



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

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## Fourth session

Marrakech, Morocco, 24-28 October 2011

## Draft report

*Rapporteur:* Matti Joutsen (Finland)

## I. Introduction

1. In its resolution 58/4, the General Assembly adopted the United Nations Convention against Corruption.<sup>1</sup> The Convention entered into force on 14 December 2005. Article 63, paragraph 1, of the Convention established the Conference of the States Parties to the United Nations Convention against Corruption to improve the capacity of and cooperation between States parties to achieve the objectives set forth in the Convention and to promote and review its implementation.

## II. Organization of the session

### A. Opening of the session

2. The Conference held its fourth session in Marrakech, Morocco, from 24 to 28 October 2011. [...] meetings were held during the session.

3. On 24 October, the outgoing President made introductory remarks in which he highlighted that the fourth session of the Conference was a strong sign of the renewed commitment of the international community to the fight against corruption and the implementation of the resolutions adopted by the Conference at its third session, held in Doha. Recent political developments in the Arab region had demonstrated strong rejection of corruption and a strengthened call for transparency and integrity.

4. The outgoing President then invited the Conference to elect its President for the fourth session. The Conference elected by acclamation Mohamed Saad El Alami (Morocco) as its President.

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<sup>1</sup> United Nations, *Treaty Series*, vol. 2349, No. 42146.



5. The newly elected President invited Abdellatif Menouni, Royal Counsellor, to deliver a message from His Majesty Mohammed VI, King of Morocco, to the participants in the Conference.

6. In his message, His Majesty Mohammed VI said that the recent profound changes that had taken place in different parts of the world had given rise to great expectations with regard to the promotion of moral values, transparency, accountability, integrity and good governance. Highlighting the international dimensions of corruption and its negative impact on efforts to achieve the Millennium Development Goals, he called for concerted efforts to fight that phenomenon. He provided an account of recent reforms undertaken by Morocco as part of a far-reaching process of reform and democratization of State and society. The newly adopted Constitution had elevated good governance and accountability to the status of constitutional principles and recognized the primacy of international conventions ratified by Morocco over national legislation. Furthermore, new legislation had been adopted and institutional reforms had strengthened the national authority for probity and for the prevention and combating of corruption. He called for the establishment of an international alliance of friends of the Convention with a view to expanding participation in the implementation of that instrument and ultimately securing universal adherence to it. During the next two years, Morocco intended to commit itself to promoting adherence to the Convention and raising awareness about the instrument's universal and human dimensions. He called for support for technical assistance in preventing and combating corruption and for the establishment of an international observatory to collect and analyse corruption-related data and record good practices in preventing corruption, information that should be available to the States parties to the Convention in order to support their reform agendas. He underscored the importance of international cooperation to awareness-raising and education and the need to secure effective input from civil society and the media. He further stressed the need to focus on the prevention of corruption and expressed the expectation that the "Marrakech commitment on the prevention of corruption" and the other resolutions to be adopted by the Conference at the fourth session would affirm the determination of States parties to combat corruption.

7. The President invited the Director-General of the United Nations Office at Vienna and Executive Director of the United Nations Office on Drugs and Crime (UNODC) to make opening remarks.

8. The Executive Director noted that recent developments in the Arab world demonstrated that millions of people rejected corruption and demanded integrity. In that context, the international community should redouble its commitment to the fight against corruption on the basis of the unique framework of the Convention. He commended States parties for the seriousness, thoroughness and enthusiasm with which they had participated in the Mechanism for the Review of Implementation of the Convention since the adoption by the Conference at its third session of the landmark decision on the Mechanism. He stressed the importance of all States parties' maintaining or strengthening further their support for the Mechanism in order to enable it to realize its full potential and consolidate its already well-established credibility. Highlighting the potential of the Convention for safeguarding sustainable development, he commended the Conference for placing preventive measures high on its agenda. Underscoring the close links between

corruption and organized crime, he urged States parties to promote ethical behaviour and integrity and to develop strategies to eliminate the crimes facilitated by corruption. He further highlighted the potential of the Convention as a tool for facilitating asset recovery and, in that regard, drew attention to the work carried out by the Stolen Asset Recovery (StAR) Initiative of the World Bank and UNODC. Highlighting the key role played by the private sector, he urged the business community to adopt anti-corruption policies, to establish mechanisms for ensuring anti-corruption performance, to invest in strengthening public integrity in developing countries and to invest in the supply chain. He further emphasized the importance of education and of the media as a key actor in the fight against corruption.

9. The representatives of the regional groups congratulated the newly elected members of the Bureau and expressed their gratitude to the Kingdom of Morocco for hosting the fourth session of the Conference.

10. The representative of the Islamic Republic of Iran, speaking on behalf of the Group of 77 and China, welcomed the fact that the issues to be discussed included progress towards achievement of the Millennium Development Goals. By eliminating corruption as a major obstacle to development, Governments could improve the social and economic conditions of their societies. He welcomed the sharing of experiences and lessons learned within the framework of the Implementation Review Group and the fact that the country reviews had already produced tangible and useful results. Referring to the challenges potentially posed by adherence to the indicative timelines and other requirements set out in the guidelines for governmental experts and the secretariat in the conduct of country reviews and in the terms of reference, he expressed the willingness of the Group of 77 and China to engage constructively during the fourth session in resolving difficulties. He reiterated the Group's call for the work of the Mechanism to be funded through the regular budget of the United Nations in accordance with the terms of reference, particularly in view of the need for sufficient and stable funding for technical assistance, which was essential to the effective implementation of the Convention. With regard to asset recovery, he underscored that adequate knowledge and action were needed in order to implement the provisions of chapter V of the Convention. Welcoming the results of the work of the Open-ended Intergovernmental Working Group on Asset Recovery, he called for the renewal of the Working Group's mandate and the development of a multi-year workplan for the Working Group. The elimination of safe havens for stolen assets was a high priority, and technical assistance, enhanced capacity of criminal justice systems and greater international commitment were key to the success of efforts to attain that objective. The representative highlighted the importance of developing and promoting effective policies and practices to prevent corruption, and in that regard recommended the development of a multi-year workplan also for the Open-ended Intergovernmental Working Group on the Prevention of Corruption.

11. The representative of Algeria, speaking on behalf of the Group of African States, welcomed the adoption of the terms of reference of the Implementation Review Mechanism. She expressed concern at the lack of effective international cooperation in the return of assets that had been diverted and illicitly transferred abroad. She noted that the non-repatriation of illicitly acquired funds to their countries of origin would have a negative impact on the enjoyment of human rights.

Underscoring the importance of implementing the provisions of the Convention relating to the prevention of corruption and the recommendations of the Open-ended Intergovernmental Working Group on the Prevention of Corruption, she called for government entities to strengthen cooperation with relevant stakeholders. Emphasizing the importance of regional and international cooperation, she proposed the establishment of an open-ended intergovernmental working group on international cooperation. The provision of relevant and adequate technical assistance to strengthen the capacity of States to fully implement the Convention was essential.

12. The representative of Thailand, speaking on behalf of the Group of Asian States and Pacific small island developing States, noted that effective implementation of the Convention could contribute greatly to the achievement of the Millennium Development Goals. The review process adopted by the Conference would assist States in determining how well their legislation, procedures, policies and measures promoted implementation of the Convention and in identifying specific technical assistance needs. She stressed the importance of promoting national ownership and involvement in order to generate follow-up, and she encouraged the sharing of experiences of the review process. She also encouraged States to demonstrate willingness and flexibility in considering ways in which to conduct the country reviews within the indicative timelines. She urged all States to strengthen international cooperation in preventing and combating the transfer of illicitly acquired assets derived from corruption and in facilitating the recovery of those assets by their legitimate owners. Expressing appreciation for the work of the Open-ended Intergovernmental Working Group on the Prevention of Corruption, she noted that the prevention of corruption required the broad-based support and participation of all sectors of society, including public-private partnerships. In that regard, attention should be paid to specific areas, such as public procurement. She stressed the role of UNODC in providing technical assistance upon request for the implementation of the Convention and in promoting synergies with technical assistance providers. National, regional and international organizations could play a complementary role in improving the knowledge and skills of practitioners and assisting institutions in planning and implementing anti-corruption policies and practices.

13. The representative of Argentina, speaking on behalf of the Group of Latin American and Caribbean States, recalled the link between corruption and other forms of crime, in particular organized crime, and stressed the need for continued progress towards achievement of the Millennium Development Goals. He welcomed the high and ever-increasing rate of ratification of and accession to the Convention and the establishment of the Implementation Review Mechanism, which would enable the Conference to fulfil its duty to assist States in enhancing the implementation of the Convention. He noted that 25 of the 26 States members of the Group of Latin American and Caribbean States had participated as States under review or reviewing States in the work of the Mechanism to date, and he welcomed the spirit of cooperation and mutual trust demonstrated by those States. Referring to the participation of observers in the meetings of the Implementation Review Group, he called for a spirit of compromise in order to enable the Conference to come to a decision on the issue. He highlighted the role of technical assistance as a fundamental pillar of the Mechanism, one that helped to identify needs, stimulate cooperation and promote horizontal initiatives such as South-South cooperation. He

also emphasized the importance of the participation of the private sector and civil society in work on the prevention of corruption and the role of the Open-ended Intergovernmental Working Group on the Prevention of Corruption. Underscoring the need to implement the provisions of chapter V of the Convention, on asset recovery, he called for the continuation of the work of the Open-ended Intergovernmental Working Group on Asset Recovery in studying the practical aspects of and solutions for asset recovery, and he welcomed the work carried out by UNODC and other relevant international organizations, including through the StAR Initiative, underscoring that technical assistance in that area should be neither selective nor discriminatory.

14. The representative of Poland, speaking on behalf of the States members of the European Union, highlighted the measures that had been adopted within the European Union to combat corruption, such as a reinforced anti-corruption policy and a comprehensive strategy to fight fraud and corruption affecting the European Union's financial interests. Several legal instruments had been proposed and were being developed in the areas of confiscation, asset recovery and public procurement. The representative, welcoming the establishment of the Implementation Review Mechanism, said that while reviews during the first year of the review cycle had taken longer to complete than initially foreseen, the fact that many countries had had no prior experience of such reviews should be taken into account. He noted a number of challenges to implementation that had arisen with regard to the provisions on criminalization and law enforcement in the Convention. The European Union and its member States provided substantial support for the efforts of developing countries and countries with economies in transition to promote good governance and fight corruption, including through technical assistance. He encouraged States parties to consider publishing their country review reports and the names of their focal points in order to allow involvement of stakeholders, and he called for dialogue and political will to consider the participation of observers in the meetings of the Implementation Review Group.

## **B. Election of officers**

15. At its 1st meeting, on 24 October 2011, the Conference elected by acclamation Mohamed Saad El Alami (Morocco) President of the Conference.

16. At the same meeting, the following three Vice-Presidents and Rapporteur were elected by acclamation:

*Vice-Presidents:* Eugenio María Curia (Argentina)  
I Gusti Agung Wesaka Puja (Indonesia)  
Ion Galea (Romania)

*Rapporteur:* Matti Joutsen (Finland)

### **C. Adoption of the agenda and organization of work**

17. At its 1st meeting, on 24 October 2011, the Conference adopted the following agenda for its fourth session:

1. Organizational matters:
  - (a) Opening of the fourth session of the Conference;
  - (b) Election of officers;
  - (c) Adoption of the agenda and organization of work;
  - (d) Participation of observers;
  - (e) Adoption of the report of the bureau on credentials;
  - (f) General discussion.
2. Review of the implementation of the United Nations Convention against Corruption: criminalization and law enforcement and international cooperation.
3. Technical assistance.
4. Prevention.
5. Asset recovery.
6. Other matters.
7. Provisional agenda for the fifth session.
8. Adoption of the report.

### **D. Attendance**

18. The following States parties to the Convention were represented at the fourth session of the Conference: Afghanistan, Albania, Algeria, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahrain, Bangladesh, Belgium, Benin, Bolivia (Plurinational State of), Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Central African Republic, Chile, China, Colombia, Costa Rica, Croatia, Cuba, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Finland, France, Gabon, Guatemala, Guinea-Bissau, Haiti, Honduras, Hungary, India, Indonesia, Iran (Islamic Republic of), Iraq, Italy, Jordan, Kazakhstan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritius, Mexico, Mongolia, Montenegro, Morocco, Namibia, Netherlands, Nicaragua, Niger, Nigeria, Norway, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Qatar, Republic of Korea, Romania, Russian Federation, Rwanda, Sao Tome and Principe, Serbia, Sierra Leone, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Thailand, Timor-Leste, Togo, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic

of Tanzania, United States of America, Vanuatu, Venezuela (Bolivarian Republic of), Viet Nam, Yemen, Zambia and Zimbabwe.

19. The following States signatories to the Convention were represented by observers: Côte d'Ivoire, Czech Republic, Germany, Ireland, Japan, Saudi Arabia, Sudan and Syrian Arab Republic.

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

21. The following observer States were also represented: Gambia and Oman.

22. Palestine, an entity having received a standing invitation from the General Assembly to participate as an observer in the sessions and work of all international conferences convened under its auspices, was represented by an observer, pursuant to rule 16 of the rules of procedure for the Conference.

23. 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: Department of Economic and Social Affairs of the Secretariat, Office for Internal Oversight Services, Office of the United Nations High Commissioner for Human Rights, Global Compact Office, United Nations Office on Drugs and Crime, United Nations Development Programme, United Nations Entity for Gender Equality and the Empowerment of Women, United Nations Population Fund, World Food Programme, World Bank, Basel Institute on Governance, International Centre for Criminal Law Reform and Criminal Justice Policy and Institute for Security Studies.

24. The following intergovernmental organizations were represented by observers: African Development Bank, American Bar Association Rule of Law Initiative, Asian Development Bank, Council of Arab Ministers of the Interior, Council of Europe, Inter-American Development Bank, International Anti-Corruption Academy, International Chamber of Commerce, International Criminal Police Organization, North Atlantic Treaty Organization, Organization for Economic Cooperation and Development, Organization for Security and Cooperation in Europe, the Ibero-American Legal Assistance Network (IberRed) and League of the Arab States.

25. The following non-governmental organizations in consultative status with the Economic and Social Council were represented by observers: 5th Pillar, Academic Council on the United Nations System, American Society of Criminology, American Society of International Law, Global Witness, Gram Bharati Samiti, International Federation of Consulting Engineers, International Society for Traumatic Stress Studies, Libera — Associations, names and numbers against mafias, Tearfund, Transparency International and World Economic Forum.

26. In accordance with rule 17 of the rules of procedure, the Secretariat circulated a list of relevant non-governmental organizations not having consultative status with the Economic and Social Council that had applied for observer status. Invitations were subsequently sent by the Secretariat to relevant non-governmental organizations.

27. The following other non-governmental organizations were represented by observers: Access Info Europe, Africa Centre for Open Governance, African

Parliamentarians Network against Corruption, Anti-Corruption Coalition Uganda, Civil Association for Equality and Justice, Association Sherpa, Buddhism and Society Development Association, Getulio Vargas Foundation, Centre for Development and Democratization of Institutions, Associação Contas Abertas, Ocase, Council on Geopolitics Foundation, Evangelical Fellowship of Zambia, Center for Public Integrity, Indonesia Corruption Watch, International Agency for Crime Prevention, Criminal Law and Jurisdiction, International Association of Anti-Corruption Authorities, Ligue Congolaise de Lutte contre la Corruption, Pakistan Institute of Legislative Development and Transparency, Professionals for Humanity, State View International, Syndicat National Autonome des Personnels de l'Administration Publique, Welfare Association for the Development of Afghanistan, Transnational Crime and Corruption Center — Caucasus Office, Transparency and Accountability Network, U4 Anti-Corruption Resource Centre and Zero Corruption Coalition.

## **E. Adoption of the report of the Bureau on credentials**

28. Rule 19 of the rules of procedure provides that the bureau of any session shall examine the credentials of representatives and submit its report to the Conference. Rule 20 provides that, pending a decision of the bureau upon their credentials, representatives shall be entitled to participate provisionally in the session. Any representative of a State party to whose admission another State party has made objection shall be seated provisionally with the same rights as other representatives of States parties until the bureau has reported and the Conference has taken its decision.

29. The Bureau informed the Conference that, of the 118 States parties represented at the fourth session, 113 States were in compliance with the credentials requirements. Five States parties, namely, Cameroon, Djibouti, Rwanda, Sierra Leone and Ukraine, were not in compliance with rule 18 of the rules of procedure. The Bureau emphasized that it was the obligation of each State party to submit the credentials of representatives, in accordance with rule 18, and called on those States parties that had not yet done so to provide the secretariat with original credentials as soon as possible but not later than 4 November 2011.

30. The Bureau reported to the Conference that it had examined the written communications received and found them to be in order.

31. The Conference adopted the report of the Bureau on credentials at its 10th meeting, on 28 October 2011.