



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

Vienna, 13-15 December 2010

Draft report*

I. Introduction

1. In its resolution 3/2, the Conference of the States Parties to the United Nations Convention against Corruption decided to establish an interim open-ended Intergovernmental Working Group, in accordance with article 63, paragraph 7, of the United Nations Convention against Corruption, and rule 2, paragraph 2 of the rules of procedure of the Conference of the States Parties, to advise and assist the Conference in the implementation of its mandate on the prevention of corruption.
2. In the same resolution, the Conference also decided that the Working Group should perform the following functions:
 - (a) Assist the Conference in developing and accumulating knowledge in the area of prevention of corruption;
 - (b) Facilitate the exchange of information and experience among States on preventive measures and practices;
 - (c) Facilitate the collection, dissemination and promotion of best practices in corruption prevention; and
 - (d) Assist the Conference in encouraging cooperation among all stakeholders and sectors of society in order to prevent corruption.
3. Also in the same resolution, the Conference further decided that the Working Group should meet during the sessions of the Conference and, as appropriate, should hold at least two intersessional meetings prior to the fourth session of the Conference in order to perform its mandated task, within existing resources. The Conference also decided that the Working Group should submit reports on its activities to it.

* The present document is being issued without formal editing.



II. Organization of the meeting

A. Opening of the meeting

4. The Open-ended Intergovernmental Working Group on the Prevention of Corruption held its first meeting in Vienna from 13 to 15 December 2010.

5. The meeting of the Working Group was chaired by Dominika Krois (Poland) and John Brandolino (United States of America). In opening the meeting, the Chairperson recalled the importance of implementing articles 5 to 14 of the United Nations Convention against Corruption to prevent and fight corruption. She recalled article 61, paragraph 2, of the Convention, which stresses the importance of developing and sharing best practices in the prevention of corruption. She further recalled article 63, paragraph 4, of the Convention, which, *inter alia*, refers to the need to facilitate the exchange of information among States on successful practices for preventing corruption, and the objective of the Conference of promoting the implementation of the Convention, *inter alia*, by facilitating the exchange of information among States on successful practices for preventing corruption. The Chairperson invited the Working Group to capitalize on the wealth of information to be exchanged at the meeting. Drawing the attention of the Group to the fact that its next meeting would be held in August 2011, shortly before the fourth session of the Conference, the Chairperson urged the Group to guide the secretariat as to which areas of the prevention of corruption were to be pursued with more emphasis in the following months.

6. The Officer-in-Charge of the Division for Treaty Affairs provided an overview of the documentation prepared by the secretariat to facilitate the deliberations of the Group. He indicated that the secretariat had generated the documentation in conformity with paragraph 5 of resolution 3/2, by which the Conference requested UNODC to fulfil its mandate while taking into account existing expertise within the United Nations system and other relevant organizations. The Officer-in-Charge, while recognizing that further accumulation of knowledge in the field of preventing corruption would be necessary, hoped that the documentation before the Group provided a useful point of departure.

7. The Chair opened the floor for general comments. Speakers highlighted the importance of the discussions to be undertaken by the working group on prevention and noted with appreciation the background documentation prepared by the secretariat. Several speakers reported on national efforts to adopt measures to prevent corruption in line with the provisions of the Convention. Such efforts related to the establishment of anti-corruption bodies tasked with preventive functions, the development and implementation of anti-corruption action plans, the adoption or amendment of legislation, and work on public procurement. The role of civil society and the private sector in preventing corruption was also underscored. Several speakers stressed the link between work on prevention and that of the Mechanism to review implementation of the Convention. While Chapter II of the Convention was only to be reviewed in the second cycle of the first review phase, an important function of the working group on prevention was to assist States parties in preparing for their reviews under Chapter II. In this respect, the interlinkages between all the substantive chapters of the Convention were also emphasized. Speakers called upon colleagues to make use of the working group to

exchange experiences and good practices as well as challenges in preventing corruption, thus making the working group a marketplace for ideas on how to implement the provisions of Chapter II and to advise the Conference on how to proceed with a view to preparing for the next review cycle.

B. Adoption of the agenda and organization of work

8. On 13 December, the Working Group adopted the following agenda:
 1. Organizational matters:
 - (a) Opening of the meeting;
 - (b) Adoption of the agenda and organization of work.
 2. Implementation of the mandate on the prevention of corruption of the Conference of the States Parties to the United Nations Convention against Corruption.
 - (a) Development and accumulation of knowledge in the area of prevention of corruption;
 - (b) Exchange of information and experience among States on preventive measures and practices;
 - (c) Collection, dissemination and promotion of best practices in the prevention of corruption;
 - (d) Cooperation among all stakeholders and sectors of society in order to prevent corruption.
 3. Adoption of the report.

C. Attendance

9. The following States parties to the Convention were represented at the meeting of the Working Group: Algeria, Angola, Argentina, Australia, Austria, Belarus, Belgium, Benin, Bolivia (Plurinational State of), Brazil, Brunei Darussalam, Bulgaria, Canada, Chile, China, Colombia, Croatia, Cuba, Cyprus, Dominican Republic, Ecuador, Egypt, El Salvador, Finland, France, Gabon, Greece, Indonesia, Iran (Islamic Republic of), Israel, Italy, Jordan, Kazakhstan, Kenya, Kuwait, Lebanon, Libyan Arab Jamahiriya, Malaysia, Mali, Mexico, Morocco, Namibia, Nicaragua, Nigeria, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Togo, Tunisia, Turkey, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela (Bolivarian Republic of), Viet Nam, Yemen, Zambia and Zimbabwe.

10. The European Union, a regional economic integration organization that is a party to the Convention, was represented at the meeting.

11. The following States signatories to the Convention were represented by observers: Czech Republic, Germany, India, Ireland, Japan, Syrian Arab Republic and Thailand.
12. The following observer States were also represented: Andorra and Oman.
13. Palestine, an entity maintaining a permanent observer mission to the United Nations, was represented.
14. The following Secretariat units, United Nations bodies, funds and programmes, institutes of the United Nations Crime Prevention and Criminal Justice Programme network, specialized agencies and other organizations of the United Nations system were represented by observers: International Narcotics Control Board (INCB), United Nations Commission on International Trade Law (UNCITRAL), United Nations Department of Economic and Social Affairs (DESA), United Nations Development Programme (UNDP), World Food Programme (WFP), Office of the United Nations High Commissioner for Human Rights (OHCHR), United Nations Interregional Crime and Justice Research Institute (UNICRI) and The World Bank.
15. The following intergovernmental organizations were represented by observers: Asian-African Legal Consultative Organization (AALCO), Council of Europe, International Organization for Migration (IOM), Organization for Economic Cooperation and Development (OECD), Organization for Security and Co-operation in Europe (OSCE), Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies.
16. The Sovereign Military Order of Malta, an entity maintaining a permanent observer office at Headquarters, was represented.

III. Implementation of the mandate on the prevention of corruption of the Conference of the States Parties to the United Nations Convention against Corruption

A. Development and accumulation of knowledge in the area of prevention of corruption

17. The Group began its consideration of the information reflected in document CAC/COSP/WG.4/2010/2 entitled “Good practices in the prevention of corruption and regulation models in the public sector”. The representative of the secretariat introduced the document, that was based on information provided by entities of the United Nations system, other relevant international organizations as well as States parties. The ongoing UNODC initiative entitled “Tools and Resources for Anti-Corruption Knowledge” (TRACK) was demonstrated to the Group.
18. The representative of UNDP gave an overview of the activities of his organization in the field of preventing corruption and welcomed with appreciation the consultative process undertaken by the secretariat when preparing the documentation for the Group. He introduced the background of UNDP’s engagement in the area of corruption prevention and placed it within the broader context of UNDP’s Democratic Governance portfolio as well as its prominent

interrelation with the attainment of the Millennium Development Goals (MDG). He illustrated the realignment of priorities and mandates following the entry into force of UNCAC, regarded by UNDP as a governance and development framework. He further recalled the potential for cooperation and effective provision of technical assistance through the established and widespread network of UNDP Resident Coordinators and country offices. He presented tools, methodologies and good practices that had been developed, inter alia, to assist anti-corruption bodies, as well as work on sectors vulnerable to corruption.

19. The representative of the Organization for Economic Cooperation and Development (OECD) introduced the multidisciplinary approach of her organization to fighting corruption in the public sector. As part of its public governance programme, OECD placed particular emphasis on the Integrity Framework and the related integrity reviews of administrative processes within States members of the Organization as well as non-member countries. The three components of the Integrity Framework were accountability, guidance and training, and merit-based human resource management. Reference was made to the positive experience accumulated through work in the Middle East and North Africa region in this respect.

20. The representative of the Organization for Security and Cooperation in Europe (OSCE) provided the Group with information on the Organization's anti-corruption work since 2001. In doing so, she emphasized that information on this work had been systematically exchanged with UNODC with a view to ensuring complementarity and avoidance of duplication. She referred to the development of a new OSCE good governance programme based on a comprehensive, multidimensional and sectoral approach. She also provided examples of OSCE's work in South Eastern Europe and the South Caucasus region to strengthen local self-governance and integrity in customs and border control. She recalled her organization's mandate to cooperate with UNODC in order to ensure universal ratification of UNCAC and indicated that the anti-corruption projects supported by OSCE would be based on States' responses to the self-assessment checklist endorsed by the Conference of the States Parties. She also indicated OSCE's readiness to assist in the collection of anti-corruption legislation, thus contributing to the UNCAC Legal Library being developed by UNODC.

21. All presentations were to be made available to interested delegates.

22. The representative of the secretariat provided an introduction on the topic of methodologies, including evidence-based approaches, for assessing areas of special vulnerability to corruption in the public and private sectors, contained in document CAC/COSP/WG.4/2010/4. He outlined methodologies which provided for quantitative assessments of vulnerabilities and reviewed the main approaches that had been used at the national and international levels, highlighting main commonalities and differences between them. It was recognized that evidence-based approaches could provide solid and accurate information on areas vulnerable to corruption. These methods were characterized by collecting information on the evidence or experience of corrupt practices, and by analyzing such information through scientific, non-subjective procedures. It was acknowledged that many entities had conducted such assessments, at the national and international levels, but that there was no consolidated methodology to produce reliable and standardized assessments of corruption and vulnerabilities to it.

23. The representative of the World Bank presented the work conducted by the Bank over the last decade in the field of quantitative assessments of corruption. Reference was made to the experience of the Diagnostic Surveys on Corruption which had been produced for almost 20 countries upon their request.

24. The representative of UNDP provided an overview of his organization's work in the area of assessing corruption. This work included the development of knowledge products and support to countries requesting assistance in conducting assessments. He outlined several guiding principles for work in this area, stressing the importance of country-based and nationally-owned processes that would feed the results of such assessments into national policy reform. He also emphasized the development of national capacity and encouraged multi stakeholder processes.

25. The Group expressed appreciation for the work undertaken by UNODC and the background documentation prepared for the meeting. Speakers recognized the importance of gathering accurate and complete information on the implementation of UNCAC, of its Chapter II in particular, as well as on typologies of corruption. In respect of the former, speakers noted that the Conference had already taken a decision on methods to gather such information through the comprehensive self-assessment checklist. For the latter, it was emphasized that developing evidence-based methodologies to assess vulnerabilities to corruption needed to bear in mind the work of the Implementation Review Mechanism.

26. Speakers took note of the proposal contained in the background document to establish a scientific group of international experts that could consolidate experiences and enhance methodologies in evidence-based assessments of corruption and the identification of vulnerabilities to it. Several speakers expressed the view that the establishment of such a group was not desirable at this stage. Several speakers welcomed the development of capacity at the national level to develop and utilize such methodologies. Support for evidence-based, as opposed to perception-based, assessments was expressed. Many cautioned against the use of methodologies that would establish any form of ranking among States.

B. Exchange of information and experience among States on preventive measures and practices

27. Speakers provided the Group with information on their countries' efforts to prevent corruption in the management of public finances. The representative of Brazil further reported on her country's transparency portal as new features had been launched on 9 December 2010, on the occasion of the International Anti-corruption Day. In particular, the portal contained user-friendly information on contracts concluded by the federal government and specific public expenditures. Two further portals had been launched to inform citizens about investments in infrastructure and related expenses for the organization of the 2014 Football World Cup and 2016 Summer Olympic Games to be hosted by Brazil. She welcomed the fact that an increasing number of citizens were accessing the portal, thus empowering civil society to control public expenses.

28. Several speakers highlighted efforts and good practices in promoting integrity and transparency in public administration, including by enhancing accountability and reforming bureaucracies. Anti-corruption action plans and strategies had been

adopted to prevent corruption in the public sector, and specific institutions, such as Ombudsmen, had been established. Reference was made to the importance of providing public officials with adequate remuneration and channels to report cases of misconduct. The designation of 23 June as United Nations Public Servants Day, and the fact that also the African Union had decided to mark that day, was welcomed as an opportunity to share experiences at the regional level. One speaker highlighted the extensive efforts undertaken by his country to coordinate corruption prevention initiatives at the national level while providing assistance to other countries.

29. Speakers drew attention to regulation models for the public sector, including measures to address conflicts of interest and the adoption of codes of conduct. Reference was made by one speaker to the need to strengthen the justice system in his country. It was also noted that further to the adoption of codes of conduct, public officials needed to be trained on their content.

C. Collection, dissemination and promotion of best practices in the prevention of corruption

30. A representative of the secretariat introduced the background paper entitled “Good practices in the prevention of corruption in public procurement” (CAC/COSP/WG.4/2010/3). The speaker stated that procurement could have implications beyond the acquisition of basic goods and services by public offices, and could impact public officials’ accountability, public expenditures and the perceived efficiency of procurement systems. Public procurement was a fundamental tool not only for the acquisition of goods and services necessary to public administration but also, and increasingly, to implement macro-economic policies. As such, corruption in public procurement could have multiple negative effects.

31. Reference was made to article 9, paragraph 1, of the Convention, which listed three fundamental principles that should inform effective and efficient public procurement systems, namely transparency, competition and objective criteria in decision-making. It was indicated that the adoption and correct implementation of those principles would enable both prevention of corruption in public procurement and increased competition, two mutually-reinforcing goals.

32. The adoption of electronic systems for public procurement (e-procurement) could greatly facilitate the pursuit of those fundamental principles. Examples of additional benefits arising from the adoption of electronic means included: greater access, including by civil society, to information relating to the procurement process and to specific procurement exercises; automated documentation of each procurement exercise and easier retrieval of related information; selective access to procurement information through management of electronic identities; built-in risk indicators; and stricter workflow compliance and mandatory justification process.

33. Presenting a case study, the secretariat identified the following as positive effects of the implementation of e-procurement systems: increased participation by economic operators, and, in particular, micro, small and medium-sized enterprises; reduction in costs for the procurement exercises; and a trailer effect for the broader use of information and communication technologies (ICT). It was also noted that

other factors, including the existence of adequate legislative frameworks and ICT infrastructures, could affect the implementation of such systems.

34. A representative of the World Bank indicated that the prevention of corruption remained a crucial component of the World Bank Governance and Anti-corruption (GAC) Strategy. Although that Strategy was being reviewed, public procurement remained one of its main pillars. In this regard, the World Bank was focusing on capacity-building to facilitate the implementation of legislative frameworks of partner countries. The analysis of sector-specific — transport and health, for instance — challenges to the implementation of public procurement laws and regulations evidenced the need to tailor capacity-building exercises to the exigencies of each sector of public administration.

35. A representative of the UNCITRAL secretariat informed the Group that the revision of the UNCITRAL Model Law on the Procurement of Goods, Constructions and Services was underway, and that the final text was expected to be adopted in 2011. The revised Model Law would provide a comprehensive template for national procurement legislation, thus facilitating implementation of article 9, paragraph 1, of UNCAC while reflecting best procurement practices. It was underlined that the goals of the UNCITRAL revised Model Law, those of article 9, paragraph 1, of UNCAC and other relevant UNCAC provisions coincided, and that the UNCITRAL Model Law further promoted the “value for money” approach. Examples of the correspondence between provisions of UNCAC and provisions of the draft Model Law were offered. It was acknowledged that, to achieve its objectives, upcoming legislation consistent with the revised Model Law on Procurement needed implementation, to be supported by technical assistance programmes delivered in partnership with relevant international organisations.

36. A representative of the OECD presented the principles, practical guidelines and tools developed by the Organization to support the implementation of policies and measures to prevent corruption, thus providing guidance and good practices to practitioners. OECD supported the use of electronic means in public procurement owing to their ability to enhance transparency and efficiency; empower citizens to hold public authorities accountable; and decrease administrative burdens and costs. The representative of OECD stressed that the Organization was in the process of collecting specific data on the ability of e-procurement systems to reduce corruption. To this end, OECD had established a dedicated E-procurement and Integrity Delivery Team including OECD member States and other States from the Middle East and North Africa. The team had already produced an overview of the best practices in e-procurement and integrity and, in 2011 would focus on the identification of policy guidelines.

37. The representative of the United Nations Department of Economic and Social Affairs (UNDESA) presented the work of his organization on e-procurement, including the e-government surveys which had been conducted since 2001. The surveys contained four assessment indices on e-government development, namely: infrastructural development in information and communication technologies; human capital development; public e-service delivery; and, e-participation. He outlined lessons learned and achievements that had emerged from those surveys, including: (a) increased access of vulnerable groups to economic opportunities and enhanced social equality; (b) strengthened democratic systems and the image of countries

implementing e-procurement; and, (c) greater opportunities for collective action to prevent and combat corruption.

38. The representative of UNDESA also delivered a presentation on the United Nations Public Service Awards. He recalled that the United Nations Public Service Day was established by the General Assembly in 2003, and that awards were to be attributed for contributions made to the cause of enhancing the role, prestige and visibility of public service. The UN Public Service Award was established with the objective to: discover latest innovations in governance; reward excellence in public service; raise the image and prestige of public service; enhance professionalism; build trust in government; and, share successful practices. The current categories for awards were: improving the delivery of public services; fostering participation in policy-making decision through innovative mechanisms; advancing knowledge management in government; and, promoting gender-responsive delivery of public services. Eligible participants were public-private partnerships, public organizations and agencies at the national and sub-national levels, and any organization that performed public service functions. Awards were presented on a regional basis on the occasion of UN Public Service Day every 23 June. The representative of UNDESA informed the Group of the creation of a new award category in cooperation with UNODC. The new category was entitled “Preventing and combating corruption in the public service”.

39. The representative of the Office of the High Commissioner for Human Rights (OHCHR) delivered a presentation informing the Group about the numerous initiatives undertaken in the area of prevention of corruption from a human rights perspective. Specific attention was drawn to available resources developed by OHCHR in collaboration with its partners. Such resources included: (a) anti-corruption measures recommended in the concluding observations of the Committee on Economic, Social and Cultural Rights, made on reports regarding compliance by States Parties with the International Covenant on Economic, Social and Cultural Rights; (b) draft Guiding Principles aimed at promoting the UN Framework entitled “Protect, Respect and Remedy”; (c) a publication of 21 case studies of governance reform; and, (d) a publication on the outcome of the second United Nations Conference on anti-corruption measures, good governance and human rights held in Warsaw in 2006. He concluded by expressing his organization’s readiness to collaborate closely with UNODC in anti-corruption efforts and to identify potential areas of future cooperation.

40. The Working Group expressed appreciation for the preparatory work carried out by the secretariat. Several examples of successful implementation of e-procurement systems were cited as evidence of the benefits arising from the adoption of such systems. Among such benefits, speakers mentioned an increased scrutiny by civil society and wider access to public procurement by micro, small, medium-sized enterprises and by local providers. Other best practices mentioned included the adoption of a “social witness” system to monitor compliance in large infrastructure projects. It was added that attention should be paid to the identification of factors arising from the adoption of e-procurement systems that might facilitate corrupt practices. Speakers also suggested that technical assistance programmes should promote a cultural change in the attitude towards public procurement, thus facilitating the adoption and effective implementation of those fundamental values enshrined in article 9, paragraph 1, of UNCAC.

D. Cooperation among all stakeholders and sectors of society in order to prevent corruption

41. The Secretary of the Conference introduced document CAC/COSP/WG.4/2010/5 on the alignment of rules and regulations of the members of the United Nations Chief Executives Board for Coordination (hereinafter CEB) to the principles of UNCAC. He recalled the proposal that had been tabled by the Office of Internal Oversight Services (OIOS), Office of Legal Affairs (OLA) and UNODC towards the end of the negotiations of the Convention addressing the criminalization of bribery of international public officials; international cooperation between international organizations and Member States; and the issue of privileges and immunities. Due to the late stage of the negotiations, this proposal was not fully considered but rather deferred to the Conference, by means of General Assembly resolution 58/4. The Conference pronounced itself on the matter at its first and second sessions in resolutions 1/7 and 2/5. UNODC launched the institutional integrity initiative in April 2007, aimed at extending the principles and standards of UNCAC to the organizations of the United Nations system. Nineteen of the 28 members of the CEB provided responses to the checklist containing an overview of articles of UNCAC that embodied principles of relevance to those organizations. The call of States members of the Group of 20 in encouraging coherent approaches in the different organizations to which they belonged was also noted. The Secretary noted that international cooperation was complex and needed to be further explored, although recent developments were encouraging, including the handling of referrals from international organizations to Member States in specific cases. The Secretary also reported on a recent agreement on cross-debarment reached among multilateral development banks.

42. Speakers noted the background document and appreciated the efforts undertaken by UNODC to implement the mandates contained in resolutions 1/7, 2/5 and 3/2 of the Conference. The usefulness of the integrity initiative was noted as was the information collected from international organizations through the checklist. Speakers stressed the need to consider how to take forward the work undertaken by the secretariat, in accordance with the mandate of the Group.

43. The importance of fostering partnerships between the public and private sectors to prevent corruption and the positive impact of public-private partnerships on economies and development was underlined. Regarding public-private partnerships at the international level, speakers expressed their wish for a structured overview of activities conducted by UN system organizations as well as other intergovernmental organizations engaged in the prevention of corruption. Speakers gave examples of concrete efforts to engage participation of stakeholders from the private sector in initiatives designed to increase awareness and promote the key principles of transparency, integrity and accountability. Examples of such efforts included the establishment of a high committee tasked with providing policy advice on the public-private partnership and guidance on the possibilities for participation by private sector entities in public projects. Another example of soliciting private sector engagement and promotion of integrity involved the drawing up of a publicly accessible list of “pro-ethics companies”.

44. The representative of the secretariat introduced to the Group the background document CAC/COSP/WG.4/2010/6, entitled “Best practices for promoting

responsible and professional reporting on corruption for journalists”. The paper, prepared pursuant to paragraph 17 of Conference resolution 3/2, provided an overview of good practices in promoting responsible and professional media coverage of corruption, and highlighted issues which may affect the freedom to seek, receive and publish information on corruption in accordance with article 13 of the Convention.

45. Reiterating that the participation of society was key to States’ implementation of article 13 of the Convention, speakers stressed the crucial contribution of the media to the prevention of corruption. In this regard, the role of the media was regarded as a multi-faceted one, ranging from awareness-raising to the exposure of cases of corruption which would otherwise escape justice.

46. Speakers also emphasized the importance of establishing and promoting standards to foster professional and responsible reporting on corruption, recognizing that the right to seek and receive information had to be balanced with other equally fundamental rights and the rule of law. The Group also recognized that reporting on corruption was a sensitive undertaking which often exposed media representatives to a variety of risks, making them a vulnerable group.

47. The Group encouraged the secretariat to further collect information on good practices in professional and responsible media reporting on corruption, and stressed that capacity-building for journalists and programmes to foster partnerships between them and governments were to be pursued.

48. The representative of the secretariat presented the background paper, entitled “Progress on Youth and Corruption” (CAC/COSP/WG.4/2010/CRP.1). It was noted that this paper had been prepared in consonance with subparagraph 1(c) of article 13 of the Convention, and paragraphs 16 and 19 of Conference resolution 3/2 on measures to prevent corruption.

V. Adoption of the report

49. On 15 December 2010, the Working Group adopted the report on its first meeting (CAC/COSP/2010/WG.4/L.1 and Add.1).