 16 and 21)

19. While most reporting countries had no need for technical assistance for the implementation of article 15, a significant number of reporting States expressed a need for assistance in implementing article 16 on bribery of foreign public officials and officials of public international organizations and for article 21 on bribery in the private sector. It should be noted that reporting countries from the Eastern European Group required no technical assistance for the implementation of these two articles, and those from the Latin American and Caribbean Group only expressed a need for model legislation for implementing article 21.

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

20. The technical assistance needs required by the reporting countries from the Group of African States and Group of Asian and Pacific States were with a similar level of priority, legislative drafting, on-site assistance by an anti-corruption expert, good practices and lessons learned, and legal advice.

Figure 12  
Group of African States

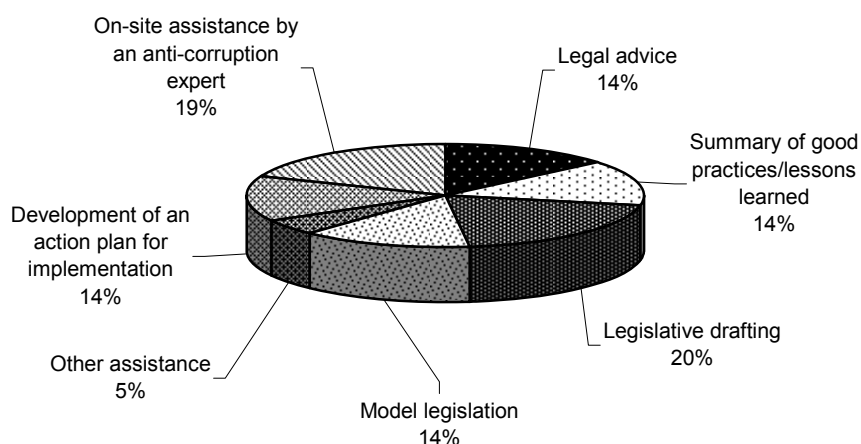
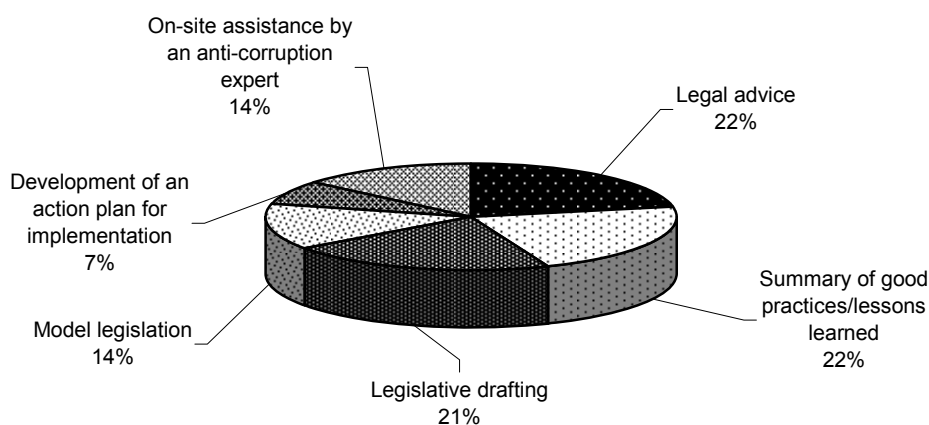


Figure 13  
Group of Asian and Pacific States



**(b) Bribery in the private sector (article 21)**

21. The reporting countries from the Group of African States and the Group of Asian and Pacific States noted that the following types of technical assistance would be needed for the implementation of article 21; in order of priority, legal advice, legislative drafting, and good practices and lessons learned, as well as the development of an action plan for implementation. The only technical assistance need reported for article 21 by the countries from the Group of Latin American and Caribbean States was model legislation.

Figure 14  
Group of African States

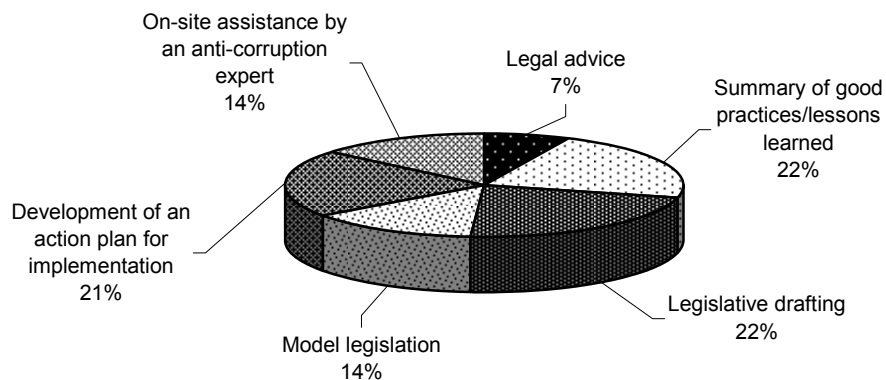


Figure 15  
Group of Asian and Pacific States

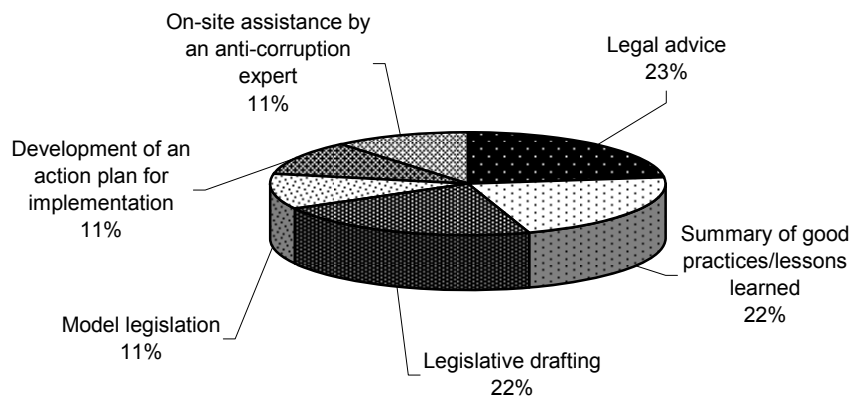
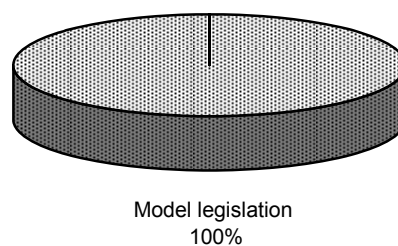


Figure 16  
Group of Latin American and Caribbean States



### 3. Laundering of proceeds of crime (article 23)

22. A further area in which a large number of countries expressed the need for technical assistance in order to ensure the full implementation of the provision is the criminalization of money-laundering (article 23). The types of technical assistance that were requested in this area by reporting countries in the Group of African States was the development of an action plan for implementation, and good practices and lessons learned. For reporting countries from the Asian and Pacific Group, legal advice, as well as legislative drafting and model legislation, and for countries from the Group of Eastern European States, legal advice, legislative drafting, good practices and lessons learned, and on-site assistance by an anti-corruption expert were required. Reporting countries from the Group of Latin American and Caribbean States reported no technical assistance needs for article 23.

Figure 17

#### Group of African States

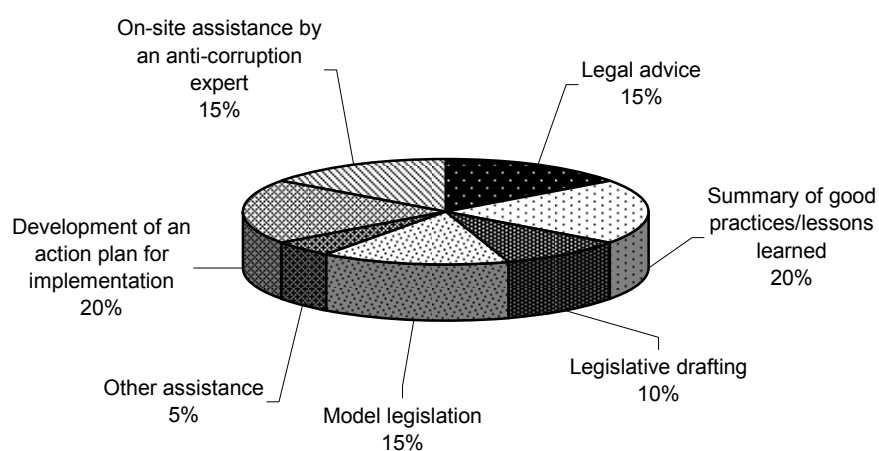


Figure 18

#### Group of Asian and Pacific States

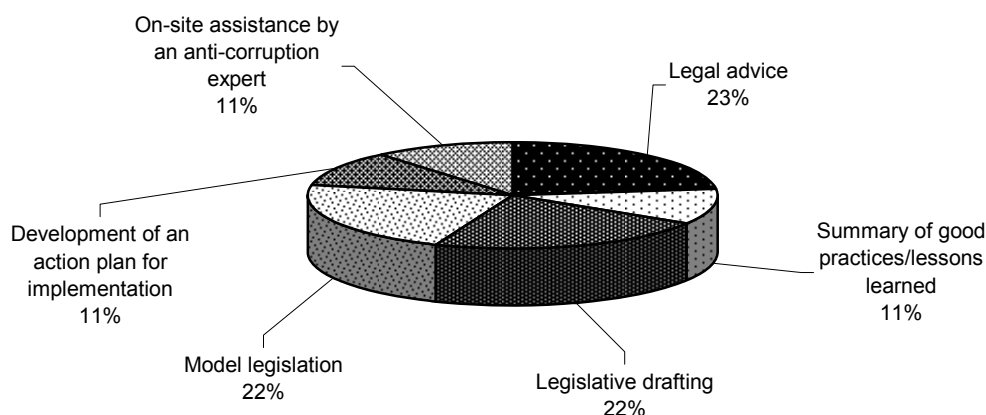
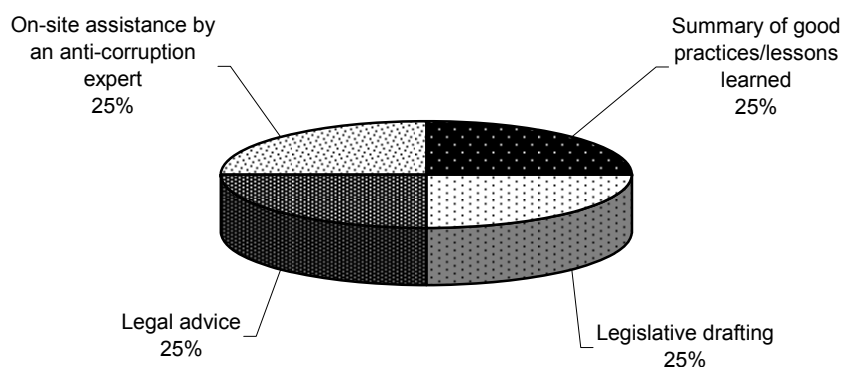


Figure 19  
Group of Eastern European States



#### 4. Prosecution, adjudication and sanctions (article 30)

23. The technical assistance need reported the most for article 30 on prosecution, adjudication and sanctions was a summary of good practices and lesson learned. The Group of African States further required on-site assistance by a relevant expert and the development of an action plan for implementation. The Group of Asian and Pacific States also required the development of an action plan, as well as other assistance, and the Group of Eastern European States required legal advice.

Figure 20  
Group of African States

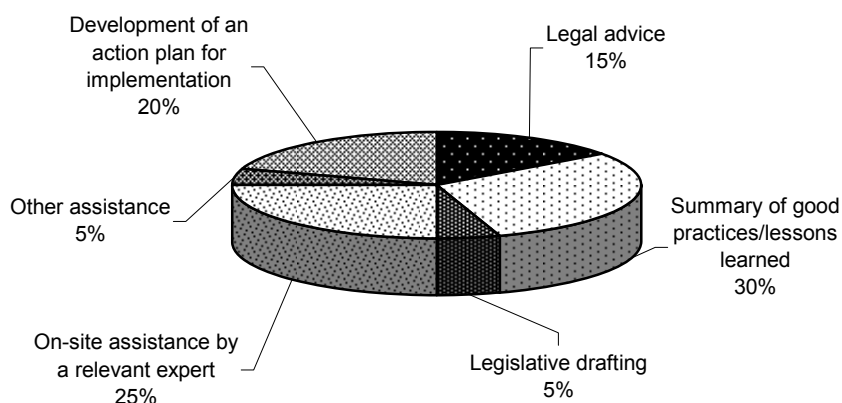


Figure 21  
Group of Asian and Pacific States

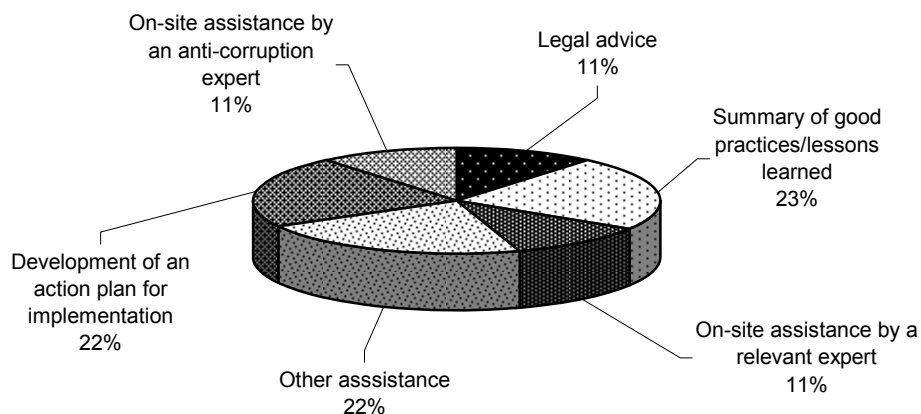
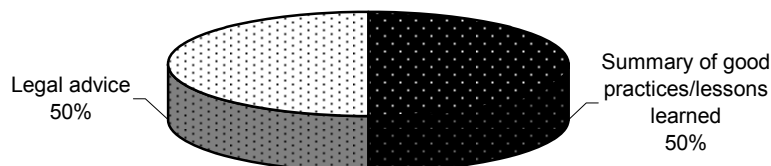


Figure 22  
Group of Eastern European States

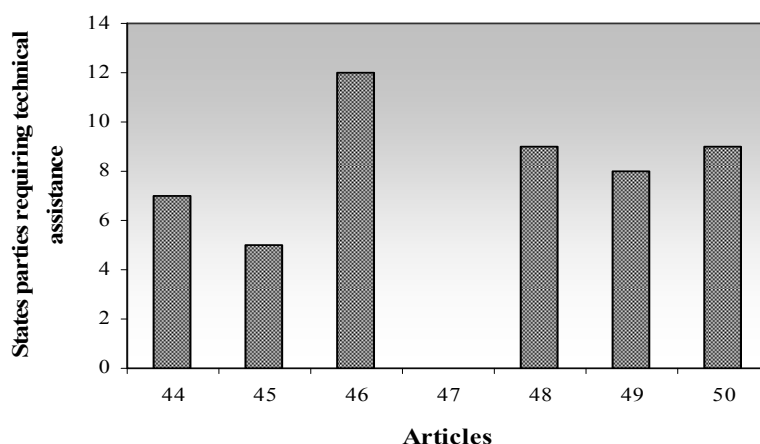


## B. International cooperation (chapter IV of the Convention)

24. Overall, fewer countries reported technical assistance needs for the implementation of the articles under review in chapter IV (International cooperation). Figure 23 reflects the overall technical assistance needs of reporting States parties on this chapter.<sup>7</sup> A regional breakdown of the needs was conducted on those four articles for which the highest number of technical assistance needs was reported.

<sup>7</sup> Articles 46 (Mutual legal assistance), 48 (Law enforcement cooperation), 49 (Joint investigations) and 50 (Special investigative techniques).

Figure 23  
Chapter IV. International cooperation



#### 1. Mutual legal assistance (article 46)

25. Mutual legal assistance was the article that solicited the highest number of requests for technical assistance in the self assessment reports submitted. Reporting countries from the Group of African States prioritized the need for a model treaty in order to implement the article. Other priority assistance needs included capacity-building programmes for authorities responsible for international cooperation in criminal matters and the development of an action plan for implementation, as well as good practices and lessons learned. Reporting countries from the Group of Asian and Pacific States prioritized the need for legal advice and on-site assistance by a relevant expert, as well as a model treaty, while countries from the Group of Latin American and Caribbean States requested only good practices and lessons learned. The reporting countries from Eastern Europe expressed a need for other assistance only with respect to paragraphs 2 and 26; however, the form of other assistance was not specified.

Figure 24  
Group of African States

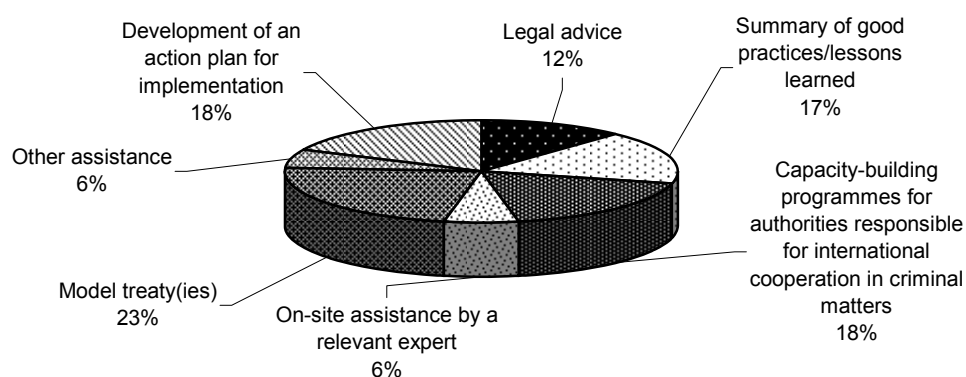




Figure 25  
Group of Asian and Pacific States

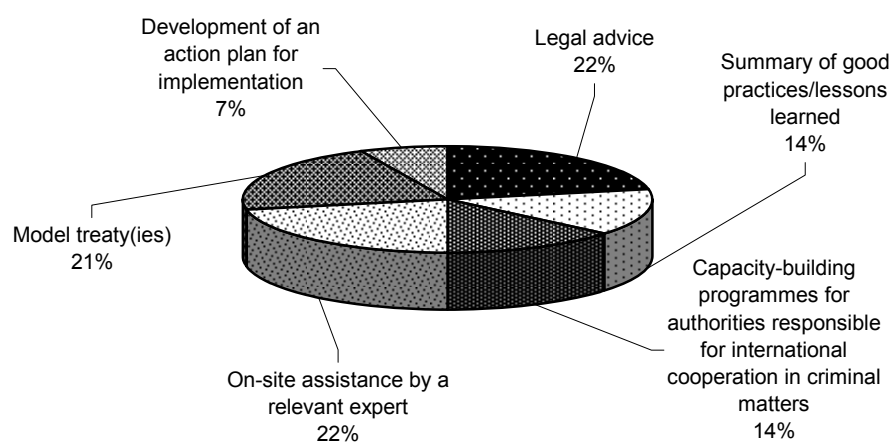


Figure 26  
Group of Eastern European States

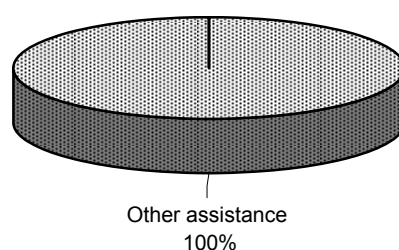
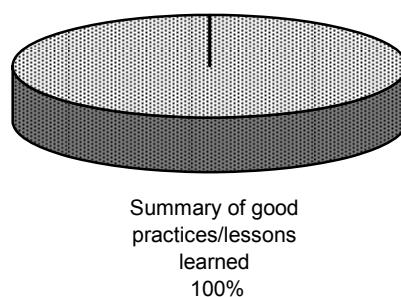


Figure 27  
Group of Latin American and Caribbean States



## 2. Law enforcement cooperation (article 48)

26. In the area of law enforcement cooperation, only the reporting countries from the Group of African States and the Group of Asian and Pacific States reported a need for assistance which prioritized good practices and lessons learned, and capacity-building programmes for authorities responsible for cross-border law enforcement cooperation, and then technological assistance, an on-site assistance by a relevant expert, model agreement and arrangement and capacity-building programmes for authorities responsible for cross-border law enforcement cooperation.

Figure 28

### Group of African States

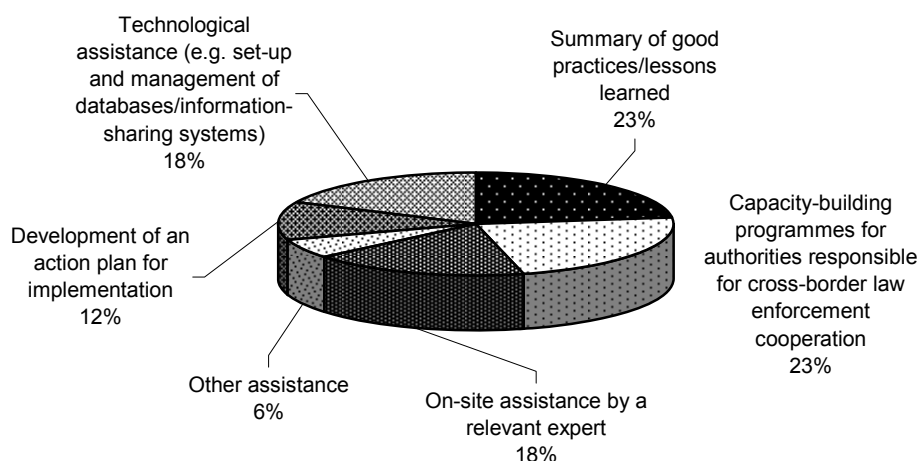
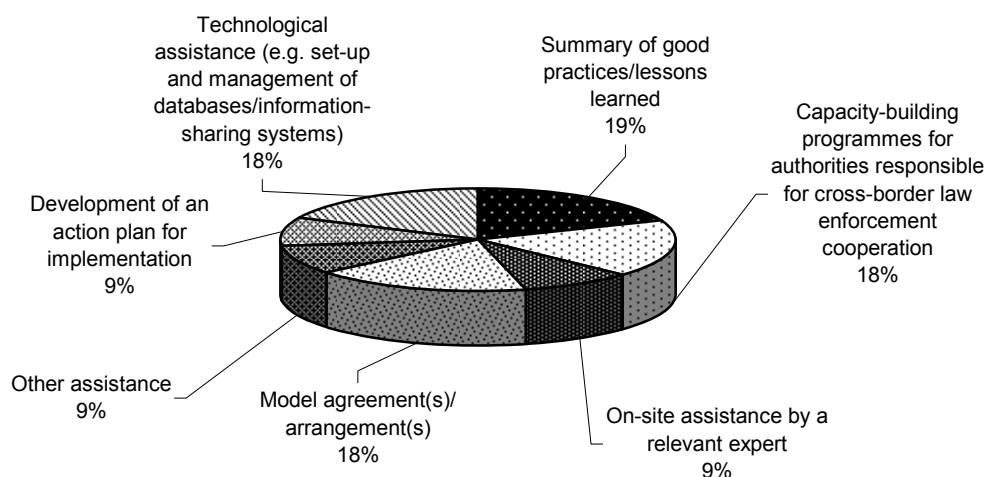


Figure 29

### Group of Asian and Pacific States



### 3. Joint investigations (article 49)

27. Furthermore, in the field of joint investigations, only countries from the Group of African States and the Group of Asian and Pacific States required technical assistance for the implementation of the article under review. The priority needs identified were good practices and lessons learned, model agreement and arrangement, on-site assistance by a relevant expert, and then capacity-building programmes for authorities responsible for cross-border law enforcement cooperation.

Figure 30

#### Group of African States

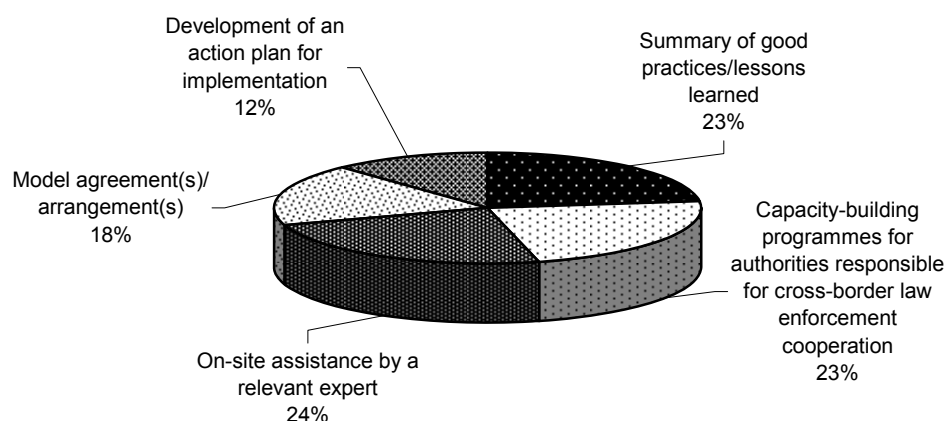
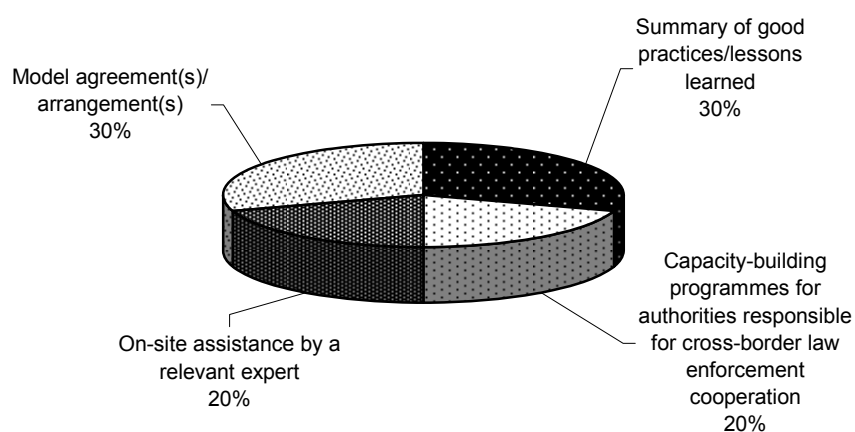


Figure 31

#### Group of Asian and Pacific States



#### 4. Special investigative techniques (article 50)

28. Finally in the area of special investigative techniques, only countries from the Group of Asian and Pacific States and the Group of Latin American and Caribbean States reported the need for technical assistance with the majority requesting good practices and lessons learned, and legal advice.

Figure 32

##### Group of Asian and Pacific States

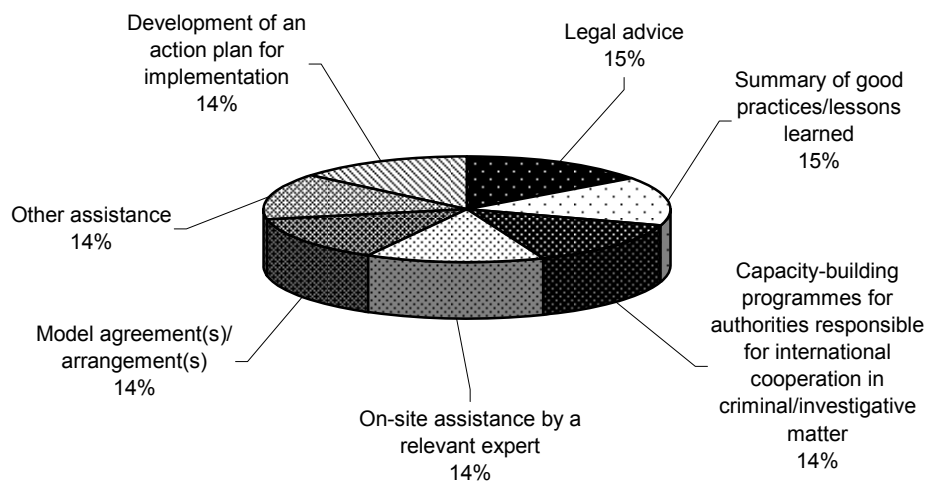
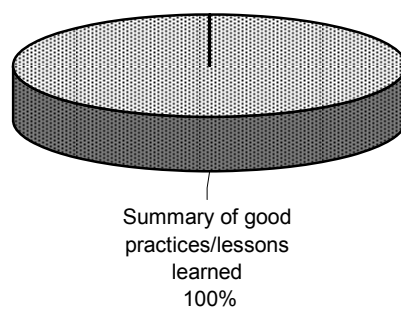


Figure 33

##### Group of Latin American and Caribbean States



### **III. Conclusions and recommendations**

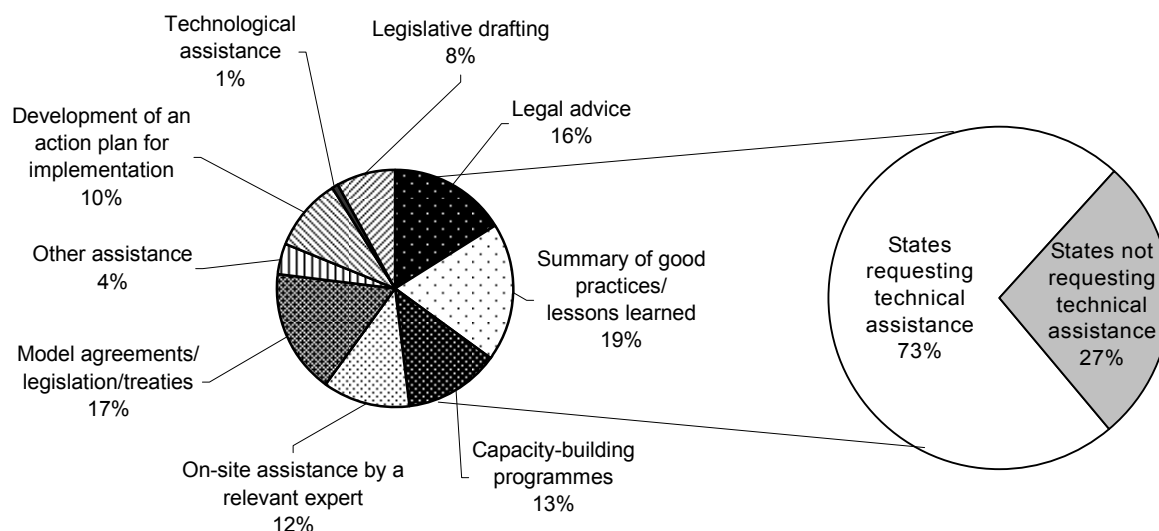
#### **A. Preliminary findings on priorities and types of technical assistance needed**

29. As was already pointed out, the technical assistance needs analysed in this paper come from a small sample, i.e. responses of 22 States parties, 16 of which indicated that they required technical assistance. The technical assistance needs in this paper have been extracted from States parties' responses to the self-assessment checklist. Thus, it is to be noted that, the needs have not been analysed through the review process during which these needs may change, taking into consideration the outcome of the dialogue with reviewing States parties. Such analysis, which is inferred by the review observations and findings, may produce more detailed results.

30. Already at this early stage, certain priorities emerge. For example, the area which can be widely referred to as protection of witnesses and reporting persons, and their cooperation with law enforcement authorities seems to be one such priority.

31. The global technical assistance needs for both chapters III and IV, in order of priority, were (1) a summary of good practices and lessons learned, (2) model legislation, treaty, arrangement or agreement, (3) on-site assistance by an anti-corruption or relevant expert, (4) legal advice and (5) the development of an action plan for implementation. This is highlighted in figure 34. Therefore, an early conclusion of the reviewed self assessment reports could be that reporting States parties with technical assistance needs require the greatest assistance with examples (i.e. summary of good practices and lessons learned) and models on how to implement the chapters under review, which would ideally be supported through the guidance of a relevant advisor and legal advice that takes into account a long term strategy (i.e. action plan for implementation).

Figure 34  
Global technical assistance needs for chapters III and IV



32. In chapter III (Criminalization and law enforcement), technical assistance was required, in particular, for articles 16 (Bribery of foreign public officials and officials of public international organizations), 21 (Bribery in the private sector), 23 (Laundering of proceeds of crime), 30 (Prosecution, adjudication and sanctions), 32 (Protection of witnesses, experts and victims), 33 (Protection of reporting persons) and 37 (Cooperation with law enforcement authorities). For chapter IV (International cooperation), assistance was mostly required for articles 46 (Mutual legal assistance), 48 (Law enforcement cooperation), 49 (Joint investigations) and 50 (Special investigative techniques). These were individually considered by region in the analysis.

33. Assistance in relation to implementation of article 37 (Cooperation with law enforcement authorities) was identified by the highest number of States parties. The second highest was article 32 (Protection of witnesses, experts and victims) and the third was article 46 (Mutual legal assistance). No technical assistance was required for article 47 (Transfer of criminal proceedings).

34. For chapter III, technical assistance needs focused primarily on good practices and lessons learned, model legislation, treaty, arrangement or agreement, legal advice, on-site advice by an anti-corruption or relevant expert, and the development of an action plan for implementation. Similar technical assistance needs were identified for chapter IV with the first priority area also being good practices and lessons learned followed by model legislation, treaty, arrangement or agreement. However, the third priority area was capacity-building programmes, followed by an on-site advice by an anti-corruption or relevant expert and the development of an action plan for implementation. The main difference between chapters III and IV is

that capacity-building programmes are the third priority under chapter IV rather than legal advice. This may be, in part, due to the more established frameworks that appear to be in place regarding criminalization and law enforcement, versus a less established framework for international cooperation.

35. The regions that identified the greater number of technical assistance needs were the Groups from Asian and Pacific States and African States. The Groups from Latin American and Caribbean States, and Eastern European States requested less assistance.

## **B. Towards an effective response to identified technical assistance needs**

36. The progress towards a more detailed analysis of implementation challenges leads to conformation of the fact that there is a pressing need to ensure the timely and efficient delivery of technical assistance. The Implementation Review Group underlined the importance of coordination in an effort to maximize scarce resources and ensure effective implementation of the Convention. The Group is well placed to facilitate the provision of technical assistance. Such facilitation will require an accurate and complete picture of who the current technical assistance providers are. The Group will also need to consider the best options for how identified technical assistance needs can be met in an efficient and effective manner by the various technical assistance providers. Finally, effective implementation of the Convention will require sufficient access to funding for technical assistance where it is requested by States parties. All of these matters are of fundamental importance to the credibility of the Convention and the Mechanism.

37. In order to achieve these objectives, the Group discussed at its resumed first session, the organization of a workshop to explore options to enhance the availability and delivery of technical assistance, with a particular view to providing recommendations to it on: how it can best perform its mandate in the area of technical assistance prioritization; the role it can play in ensuring the matching of the needs identified in the review process with available assistance; and the role it can play to secure sufficient funding for the provision of technical assistance. The Secretariat has been exploring the possibility of organizing this workshop in advance of the resumed second session of the Group with the participation of representatives from all regional groups.

38. Based on the above preliminary analysis of needs for technical assistance, the Implementation Review Group may wish to consider ways of developing technical assistance tools and guides, including good practices and lesson learned, as well as model treaties, legislation, arrangements or agreements. This could be made available to States through UNODC's soon to be launched Tools and Resources for Anti-Corruption Knowledge (TRACK). Resources to capitalize on improving technical assistance delivery would already be included on this platform together with a legal library that generates and disseminates knowledge on national legislation adopted or modified to implement the Convention.

39. Article 60 of the Convention calls for subregional, regional and international conferences and seminars to promote cooperation and technical assistance and to stimulate discussion on problems of mutual concern. In this regard, one way of

addressing common technical assistance needs might be by holding regional workshops that offer legal advice (mainly relevant for chapter III), and capacity-building workshops with respect to the implementation of international cooperation measures under chapter IV. These workshops would ideally lead into the development of individual action plans for implementation by attending States parties.

40. UNODC has launched regional and thematic programmes, including the thematic programme to prevent corruption and economic crime, in order to avoid that identified needs are addressed in a fragmented and uncoordinated manner. The programmes are aimed at ensuring that activities are embedded in a long-term strategy and workplan that takes into account regional and country specific priorities, while providing an integrated conceptual and operational framework for delivering the necessary expertise.

41. Bearing this in mind, the Implementation Review Group may wish to request the Secretariat to further explore and forge partnerships, synergies and joint programming with other multilateral and bilateral technical assistance providers in delivering such assistance, in order to efficiently and effectively address the above identified technical assistance needs.

42. States and other donors might further be urged by the Group to continue to provide resources for assistance efforts of UNODC in order to further the implementation of the Convention and to continue to provide coordinated assistance.

43. Finally, it is to be noted that UNODC can further assist States parties with specific technical assistance requests by drawing on its anti-corruption expert database, and the experiences of other States parties, as highlighted in the “Note by the Secretariat on pilot testing the use of United Nations Convention against Corruption assessment tools in identifying and prioritizing technical assistance: country studies from Indonesia, Kenya and Peru” (CAC/COSP/IRG/2010/8).