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

Open-ended Intergovernmental Working Group on the Prevention of Corruption
Third Session
Vienna, 27-29 August 2012

Draft report

Addendum

III. Implementation of Conference resolution 4/3, entitled "Marrakech declaration on the prevention of corruption", and of the recommendations made by the Working Group at its meeting in August 2011

A. Good practices and initiatives in the prevention of corruption

(ii) Thematic discussion on the implementation of article 12 of the United Nations Convention against Corruption, including the use of public-private partnerships

1. The Working Group began its substantive discussion on the implementation of article 12 of the Convention with the introduction by the Secretariat of the background note entitled "Implementation of article 12 of the United Nations Convention against Corruption, including the use of public-private partnerships" (CAC/COSP/WG.4/2012/2). The Secretariat also provided an overview of initiatives and practices reported by Member States and organizations related to the prevention of corruption involving the private sector. It was highlighted that the most commonly reported aspects related to accounting and auditing standards, codes of conducts and similar measures, including measures regulating contractual relations between governments and businesses.

2. The panellist from Malaysia presented a number of examples of prevention of corruption through coordination between public and private stakeholders, based on the Anti-Corruption Principles of Corporations developed through a series of round table discussions between government and the private sector. These principles had been implemented through mechanisms such as the Corporate Integrity Pledge, according to which a corporation pledged to create a business environment free from corruption and uphold the anti-corruption principles, and the Integrity Pact in

which bidders are required to declare that they would refrain from corrupt practices throughout the entire public procurement process in order to be able to participate in such processes. The Mega Project Monitoring was launched in 2012 to ensure that all government projects which were valued over US$ 160 million and were of public interest must be monitored by an Integrity and Governance Committee to ensure compliance and promote integrity.

3.   The panellist from Brazil made a presentation outlining the experiences of the Office of the Comptroller General in fostering integrity in the private sector through a partnership with the Ethos Institute. Starting in 2006, Brazil had launched a number of business integrity initiatives, such as voluntary commitments that businesses could adopt under a Business Pact. The Clean Campaign was used to monitor compliance with the Business Pact and included the debarment and suspension of non-compliant companies. The panellist highlighted the Pro-Ethics List, launched in 2010, which created "white lists" of companies that invested in ethics and integrity measures. The screening process under that List was very comprehensive and only ten of the 70 companies that had applied had been added to the list.

4.   Subsequently, the panellist from the Russian Federation presented that country's efforts to strengthen dialogue through the establishment in 2011 of a working group on combating corruption with representatives of the business associations, unions and the state, under the leadership of the Minister of Economic Development. The group had adopted an Anti-Corruption Charter for the business community, including standards for business associations, and a Road Map for its implementation, and involved the business community in the discussion of relevant draft laws. Another initiative that the panellist presented related to the thorough examination of appropriate ways to regulate lobbying in the Russian Federation. That initiative involved among others an international workshop, held in Moscow in June 2012, with the participation of international organizations, such as UNODC and the OECD, and international experts.

5.   Several speakers expressed appreciation for the work undertaken by UNODC and the background documentation. Several speakers provided overviews of efforts made in their countries to establish policies and practices to prevent corruption involving the private sector.

6.   One speaker noted the importance of creating open channels of communication, including through informal means, in addition to more formal processes for public-private partnerships, such as integrity pacts and codes of ethics. He emphasized that governments should proactively communicate with the business community their expectations before enforcing requirements. Several speakers reported that they provided websites and newsletters to inform the private sector of good practices and relevant laws and regulations and case-by-case advisory services upon request.

7.   Some speakers remarked on the importance of bringing together the public and private sectors to increase dialogue and understanding in preventing corruption. Many reported using round tables to share experiences, to discuss UNCAC compliance and to identify areas for improvement. Several speakers noted that they had invited the private sector to participate in the development of multi-stakeholder anti-corruption strategies and joint workplans. One speaker highlighted that the

private sector was invited to provide feedback on the performance of government ministries in preventing corruption.

8.   Several speakers acknowledged the differences in audits of the private and public sectors, but noted that efforts were being made to harmonize standards to create a common approach to integrity and ethics. Several States highlighted that bookkeeping and auditing requirements for both the public and private sectors should be in line with international standards. One speaker emphasized that bookkeeping must be authentic, genuine and comprehensive so as to provide a full picture of the financial situation of a company. Several speakers noted the importance of aligning requirements for maintaining financial records with the statute of limitations applicable to corruption offences.

9.   Several speakers referred to the promotion of codes of conduct and ethics for the private sector. A number of speakers noted, however, that it was difficult to measure actual compliance with such codes. Special focus was placed on the importance of codes of conduct in high-profile and high-risk sectors, such as extractive industries, the health sector and construction.

10.   Challenges in monitoring and regulating the private sector were noted by several speakers, particularly in relation to contracts between private sector entities. Another speaker referred to the fact that many countries had very large informal economies which were unregulated and vulnerable to corruption.

11.   The observer for the International Anti-Corruption Academy reported on the launch of a Masters in Anti-Corruption Studies, an academic programme that included lecturers and students involved in anti-corruption work from both the public and private sectors.

B.   Report on the status of implementation of Conference resolution 4/3 and other recommendations

12.   A representative of the Secretariat updated the Working Group regarding progress made with regard to the implementation of resolution 4/3, entitled "Marrakech Declaration on the prevention of corruption" since the last session of the Conference of the States Parties to the United Nations Convention against Corruption, held in Marrakech from 24 to 28 October 2011. She expressed the hope that the Working Group would further assist the Conference in mapping the way towards effective action in the prevention of corruption. She recalled the need to inform the Secretary-General about the designation of competent authorities that may assist other States parties in developing and implementing specific measures for the prevention of corruption and to update existing information where needed. She informed the Group about an initiative entitled "The United Nations Convention against Corruption as a Framework to Mainstream Anti-corruption Safeguards for the Organization of Major Public Events", aimed at identifying good practices, based on the Convention, for preventing corruption in connection with major public events. She also provided the Group with an update regarding the implementation of the Institutional Integrity Initiative of the United Nations System Chief Executives Board for Coordination, aimed at aligning the internal ethics and integrity rules of its members with the principles of the Convention. The representative of the Secretariat further outlined a project aimed at developing

practical materials to assist States parties in establishing measures to allow journalists to engage in responsible and professional reporting on corruption, including through sharing of good practices, current experiences and relevant case examples. In terms of cooperation among stakeholders and sectors of society to prevent corruption, the representative of the Secretariat drew attention to the fact that UNODC launched a new initiative, the Integrity Initial Public Offering (IPO), which offers businesses the chance to help developing countries tackle corruption and strengthen their ability to fight it. Finally, she stressed that UNODC has a leading role in the Anti-Corruption Academic Initiative (ACAD), a collaborative academic project which aims to produce a comprehensive anti-corruption academic curriculum composed of a menu of individual academic modules, syllabi, case studies, educational tools and reference materials that may be integrated by universities and other academic institutions into their existing academic programmes.

13. Speakers welcomed the report provided by the Secretariat on progress in the implementation of the Marrakech Declaration. It was requested that the Secretariat continue to provide updates in this regard. The importance of States parties' implementing resolution 4/3 was emphasized. With regard to the designation of competent authorities to assist States parties in developing and implementing specific measures for the prevention of corruption pursuant to article 6 of the Convention, Algeria indicated that information on its competent authority was forthcoming.

14. The importance of States parties' conducting self-assessments of their implementation of Chapter II, despite this Chapter not being presently under review, was emphasized. It was further proposed that the Secretariat, as an international observatory for the prevention of corruption, continue to collect, systematize and disseminate good practices and models on the implementation of Chapter II, including in public procurement and the role of the private sector, also in the context of the G20 and B20 meetings and working groups, among others. It was also suggested that in the context of preparing for the review of Chapter II of the Convention, and the Secretariat's role in preparing good practices in its implementation, the Secretariat prepare a comprehensive matrix of prevention measures taken by States parties, including relevant websites and contact details for anti-corruption authorities and national experts.

15. Speakers highlighted the importance of providing technical assistance to requesting countries in support of the further implementation of the articles of Chapter II of the Convention, particularly with respect to articles 9 and 12. It was suggested that multi-faceted anti-corruption programmes were in significant demand in Africa, and should be tailored to the specific national needs and context without being prescriptive. This assistance could be facilitated by engagement with the Africa Union Anti-Corruption Committee, which had considered corruption prevention initiatives. From a programming standpoint, it was suggested that additional global and regional anti-corruption initiatives be launched, particularly in the area of asset recovery. Such initiatives could be developed in coordination with other institutions, including the World Bank, the StAR Initiative, OSCE, OECD and other departments and agencies of the United Nations.

16. It was further proposed that additional focus be placed on the prevention of corruption in the private sector for small- and medium-sized enterprises, sole

proprietors and liberal professions, such as lawyers, auditors, accountants and consultants, in addition to larger companies. The importance of public-private partnerships in implementing Chapter II of the Convention and achieving the United Nations Millennium Development Goals was noted. It was suggested that such measures could include economic protections, including for contracts and prevention from economic harm, for companies and businesses that report corrupt practices, which may encompass immunity from prosecution. The initiative of the Secretariat regarding the prevention of corruption in the context of major public events was welcomed.

17.   The importance of educational programmes for the prevention of corruption was emphasized, particularly at the university level, and speakers welcomed the Anti-Corruption Academic Initiative (ACAD) of the Secretariat and encouraged further activities in this area as well as activities to promote programmes at other levels of education, such as primary and secondary schools. In addition, the development of additional training and public awareness-raising activities in the prevention of corruption was suggested.

18.   Additional focus on the prevention of corruption in the judiciary was proposed as a priority in the implementation of Chapter II. The importance of institutional coordination by national authorities, including legislative bodies, executive offices and the judiciary, in the prevention of corruption was also noted.

IV.   Adoption of the report

19.   On 29 August 2012, the Working Group adopted the report on its third meeting (CAC/COSP/2012/WG.4/L.1 and Add.1 and Add.2).

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