



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

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Open-ended Intergovernmental Working Group on the Prevention of Corruption

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Draft report*

Addendum

III. Implementation of resolution 3/2 of the Conference of the States Parties, entitled “Preventive measures”, and of the recommendations made by the Working Group at its first meeting

A. Good practices and initiatives in the prevention of corruption:

(ii) The public sector and prevention of corruption; codes of conduct (article 8 of the Convention) and public reporting (article 10 of the Convention): thematic discussion

1. The representative of the Secretariat introduced the topic of the public sector and prevention of corruption with regard to the implementation of article 8 of the United Nations Convention against Corruption on codes of conduct for public officials, and article 10 of that Convention on public reporting, as presented in document CAC/COSP/WG.4/2011/3. She stressed that many Governments shared their experiences and good practices in promoting integrity and transparency in public administration, highlighting initiatives undertaken with regard to articles 8 and 10, including activities undertaken by international organizations. It was acknowledged that it may be useful to gather information in a more systematic manner, and to develop a qualitative assessment of the impact of preventive practices.

* The present document is being issued without formal editing.



2. Several speakers expressed appreciation for the work undertaken by UNODC and the background documentation prepared for the meeting. They also mentioned the importance of cooperation between Member States and the Secretariat.
3. Speakers emphasized that, with regard to codes of conduct, it was a fundamental principle that civil servants had to answer to the government as opposed to any political party or other interests. It was noted that codes of ethics, in some contexts, were incorporated throughout the governmental system on a sector-by-sector basis, and in some cases could be significantly different in scope and substance, depending on the requirements of the particular sector. There were noted, however, several common elements that had been incorporated into most codes of conduct, regardless of sector, including prohibitions on conflicts of interest, bribery and other criminal offences; regulations governing the receipt of gifts; and general provisions of professional responsibility.
4. Several speakers noted that it was integral to the establishment of a professional public service to develop and adopt codes of conduct for public servants, laying out fundamental values to guide and regulate behaviour. It was noted that such a general code of conduct would not only regulate the behaviour of individual public servants, but affect the entire culture of government to promote public service generally. Some speakers noted that codes of conduct should be developed and signed by public officials at all levels of government, and not only limited to senior officials and managers. It was also noted that such codes of conduct should extend to all offices and public officials who are involved in financial matters and the disbursement of public funds.
5. Several speakers noted the particular importance of guiding and regulating conduct of public officials involved in public procurement due to the high risk of corruption in such operations.
6. A representative from the Office for Economic Cooperation and Development (OECD) delivered a presentation regarding public reporting. He indicated that certain types of public officials were statistically more likely to promote transparency more effectively than others. He reported ongoing sector-specific studies in public reporting for the health and education sectors, among others.
7. The representative of United Nations Development Programme (UNDP) presented the organization's initiatives on preventing corruption in the public sector by strengthening institutional and sectoral integrity. He pinpointed some major challenges encountered, namely the need for tools and methodologies to guide how anti-corruption and sectoral practitioners can work together, and the need of capacity development on sectoral and institutional integrity. He mentioned that, as a result of limited understanding of sectors, many corruption cases were handled as mismanagement cases and not as governance cases.
8. The representative of the Council of Europe (GRECO) informed the Working Group on lessons learned during GRECO's monitoring process. The starting point of GRECO's analysis was ethical practice in administration and the quality of the services delivered to the citizen. The key instruments used in this process were the Twenty Guiding Principles for the Fight against Corruption (1997), mainly numbers 9 and 10, and the Recommendation No. R (2000) 10 on Codes of Conduct for Public Officials. The need to have comprehensive codes of ethics, which were enforceable and understood by both public officials and civil society at large was

highlighted. It was also noted that there was a call for effective, proportionate and dissuasive sanctions when infringements occurred. Furthermore, GRECO underlined that voluntary regulation of behaviour could not replace legal norms and external control. The effectiveness of codes of conduct also depended on appropriate mechanisms for enforcement, including channels for reporting corruption, and disciplinary measures.

9. The representative of UNODC provided a presentation regarding the recently completed Guide to Strengthening Judicial Integrity and Capacity. He reported that work on this guide had began following Economic and Social Council resolution 2006/23, which had endorsed the Bangalore Principles on Judicial Conduct and requested UNODC to convene an open-ended intergovernmental expert group to develop a technical guide on approaches to strengthening judicial integrity and capacity. It included references to successful measures taken in a range of countries to address particular challenges in strengthening the justice system and reflected good practices and lessons learned from a wide range of countries and legal contexts. Each chapter also contained conclusions and recommendations for the development and implementation of the proposed reform measures. The guide would be available in the near future as an electronic document on the UNODC website.

10. A representative of UNODC presented the *Handbook on Police Accountability, Oversight and Integrity* recently published as a part of the UNODC Criminal Justice Hand Book Series. The *Handbook* covered international legal standards applicable to police oversight and accountability, promoted police integrity and the introduction of preventive and corrective measures while emphasizing the role of the different players like the government representatives, judiciary, civil society and independent oversight bodies.

B. Other recommendations

11. The Secretariat made an introductory presentation regarding progress made on previous recommendations of the Working Group at its first meeting in December 2010. With regard to procurement, it was reported that the revised Model Law on Procurement of Goods, Construction and Services was adopted by the United Nations Commission on International Trade Law (UNCITRAL) in its plenary session in June 2011. In addition, it was reported that in spring 2011, UNODC launched three anti-corruption projects aimed at promoting the private sector's engagement in anti-corruption efforts, one of which specifically targets public/private partnerships in procurement. She also provided an update on the Institutional Integrity Initiative. Finally, she noted UNODC's efforts to develop academic anti-corruption materials for university curricula and other teaching materials.

12. A representative of the secretariat to the United Nations Commission on International Trade Law (UNCITRAL) introduced the 2011 Model Law on Public Procurement, which serves as a template for national procurement legislation that implements UNCAC requirements. The model law reflects best procurement practice and promotes value for money and avoidance of abuse through transparency, integrity, participation, competition and objectivity. The Law contains

procedures to allow for standard procurement, urgent or emergency procurement, simple and low-value procurement, and large and complex projects. All decisions and actions taken in the procurement process can be challenged by potential suppliers. Discretion left to government purchasers is subject to safeguards that are consistent with other international standards — notably, those included in the United Nations Convention against Corruption.

13. A representative from the United Nations Ethics Office made a presentation regarding the role of the Ethics Office in preventing corruption and promoting integrity across the United Nations system. She noted that her Office offers an ethical framework to promote a comprehensive culture of integrity and accountability, including codes of conduct, protection of whistleblowers and persons reporting suspected instances of corruption, awareness-raising measures and ethical leadership and decision-making processes. In addition, she emphasized the Office's Financial Disclosure Programme, which seeks to manage risks and enhance public trust in the integrity and reputation of the United Nations, as well as identify, mitigate and resolve personal conflicts of interest.

14. A representative of UNODC presented recent activities developed to support countries in assessing areas of special vulnerability to corruption in the public and private sectors. He outlined methodologies which have proved to be effective for assessing attitudes towards, and experience with, corruption. It was recognized that evidence-based approaches could provide solid and accurate information on areas vulnerable to corruption. He highlighted the advantages of surveys which can be tailored to diverse focus groups such as the population at large, the business community and different sectors within the civil service, and can thus yield specific, policy-relevant information based on actual experience, which in turn provides comparability of results at the international level. Reference was made to: the Corruption Survey in Afghanistan, the Survey with Civil Servants in Iraq, the Household and Business Corruption Survey in the Western Balkans and two other projects in support of African and Asian Countries.

15. It was noted that statistical analyses of corruption prevention measures and the scale of corruption pose challenges in terms of methodology and implementation. It was highlighted that there is no standardized system to assess the scale of corruption, which opens a door to a gray area that might give rise to various types of manipulations with corruption-related data. The importance of avoiding a ranking of countries was stressed. It was further suggested that such analytical methodology be discussed more thoroughly in the context of the Conference of the States Parties and the Implementation Review Mechanism, as well as through the Implementation Review Group.

16. A recent initiative launched by an informal group of experts in the field of anti-corruption and academia supported by UNODC, OECD, the International Bar Association (IBA) and other relevant institutions was presented to the Working Group by the Secretariat. The initiative had the objective of developing a comprehensive set of academic educational materials on anti-corruption as an open source tool for universities and other educational institutions to facilitate and enhance the incorporation of teachings on corruption into academic curricula. The materials are developed in close cooperation with a related initiative of the UN Global Compact (Principles for Responsible Management Education (PRiME)),

which established a working group on “Anti-Corruption in Curriculum Change” focusing on teaching materials for business schools.

IV. Future priorities

17. Several speakers supported the extension of the mandate of the Working Group with the same mandate. It was suggested that the Group continue to gather information and good practices on the prevention of corruption, particularly through further reporting and information sharing by States parties. Concern was expressed, however, regarding the number of diverse forums involved in gathering information and collecting good practices, and the benefits that could be derived if such efforts were better concentrated and streamlined. In addition, it was suggested that States parties which had not provided such information should do so, and that States parties which had previously provided information be allowed an opportunity to supplement and update such information.

18. It was further suggested that the Group focus in the future more on specific substantive issues than on general statements and updates. Conflict of interest was one issue that was identified as a priority, particularly due to the complexities involved in addressing this issue in different legal systems. Financial disclosure and public/private partnerships were also identified as a priority issue. It was noted that the Group should not overlook the “informal” economic sector in this regard, particular in emerging markets.

19. Other speakers suggested that the benefits of the Group could be enhanced by a clear cataloguing or systematization by the Secretariat of information gathered from States parties from statements and written submissions. This information, it was noted, could be further supplemented by links to international organizations and other resources. In this regard, it was suggested that the Group seek to derive greater benefit from work undertaken by international and non-governmental organizations in identifying good practices and information regarding prevention measures against corruption. In addition, it was suggested by several speakers that discussions of the Working Group could be organized around a panel discussion format to facilitate debate and dialogue regarding priority issues identified by the Group. It was further suggested that the Group develop and adopt a multi-year workplan to identify priority areas and articles of the Convention, and elaborate approaches and various options to address those areas.

20. Emphasis was placed on the need to avoid duplication of activities and redundancy in the gathering and cataloguing of information related to the prevention of corruption. Importance was also placed on the identification of specific good practices and various options that could be available to States parties for consideration in adopting corruption prevention measures. It was also noted that the Group should be conscious of the fact that some options may work well in a certain legal, social or cultural environment, but may not be effective in other contexts. The importance of ensuring consistency in policies and views expressed by States parties in various bodies dealing with the fight against corruption was underlined.

21. Several speakers noted with appreciation the productive discussions and positive interactions at the meeting of the Working Group, and that the Group was in the process of further elaborating its scope, methodology and way forward. It was

suggested that these issues could be further discussed at the next meeting of the Conference of the States Parties.
