



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

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Addendum

II. Organization of the session

G. General discussion

1. Speakers stressed the negative impact of corruption on economic growth and stability, sustainable development and the rule of law at the national, regional and international levels. The transnational dimensions of corruption, including its links to organized crime, trafficking in persons and terrorism, were also noted. Speakers expressed concern that corruption was undermining national initiatives to improve citizens' lives, in particular efforts to eradicate poverty and inequality and to promote and protect human rights, as well as the achievement of the Millennium Development Goals, in particular the goals on the eradication of extreme poverty and hunger and on the achievement of universal primary education. Speakers also noted that action against corruption promoted fundamental principles essential to a free and democratic society. Relevant initiatives were mentioned, such as the Anti-Corruption Working Group of the Group of Twenty. The need to promote synergies to strengthen coordination and effectiveness was acknowledged as pivotal in responding to corruption.

2. Speakers emphasized the importance of the Convention to global action against corruption and the desirability of universal adherence to the Convention, while welcoming the fact that a number of States had become parties to the Convention since the third session of the Conference. It was noted that the Convention had been developed as a collective response to corruption, and the implementation of the Convention was rapidly increasing in both credibility and public confidence. Speakers emphasized that the operation of the Implementation Review Mechanism had resulted in concrete measures against corruption. Speakers noted that their experience in participating in the Mechanism, as both reviewed and



reviewing States parties, had been positive. Speakers stressed the importance of the Mechanism, as it could play a central role in the response to corruption and could promote mutual trust and collaboration among States parties. It was important for the review process to be transparent, efficient, non-intrusive, inclusive and impartial and for it not to produce any form of ranking — those guiding principles and characteristics of the Mechanism were paramount to its ongoing development. Speakers stressed that the Mechanism was an intergovernmental and non-politicized process. It was also noted that the review process had been accommodating and inclusive, as it provided for broad stakeholder consultation at different stages. Speakers, while noting the need to maintain confidentiality in the review process, encouraged States to publish their country review reports for the purpose of sharing information and good practices.

3. Technical assistance was an integral component of the Implementation Review Mechanism. Speakers emphasized that the Mechanism provided a framework through which States were able to clearly identify technical assistance needs for the effective implementation of the Convention. The broad support of partners was deemed crucial to assisting in the implementation of such country-led efforts to fight corruption.

4. Speakers noted the need for further implementation of chapter IV of the Convention, regarding international cooperation, in particular in the areas of extradition, mutual legal assistance, law enforcement cooperation and joint investigations, noting the link to the provisions on asset recovery in chapter V. It was suggested that measures be taken to strengthen and improve agency-to-agency communication and information-sharing on an international basis between countries, in particular with regard to financial investigations. For that purpose, a flexible and pragmatic approach was preferable. Speakers suggested the establishment by the Conference of an intergovernmental working group on international cooperation in order to strengthen mechanisms for international cooperation, share and discuss good practices and further strengthen mechanisms for the recovery of stolen assets.

5. One speaker reported that his country had adopted the concept of the social damage caused by corruption, covering the diffuse or collective interests of groups of victims of corruption. The Conference of Ministers of Justice of Ibero-American Countries had recently embraced that concept and had recommended model legislation accordingly.

6. Speakers highlighted the fact that international mechanisms and initiatives, including regional ones, had enhanced the ability of States to address challenges of corruption. Reference was made in that connection to, for example, the International Anti-Corruption Academy and the regional anti-corruption academy for Central America and the Caribbean. Speakers stressed that there was a need to avoid duplication and that such mechanisms and initiatives should complement the Convention (the primary global instrument against corruption) and the Implementation Review Mechanism. The identification of needs through the Mechanism could stimulate regional and international cooperation and provide for horizontal initiatives, such as South-South cooperation. Speakers noted that regular meetings of anti-corruption bodies at the subregional and regional levels had helped to strengthen implementation of the Convention and had led to improved cooperation and the sharing of good practices. One speaker suggested that a

subregional network of anti-corruption agencies should be established in Central Africa to strengthen cooperation and encourage States that had not yet done so to ratify the Convention, and that, in addition, an African anti-corruption academy should be established. Speakers noted that transparency and broad stakeholder participation were crucial to the anti-corruption debate, as evidenced by the Arab Spring.

7. Speakers reiterated their commitment to undertaking measures against corruption and welcomed the exchange of good practices in national anti-corruption efforts. Speakers reported on national efforts and initiatives to implement the provisions of the Convention and described domestic legislative, administrative and judicial measures to incorporate into their legal systems, the requirements set forth in the Convention. Such measures included criminal and administrative mechanisms for countering illicit enrichment; robust income and asset declaration systems, disclosure requirements and verification mechanisms for public officials; e-procurement and other public tendering systems to monitor and prevent corruption in the area of procurement; legislation to ensure public access to information and accountable use of revenues of specific sectors, such as the extractive industry; the creation of Internet-based portals to facilitate reporting by citizens of instances of corruption; legislation to suspend the statute of limitations in corruption cases in which the alleged offender has fled to another jurisdiction; effective protection for whistleblowers and witnesses; measures to facilitate the use of cooperating offenders in investigations of corruption cases; the establishment of special anti-corruption courts; the establishment of a committee comprising representatives of government and civil society to monitor the implementation and effectiveness of anti-corruption legislation and initiatives; the establishment of audit mechanisms; the completion of memorandums of understanding between anti-corruption agencies on a regional basis to facilitate knowledge exchange and information sharing; the creation of national anti-corruption training institutions; measures to address passive bribery by involving multiple public officials in decisions where corruption could occur; the establishment of a national centre for collecting and processing data regarding financial transactions; the creation of an escrow account for cooperating offenders to restore stolen assets in exchange for immunity from prosecution; the implementation of standards of customer due diligence; and the establishment of community consultancy councils to engage civil society in anti-corruption activity. Other speakers provided information on particular criminal cases of national importance involving charges of corruption against public or private officials.

8. In addition, issues involving inter-agency coordination in preventing and responding to corruption were emphasized. Speakers provided information on mechanisms used to encourage the exchange of information and avoid duplication of or overlap in activities. It was suggested that such coordination could be facilitated under the auspices of a State's anti-corruption agency or other national anti-corruption committee, or in the form of an integrated national anti-corruption plan or policy. Speakers also acknowledged the key role that youth, civil society and the media could play in the prevention of and response to corruption, in particular in fostering a culture of zero tolerance of corruption. The implementation of article 13 of the Convention, regarding the promotion of the participation of society in efforts to prevent and fight corruption, would assist in ensuring long-term results in the areas of the enhancement of national integrity, transparency and professionalism and the development and implementation of anti-corruption strategies.

III. Review of the implementation of the United Nations Convention against Corruption: criminalization and law enforcement and international cooperation

9. In its consideration of agenda item 2, “Review of the implementation of the United Nations Convention against Corruption: criminalization and law enforcement and international cooperation”, the Conference had before it the following:

(a) Thematic report prepared by the Secretariat on implementation of chapter III (Criminalization and law enforcement) of the United Nations Convention against Corruption (CAC/COSP/2011/2);

(b) Thematic report prepared by the Secretariat on implementation of chapter IV (International cooperation) of the United Nations Convention against Corruption (CAC/COSP/2011/3);

(c) Note by the Secretariat on resource requirements for the functioning of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption (CAC/COSP/2011/4);

(d) Note by the Secretariat on action of the Implementation Review Group (CAC/COSP/2011/5);

(e) Note by the Secretariat on the overview of the review process (CAC/COSP/2011/8);

(f) Note by the Secretariat on implementation of chapters III and IV of the United Nations Convention against Corruption (CAC/COSP/2011/CRP.11);

(g) Note by the Secretariat on the work of the Implementation Review Group (CAC/COSP/2011/CRP.3);

10. I Gusti Agung Wesaka Puja (Indonesia), in his capacity as Vice-President of the Conference, chaired the discussion.

11. The representative of the secretariat, in her introductory remarks, thanked States parties for their commitment to the Mechanism for the Review of Implementation of the Convention. While noting that the Mechanism was still in its early stages, she stressed that important lessons had emerged and progress had been achieved.

12. Recognizing that the Review Mechanism had already produced tangible and useful results, speakers welcomed the thematic reports prepared by the secretariat. Speakers noted that, despite the relatively limited number of country reviews carried out thus far, the reports highlighted issues in implementation deserving further attention, in particular challenges, lessons learned and the expected results. They welcomed the thematic reports as a source of information for the strengthening of the implementation of the Convention and facilitation of the preparations for upcoming reviews. Speakers noted that relevant substantive data would emerge in due time as further reviews were concluded and looked forward to the inclusion in future thematic reports of additional information on implementation. One speaker made reference to the information presented by the secretariat on the progress of country reviews; such general information, while respecting the confidentiality of

specific country reviews, was useful for States parties to understand the progress of the Review Mechanism.

13. Speakers reiterated the commitment of States parties to Conference resolution 3/1 and the guiding principles of the Review Mechanism, especially its intergovernmental, inclusive, non-intrusive and non-adversarial nature. The Review Mechanism had proved to be balanced, workable and conducive to results that helped countries in their implementation efforts. Country reviews had helped States parties to identify implementation challenges and technical assistance needs, as well as to raise awareness regarding corruption. The assistance provided by UNODC, particularly in the preparation of self-assessment reports and through training on the Review Mechanism, was noted with appreciation.

14. Speakers reported on lessons learned in the first year of the Review Mechanism. While recognizing the usefulness of the self-assessment checklist, some speakers expressed the view that it could be further streamlined. Speakers further noted, while expressing concerns regarding delays experienced in the reviews, that efforts should be made to comply with the indicative timelines set out in the guidelines. It was noted that the wealth of information gathered through the self-assessment checklist resulted in the need for a great volume of translation services. In that regard, one speaker noted that the quality of translation needed to be improved. A number of speakers reported that their efforts to include all sectors of society in the country reviews had had positive results.

IV. Technical assistance

15. During its seventh and eighth meetings, on [...] October 2011, the Conference considered agenda item 3, entitled “Technical assistance”. The Conference had before it the following:

(a) Background paper prepared by the Secretariat on technical assistance in support of the implementation of the United Nations Convention against Corruption (CAC/COSP/2011/10 and Corr.1);

(b) Note by the Secretariat on possible technical assistance activities to respond to the needs identified by States parties during the first year of the first cycle of the Mechanism for the Review of the Implementation of the United Nations Convention against Corruption (CAC/COSP/2011/11);

(c) Background paper prepared by the Secretariat on South-South cooperation in the fight against corruption (CAC/COSP/2011/CRP.2);

(d) Concept note prepared by the Secretariat on the mapping of technical assistance in support of the implementation of the United Nations Convention against Corruption (CAC/COSP/2011/CRP.8);

(e) Note prepared by the Secretariat on technical assistance needs for the implementation of chapters III and IV of the Convention: statistical data (CAC/COSP/2011/CRP.12).

16. The discussion on agenda item 3 was chaired by I Gusti Agung Wesaka Puja (Indonesia), Vice-President of the Conference, who in his introductory remarks commended the Implementation Review Group on its work on technical assistance.

He noted that one of the goals of the Review Mechanism was to help States parties to identify specific needs for technical assistance, and to promote and facilitate the provision of technical assistance.

17. The Secretariat provided an overview of the documents submitted to the Conference for its consideration, highlighting in particular the technical assistance needs identified by States under review during the first year of the Review Mechanism. The Secretariat further reported on tools developed and activities conducted by UNODC in delivering technical assistance, and highlighted remaining challenges.

18. In its resolution 3/4, the Conference had decided that an expert panel should be organized during the discussion of agenda item 3 in order to provide an opportunity for recipient countries and technical assistance providers, including international organizations and bilateral donors, to share experiences and good practices in the delivery of technical assistance. Representatives of Indonesia, Rwanda, the United Kingdom, the Organization for Economic Cooperation and Development and the United Nations Development Programme were invited to participate in the panel.

19. The representative of Indonesia highlighted the importance of technical assistance in ensuring the full and effective implementation of the Convention. She reported that Indonesia and its development partners had moved towards a country-led and country-based approach to technical assistance. In this context, it had proved crucial for Indonesia to develop its national anti-corruption strategy in accordance with the requirements of the Convention, allowing providers of technical assistance to align their support with national priorities. While she noted with appreciation the significant assistance received, she also expressed concern with regard to the inability of some development partners to adjust to changing priorities. She concluded by calling upon the providers of technical assistance to display greater flexibility and to work closely with recipient Governments in order to ensure the sustainability of programmes and achievements.

20. The representative of the Department for International Development of the United Kingdom reported on lessons learned in delivering technical assistance, including the need to be more comprehensive, creative and coordinated in the identification of needs and the design and delivery of technical assistance programmes. He expressed discomfort with regard to the fragmented nature of technical assistance, meaning that it did not always address all sectors and institutions relevant to the effective implementation of the Convention. He further reported on innovative approaches of his agency, such as extending technical assistance also to agencies of the United Kingdom directly relevant to effective international cooperation and asset recovery in cases involving developing countries.

21. The representative of the Organization for Economic Cooperation and Development reported that presently approximately 1 per cent of total development aid was allocated to anti-corruption projects. Significantly more resources were used to finance broader governance projects that, inter alia, also supported the implementation of the Convention. He further highlighted some key weaknesses that technical assistance programmes could suffer from, including questionable analysis of technical assistance needs, unclear objectives and a poor choice of indicators of

success, as well as inadequate monitoring and evaluation frameworks. He emphasized that the Convention constituted a framework and benchmark, equipping technical assistance providers with an opportunity to address those shortcomings.

22. The representative of Rwanda reported on his country's experience as a recipient of technical assistance, highlighting several areas requiring attention that had emerged through the completion of the self-assessment checklist. Such areas related to the legal framework and institutional capacities to effectively implement and enforce that framework. He further highlighted the overall positive experience of his country in benefiting from South-South cooperation with various partner countries.

23. The representative of UNDP reported that technical assistance in support of the Convention was a high priority for his organization, which was implementing relevant programmes in more than 50 countries. He stressed that many technical assistance programmes had tended to meet only short-term needs, suffered from the unrealistic expectations of the providers, and lacked clear monitoring and evaluation frameworks. He also noted the focus of many technical assistance providers on problems of "grand" corruption, while petty corruption was largely ignored despite its devastating effects, in particular on the poor. He called on technical assistance providers to focus more on national ownership, make use of participatory processes in the design of programmes, ensure linkages with broader reforms and engage in long-term partnerships with the recipients of technical assistance.

24. In the ensuing discussion, speakers emphasized again the crucial importance of technical assistance in order to move from ratification of the Convention to its full implementation, in particular in developing countries. One speaker expressed concern about technical assistance becoming a business, given the emergence of an increasing number of private contractors providing such services.

25. Speakers welcomed the report prepared by the Secretariat containing a statistical analysis of technical assistance needs identified by States parties and requested a more comprehensive analysis as more reports became available. Speakers also called upon UNODC to ensure that those needs be appropriately addressed through its regional and thematic programmes. Speakers also stressed that it was important for the Review Mechanism to take into account the legal, social and cultural contexts of State parties under review when determining their technical assistance needs. Speakers highlighted the close connection between corruption and the fulfilment of human rights and, in particular, social and economic rights.

26. Moreover, speakers emphasized the importance of avoiding duplication in the delivery of technical assistance, promoting effective coordination and producing tangible results. In that regard, UNODC was requested to continue to maximize synergies and consultations with national, regional and international partners in the development and delivery of technical assistance.

27. Speakers noted that while legislative assistance was a priority need for many States, other aspects should not be neglected, including training in the investigation and prosecution of corruption, as well as capacity-building for the criminal justice sector. Speakers identified specialized assistance in the enhancement of information and communication technology, in particular for law enforcement and the judiciary, and emphasized the need for the development of tools and materials on the protection of witnesses and reporting persons. Speakers added that despite the focus

of the present review cycle, technical assistance should give equal priority to the support of implementation of chapter II, on prevention, and chapter V, on asset recovery, of the Convention.

28. Speakers welcomed the launch of the International Anti-Corruption Academy as a training institution to support international capacity-building and knowledge-sharing efforts. Other speakers noted the significance of the recent establishment of a regional anti-corruption academy in Panama. In addition, speakers welcomed the anti-corruption training courses for practitioners and experts given by the Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders.
