



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

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Addendum

V. Prevention

1. At its [...] meeting, on 26 October 2011, the Conference considered agenda item 4, "Prevention". The Conference had before it the following:

(a) Background paper prepared by the Secretariat on the work of the Open-ended Intergovernmental Working Group on the Prevention of Corruption (CAC/COSP/2011/6);

(b) Background paper prepared by the Secretariat on youth and the prevention of corruption (CAC/COSP/2011/12);

(c) Note prepared by the Secretariat on a proposal for a possible multi-year workplan for the Open-ended Intergovernmental Working Group on Prevention for the period up to 2015 (CAC/COSP/2011/CRP.4);

(d) Comments received by the Secretariat in response to note verbale CU 2011/177 of 30 September 2011 on the proposal for a possible multi-year workplan for the Open-ended Intergovernmental Working Group on Prevention for the period up to 2015 (CAC/COSP/2011/CRP.13).

2. The discussion on agenda item 4 was chaired by Ion Galea (Romania), Vice-President of the Conference, who in his introductory remarks recalled chapter II of the Convention, covering the prevention of corruption in both the public and private spheres, as well as Conference resolution 3/2, on preventive measures. By that resolution the Conference had established the Open-ended Intergovernmental Working Group on the Prevention of Corruption, which had met in December 2010 and August 2011. He also referred to the proposal made by the Working Group at its second session that the Conference should discuss the



adoption of a multi-year workplan for the period up to 2015, when the second cycle of the Implementation Review Mechanism commences.

3. A representative of the Secretariat updated the Conference about submissions received from States containing information about their awareness-raising policies and good practices, as well as initiatives related to the public sector and prevention. She expressed the hope that voluntary reporting would further increase and assist the Secretariat in heeding the calls from the Working Group on the Prevention of Corruption and the Conference for further analytical information in this area. She also informed the Conference about progress made in the implementation of the Institutional Integrity Initiative of the United Nations System Chief Executives Board, aimed at aligning the internal ethics and integrity rules of its members with the principles of the Convention.

4. Speakers commended the efforts made by the Working Group on the Prevention of Corruption and underlined the usefulness of sharing information, experiences and good practices among States, as well as the importance of providing technical assistance in order to assist States with the implementation of chapter II of the Convention.

5. Several speakers informed the Conference about the outcome of side events that they had organized in the margins of the fourth session of the Conference (see section VII below).

6. Speakers highlighted the importance of preventive measures in fostering a culture of integrity and transparency and of zero tolerance of corruption, as well as the need for the participation of, and cooperation among, all sectors of society, including civil society, in efforts to prevent corruption. Speakers underscored the key role that younger generations could play in developing a solid foundation for longer-term anti-corruption efforts. In that regard, the value of the incorporation of mandatory anti-corruption curricula into educational institutions at all levels, from elementary schools to universities, was emphasized. In addition, the role of community-based organizations, including religious and civic groups, was considered essential. Speakers highlighted the close link between the prevention of corruption and its detection, investigation and prosecution. The importance of strengthening judicial integrity and of enhancing the prevention of corruption in the justice sector was also highlighted.

7. The active engagement of the private sector was considered critical to the implementation of effective preventive measures. Such engagement would include measures to enhance ethics, integrity and professionalism in the private sector, including through public-private partnerships. Speakers advocated an approach that balanced infrastructure, technology and human resources in order to strengthen public sector anti-corruption institutions, with a view to reducing corruption opportunities and improving deterrence efforts. To meet those goals, it was stressed that, among other things, conflicts of interest, codes of conduct, recruitment and promotion based on merit, reduction of administrative barriers, principles of credibility and confidence-building measures should be addressed.

8. Speakers stressed that measures must be taken to implement chapter II of the Convention, prior to the review of its provisions, commencing in 2015, within the context of the Review Mechanism. Speakers reported on a number of initiatives and good practices in the prevention of corruption, including: strengthening

anti-corruption agencies and other related institutions; public-awareness campaigns, including on the occasion of the International Anti-Corruption Day; corporate governance codes; the development of, and adherence to, a universal charter against corruption for the private sector and public-private integrity pacts; and methods for developing indicators to measure and monitor the implementation of public service codes of conduct.

VI. Asset recovery

9. At its 5th and 6th meetings, on 26 October 2011, the Conference of the States Parties considered agenda item 5, "Asset recovery". The Conference had before it the following:

(a) Background paper prepared by the Secretariat on progress made in the implementation of the recommendations of the Open-ended Intergovernmental Working Group on Asset Recovery (CAC/COSP/2011/7);

(b) Note verbale dated 7 October 2011 from the Permanent Mission of Egypt to the United Nations (Vienna) addressed to the United Nations Office on Drugs and Crime, Corruption and Economic Crime Branch (CAC/COSP/2011/13);

(c) Conference room paper containing proposals for a multi-year workplan for the Open-ended Intergovernmental Working Group on Asset Recovery (CAC/COSP/2011/CRP.7).

10. I Gusti Agung Wesaka Puja (Indonesia), in his capacity as Vice-President of the Conference, chaired the debate. In his introductory remarks, he highlighted that while international cooperation had advanced, a great deal remained to be done to achieve the full implementation of chapter V of the Convention.

11. A representative of the secretariat highlighted the areas in which the Conference might wish to provide further guidance, such as the modalities for establishing a global network of asset recovery focal points under the Convention, the ways and means of enhancing cumulative knowledge relating to asset recovery and the development and delivery of training and technical assistance.

12. Pursuant to the recommendation adopted by the Open-ended Intergovernmental Working Group on Asset Recovery at its fifth meeting, the Conference organized a panel discussion on the practical aspects of asset recovery, including challenges and good practices. Representatives of Canada, Egypt, France, Liechtenstein, Mexico and Nigeria were invited to participate in the panel in order to share their countries' recent experiences.

13. The representative of Egypt underscored, in the light of the Arab Spring, the urgent need to trace and recover assets looted by corrupt officials, with a view to returning those assets to the countries of origin, thus contributing to the welfare of the citizens of those countries. He highlighted some of the key obstacles that his country had encountered in its recent efforts to recover misappropriated assets. Those obstacles included the need of requested States to receive detailed information on the location of stolen assets and, where appropriate, bank account details; the non-disclosure of information on the exact nature and location of assets

already frozen; and the requirement for requesting States to prove a direct link between assets and individual offences.

14. The representative of Nigeria expressed great concern that only a small proportion of looted assets were recovered and returned to the countries of origin concerned. While he acknowledged that his country had had some positive experiences in cooperating with other jurisdictions, he expressed the view that requested States should be more responsive to requests and adopt a more proactive approach to asset recovery cases. He also called for coordinated and effective legal action against multinational corporations that had been found guilty of bribery of foreign public officials.

15. The representative of Liechtenstein underscored the need to focus not only on the provisions of the Convention dealing with asset recovery but also preventive measures aimed at reducing opportunities for bribery and embezzlement, as well as on provisions targeting the laundering of the proceeds of such corrupt acts. He advocated for a proactive approach on the part of both requesting and requested States, including through the initiation of investigations in both jurisdictions.

16. The representative of France provided information on recently adopted national legislation providing for the early seizure of potential proceeds of corruption and the establishment of an agency responsible for the management of seized assets, and for the disposal of confiscated assets. The new legislation had greatly facilitated the securing of assets for subsequent confiscation and the improved management of seized assets, and had also enhanced the capacity of France to cooperate with requesting States in the recovery and return of assets.

17. The representative of Canada also presented recent legislation adopted in the light of requests for mutual legal assistance submitted by Egypt and Tunisia with regard to the recovery of assets. The new legislation provided for the immediate freezing, upon request, of funds held by high-level officials, as well as by their family members, with a view to ensuring that the authorities both of Canada and of the requesting State had sufficient time to conduct investigations and initiate prosecution. The representative emphasized the need for countries to utilize the Convention as a basis for direct cooperation, as in the cases mentioned.

18. The representative of Mexico drew attention to his Government's efforts, as incoming chair of the Group of Twenty (G-20) Finance Ministers and Central Bank Governors, to promote the effective implementation of the Convention, in particular of chapter V on asset recovery, as part of the G-20 Anti-Corruption Action Plan. He stressed the importance of complementing asset recovery efforts with a set of measures designed to prevent large-scale bribery and embezzlement. Such measures would strengthen accountability, transparency and integrity in the management of public resources and public affairs, including by improving public procurement, budget transparency and income and asset declarations.

19. In the ensuing interactive discussion, several speakers identified practical challenges to the recovery of assets. Most participants expressed the view that the provisions of chapter V, on asset recovery, were not yet sufficiently appreciated or effectively implemented by States parties, as evidenced in particular by long delays in responding to requests, and that their implementation was hampered, *inter alia*, by the costs of asset recovery efforts, difficulties in coordination among the various

stakeholders involved in asset recovery at the national level and lack of technical expertise and training opportunities.

20. Participants expressed their appreciation of the work of UNODC and the secretariat of the Stolen Asset Recovery (StAR) Initiative in developing and disseminating knowledge, conducting analytical work, identifying good practices and lessons learned and conducting training, and welcomed the recent publication of the UNODC report entitled “Estimating illicit financial flows resulting from drug trafficking and other transnational organized crimes”.

21. Speakers stressed the importance of direct application of the Convention as a legal basis for international cooperation in criminal matters and highlighted good practices, such as the spontaneous disclosure of information and frequent informal consultations prior to the submission of formal requests for mutual legal assistance. A number of speakers reported positive experiences with regard to non-conviction-based asset forfeiture and the adoption of related legislation in line with article 54, paragraph 1 (c), of the Convention. Speakers called upon States to eliminate safe havens for stolen assets and to abolish bank secrecy laws to the extent that they hinder asset recovery. The importance of national registries of assets and bank accounts, which have the potential for significantly facilitating asset recovery work, was also highlighted.

22. One speaker proposed that UNODC be notified of requests for the recovery of assets and responses thereto, and that a trust fund be created under the auspices of the United Nations in order to contribute to covering the costs of asset recovery procedures. Another speaker proposed the creation of a way for stolen assets to be returned voluntarily and anonymously.

23. Speakers reiterated the need to strengthen the collection and analysis of information on asset recovery cases. One speaker suggested that a compendium on laws, challenges and best practices on asset recovery in the countries of the Group of Eight be prepared.

24. Broad support was expressed for the extension of the mandate of the Open-ended Intergovernmental Working Group on Asset Recovery and the adoption of a multi-year workplan to guide the Working Group’s future activities. The need to establish a global network of asset recovery focal points under the Convention was reiterated. It was proposed that a model be developed for the description of duties of the asset recovery focal points, and for strengthening links with existing networks.

25. A representative of a non-governmental organization stressed the need to ensure the compliance of financial institutions with regulations to prevent money-laundering, and underscored that strong political will with regard to cooperation in the area of asset recovery should be supported by specific actions in both requesting and requested States.