



UNITED NATIONS
Office on Drugs and Crime

MID-TERM EVALUATION REPORT

Project Number:

AFG/R86

Strengthening anti-corruption measures in Afghanistan

Report of the independent evaluation team

Thematic area:
Anti-Corruption

Country:
Afghanistan

UNITED NATIONS OFFICE ON DRUGS AND CRIME
Vienna – April 2010

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List of Acronyms

AGO	Attorney General's Office
ACU	Anti-corruption Unit
COAFG	UNODC Country Office for Afghanistan
CJRP	UNODC's Criminal Justice Reform Programme
DoJ	US Department of Justice
EUPOL	EU Police Mission to Afghanistan
HOO	High Office of Oversight
IASCSC	Independent Administrative Reform and Civil Service Commission
ISISC	Institute for Superior International Studies on Crime
JSC	Justice Support Centres
JSSP	Judicial System Support Project
MoJ	Ministry of Justice
MoI	Ministry of Interior
NGO	Non-governmental organisation
SC	Supreme Court of Afghanistan
UNAMA	United Nations Assistance Mission in Afghanistan
UNDP	United Nations Development Program
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime
UNOPS	United Nations Office for Project Services

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1. Executive summary

The report of the Thematic Evaluation of the Technical Assistance Provided to Afghanistan by the United Nations Office on Drugs and Crime,¹ prepared by the Independent Evaluation Unit in May 2008, (hereafter “The Thematic Report 2008”) found that “UNODC projects were relevant to, if insufficient to meet, the needs of Afghanistan in the rule of law sector, but anti-corruption efforts were missing.” We have kept that finding to the forefront of our minds during our present evaluation and we have found that many anti-corruption efforts of UNODC are still missing, particularly in relation to anti-corruption measures in the private sector.

The project document for R86 acknowledges that, in view of the fact that corruption is an ‘insidious’ crime, an all-encompassing and integrated approach was required to address the issue adequately. It also stated that “such an integrated approach must also address corruption in the private sector as well as developing strategic partnerships with the victims of corruption”.² The importance of this aspect of the project is mirrored in The Thematic Report 2008. The evaluators are of the view that UNODC could have done more to adopt such an integrated approach. Similarly, the evaluators are of the view that UNODC should have devoted more of its attention to the establishment of procedures for disciplining civil servants involved in corrupt and ethical practices. We are concerned that this area of the project has been neglected and more attention needs to be given to implementing this objective during the remaining period of the project.

In summary, the evaluators do not consider that UNODC’s implementation of this project to date has had an all-encompassing and integrated approach; nor has the implementation addressed corruption in the private sector or developed strategic partnerships with the victims of corruption.

In total this project identifies 4 immediate objectives:

Immediate Objective 1: In coordination with other partners, support the development of a sustainable broad-based National Anti-Corruption Strategy in line with the requirement of the United Nations Convention against Corruption, including the establishment of a Secretariat responsible for guiding and monitoring its effective implementation.

Immediate Objective 2: Support the review and drafting of key legislation in accordance with the requirements of the UNCAC to make it more effective to tackle corruption.

Immediate Objective 3: Strengthen the basic capacity, professionalism, accountability and integrity of the Attorney General’s Office, in particular of the anti-corruption unit, in accordance with the relevant provisions of the UN Convention against Corruption (articles 7, 8, 11 UNCAC) with the aim to effectively tackle corruption cases.

Immediate Objective 4: Enhance the skill and professional knowledge of judges and prosecutors in handling corruption cases.

1 See Volume 4, Rule of Law Programme, Finding 2.

2 As will be seen in this report, one of our criticisms of UNODC’s implementation of this project to date is the failure to adopt such an integrated approach.

We consider that the abovementioned objectives are well designed and highly desirable, focusing, as they do, on the long term needs of Afghanistan's civil society. However, we are of the view that the stated objectives are too ambitious for a single project. The proper implementation of all these objectives within this single project will require a massive increase in resources in both the so called "hardware and software approach".

It was envisaged that project R86 would be implemented over a period of 24 months, commencing on 1 September 2007. However, the project was revised in October, 2008, and its duration was extended to July 2010. The reason for the extension of the approved duration of the project was stated to be to ensure that additional professional staff and anti-corruption experts were recruited in order to contribute to a successful and timely implantation of the project. Three of the four immediate objectives foreseen by the Project included the recruitment of international consultants. Given the importance of the recruitment of such expertise as a crucial element to the project, the evaluators considered it necessary to examine the way in which UNODC COAFG carried out the recruitment process for these posts. The evaluators are of the view that COAFG should have done more in their attempts to recruit the international consultants which, in our view, are essential if this project is to be implemented fully within the remaining life of the project.³

One of the immediate needs in order to accomplish objectives the project was the recruitment of an international consultant to deal with the establishment of an anti corruption strategy (immediate objective 1). On the 20 May 2008, the terms of reference (ToR) for the recruitment of this International Expert were drafted by COAFG. The ToR for this position were extremely wide and included the provision of training and technical advisory services to a great number of Afghan institutions, including the Ministry of Justice, Ministry of Finance, the Supreme Court, the Attorney General Office, the new Anti-Corruption Agency decreed by the President in May 2008, and the Control and Audit Office. We are of the opinion that the ToR for this position were far too wide for one person alone to achieve.⁴

It also appears to the evaluators that there may have been some confusion within COAFG as to the fees that could be paid to the international consultants, in accordance with the applicable UN Rules. The evaluators received conflicting information from various interlocutors as to their understanding of the applicable maximum rates that could be paid to international consultants and we recommend that the human resources staff and senior management of COAFG are given better instruction as to the rates of pay that are applicable to such international experts, in line with the memo that was distributed to field offices, dated 16 April 2009, dealing with the authority to field offices to engage international consultants. We recommend that urgent consideration be given to improving the rates of pay (and/or the provision of DSA) of the international experts, as the input of international experts into the project is crucial at this stage.⁵

The need for more transparent flows of information and a certain tendency to understate failings and overstate achievement were pointed out as critical issues by the thematic evaluation of 2008. It seems to us that this issue has not yet been fully resolved. A striking example of this criticism is the absence of reporting by UNODC to donors upon the delays and difficulties being encountered in connection with the development by UNICRI of the training materials under the terms of the revised project document.

³ See section 6, paragraph 6.1 at page 17 et seq of this report – Attainment of objectives, production of outputs and implementation of activities.

⁴ See page 19 et seq of this report.

⁵ See page 19 of this report.

Support to the High Office of Oversight (HoO) is a key component of the project under immediate objective 1. The evaluators are impressed by the extensive technical advice and support that UNODC has provided to the HoO. UNODC has provided crucially important technical assistance in the drafting and revision of legislation regulating the mandate and structure of the HoO, including meetings with and written presentations to the Minister of Justice and his legislative department. This technical assistance included bringing an international expert on the UNCAC to work with COAFG on the legislation. The final legislation was approved in June 2008 and President Karzai adopted a Decree establishing the HoO.

Under this project there can be no doubt that UNODC have contributed greatly to the establishment of the infrastructure of the HoO; including the provision of the physical premises and equipment for the HoO, and the design and implementation of the organisational structure of the HoO.⁶ In addition, UNODC has provided technical support to the HoO; for example by way of the provision of a workshop on the various modalities and options for consideration by the Supreme Court and the AGO in connection with the establishment of anti-corruption courts and anti-corruption units. UNODC have arranged presentations to the representatives of the Supreme Court and the AGO of comparative systems and they have organised discussions on the organisation, jurisdiction and mandates of examples of foreign organisations.

Whilst these activities are impressive and demonstrate a commitment on the part of UNODC towards giving every possible assistance to HoO, we are concerned about some of the remarks that were made to us by highly reliable interlocutors. It is likely that the reputation of UNODC had suffered as a result of a failure by UNODC to honour promises made to HoO to supply equipment such as cars and computers. However, during discussions with the HoO extensive gratitude was expressed towards UNODC for all the assistance that it had given to the HoO, particularly in the early days of the establishment of the Office. Nevertheless, we gained the impression at the HoO that they were disappointed that UNODC no longer had a representative giving support to the HoO on a permanent or partial “in house” basis at the HoO. One of our recommendations will be that an additional international expert should be recruited and he/she should be embedded (either on a full time or part time basis) in the HoO. The evaluators do acknowledge, however, that we have been informed that since May 2009 UNODC has seconded a national anti-corruption expert to the HoO, which will go some way to increasing full time support for the HoO.

One outstanding contribution that UNODC has made to the success of the HoO is the provision of a database for the registration of assets declared on annual basis by senior government officials (part of immediate objective 1). The database was finalised in April 2009. We have seen this database and we have had a demonstration of its use. It is a most impressive database and we believe it forms one of the most important contributions to this project. The database will play a pivotal role in supporting the Asset Registration Department in the HoO to register, verify and monitor the level of wealth of high rank officials.

Whilst the provision of the database represents an important and highly successful implementation of one of the key objectives of the project, in our view, UNODC need to re-focus on the provision of technical assistance (both the hardware and software aspects of assistance) to the HoO. This institution will be a key part of the successful completion of this

⁶ See page 23 et seq of this report

project and time is running out. We share the view of some of our interlocutors that the HoO has good reason to feel that UNODC have lost focus on this aspect of the project. However, we regard the secondment of a national anti-corruption expert to the HoO, since May 2009, as an important step to regain focus on support for the HoO. We also acknowledge that we have been informed that between March and August 2009, UNODC had exhausted its funding for this specific project.

During the project period under review, UNODC representatives met with the Head of the newly established Control and Surveillance Department of the Supreme Court (SC). This body is tasked to function as an “Internal Affairs” or the “internal anti-corruption mechanism” in the judiciary. The department investigates allegations against judges and court personnel. UNODC is currently undertaking a comprehensive assessment to provide technical assistance and material support to the Control and Investigation Department in Kabul as well as in selected provinces. We note that relations between UNODC and the Supreme Court are, at times, difficult as the counterparts at the SC are apt to withdraw support and assistance if they perceive that they have not obtained assistance and technical support on their own terms. However, UNODC continues to deal with the SC in a patient but firm manner. In our view, UNODC is doing everything that it can to implement its activities with the SC. Clearly, this is not easy and patience and a firm resolve will be necessary.

Between February and May 2008, UNODC provided training on strengthening the role of investigative journalism in Afghanistan’s fight against corruption to 28 selected journalists. The program consisted of four components: in-class training; practical exercises; mini-grants; and mentoring. A series of three thematic, successive training sessions were conducted to provide participants with theoretical concepts and knowledge. The evaluators consider that this project was very worthwhile and represents an innovative output under immediate objective 1.4 of the project.

Between 15 and 17 June 2008, UNODC and UNDP together with the Government of Afghanistan held a workshop on “Legislative Requirements of the United Nations Convention against Corruption.” This Workshop was based upon UNCAC’s requirements that ratifying countries enact implementing legislation. The evaluators are of the view that UNODC has been right to attach a high priority to assisting the Government of Afghanistan to implement the provisions of UNCAC as part of the wider support provided to crucial fight against corruption. A workshop on legislative requirements of the UNCAC provided an opportunity to analyse legislative options and the existing Afghan legislative framework in relation to preventing and combating corruption.⁷ It also served as a starting point for discussions on a legislative action plan with prioritisations made as to which laws to address first. As a result, UNODC developed and finalised the terms of reference for the establishment of a dedicated working group to review and draft laws and regulations in accordance with the obligations and principles of the UNCAC. The evaluators regard this as a very successful output under immediate objective 2 of the project.

The evaluators would like to highlight the work done by UNODC COAFG on the review of the rules and standards of professional ethics and conduct applicable to prosecutors. We are firmly of the view that this aspect of the project has been highly effective and it represents a very substantial contribution to immediate objective 3 of the project.⁸

⁷ See page 26 of this report.

⁸ See page 26 et seq of this report.

During the project period under review in this evaluation, UNODC continued actively to contribute to and participate in the activities of the AGO Anti-Corruption Unit (ACU) Coordinating Group which comprises: UNODC; the US and UK Embassies; and the EU Police Mission to Afghanistan (EUPOL), and which coordinates the activities of international implementers and strives to form a group consensus on reform for the AGO.⁹ The establishment of the ACU is at a critical stage, and UNODC's expertise, benefiting from extensive advisory experience in the AGO, is being specifically directed towards compliance with Afghan institutional structures and accommodation of operational realities and international standards.

In relation to the overall performance assessment (considering appropriateness, relevance, effectiveness and efficiency), the evaluators recognise that this is a very ambitious project and we consider that insufficient resources have been made available to UNODC to implement the objectives. The project document states that "UNODC has the mandate and expertise to support Afghanistan's efforts to reduce corruption." We agree that UNODC has such a mandate, but we are firmly of the view that UNODC does not have sufficient resources to achieve its mandate. We are firmly of the view that this project requires at least two International Experts, one of whom should be embedded with the HOO. We have been informed by COAFG that an International Expert on Anti Corruption strategy (who UNODC unsuccessfully attempted to recruit in May 2008) was intended to be embedded at the HoO, upon clearance by UN Security. The evaluators are of the view that the recruitment and secondment of such an International Expert should take place as soon as possible, notwithstanding the fact that a national expert has now been seconded to the HoO.

The project document makes it clear that one of the objectives of the project is to enhance the trust and the public support towards the Government's anti-corruption efforts by mounting an awareness campaign, to inform the public about corruption and the means at their disposal to defend themselves against corrupt practices, including how and where to report incidences of corruption. The evaluators are of the view that more needs to be done to tackle this objective and we consider that it is important that in this final phase of the project urgent steps are taken to provide COAFG with sufficient resources (principally International Experts) to implement this key objective.

From our evaluation it is evident that project R86 has (and continues to have) a very significant impact on the development of an anti-corruption strategy and on the development of institutions that are fit for purpose in combating corruption and in implementing the provisions of the UNCAC. We believe that this project is crucial to a successful rehabilitation of Afghanistan. There can be no doubt as to the worth of this programme. There is a great deal that needs to be done in the remaining life of this project, and we are convinced that there is a clear case for providing additional resources to UNODC to allow it to complete the implementation of this extremely ambitious project. We are completely satisfied that without additional resources (principally by the provision of additional international and national staff, but also by the provision of additional hardware) it is unrealistic to expect UNODC to implement fully all of the outputs set out in the project document.

In the view of the evaluators, one of the distinctive features of project R86 is its sustainability. In this report we have singled out the production of databases for special mention. We regard the production of the database for the HoO as an exemplar of good practice.

⁹ See page 28 et seq of this report.

Equally, we regard the training materials and the Draft Code of Ethics and Conduct for Prosecutors (produced by the international expert on anti-corruption strategies) as an exemplary piece of work and that output will, undoubtedly, form the basis of institutional growth in the Justice Sector of Afghanistan for many decades. At this point in the programme UNODC has concentrated its efforts on producing a product (both the Code of Ethics and Conduct for Prosecutors and associated training materials) which is producing a maximum effect on the project. This was an important decision, given the delay in recruiting the international expert on anti-corruption strategies and the need to catch up on lost time. It is crucially important that training based upon this code continues to be implemented, and that the momentum that has been successfully achieved in this regard is not lost by inaction.

As we have highlighted in this report, the HoO is an institution which must succeed if Afghanistan is to succeed. The sustainability of the HoO depends upon further resources being devoted to it now. As we state in this report, there is a great deal to be done and time is running out. To allow the HoO to fail would be disastrous for Afghanistan. Whilst the evaluators acknowledge the initial, extensive support for the HoO, it is crucially important that UNODC should re-focus its activities on supporting the activities of the HoO by providing the services of an international expert, wholly or partially embedded in the HoO. We note with approval that this proposal has been reflected in the 2009 project revision.

In the view of the evaluators, one flaw in the project is the absence of a regular monitoring system. On the basis of the information received, we believe that no regular board meetings took place. In our view, this a major issue of concern, particularly bearing in mind the relationship that UNODC must maintain with its donors. The need for more transparent flows of information and a certain tendency to understate failings and overstate achievement were pointed out as critical issues by the thematic evaluation of 2008. It seems to us that this issue has not yet been fully resolved.

In the view of the evaluators, a further flaw in the project lies in the management structure for the project within UNODC COAFG. On the basis of the information gained and the observation of the office dynamics, the evaluators have reached the conclusion that the management structure for the project within the UNODC COAFG was not adequately defined or executed. This comment concerns, in particular, the roles of the Sr. Criminal Justice Programme Advisor and the Criminal Justice Expert. It appears to us that the latter has been performing a great number of substantive tasks (related to operations, finance management, coordination and supervision of international consultants) which should have been carried out by the Sr. Criminal Justice Programme Advisor who, in turn, often became involved in a number of activities related to the practical implementation of the project. This is fundamentally bad management practice.

In relation to the overall execution of the project, the evaluators are of the view that a number of constraints have hindered punctual delivery of the objectives of the project. In the evaluators' view, based upon what we saw and what we told by a number of reliable interlocutors, in some key areas of activities more could be done by UNODC COAFG to absorb assistance from other international organisations. This seems particularly to be the case in relation to matters involving the UNCAC, where interlocutors often told us that UNODC regards such matters as its sole property.

The evaluators feel that it is necessary to highlight one management issue which impacted negatively on the project. The recruitment of the international expert on AGO Accountability

and Integrity was delayed unacceptably and, undoubtedly, had a negative impact on the project. Equally, the aborted attempts to recruit: (i) an international consultant on the development of an anti-corruption strategy; and (ii) an international consultant on the drafting of anti-corruption legislation, has, in our view, also had a negative impact on the delivery of immediate objectives 1 and 2 under the project. We strongly recommend that steps to remedy this are taken as soon as funding permits.

The evaluators wish to highlight one further issue which, in our view, has impacted negatively on the project. The project suffered from the delay of the donor Country (Canada) in transferring the funds pledged under a letter dated March 2007. Despite the finalisation of the project between the Minister of Justice of the Government of Afghanistan and the UNODC COAFG representative in July 2007, no funds were provided to start the actual implementation of project activities until the end of December, 2007.

Similarly, the evaluators are of the view that the project suffered from the excessive restrictions that the donor had placed on UNODC upon acceptance of the grant under the so-called “Canadian Umbrella”. In our view, these restrictions are excessively and unreasonably restricting the work of UNODC, which has always been considered by all partners as holistic and comprehensive, and they undermine UNODC’s credibility. We are of the view that such a situation is not acceptable. Donors should trust sufficiently well the recipient of their funds to allow them a wider margin of appreciation in serving the Countries for which interventions are planned and implemented.

MAIN REPORT

2. Introduction

2.1 Background and context

Eight years after the fall of the Taliban, Afghanistan's formal justice system continues to suffer from severe and systemic problems, despite the many and significant improvements that have been registered in the last years. The fact is that more than thirty years of conflict and civil wars have severely obliterated the Country's justice system. Project R86 forms part of UNODC's Criminal Justice Programme. The project's overall objective aims to strengthen the capacity of the Supreme Court and the Attorney General Office, to ensure the development of effective measures to fight corruption in Afghanistan and the monitoring of the implementation of the UN Convention against Corruption (UNCAC) and to assist in the strengthening of key legislation.

At the time that this project was initiated, Afghanistan remained, or was close to being, the lowest ranked country in the world on each of six composite measures used by the World Bank to determine the "state of health" of a Country: rule of law; control of corruption; Government effectiveness; regulatory quality; political stability; and voice and accountability.¹⁰ The report of the Thematic Evaluation of the Technical Assistance Provided to Afghanistan by the United Nations Office on Drugs and Crime,¹¹ prepared by the Independent Evaluation Unit in May 2008, (hereafter "The Thematic Report 2008") found that "UNODC projects were relevant to, if insufficient to meet, the needs of Afghanistan in the rule of law sector, but anti-corruption efforts were missing."¹²

3. Background

3.1 Project description

With the cautionary findings of the Thematic Report 2008 stated above yet to be announced, the aims of this project were stated as being: (i) to support the development of a sustainable broad-based National Anti-Corruption Strategy in line with the requirements of the United Nations Convention Against Corruption (UNCAC), including the establishment of a Secretariat responsible for guiding and monitoring its effective implementation; (ii) to support the review and drafting of key legislation in accordance with the requirements of the UNCAC; (iii) to strengthen the basic capacity, professionalism, accountability and integrity of the Attorney General's Office, in particular the anti-corruption unit, in accordance with the relevant provisions of the UNCAC; and (iv) to enhance the skills and professional knowledge of judges and prosecutors in handling corruption cases. The project was to be implemented by the UNODC Country Office for Afghanistan (COAFG) in collaboration with the Ministry of

10 World Bank web-based tool, "Governance matters 2007: World Wide Governance Indicators, 1996-2006", available at http://info.worldbank.org/governance/wgi2007/sc_country.asp. The only country occasionally ranking lower than Afghanistan was Somalia.

11 See Volume 4, Rule of Law Programme, Finding 2.

12 We have kept that finding to the forefront of our present evaluation and we have found that many anti-corruption efforts of UNODC are still missing, particularly in relation to anti-corruption measures in the private sector.

Justice, the Supreme Court, the Attorney General Office, and in partnership with the major international partners engaged in anti-corruption.

The Afghan Government has made the fight against corruption a priority in its statements, policies, and programmes. Accordingly, the Government signed the UN Convention against Corruption (UNCAC) in February 2004 and subsequent commitments to fight corruption were made. In September 2007, the Wolesi Jirga and the Meshrano Jirga, ratified the UNCAC. In September 2008, the Afghan Ministry of Foreign Affairs deposited the instrument for ratification in New York. With the UNCAC entering into force, the primary goal of UNODC is recognised as being the provision of practical assistance to Afghanistan to increase its capacity to prevent and control corruption.

On 16 July 2007, the final version of the project document was signed by the Minister of Justice for the Government of Afghanistan and the UNODC COAFG Representative. The project document for R86 acknowledges that, in view of the fact that corruption is an ‘insidious’ crime, an all-encompassing and integrated approach was required to address the issue adequately. It also stated that “such an integrated approach must also address corruption in the private sector as well as developing strategic partnerships with the victims of corruption”.¹³ The importance of this aspect of the project is mirrored in The Thematic Report 2008. That report stated: “Reports from those who work in villages suggest that there is widespread mistrust of government. The corruption of some officials has not helped, nor has it inspired good governance as an aspect of nation-building. One villager asked the evaluator of the present report why farmers should get rid of opium poppy crops when public officials were involved in the illicit drug trade.”¹⁴

The project document recognises that the importance of establishing legal and procedural frameworks to implement corruption prevention measures, such as conflict of interest rules and regulations, a code of conduct for public officials and the declaration of assets of specific civil servants amongst others. It also acknowledged¹⁵ that an important part of the strategy would involve the establishment of new procedures and mechanisms to promote high ethical standards of behaviour on the part of civil servants and the establishment of procedures for disciplining civil servants involved in corrupt and ethical practices.¹⁶

As previously stated, the integrated approach foreseen by the project document involves addressing corruption in the private sector as well as developing strategic partnerships with the victims of corruption.¹⁷ As part of this integrated approach, the project envisaged “the establishment of new procedures and mechanisms to promote high ethical standards of behavior

13 As will be seen in this report, one of our criticisms of UNODC’s implementation of this project to date is that COAFG could have done more to adopt such an integrated approach.

14 Thematic Evaluation of the Technical Assistance Provided by the United Nations Office on Drugs and Crime, volume 2, prepared by the Independent Evaluation Unit in May 2008. Maybe this should be mentioned in footnote 2.

15 See paragraph 14 of the project document as signed by the MoJ.

16 Whilst we commend the sterling work that UNODC has done in relation to accountability and integrity in the AGO and the production of a draft code of Ethics and Conduct for Prosecutors, as will be seen in this report one of our criticisms of UNODC’s implementation of this project to date is that COAFG could have devoted more attention to the establishment of procedures for disciplining civil servants involved in corrupt and ethical practices.

17 As will be seen from the contents of this report, we do not consider that UNODC’s implementation of this project to date has had an all-encompassing and integrated approach; nor has the implementation addressed corruption in the private sector or developed strategic partnerships with the victims of corruption.

on the part of civil servants and establish procedures for disciplining civil servants involved in corrupt and ethical practices.”¹⁸

Initially, it was envisaged that project R86 would be implemented over a period of 24 months, commencing on 1 September 2007. However, the project was revised in October, 2008, and its duration was extended to July 2010. This revision was stated to be budget neutral. The reason for the extension of the approved duration of the project was stated to be as follows:

“The reason for this revision is to ensure that additional professional staff and anti-corruption experts are recruited in order to contribute to a successful and timely implantation of the project”.¹⁹ In this respect, this project revision reflects the new implementation arrangement which now includes UNICRI as associated agency under one specific project’s objective. Finally, it reflects the recruitment of a Liaison Officer, a Security Officer and an Expert on Criminal Justice to act as Deputy to the Senior Criminal Justice Programme Advisor and to provide advisory services and technical assistance on a variety of counter corruption issues.

The project document identified a number of key needs and problems to be addressed. In anticipation of the UN Convention against Corruption (UNCAC) entering into force, it recognised that the primary goal of UNODC was the provision of practical assistance to Member States to increase Governments’ capacity to prevent and control corruption, including the development of comprehensive anti-corruption policies, the establishment of anti-corruption bodies, strengthening judicial integrity and enhancing asset recovery capacities. The provision of technical assistance was to play a key part in the implementation of the project. The technical assistance was to be designed and implemented to provide lessons to guide the overall global effort against corruption. The project document makes it clear that such technical assistance should promote realistic, coordinated, coherent and cost effective policies and action plans, including benchmarks and impact indicators.

3.2 The structure of the project

The project document states that by the end of the project it is expected that the Government of Afghanistan will have set up work plans and appropriate practical mechanisms to enroll the people in a comprehensive drive to control corruption throughout the country. The following are listed as the expected concrete outcomes:

- The UNCAC’s principles and obligations shall be fully implemented at both central and provincial levels.
- Functioning institutions of justice will be fully operational in each province of Afghanistan to investigate, prosecute, ensure compliance and adjudicate alleged cases of corruption, including asset recovery skills.
- The professionalism, credibility and integrity of key institutions of the justice system (AGO and SC), with particular regards to judges and prosecutors shall be strengthened.

18 See paragraph 14. We are concerned that this area of the project has been neglected and more attention needs to be given to implementing this objective during the remaining period of the project.

19 As will be seen from the contents of this report, the evaluators are of the view that more should have been done by COAFG to recruit such additional staff and anti-corruption experts in sufficient numbers and in a timely way.

- A broad based National Anti-Corruption Strategy, which is fully owned by all Afghan public institutions, civil society and the private sector will be adopted and under implementation within the framework of ANDS.
- Two Provincial Anti-Corruption Plans, supporting the National Anti-Corruption Strategy, shall be published and support shall be given for their implementation.
- The Afghan civil society and selected media shall have an improved knowledge of their basic rights and understanding of corrupt practices and other abuses by public officials.

We consider that the abovementioned outcomes are well designed and highly desirable, focusing, as they do, on the long term needs of Afghanistan's civil society. However, we are of the view that they are too ambitious for a single project. The proper implementation of all these objectives within this single project will require a massive increase in resources in both the so called "hardware and software approach". In total this project identifies 4 immediate objectives. What follows is the list of immediate objectives according to the project document:

Immediate Objective 1: In coordination with other partners, support the development of a sustainable broad-based National Anti-Corruption Strategy in line with the requirement of the United Nations Convention against Corruption, including the establishment of a Secretariat responsible for guiding and monitoring its effective implementation.

Immediate Objective 2: Support the review and drafting of key legislation in accordance with the requirements of the UNCAC to make it more effective to tackle corruption.

Immediate Objective 3: Strengthen the basic capacity, professionalism, accountability and integrity of the Attorney General's Office, in particular of the anti-corruption unit, in accordance with the relevant provisions of the UN Convention against Corruption (articles 7, 8, 11 UNCAC) with the aim to effectively tackle corruption cases.

Immediate Objective 4: Enhance the skill and professional knowledge of judges and prosecutors in handling corruption cases.

Each of the immediate objectives is accompanied by a list of planned outputs, activities and inputs. For each of them, the logical framework defines the assumptions and risks, the performance indicators, as well as the divisions of tasks and responsibilities among the various actors involved in the implementation. These are primarily the MoJ in its capacity as governmental executive authority in the field of criminal justice matters, and the AGO as counterparts and, under the project revision, UNICRI as an associated agency.

Each set of activities is broken down into components, which follow a logical and clear division of responsibilities and activities. Overall, the project strategy and design are coherent and logical. Outputs, inputs and activities are defined with sufficient clarity and precision and identify the organisation responsible for them. Risk assessment pertaining to the project was also conducted. The reader is provided in each case with full details concerning the project, including a monitoring plan.

Part 8 of the project document is entitled "Revised Logframe". We regret to say that this part of the project document provides no meaningful analysis of any revisions to the logframe and is not well designed. Furthermore, other than references in annual and interim reports to problems encountered and steps taken to solve them, we have not seen any proper revised time frames,

and we would have expected these in view of the many areas of the project that have been delayed or, as yet, have not been implemented at all.

3.3 Executing Modality

Project R86 has been implemented by UNODC, in cooperation with UNDP and, from the time of the project revision in October 2008, with UNICRI. After the project revision in October 2008, UNICRI became responsible for developing a training manual for Afghan judges and prosecutors on dealing with corruption cases.

As far as staffing is concerned, the project document states that the project activities shall be managed by an International Project Coordinator, who is responsible for the management of the project. A National Project Coordinator shall assist the International Project Coordinator in the management, coordination and implementation of the project activities. The International Project Coordinator is also required to contribute to the provision of advisory services and guidance to the Supreme Court (SC), the Attorney General's Office (AGO), and other relevant selected national institutions. In addition, two National Administration/Finance Officers are to provide administrative, financial and operational support to the International Project Coordinator and to the relevant services of the SC and the AGO. Crucially, additional international and national expert consultants are to be hired as indicated in the Project Document in the section on "Immediate Objective, Outputs, Activities and Inputs.²⁰ Under the heading of our major findings, the evaluators have expressed concern²¹ that COAFG should have done more in their attempts to recruit the international expert consultants which, in our view, are essential if this project is to be implemented fully within the remaining life of the project.²²

In relation to any delay in the recruitment of staff for the project, we note with concern that, despite a letter of pledge signed in March 2007 between UNODC and the Government of Canada, no funds were provided to start the actual implementation of project activities until the end of December, 2007. As a result, UNODC was required to deposit a symbolic US\$ 1 to initiate the recruitment process of national and international project staff and consultants. We comment further on this matter later in our report.

4. Purpose and Objective of the Evaluation

As this is a mid-term evaluation, the evaluators are not in a position to formulate a conclusive assessment as to the impact and sustainability of the project. Their views on this, therefore, will necessarily be limited and the position regarding impact and sustainability will be susceptible to change. The evaluators, however, were able: (a) to draw conclusions as to whether activities as envisaged in the project documents are being implemented in a timely manner.; and (b) to identify factors responsible for the success or failure of a particular activity, specifying the results achieved and any lessons that could be learned. This includes determining whether or not the goals and projects being undertaken by UNODC were appropriate and whether the activities were efficiently implemented.

²⁰ See paragraph 35 and 36 of the Project Document.

²¹ See paragraph 6.1 below.

²² See section 6, paragraph 6.2 of this report - Overall performance assessment.

The terms of reference for the evaluation are attached at Annex 1. A list of the visits and interviews conducted in the course of the evaluation is attached at Annex 2. The evaluation covers the period from September, 2007, to August, 2009. As indicated by the attached terms of reference, the evaluators' task covered three different projects, only one of which (project R42) had been completed at the time of the evaluation.

4.1 Scope of the evaluation

In line with the attached terms of reference, the evaluation of project R86 focuses on the project's concept and design, the project's partial implementation, results, outputs and outcomes. In respect of project concept and design, this evaluation analyses whether and how the project has contributed to a priority area for UNODC. The evaluation reviews the problems identified by the project and the corresponding strategies chosen by the UNODC to address those problems. In particular, the evaluation assesses the relevance and the attainability of the objectives and planned outputs, activities and inputs, as compared to other cost-effective alternatives. At a more fundamental level, the evaluation analyses the clarity, logic and coherence of the project. In respect of objectives, outputs, impact and sustainability, the evaluation seeks to determine whether, at this stage, results have been achieved in line with the work plan. In this regard, the likely sustainability of results and benefits, as well as this project's contribution to human and institutional capacity building, will be addressed, though only to a limited extent, as clarified earlier. Furthermore, the evaluation will assess how effectively and efficiently programme planning and implementation have been carried out. In this regard, the evaluation assesses the extent to which the organisational structure, managerial support and coordination mechanism used by UNODC can be considered appropriate for the support and implementation of the project. Finally, the evaluation will identify the lessons learned from the concept, design, and implementation of the project.

5. Evaluation methodology

The evaluation methodology involved a review of existing documents, such as project documents and progress reports. The Thematic Report 2008, though not directly related to this project, was also examined and used as a benchmark to assess the extent to which the organisation has been able to internalise lessons learned and recommendations. Primary data was collected through interviews with stakeholders and from observations made during the mission. Qualitative and quantitative indicators were used to assess the project. The main qualitative indicators were obtained during the interviews conducted with the national and international UNODC staff, national and international stakeholders (including donors), and on-site observation.

For the area of training and provision of training materials, we reviewed the drafts of the training manuals prepared by the International Experts.

Fieldwork in Afghanistan was conducted over a period of 15 days in late July and early August 2009. The period was used to cover all activities related to the evaluations the evaluators had been tasked with. It was preceded by preparatory activity, namely reading of documents, conducted independently by each evaluator.

During the fieldwork, the independent evaluators were accompanied and assisted by staff of the UNODC's COAFG, which provided logistical support and expert advice throughout the

evaluation. During the mission, security was always an important consideration. Movement of United Nations personnel in Afghanistan was conducted only in official United Nations vehicles driven by trained drivers. The security situation had an impact on the evaluation, as tension had increased as a result of the upcoming presidential elections, preventing free movement. All visits, therefore, were confined to Kabul.

The limitations placed on our movement have not, however, had a major impact on our evaluation. Interviews with interlocutors within UNODC COAFG in relation to activities which were carried out in the provinces have provided us with sufficient material to carry out our evaluation of those parts of the project that were carried out outside of Kabul

6. Major findings

6.1 Attainment of objectives, production of outputs, and implementation of activities

Three of the four immediate objectives foreseen by the Project included the recruitment of international consultants. Given the importance of the recruitment of such expertise as a crucial element to the project, the evaluators consider it necessary to examine the way in which UNODC COAFG carried out the recruitment process for these posts, before proceeding into the assessment of the attainment of individual objectives.

The recruitment of long-term international consultants

The process of the attempts by COAFG to recruit long-term international consultants to provide technical expertise and policy advice in support of the three immediate objectives of project AFG/R86 has had an unhappy history. As previously stated, we note with concern that, despite a letter of pledge signed in March 2007 between UNODC and the Government of Canada, no funds were provided to start the actual implementation of project activities until the end of December, 2007. As a result, UNODC was required to deposit a symbolic US\$ 1 to initiate the recruitment process of national and international project staff and consultants.

In addition to the delay in receiving funds from the Government of Canada, the evaluators are also concerned about the manner in which COAFG set about the process of attempting to recruit the international experts which were crucial to the implementation of the activities under immediate objectives 1, 2 and 3 of the project. The evaluators are of the view that more could have been done by COAFG to commence the recruitment procedures for these international experts at an earlier stage. The evaluators have noted with concern that no steps were taken to recruit any of the international experts until May, 2008. Whilst we appreciate that the launch of the project was delayed, we are of the view that the recruitment process for the international experts should have been commenced sooner.

Recruitment of an international consultant – Anti Corruption Strategy (immediate objective 1, activity 1.1.1)

On the 20 May 2008, the terms of reference (ToR) for the recruitment of an International Expert – Anti Corruption Strategy were drafted by COAFG. Under the terms of this ToR, the international expert for the Anti Corruption Strategy (objective 1) was to be responsible for the following matters:

- Examining and assessing Afghanistan's existing anti-corruption policies and institutional framework, including under Afghan laws, regulations, standard operating procedures or rules;
- Assessing whether the current policies and legal and regulatory framework is in compliance with UNCAC, and if not, how this may be remedied, and drafting a publishable report based upon such an assessment;
- Providing continuous training and technical advisory services to the relevant Afghan institutions, including the Ministry of Justice, Ministry of Finance, the Supreme Court, the Attorney General Office, the new Anti-Corruption Agency decreed by the President in May 2008, and the Control and Audit Office on the development, review, and monitoring of anti-corruption strategies and workplans;
- Providing technical expertise and policy advice in the drafting of an National Anti-Corruption Strategy, including a break-out justice sector strategy, including stakeholder consultations (ministries and public sector agencies selected provincial governments, civil society and the private sector);
- Conducting Integrity Meetings in selected provinces with the purpose of disseminating the National Anti-Corruption Strategy, brief participants about its underlying rationale and considerations;
- Providing support to develop action plans for the implementation of the strategy and central and provincial level (National and Provincial Anti-Corruption Action Plans);
- Liaise with key interlocutors such as senior Mission staff, local political leaders, and representatives of the international diplomatic community and other international organisations and NGOs in the formulation and communication of anti corruption policies;
- Devise and formulate a comprehensive and anti-corruption approach with specified responsibilities of each ministry, based on existing strategic papers, programmes, and lessons, and aligned with the National Anti-Corruption Strategy and National and Provincial Anti-Corruption Action Plans, the Afghan National Development Strategy and featuring among others criminal justice and law enforcement/interdiction efforts.
- Organizing a National Integrity Meeting to present the National Anti-Corruption Strategy and the relevant action plans to the Government of Afghanistan for its endorsement;
- Publishing and disseminate the National Anti-Corruption Strategy, and National and Provincial Anti-Corruption Action Plans;
- Conducting two progress review meetings to evaluate the progress made in the implementation of the National Anti-Corruption Strategy and relevant action plans;
- Elaborating of monthly, quarterly, semi-annual/annual, terminal as well as ad-hoc status and progress reports of the drafting of the National Anti Corruption Strategy and relevant action plans.

Plainly, the ToR for this position were extremely wide and included the provision of training and technical advisory services to a great number of Afghan institutions, including the Ministry of Justice, Ministry of Finance, the Supreme Court, the Attorney General Office, the new Anti-Corruption Agency decreed by the President in May 2008, and the Control and Audit Office. We are of the opinion that the ToR for this position were far too wide for one person alone to achieve.

In addition, it appears to the evaluators that there may have been some confusion within COAFG as to the fees that could be paid to the international consultants, in accordance with the applicable UN Rules. The evaluators received conflicting information from various interlocutors as to their understanding of the applicable maximum rates that could be paid to international consultants and we recommend that the human resources staff and senior management of COAFG are given better instruction as to the rates of pay that are applicable to such international experts.

We have been referred to a memo to field offices, dated 16 April 2009, dealing with the authority to field offices to engage international consultants. We can see from this memo that financial constraints imposed upon field offices made it difficult for COAFG to offer remuneration which was acceptable to the successful candidate. We note that the memo does provide for situations where the services of a consultant cannot be obtained within the maximum range of up to \$550, whereby field offices can submit a request for exception with substantial justification to the Human Resources Management Service of UNODC. We consider that the recruitment of the international consultants to support the 3 immediate objectives of the project justified such an exception being made.

We note that the successful candidate for the position of international expert – AGO Accountability and Integrity (objective 3) has been receiving \$600 per day, but that he does not receive any DSA in addition to that sum. We recommend that urgent consideration be given to improving the rates of pay (and/or the provision of DSA) of the international experts, as the input of international experts into the project is crucial at this stage.

The evaluators sought further clarification from the Criminal Justice Expert at COAFG in relation to the unproductive recruitment exercise for an International Expert on Anti-corruption strategy. We were informed that the successful candidate (who was selected following a desk review of all the candidates) declined the position as he did not consider the remuneration adequate. For other reasons (which we have not enquired into) the second best candidate also declined the position. We were told that when the second best candidate declined the position, UNODC did not consider it appropriate to continue the recruitment process. We were told that, in addition to the inadequate qualifications of the remaining candidates, other factors caused UNODC CJ to suspend the recruitment of the international expert for the development of a National Anti-Corruption Strategy. The additional reasons that we were given were stated to be as follows:

- (i) the development and adoption of a “strategy and policy for anti-corruption and administrative reform” by President Karzai in June 2008;
- (ii) the adoption of a Presidential Decree for the establishment of an anti-corruption body on 10 July 2008; and
- (iii) the fact that, between September to December 2008, UNODC worked on a daily basis with UNDP ACT Manager and the Deputy Director of the High Office of Oversight (HoO), including revision of the Presidential Decree, development of the “tashkeel” (i.e. the organisational structure of the HoO, and TORs for the directors of the HoO).

We were informed that, in the light of the above-mentioned developments, UNODC CJ considered it necessary to re-evaluate the situation and proposed a new course of action to support the newly established anti-corruption body.

We comment later in our report on the support given by UNODC to the HoO and the sense of grievance expressed to us by interlocutors from the HOO that the support that was given in the early days of the HOO was not continued at the same level. We are of the opinion that the decision not to continue with the recruitment process for an international expert for the development of a national anti-corruption strategy was unfortunate and that such an expert could have provided the continuing “in house” (whether as a fully embedded expert or on a part time but long term basis) support that the HOO desired and needs.

Recruitment of an International Legal Consultant for anti-corruption legislative reform (immediate objective 2, activities 2.1.1, 2.1.2, 2.1.3, 2.1.5, 2.1.6)

Again, on 20 May 2008, a ToR for the recruitment of an International Legal Consultant for anti-corruption legislative reform was prepared. We have been informed that the vacancy announcement was issued on 24 June 2008 and 29 candidates expressed interest and provided COAFG with their resumes. 5 candidates were initially short listed and provided written samples of their work for consideration by UNODC. However we were informed that, following consultations with the MoJ and other stakeholders involved in the legislative process, UNODC did not finalize the recruitment process and that no formal evaluation of the candidates was conducted. The explanation given to us for this discontinuance was primarily the fact that at that time the Criminal Procedure Code (CPC) was in the process of being drafted and that the MoJ had stressed the importance of finalizing the CPC before the international community became involved in drafting other legislation. The evaluators are not in a position accurately to assess whether this decision to discontinue the recruitment process for an International Legal Consultant for anti-corruption was justified. However, it is certainly the case that the discontinuance of that recruitment process did not assist the attainment of immediate project objective 2; and it is difficult to see why the immediate objectives of project AFG/R86 should have been compromised in this way when the drafting of the CPC did not form any part of its direct immediate objectives. Again, the fact that the recruitment process for this International Legal Consultant was not commenced before 20 May 2008 gives rise to concern that more could have been done at an earlier stage to recruit the necessary expertise to execute the objectives of the project.

Recruitment of an International Legal Consultant – AGO Accountability and Integrity (immediate objective 3, activities 3.1.1, 3.1.2, 3.1.6, 3.2.2, 3.2.3, 3.2.4, 3.2.5)

Again, on 20 May 2008, the ToRs for the recruitment of an International Expert – AGO Accountability and Integrity for short term consultancy (between 1-2 months) and long term consultancy were prepared. The vacancy announcements for the short term and long term consultancies were issued on 11 and 24 June 2008. We have been informed by the Criminal Justice Expert at COAFG that, following a desk review of the candidates, a candidate was selected for the short term consultancy but he declined the offer. The second best candidate was also applying for the position of long term consultant and the third best candidate was not considered to be fully suitable for the post. Accordingly, the recruitment process for a short term consultant was discontinued and the second best candidate was offered the position of long term consultant, which he accepted on the basis that he would join COAFG in November 2008. Whilst we acknowledge fulsomely that the applicant who was appointed as the long term consultant contributed enormously to the success of immediate objective 3, we cannot ignore the fact that it was not until November 2008 that his invaluable work commenced. We are of the

view that more could have been done to recruit an International Expert for this objective at a much earlier stage in the project. That said, we wish to praise the work of the International Expert – AGO Accountability and Integrity. As can be seen from our later comments, his work was crucial to the attainment of the key objectives of this part of the project.

Survey on corruption in Afghanistan (immediate objective 1, activities 1.1.1, 1.2.1)

In November 2007, UNODC and UNDP signed a Memorandum of Understanding (MoU) to undertake a preliminary survey on corruption in Afghanistan through pilot studies on integrity in the judiciary, legal profession and public institutions in five selected provinces, making use of UNODC's Afghanistan Regional Offices. This pilot corruption survey was also conducted in collaboration with and making use of the technical advice of the UNODC Regional Office in Central Asia (ROCA) and UNODC Policy Analysis and Research Branch (PARB) at UNODC Headquarters in the Vienna Secretariat.

The report of the Afghan pilot corruption survey, which included data from 5 provinces, was finalised in August 2008. This Report describes the results of pilot surveys in the justice sector carried out by UNODC Afghanistan in partnership with the Attorney General's Office and the Supreme Court of Afghanistan. The surveys were conceived, designed and implemented by UNODC Afghanistan on behalf of Justice Sector of Afghanistan including the Supreme Court and the Attorney General's Office. The results of the pilot survey strongly justify the planning, financing and implementation of a full-scale survey.

Support to the High Office of Oversight (immediate objective 1, activities 1.2.1, 1.2.2, 1.2.3)

During the project period under review, UNODC provided extensive technical advice and support to the establishment and start-up of the High Office of Oversight [HoO] of Implementation of the Anti-Corruption Strategy.

It goes without saying that the Government of Afghanistan is at a critical juncture in its state building and development effort. Combating corruption must be the key to Afghan development and prosperity. No doubt, it was for this reason that at the Paris Conference meeting in June, 2008, the Government of Afghanistan made a strong commitment to international donors that it will intensify its fight against corruption.

In pursuance of that commitment by the Government of Afghanistan, UNODC provided technical assistance in the drafting and revision of a legislative document aimed at regulating the mandate and structure of the HoO, an anti-corruption body established in accordance with the obligations of Article 6 of the UN Convention against Corruption (UNCAC). This assistance included meetings with and written presentations to the Minister of Justice and his Legislative Department (Taqnin) drafting staff, including bringing an international expert on the UNCAC to Kabul to work with UNODC's Kabul experts on the legislation.

In late June 2008, when the Council of Ministers had approved the final legislation, which had been revised in accordance with the advice given by UNODC, President Karzai adopted a Decree establishing the HoO for monitoring the implementation of the anti-corruption Strategy.

By operation of the Constitution, because the National Assembly was not in session, this became law with immediate effect. The HoO has as its mandate a unifying oversight function and to coordinate, supervise and support all anti-corruption efforts in Afghanistan.

The HoO is to be the key institution within Afghanistan for overseeing policy development and implementation of anti-corruption strategies relating to the prevention, combating and elimination of all forms of corruption in the country. The HoO's broad mandate also includes oversight of the preventative and administrative measures against corruption to be established by all Afghan institutions, including the National Assembly and Supreme Court, as well as monitoring the performance of law enforcement and justice institutions in following up complaints and instigating detection, investigation, prosecution and adjudication of corruption cases both criminal and disciplinary. The HoO is also mandated to devise and distribute asset declarations for those in charge of all Afghan institutions, including judges and prosecutors, and to set up a database to monitor yearly changes. In this regard we have to commend the Database Officer at UNODC who (without assistance) has designed a database for use by the HoO which will enable the comprehensive compilation of data.²³

The HoO requested the assistance of UNODC in the establishment of the HoO office, including the physical premises and equipment, and the design and implementation of the organizational structure ("tashkeel") of the HoO. Initially, UNODC worked directly with the HoO through meetings on an average of three times a week with its Deputy Director General, Mr. Ershad Ahmadi, as well as with UNDP's ACT (Accountability and Transparency) Project, to provide technical assistance to the HoO on the design and development of the tashkeel, as well as job descriptions and terms of references, and to apply to the Independent Administrative Reform and Civil Service Commission (IASCSC) to assist in the provision of qualified and adequately remunerated Afghans for the leading positions at HoO. UNODC partnered with UNDP ACT because of the complementary nature of their expertise and mandates; thus enabling UNODC to focus upon technical advice for anti-corruption strategies, monitoring and implementation for the Justice Sector institutions and police, as well as further legislative and regulatory implementation of the requirements of the UNCAC.

UNODC provided support to the Director General and Deputy Director General of the HoO to finalise the central and regional organisational structure, including staffing, of the newly established anti-corruption body, as well as in the formulation of the HoO's first major policy speech to the JCMB. On behalf of the HoO, UNODC and UNDP finalised a project proposal to be submitted to the Afghan Civil Service Commission for consideration and approval. The overall goal of this project proposal was to provide adequate remuneration to approximately 20 HoO senior level officials to be appointed as Directors at both central and provincial level.

On 14 October, 2008, the HoO officially requested UNODC to provide advisory services and support to the Supreme Court and Attorney General's Office [AGO] for setting up Anti-Corruption Courts and Anti-Corruption Units, respectively, as required by Article 19 of the HoO Decree. To this end, between 25 and 26 November, 2008, UNODC provided technical support to HoO by organising and supporting a two day workshop on the various modalities and options to be considered by the Supreme Court and AGO in the establishment of these specialised bodies. This included arranging for various international experts with experience of

23 In fact, we must observe that this is just one of a number of crucially important databases that the Database Officer at UNODC COAFG has designed for Afghanistan, including a database of the members of the Bar Association and a detailed database for use by the MoJ recording details of cases in which legal aid has been granted.

specialised courts and prosecution offices to make presentations to the policy making representatives of the Supreme Court and AGO of comparative examples; and to have discussions on the organisation, jurisdiction, competencies and mandates of foreign examples. The workshop elaborated on options and alternative approaches to the structure, institutional arrangements and functions of specialised investigation and prosecution units, as well as anti-corruption courts. Both the Chief Justice of the Supreme Court and the Attorney General participated.

In December, 2008, the HoO made a request to UNODC to conduct a security and an IT assessment of the office. UNODC also began the procurement process to deliver IT communication facilities and equipment for the HoO to enable internet communication.

Whilst these activities are impressive and demonstrate a commitment on the part of UNODC towards giving every assistance that it can to HoO, we are concerned about some of the remarks that were made to us by highly reliable interlocutors. It is conceivable that the reputation of UNODC had suffered as a result of a failure by UNODC to honour promises made to HoO to supply equipment such as cars and computers. Extensive gratitude has been given towards UNODC for all the assistance provided to the HoO, particularly in the early days of the establishment of the HoO. However, we gained the impression there is disappointment as UNODC no longer had a representative giving support to the HoO on a permanent or partial “in house” basis at the HoO. One of our recommendations will be that an additional international expert should be recruited and he/she should be embedded (either on a full time or part time basis) in the HoO. The evaluators note, however, that since May 2009 UNODC has seconded a national anti-corruption expert to the HoO, which will go some way to increasing full time support for the HoO.

Finalisation of a database for the registration of assets declared on annual basis by senior government officials (immediate objectives 1 and 3, activities 3.3.1, 3.3.3)

In April 2009, UNODC finalised a database for the registration of assets declared on annual basis by senior government officials, in accordance with Article 154 of the Constitution and Article 12 the Anti-Corruption Presidential Decree. We have seen this database and we have had a demonstration of its use by the Database Officer at UNODC COAFG who (single handedly) designed this database. It is a most impressive database and we believe it forms one of the most important contributions to this project. The database will play a pivotal role in supporting the Asset Registration Department in the HoO to register, verify and monitor the level of wealth of high rank officials. We would like to take this opportunity of commending the Database Officer at UNODC who designed this database. In our dealings with him he demonstrated both an extraordinary knowledge of IT and a real insight into the needs of his clients. It is a matter of regret to us that UNODC did not make a decision to recruit a further database officer to assist him before August 2009, when we were carrying out our evaluation. In our view, this was a missed opportunity to accelerate the provision of urgently required database support to not only this project but also to the other projects that we evaluated.

In our view, UNODC need to re-focus on the provision of technical assistance (both the hardware and software aspects of assistance) to the HoO. This institution will be a key part of the successful completion of this project and time is running out. We share the view of some of our interlocutors that the HoO has good reason to feel that UNODC have lost focus on this aspect of the project. However, we regard the secondment of a national anti-corruption expert to the HoO, since May 2009, as an important step to regain focus on support for the HoO. We also

acknowledge that we have been informed that between March and August 2009, UNODC had exhausted its funding for this specific project.

Support to the Control and Investigation Department of the Supreme Court (immediate objective 1, activity 1.1.1)

During the project period under review, UNODC representatives met with the Head of the newly established Control and Surveillance Department of the Supreme Court (SC). This body is tasked to function as an “Internal Affairs” or the “internal anti-corruption mechanism” in the judiciary. The department investigates allegations against judges and court personnel. In the case of receiving a complaint against a judge or information about judge’s involvement in criminal activities, especially bribery, the department requests that the Chief of the Supreme Court gives authorisation for telephone interceptions, recording, or videotaping the judge’s activities. UNODC is currently undertaking a comprehensive assessment to provide technical assistance and material support to the Control and Investigation Department in Kabul as well as in selected provinces. We note that relations between UNODC and the Supreme Court are, at times, difficult as the counterparts at the SC are apt to withdraw support and assistance if they perceive that they have not obtained assistance and technical support on their own terms. We witnessed an instance of this sort of unhelpful reaction on the part of the SC when certain expenses were not paid to judges of the SC on terms demanded by them, irrespective of internal regulations within UNODC that made it impossible for UNODC to comply with their demands. However, UNODC continues to deal with the SC in a patient but firm manner. In our view, UNODC is doing everything that it can to implement its activities with the SC. Clearly, this is not easy and patience and a firm resolve will be necessary.

Awareness campaign on monitoring role for media (immediate objective 1, activity 1.4.2)

From February 1 to May 31, 2008, training on Strengthening the Role of Investigative Journalism in Afghanistan’s Fight against Corruption was given to 28 selected journalists. UNODC justified the project on the following basis: that journalists play a critical watchdog role in the fight against corruption by helping to ensure a more transparent and open society. In Afghanistan, a country moving gradually away from war and plodding increasingly toward democracy, a free and independent press serves to inform and engage the public on decisions that affect them daily. Whether concerning the way in which the government spends (or misspends) taxpayers’ money on the basic need of citizens to live in a secure and stable environment, the public has a right to know what their political leaders are doing and to be a part of the process. Journalists provide a crucial link between the government and the people it serves, exposing abuses of power and neglect by officials where they occur.

Accordingly, in February 2008, UNODC signed an agreement with Internews, an international NGO, to conduct training seminars focused upon corruption for local journalists and editors from a range of media organizations including print, TV and radio outlets. The project’s core goals were to increase the quantity and quality of news stories that aim to expose corruption as well as to plant the seeds for a culture of investigative journalism to take root that will institutionalize the way journalists report on government graft, corruption, malfeasance, and failures. Moreover, the program sought to raise the standards of professionalism and ethics in media while carrying out the kinds of critical exposures that are a hallmark of democracies.

Media outlets in Kabul were invited to nominate their most senior and professionally qualified journalists and editors/producers; and, commendably, female journalists were encouraged to apply. Through an interviewing process, 28 journalists were selected to participate in the first training session. These participants represented 20 different news outlets (mostly print), and approximately one-third were female. Following the first training session, the 15 best students were selected to participate in the next stages of the program. These participants represented 14 different media outlets, and included 6 females.

The program consisted of four components: in-class training; practical exercises; mini-grants; and mentoring. A series of three thematic, successive training sessions were conducted to provide participants with theoretical concepts and knowledge. The first training (“Introduction to Investigative Reporting”) focused on the fundamentals of international standards of journalism. Participants were required to propose an idea for an investigative story during this training session, and to write a work plan detailing their strategy for pursuing the research and interviews to complete the story. On the basis of these work plans, 15 journalists were found to be suitably qualified to continue to the next stages of the program. The second training session focussed on legal affairs issues, such as the right to public information and freedom of expression. The third training session (the “Advanced Investigative Reporting” course) was designed to instil further international standards of investigative journalism.

The final 15 participants were required to pursue an investigative story of their own choosing focused on corruption and/or rule of law issues, in order to help journalists apply the skills and knowledge gained from the trainings. The emphasis of this practical exercise centred on encouraging the collection and use of solid proof to back up allegations of corruption and wrongdoing. Intensive one-on-one mentoring sessions were held throughout the entire process of completing an investigative report.

Upon evaluation, all participants said investigative reporting was greatly needed in Afghanistan, and they reported that they had benefited greatly from being exposed to new concepts of reporting in-depth stories. They expressed a higher confidence and understanding in reporting complex stories, and reported an overall high satisfaction with the trainer, translator, and materials used in the course. Story structures and writing, the finding of human and documentary sources, and the exercise of writing a work plan were noted by a majority of participants as being the best parts of the course. Many wanted to learn more about story structure and writing, while others noted a desire to learn more about media law.

We are satisfied that this activity is in line with expected output 1.4 of immediate objective 1 and that it was very worthwhile.

Support in the drafting of key legislation in accordance with the requirements of UNCAC (immediate objective 2, activities 2.1.1, 2.1.2, 2.1.3, 2.1.5)

Between 15 and 17 June 2008, UNODC and UNDP together with the Government of Afghanistan held a workshop on “Legislative Requirements of the United Nations Convention against Corruption.” This Workshop was based upon UNCAC’s requirements that ratifying countries enact implementing legislation. UNODC, as the custodian of UNCAC and lead revision drafter and co-chair of the Ministry of Justice-initiated Criminal Law Reform Working Group, together with UNDP, attached a high priority to assisting the Government of Afghanistan to implement the provisions of UNCAC as part of the wider support provided to

crucial fight against corruption. UNCAC requires the revision of existing Afghan legislation as well as the drafting and passing of new laws in order to make Afghan law comply with the requirements of the Convention. A first step in supporting the Government of Afghanistan in this regard was a report on the “Gap Analysis of National Legislation in Afghanistan” which was conducted by the UNDP ACT Project. That study identifies gaps and incompatibilities in current legislation and makes some recommendations for developing an action plan for revising and drafting legislation. The Gap Analysis Report formed the basis for the “Workshop on Legislative Requirements of UNCAC.” The purpose of the workshop was to review the findings of the Gap Analysis study, and to analyse legislative options and the existing Afghan legislative framework in relation to preventing and combating corruption. It also served as a starting point for discussions on a legislative action plan with prioritizations made as to which laws to address first. As a result, UNODC developed and finalized the terms of reference for the establishment of a dedicated working group to review and draft laws and regulations in accordance with the obligations and principles of the UNCAC.

We are satisfied that these activities are in line with expected output of the immediate objective and that they were very worthwhile.

Review of the rules and standards of professional ethics and conduct applicable to prosecutors (immediate objective 3, activities 3.2.1, 3.2.2, 3.2.3, 3.2.5)

The International Consultant – AGO Accountability and Integrity finally started his assignment in November, 2008. Since his recruitment, great advances have been made towards achieving many of the tasks under immediate objective 3 of the project document. UNODC has been the co-leader, together with the US State Department’s Justice Security Sector Support Programme (JSSP) in relation to the production of a Code of Ethics and Professional Standards for Prosecutors. Various meetings and consultations were conducted with the Attorney General's senior legal adviser as well as other staff of international organisations to devise the draft model code based on Afghan inputs and international standards and duties. A second draft Code has been produced and circulated among key stakeholders for their consideration and comments. During the period under review, UNODC started to develop the outline of an enforcement mechanism for breaches and violations of the Code. UNODC also initiated activities to provide technical assistance to assist the Government to respond to the 17th Crime Commission’s resolution requiring information on Afghanistan’s implementation of the International Association of Prosecutor’s Standards adopted at UNODC HQ by the Commission in Vienna in April 2008.

We are satisfied that these activities are in line with expected output of the immediate objective and that they were very worthwhile.

Training and seminars (immediate objectives 3 and 4, activities 3.2.1, 3.2.2, 3.2.3, 3.2.5, 4.1.2, 4.1.4)

Between 3 and 5 May, 2008, the UK Embassy and UNODC, together with the Attorney General’s Office of Afghanistan, and US organisations, held a three-day conference to introduce prosecution investigators and trial attorneys to covert and technical means of

surveillance and monitoring, use of informants, and other methods of technical and covert investigation. The purpose of this Conference was to introduce the AGO prosecutors to practical methods and tactics to investigate and prosecute corruption.

On 4 November 2008 UNODC presented a half-day training on the Hierarchy of Laws and Application of International Prosecution Standards to the first tranche of prosecutors assigned to the AGO's nascent Anti-Corruption Unit, to kick off the international community's training of these anti-corruption prosecutors.

From 9 to 13 November, 2008, a delegation of the Afghan Government, composed of 6 members of Attorney General's Office and lead by the Deputy Attorney General for Monitoring, attended a seminar in Tehran, Iran, dealing with "International Mutual Legal Assistance in the Investigation and Trial of Cases involving Corruption and Narcotics Trafficking". The seminar was sponsored by the UNODC Iran Office, with technical and financial assistance being provided by UNODC COAFG for the Afghan delegation. During the seminar participants discussed the legal framework, structure, international standards and investigation techniques for Organized Crime, Money Laundering, Mutual Legal Assistance, and Protection of Witnesses and Cooperating Suspects. Members of the AGO and of UNODC COAFG gave presentations to the 100 Iranian and Pakistani jurists present, with a view to familiarising them with Afghanistan's circumstances in preparation for eventual extradition and mutual legal assistance [MLA] upon the expected early 2009 finalisation of Afghanistan's Law on Extradition and MLA. This training seminar provided an important opportunity to meet and to initiate relationships among the UNODC "Triangular Initiative" countries of Iran, Pakistan and Afghanistan; and to strengthen prosecutorial and judicial cooperation against corruption and mutual legal assistance. The seminar provided a useful exercise in preparation for further work in 2009 and 2010 within UNODC's Rainbow Strategy and Triangular Initiative.

Between 26 and 27 November, 2008, UNODC delivered a training course on professionalism to Prosecutors, Defence Attorneys and representatives of other organisations, including members of the Provincial Reconstruction Team (PRT) in Kandahar province. The training focused primarily on what constitutes professionalism and the characteristics that identify good practice and competent fulfilment of duties.

Between 17 and 18 June, 2009, UNODC held a consultative workshop on the subject of the Code of Ethics and Professional Conduct for Prosecutors in Herat. This workshop followed on from an initial event which took place in Kabul on 14 and 15 June 2009. It forms part of a series of consultations with prosecutors across Afghanistan to canvass views and comments on the draft Code of Ethics and Professional Conduct for Prosecutors. It is intended that the process will continue with workshops planned to take place in Balkh (Mazar-i-Sharif), Nangarhar (Jalalabad) and Kandahar (Kandahar City) provinces. We note that this mission did not start as auspiciously as had been hoped as the funds from donors were not in place. This is another example of the importance of funds being delivered promptly when they have been promised. We have been informed by a number of reliable interlocutors that there have been occasions when the failure to deliver technical assistance (both of the hardware and software descriptions) has engendered mistrust in UNODC. The workshop dealt with general issues of ethics and professional standards, highlighting provisions of Afghan legislation which help to define the rights, duties and obligations that are placed on prosecutors, as well as the International Conventions (principally UNCAC) which Afghanistan has allied to. The focus of the workshop was on universal values and principles, and how they can be incorporated into a clear and specific definition of the standards expected of a prosecutor in Afghanistan. Between 14 and 15

July, 2009, a further consultative workshop was held in Jalalabad, Nangarhar. On 21 July 2009 a further workshop took place in Mazar-i-Sharif, Balkh province.

The evaluators consider that the adoption of the Code of Ethics and Professional Standards for Prosecutors by the Afghanistan authorities in August 2009 represents a landmark achievement by UNODC, in relation to immediate objective 3 of the project. This Code was officially presented to the 14th Annual Conference and General Meeting of the International Association of Prosecutors in Kiev, Ukraine, in September, 2009. A UNODC/AGO Delegation attended the conference to promote and launch the Code, before an international constituency of Prosecutors. This provided an opportunity to members of the delegation to meet and engage with the substantial Canadian delegation (Canada being the principal state sponsor of the UNODC project on the Code) and other international actors with an interest in Afghanistan. The conference commenced on Monday 7 September, 2009, with presentations on “Achieving Prosecution Success” in the morning followed by workshops on discreet management and performance systems in the afternoon. On Tuesday 8 September, 2009, the conference concentrated on alternatives to prosecution and penal sentences. During this session there was much work in the margins of the conference itself, with the delegation taking opportunities to organise side meetings with the Canadian delegation, recognising Canadian sponsorship of the project funding the delegation, and at the invitation of the UK, a courtesy meeting with Mr. Keir Starmer, the Director of Public Prosecutions (DPP) for England and Wales.

In summary, it became clear to us during our evaluation that, whilst the project had slow start as a result of the delay in receiving funding and the delay in the recruitment of the international expert on AGO Accountability and Integrity; nevertheless, the achievements that have been made since his appointment are contributing substantially to the objectives of the project.

We are satisfied that these activities are in line with expected output of the immediate objective and that they were very worthwhile.

Strengthening of the capacity, professionalism, accountability and integrity of the Anti-Corruption Unit (ACU) of the Attorney General’s Office (immediate objective 3, activities 3.1.1, 3.2.1, 3.2.2)

During the project period under review in this evaluation, UNODC continued actively to contribute to and participate in the activities of the AGO Anti-Corruption Unit (ACU) Coordinating Group which comprises: UNODC; the US and UK Embassies; and the EU Police Mission to Afghanistan (EUPOL), and which coordinates the activities of international implementers and strives to form a group consensus on reform for the AGO. UNODC drafted language that was accepted for a group consensus regarding the specific mandate, subject matter jurisdiction, competency, size and functional actors, and relations with other AGO units and law enforcement.

The establishment of the ACU is at a critical stage, and the Coordinating Group is tasked with advising on effective and prudent implementation of a discreet group of prosecutors situated within a broad ACU within the AGO. This involves a strategy that provides comprehensive training and operational mentoring from international partners to the Afghan prosecutors in the unit, and particular, intensive and specialist attention to those selected to form the discreet group. This has proved to be extremely sensitive in terms of the confidentiality required of this exercise to maintain the integrity of the ACU as a whole and the discreet group in particular. UNODC’s expertise, benefiting from extensive advisory experience in the AGO, is being

specifically directed towards compliance with Afghan institutional structures and accommodation of operational realities and international standards.

We are satisfied that these activities are in line with expected output of the immediate objective and that they were very worthwhile.

6.2 Overall performance assessment (appropriateness, relevance, effectiveness, efficiency)

This project envisages the design and implementation of technical assistance to provide lessons to guide the overall global effort against corruption. Such technical assistance should promote realistic, coordinated, coherent and cost effective policies and action plans, including benchmarks and impact indicators.²⁴ This is a very ambitious project and we consider that insufficient resources have been made available to UNODC to implement the objectives. The project document states that “UNODC has the mandate and expertise to support Afghanistan’s efforts to reduce corruption.” (See paragraph 22). We agree that UNODC has such a mandate, but we are firmly of the view that UNODC does not have sufficient resources to achieve its mandate.

The principal failing in terms of lack of resources for the project has been the lack of success in recruiting the necessary International Experts to implement the activities as particularised in this evaluation. We are firmly of the view that this project requires at least two International Experts, one of whom should be embedded with the HOO. We have been informed by COAFG that an International Expert on Anti Corruption strategy (who UNODC unsuccessfully attempted to recruit in May 2008) was intended to be embedded at the HoO, upon clearance by UN Security. The evaluators are of the view that the recruitment and secondment of such an International Expert should take place as soon as possible, notwithstanding the fact that a national expert has now been seconded to the HoO.

Notwithstanding the lack of success in recruiting the necessary International Experts, the activities that have been implemented by UNODC have all been relevant and appropriate. Two activities stand out as highly relevant, effective and efficient, namely: (i) the provision of a database for the registration of assets declared on annual basis by senior government officials as part of immediate objective 1 (see page 6 of this evaluation); and (ii) the training materials and the Draft Code of Ethics and Conduct for Prosecutors, produced by the international expert on anti-corruption strategies (see page 9 of this evaluation).

The project document makes it clear that one of the objectives of the project is to enhance the trust and the public support towards the Government’s anti-corruption efforts by mounting an awareness campaign. It will inform the public about corruption and the means at their disposal to defend themselves against corrupt practices, including how and where to report incidences of corruption. This objective has not yet been tackled and we consider that it is important that in this final phase of the project urgent steps are taken to provide COAFG with sufficient resources (principally International Experts) to implement this key objective.

6.3 Impact

²⁴ Paragraph 21 of the Project Document.

From our evaluation it is evident that project R86 has (and continues to have) a very significant impact on the development of an anti-corruption strategy and on the development of institutions that are fit for purpose in combating corruption and in implementing the provisions of the UNCAC. We believe that this project is crucial to a successful rehabilitation of Afghanistan. There can be no doubt as to the worth of this programme. There is a great deal that needs to be done in the remaining life of this project, and we are convinced that there is a clear case for providing additional resources to UNODC to allow it to complete the implementation of this extremely ambitious project. We are completely satisfied that without additional resources (principally by the provision of additional international and national staff, but also by the provision of additional hardware) it is unrealistic to expect UNODC to implement fully all of the outputs set out in the project document.

6.4 Sustainability

As we have observed in relation to other projects that we have evaluated, one of the distinctive features of project R86 is its sustainability. We have already singled out the production of databases for special mention. They have been designed as versatile and “user friendly” tools of more than adequate power, and which can easily be upgraded and are virtually everlasting.

The training materials and the Draft Code of Ethics and Conduct for Prosecutors (produced by the international expert on anti-corruption strategies) is an exemplary piece of work and will, undoubtedly, form the basis of institutional growth in the Justice Sector of Afghanistan for many decades. It is crucially important that training based upon this code continues to be implemented, and that momentum that has been achieved by the international expert is not lost by inaction.

Whilst it is unlikely that the training courses for journalists will ever be recorded in the annals of history as a turning point for Afghanistan; nevertheless, it may be responsible for the creation of a dedicated and disciplined section of the press who are able to report upon instances of corruption with great effect. Given the competing demands on this project, we do not recommend further expenditure on this output; however, further encouragement should be given to other institutions to foster continued support for training of the press.

As we have previously remarked, the HoO is an institution which must succeed if Afghanistan is to succeed. The sustainability of the HoO depends upon further resources being devoted to it now. As we have said, there is a great deal to be done and time is running out. To allow the HoO to fail would be disastrous for Afghanistan.

7. Major findings

7.1 Good practices

The production of the database for the HoO should be seen as an exemplar of good practice within this and the associated projects that we have evaluated. This database, together with others that have been produced by the Database Officer at UNODC under other projects, have produced a real product that is sustainable and of major impact to the institutions that have received them. In terms of cost, these databases must be regarded as the best value for money of any product that has come out of these projects. The Database Officer at UNODC has (without

assistance) produced a product of real worth for a minimal percentage part of the budget of this project.

The international expert on anti-corruption has concentrated his efforts on producing a product (both the Code of Ethics and Conduct for Prosecutors and associated training materials) which is producing a maximum effect on the project at this point in the programme. This was an important decision, given the unacceptable delay in recruiting him and the need to catch up on lost time.

The initial, extensive support for the HoO should also be acknowledged. As we have already observed, it is crucially important that UNODC should re-focus its activities on supporting the activities of the HoO by providing the services of an international expert, wholly or partially embedded in the HoO. We note with approval that this proposal has been reflected in the 2009 project revision.

7.2 Lessons learnt

Foreseeing future staff requirement and the timely recruitment of key personnel

As we have already highlighted, we are of the opinion that more could have been done to ensure the successful recruitment of the 3 International Consultants who were the subject of recruitment exercises in May 2008. We are also of the opinion that these recruitment procedures should have been initiated at an earlier time; although we acknowledge that lack of available funding did militate against this. In addition, we were surprised that the recruitment of a second database officer was first considered to be necessary as late as our visit to COAFG in July/August 2009. It was perfectly clear to us that the need for a second database officer should have been an obvious priority at a much earlier stage in the project.

Monitoring of the project

In our view, one of the project's flaws is the absence of a regular monitoring system. Though a reporting system seems to be in place, on the basis of the documents submitted to us, we noted a certain inconsistency as to the frequency of reporting. Furthermore, on the basis of the information received, we believe that no regular board meetings took place. In our view, this is a major issue of concern, particularly bearing in mind that the relationship with donors. There is no need to elaborate here on the opportunity to have all the stakeholders sitting around a table to discuss how things are proceeding and whether actions are needed to redress any problems. This, in the view of the evaluators, cannot be replaced by one-to-one contacts such as those that UNODC constantly maintains during the project. Nor can the decision to not implement project board meetings as monitoring tools be justified by the explanation that was given to us that coincidence of most of the stakeholders of UNODC projects would make it practically impossible to organize such gatherings.

The need for more transparent flows of information and a certain tendency to understate failings and overstate achievement were pointed out as critical issues by the thematic evaluation of 2008. It seems to us that this issue has not yet been fully resolved. A striking example of this criticism is the absence of reporting by UNODC to donors upon the delays and difficulties being encountered in connection with the development by UNICRI of the training materials under the terms of the revised project document.

Management

During the mission the evaluators had the opportunity to discuss with various UNODC staff members the issue of project management. On the basis of the information gained and the observation of the office dynamics, the evaluators have reached the conclusion that the management structure for the project within the UNODC Country Office was not adequately defined or executed. This comment concerns, in particular, the roles of the Sr. Criminal Justice Programme Advisor and the Criminal Justice Expert. It appears to us that the latter has been performing a great number of substantive tasks (related to operations, finance management, coordination and supervision of international consultants) which should have been carried out by the Sr. Criminal Justice Programme Advisor who, in turn, often became involved in a number of activities related to the practical implementation of the project. This is fundamentally bad management practice. However, we acknowledge that at the end of the day activities were actually performed and results were achieved. We consider that this situation might be a legacy of the period in which the International Project Coordinator acted as de facto Officer-in-Charge when the position was vacant and might be linked with the seniority of the International Project Coordinator in the organisation. All this, however, cannot be sufficient to justify such a task swap. Nor can the latter be justified by personal inclinations. Although this might sound like a “bureaucratic” approach, we are convinced that the well-being of staff and correct implementation of projects also passes through a clear division of tasks and a situation where functions are clearly allocated. We understand that in a context such as Afghanistan it is difficult, if not impossible at times, that each member of staff sticks to his/her job description. However, this cannot go so far as to create confusion as to who coordinates the programme and who implements the project.

8. Constraints that impacted project delivery

A number of constraints have hindered punctual project delivery. Most of them are, after eight years of presence in the Country, rather obvious. In the evaluators’ view, based upon what we saw and what we told by a number of reliable interlocutors, in some key areas of activities more could be done by UNODC COAFG to absorb assistance from other international organisations. This seems particularly to be the case in relation to matters involving the UNCAC, where interlocutors often told us that UNODC regards such matters as its sole property. There is a lack of coordination among international agencies, though successfully addressed by UNODC in some areas, for instance with regard to the area of the reform of the criminal law. The changing landscape of the Afghan Institutions and their personnel also places an additional burden on UNODC; though the situation has reached a certain degree of stability which was unknown in the early days. The fragile security situation of the Country does not need further elaboration. This seems to be one of the most difficult hurdles UNODC staff must cope with whilst implementing the projects. The extra burdens represented by the difficulties related to working in an environment where most people do not speak English have been partly overtaken by the creation within UNODC of an interpretation department, which eventually saw the light in 2008.

In addition to the issues mentioned above, the evaluators would like to highlight one management issue which impacted negatively on the project. The recruitment of the international expert on AGO Accountability and Integrity was delayed unacceptably and, undoubtedly, had a negative impact on the project. Equally, the aborted attempts to recruit: (i) an international consultant on the development of an anti-corruption strategy; and (ii) an

international consultant on the drafting of anti-corruption legislation, has, in our view, also had a negative impact on the delivery of immediate objectives 1 and 2 under the project. We strongly recommend that steps to remedy this are taken as soon as funding permits.

In addition to the above, the project suffered from the delay of the donor Country (Canada) in transferring the funds pledged under a letter dated March 2007. Despite the finalisation of the project between the Minister of Justice of the Government of Afghanistan and the UNODC COAFG representative in July 2007, no funds were provided to start the actual implementation of project activities until the end of December, 2007. In order to avoid disappointing the beneficiaries, loss of credibility and damage to the relationship of trust that UNODC has been able to build with its institutional counterparts (always sensitive, especially when it comes to timely implementation of promised activities), UNODC deposited a symbolic US\$ 1 for recruitment of the staff needed to start the project.

Last but not least, the project suffered from the excessive restrictions that the donor had placed on UNODC upon acceptance of the grant under the so-called “Canadian Umbrella”. As mentioned earlier, Canada delayed the payment of the first instalment by several months, thereby creating a number of problems for UNODC and its partners implementing the project. These factors are excessively and unreasonably restricting the work of UNODC, which has always been considered by all partners as holistic and comprehensive, and they undermine UNODC’s credibility. We believe that such a situation, just like excessive micromanagement of the project by the donor is not acceptable. Donors should trust sufficiently well the recipient of their funds to allow them a wider margin of appreciation in serving the Countries for which interventions are planned and implemented.

9. Recommendations

In the light of all of our findings as set out above, we make the following recommendations.

9.1 Project Management

This project envisages the design and implementation of technical assistance to provide lessons to guide the overall global effort against corruption. Such technical assistance should promote realistic, coordinated, coherent and cost effective policies and action plans, including benchmarks and impact indicators.²⁵ This is a very ambitious project and we consider that insufficient resources have been made available to UNODC to implement the objectives. The project document states that “UNODC has the mandate and expertise to support Afghanistan’s efforts to reduce corruption.” (See paragraph 22). We agree that UNODC has such a mandate, but we are firmly of the view that UNODC does not have sufficient resources to achieve its mandate. We are firmly of the view that this project requires at least two International Experts, one of whom should be embedded, at least part of the time, with the HoO.

Reporting system

In order to serve its purpose as a management tool, the monitoring system put in place for each project must receive constant, regular implementation. Whilst we are satisfied that continuous monitoring of the project did take place within UNODC, by both national and international

²⁵ Paragraph 21 of the Project Document.

staff, we are of the view that regular board meetings need to take place. Considering the pace of the activities in Afghanistan, probably bi-monthly reports should suffice. The fact that the project document foresees an obligation to produce only annual and biannual reports to the donor (and that the latter appears to be content with this requirement) cannot be considered a sufficient reason for not requiring regular reports on a shorter interval for internal use.

Particular attention should be devoted to the fulfilment by implementing agencies of their regular reporting obligations. Annual, biannual or final reports cannot be regarded as sufficient management tools and do not allow for timely interventions should they be required.

Project Board meetings should be organised on a regular basis throughout the life of the project, in order to gather around the same table all stakeholders, facilitating *de visu* the flow of information which, otherwise, is fragmented; and tackling problems as they arise, offering concerted solutions. Organisation (and follow-up) of such meetings must be clearly included in the project document.

Evaluation of projects

The evaluators believe that the procedure for the identification and recruitment of evaluators should be carried out by UNODC HQ and not by the person responsible for the project to be evaluated (in line with the ToR for the evaluation, attached to this Report, which states that “The evaluators are selected by the UNODC Vienna, in consultation with the Country office of Afghanistan. Coordination is to be sought also with the Europe, West and Central Asia Section, PDB/DO, and the Criminal Justice Reform Unit, HSB/DO, and the Independent Evaluation Unit, in UNODC Vienna, using the agreed criteria and drawing expertise from the roster of experts”). The evaluators understand that the exercise is internal to the organisation and is part of the project. However in order to ensure that their prescribed independence (not only in substance but also appearance), it is recommended that the ToR receives full application; thus also relieving the project staff of an additional burden.

9.2 Staff

As stated above, we are firmly of the opinion that if this project is to be completed successfully within the agreed time period then it is absolutely essential that the international consultants envisaged in the project document for: (i) development of an anti-corruption strategy; and (ii) the drafting of anti-corruption legislation, need to be recruited as soon as funding permits. These additional international consultants are urgently required to compliment the work of the present international consultant dealing with the accountability and integrity of the AGO. We are also of the view that recruitment strategies should be improved, so that recruitment of key staff is carried out in a timely fashion. In the view of the evaluators, there seems to have been some confusion within COAFG as to the correct interpretation of the current UNODC rules for rates of payment for international experts and payment of DSA, and exceptions thereto in cases where the services of an international consultant cannot be obtained within the maximum range of up to \$550. We acknowledge that some guidance has now been given in the memo, dated 16 April 2009, from Vienna/UNO, regarding delegation of authority to field offices regarding the recruitment of consultants. We strongly recommend that this memo is brought to the attention of all senior management who are concerned with the recruitment of international consultants.

We further recommend that an additional international expert should be recruited and he/she should be embedded (either on a full time or part time basis) in the HoO.

Though this is a recommendation of more general nature, the evaluators put it forward as it emerged as an issue during the evaluation exercise. We believe that more attention should be paid by the senior management of the programme and/or of the Office to the training needs of the national and international staff. Similarly to the “hardware and software” approach adopted whilst implementing its projects. UNODC should ensure that newly recruited staff receive adequate induction training, both of a general and a specific nature. An assessment of the training needs of staff should also be introduced and conducted regularly and continuous training opportunities offered. Professional growth and personal/professional gratification of staff should be cared for as much as the attainment of project results.²⁶

Division of tasks between staff should be respected. Substantive and protracted lack of staff should be acknowledged as a good reason to revise projects. Only temporarily lack of staff can be overcome by increasing the tasks assigned to other personnel.

9.3 Training

Considering the high involvement of UNODC in training activity, and having in mind the numerous difficulties related to its implementation, as illustrated in this report, we are of the opinion that COAFG should consider the possibility of creating a (small) Training Unit within the CJRP, in order to coordinate better the interventions in this area. This would also relieve the project staff from all the difficulties related to the time-consuming task of supervising the training activities from conception to implementation. It would also ensure consistency and complementarity of planned interventions. The presence of a strong national component within such a unit would also favour the process of empowerment and ownership of the project result, ensuring a deeper long-term impact.

In this regard we have been informed by the Criminal Justice Expert at COAFG that UNODC has now produced the ToR for the recruitment of national Trainers with the following duties and responsibilities:

Under the overall supervision of the UNODC Representative for Afghanistan and/or her designated official and under the direct guidance of the Senior Programme Advisor (Criminal Justice Capacity Building Programme) and the Criminal Justice Expert, the national will be responsible for:

- the conducting of a needs assessment of the Attorney General Office, Supreme Court, Ministry of Justice in relation to training and skills development with a methodological approach;
- the development of training materials, including manuals and curriculums for judges and prosecutors and other legal aid providers on the substantive and procedural issues involved in: juvenile justice; criminal defence; extradition and mutual legal assistance and cooperation; terrorism; trafficking in persons; narcotics trafficking; gender justice; and corruption;

²⁶ The more general issue of non incorporation of national staff into project activities was criticised by the 2008 thematic evaluation report, which also recommended that project management be more consultative.

- the development of training guidelines and aids concerning the general training package for judges and prosecutors;
- carrying out consultations with international and Afghan experts on developing training and briefing materials on statutory and customary law;
- the liaising with other organisations/individual experts with the aim to create synergy and utilise other perspectives/expertise within the framework of UNODC training programmes;
- the development of a training package on the training of trainers, including practical tools for initial and refresher sessions;
- the conduct of training courses in Kabul and selected provinces for prosecutors and judges;
- the arranging of training sessions and workshops in Kabul, as well as in provinces;
- the monitoring of the training sessions and performing evaluations of each training session, including the integration of good practices and lessons to be learnt;
- the organising and implementing of a training plan, according to training budget and work plan;
- the collection, compiling, indexing and preparing for use as reference materials of all relevant and current literature on customary/traditional law and statutory law;
- the carrying out of other tasks as assigned by his/her supervisor.

We have also been informed that the vacancy announcement for this position was made in August 2008. However, most regrettably, UNODC could not find any suitable candidate for the described position. For the time being, UNODC is continuing to use the services of ISISC as training co-implementing partner. Whilst we understand the need for this interim measure, it is not a satisfactory long-term solution and we strongly recommend that UNODC should continue to search for a national trainer within UNODC and to recruit such a person as soon as possible.

9.4 Legislative assistance

In delivering legislative assistance, particular attention should be placed on the ownership of the process by the national partners and institutions and, provided that they do not conflict with the international standards binding Afghanistan, support proposals that, although far from the experience of western countries, correspond better to the cultural, religious, and social features of Afghanistan.²⁷

Interventions in this area should also be implemented including (mid-term) training of relevant professionals abroad, for instance financing participation to courses held at National Schools for Public Administration present in various Countries.

9.5 Public awareness programme

The project document makes it clear that one of the objectives of the project is to enhance the trust and the public support towards the Government's anti-corruption efforts by mounting an

²⁷ Finding number 7 of the 2008 thematic evaluation elaborated on the detrimental effects of aggressive management; finding number 11 tackled the issue of UNODC's unilateral approach to preparation of draft legislation; paragraph 169 suggests the need for UNODC to build national staff capacity in the largest sense possible and to obtain full national input during any capacity building activity, including the drafting of legislation. The current evaluators regret to conclude that the recommendations issued in relation to such points have not yet been fully internalized by the COAFG.

awareness campaign. It will inform the public about corruption and the means at their disposal to defend themselves against corrupt practices, including how and where to report incidences of corruption. This objective has not yet been tackled and we consider that it is important that in this final phase of the project urgent steps are taken to provide COAFG with sufficient resources (principally International Experts) to implement this key objective.

10. Overall conclusions

Support to the High Office of Oversight (HoO) is a key component of the project under immediate objective 1. The evaluators have been impressed by the extensive technical advice and support that UNODC has provided to the HoO.

The evaluators are impressed by the extensive technical advice and support that UNODC has provided to the HoO. UNODC has provided crucially important technical assistance in the drafting and revision of legislation regulating the mandate and structure of the HoO, including meetings with and written presentations to the Minister of Justice and his legislative department.

One outstanding contribution that UNODC has made to the success of the HoO is the provision of a database for the registration of assets declared on annual basis by senior government officials (part of immediate objective 1).

Between 15 and 17 June 2008, UNODC and UNDP together with the Government of Afghanistan held a workshop on “Legislative Requirements of the United Nations Convention against Corruption.” This Workshop was based upon UNCAC’s requirements that ratifying countries enact implementing legislation. The evaluators are of the view that UNODC has been right to attach a high priority to assisting the Government of Afghanistan to implement the provisions of UNCAC as part of the wider support provided to crucial fight against corruption. A workshop on legislative requirements of the UNCAC provided an opportunity to analyse legislative options and the existing Afghan legislative framework in relation to preventing and combating corruption.²⁸ It also served as a starting point for discussions on a legislative action plan with prioritisations made as to which laws to address first. As a result, UNODC developed and finalised the terms of reference for the establishment of a dedicated working group to review and draft laws and regulations in accordance with the obligations and principles of the UNCAC. The evaluators regard this as a very successful output under immediate objective 2 of the project.

The evaluators would like to highlight the work done by UNODC COAFG on the review of the rules and standards of professional ethics and conduct applicable to prosecutors. We are firmly of the view that this aspect of the project has been highly effective and it represents a very substantial contribution to immediate objective 3 of the project.²⁹

In relation to the overall performance assessment (considering appropriateness, relevance, effectiveness and efficiency), the evaluators recognise that this is a very ambitious project and we consider that insufficient resources have been made available to UNODC to implement the objectives. The project document states that “UNODC has the mandate and expertise to support Afghanistan’s efforts to reduce corruption.” We agree that UNODC has such a mandate, but we are firmly of the view that UNODC does not have sufficient resources to achieve its mandate. We are firmly of the view that this project requires at least two International Experts, one of whom should be embedded with the HOO.

From our evaluation it is evident that project R86 has (and continues to have) a very significant impact on the development of an anti-corruption strategy and on the development of institutions

²⁸ See page 26 of this report.

²⁹ See page 26 et seq of this report.

that are fit for purpose in combating corruption and in implementing the provisions of the UNCAC. We believe that this project is crucial to a successful rehabilitation of Afghanistan. There can be no doubt as to the worth of this programme. There is a great deal that needs to be done in the remaining life of this project, and we are convinced that there is a clear case for providing additional resources to UNODC to allow it to complete the implementation of this extremely ambitious project. We are completely satisfied that without additional resources (principally by the provision of additional international and national staff, but also by the provision of additional hardware) it is unrealistic to expect UNODC to implement fully all of the outputs set out in the project document.

In the view of the evaluators, one of the distinctive features of project R86 is its sustainability. In this report we have singled out the production of databases for special mention. We regard the production of the database for the HoO as an exemplar of good practice.

Equally, we regard the training materials and the Draft Code of Ethics and Conduct for Prosecutors (produced by the international expert on anti-corruption strategies) as an exemplary piece of work and that output will, undoubtedly, form the basis of institutional growth in the Justice Sector of Afghanistan for many decades.

As we have highlighted in this report, the HoO is an institution which must succeed if Afghanistan is to succeed. The sustainability of the HoO depends upon further resources being devoted to it now. As we state in this report, there is a great deal to be done and time is running out. To allow the HoO to fail would be disastrous for Afghanistan. Whilst the evaluators acknowledge the initial, extensive support for the HoO, it is crucially important that UNODC should re-focus its activities on supporting the activities of the HoO by providing the services of an international expert, wholly or partially embedded in the HoO. We note with approval that this proposal has been reflected in the 2009 project revision.

In the view of the evaluators, one flaw in the project is the absence of a regular monitoring system. On the basis of the information received, we believe that no regular board meetings took place. In our view, this a major issue of concern, particularly bearing in mind the relationship that UNODC must maintain with its donors. The need for more transparent flows of information and a certain tendency to understate failings and overstate achievement were pointed out as critical issues by the thematic evaluation of 2008. It seems to us that this issue has not yet been fully resolved.

In relation to the overall execution of the project, the evaluators are of the view that a number of constraints have hindered punctual delivery of the objectives of the project. In the evaluators' view, based upon what we saw and what we told by a number of reliable interlocutors, in some key areas of activities more could be done by UNODC COAFG to absorb assistance from other international organisations. This seems particularly to be the case in relation to matters involving the UNCAC, where interlocutors often told us that UNODC regards such matters as its sole property.

The evaluators wish to highlight one further issue which, in our view, has impacted negatively on the project. The project suffered from the delay of the donor Country (Canada) in transferring the funds pledged under a letter dated March 2007. Despite the finalisation of the project between the Minister of Justice of the Government of Afghanistan and the UNODC COAFG representative in July 2007, no funds were provided to start the actual implementation of project activities until the end of December, 2007.

Similarly, the evaluators are of the view that the project suffered from the excessive restrictions that the donor had placed on UNODC upon acceptance of the grant under the so-called "Canadian Umbrella". In our view, these restrictions are excessively and unreasonably

restricting the work of UNODC, which has always been considered by all partners as holistic and comprehensive, and they undermine UNODC's credibility. We are of the view that such a situation is not acceptable. Donors should trust sufficiently well the recipient of their funds to allow them a wider margin of appreciation in serving the Countries for which interventions are planned and implemented.



United Nations Office of Drugs and Crime
 Terms of reference for
 In-Depth Mid Term Evaluation of Projects T03 and R86 and Final
 Evaluation of Project R42 of the Criminal Justice Programme

Project titles of the Afghan Criminal Justice Programme:

Criminal Law and Criminal Justice Capacity Building – AFG/R42

Criminal Justice Capacity Building – Extension to the Provinces – AFG/T03

Strengthening Anti-Corruption Measures in Afghanistan – AFG/R86

1. Background

Although some progress has been made in Afghanistan's formal justice system in the years, it continues to suffer from severe and systemic problems. In fact, Afghanistan's legal apparatus has been largely obliterated during the years of conflict and civil war. Re-establishing the rule of law, including addressing impunity, is an essential pre-requisite for peace and stability. The challenge of reconstructing Afghanistan's judicial system and legal apparatus has been a formidable one, as the armed conflict did not destroy only the physical infrastructures, but also the public and private sectors, and the social fabric, facilitating the dire weakening of an effective judicial system. Virtual non-existence of training facilities, limited numbers of judicial personnel in service, lack of communication and coordination among institutions as well as between the capital and provinces, need to revise the legal system, particularly in relation to procedural, substantive and organisational aspects, are all facets of the same problem.

Despite efforts by the national government and particularly international community, an urgent need persists for the establishment of essential physical infrastructure, provision of equipment, training, and provision of know-how and financial resources to extend the reconstruction of the criminal justice system to the provinces. A functioning criminal justice system is a vital part of peace building in Afghanistan. Rule of law and security can only be insured if offenders are brought to justice and sentences are imposed and executed in full compliance with internationally recognized standards and norms.

Against this background, UNODC developed a Priority Action Strategy for Afghanistan to provide advisory services and technical and material assistance at central level as well as in selected provinces to further strengthen the institutional capacity of the permanent judicial institutions, being the Supreme Court, the Ministry of Justice (MoJ) and the Attorney General's Office (AGO), enabling Afghans including provincial populations to access the Rule of Law and creating more favourable conditions for the provincial economic, social and political development.

The selected projects form integral part of a comprehensive UNODC’s criminal justice programme. This programme was intended to promote the fundamental principles of the rule of law through national, regional and interregional activities and technical cooperation activities. In developing such a programme, particular attention was given to the near past of Afghan history, its tradition, culture, and social mores, along with other distinctive elements of a country in transition.

This programme was expressly designed considering the major needs, shortcomings and challenges that the international community faced in the aftermath of a long term conflict to reform the legal and criminal justice sectors.

In particular, the three justice projects, T03, R42 and R86, all share similar objectives and outcomes regarding their envisaged support to the same three government institutions:

- Revision and development of key legislative documents to support the establishment of criminal justice systems in accordance with international conventions and standards;
- Rehabilitation or construction judicial centres and infrastructure, including provision of equipment and furniture;
- Development of training material and curriculum for members of the justice sector, including organizing courses and training sessions, to form a new professional category of skilled and qualified judicial personnel.

Therefore, the evaluations of each of the three projects will each be required to meet with and interview the same personnel in the same three justice institutions, as well as meet and interview the same international partners, stakeholders and co-implementing international agencies and institutions. This is why the evaluations should be done together, as otherwise there would be a three-fold waste and interview-fatigue of those who must be interviewed, resulting in one or two separate evaluations being unable to gather necessary information.

AFG/R42 – Criminal law and criminal justice capacity building in Afghanistan

Budget (US\$)	5,234,000
Duration	6 years (2003 to 2009)
Thematic Area	Criminal Justice Reform
Source of Funds	Crime
Donor	Italy, Ireland, Germany, Japan
Funding status	Additional funding required (\$32,554)

Project activities were carried out timely and major achievements have been recorded since the inception of the project in 2003. In particular, UNODC refurbished MoJ Headquarters, the Attorney General’s Office, and the Supreme Court, and delivered training in office management, English, and computer literacy to the staff of these institutions – at both the central and provincial levels (150 trainees). At the same time, it also organized study visits and technical conferences to benefit the staff of the Afghan criminal justice system. A pilot intervention which proved to be appreciated by both government counterparts as well as international partners has been the establishment of functional Justice Support Centres initially in five provinces (e.g. Nangarhar, Balkh, Paktia, Kunduz, and Laghman), for their versatile nature and the recorded high level of usage. In addition, criminal justice practitioners were trained in relevant topics and reference libraries were established.

In 2007, AFG/R42 was revised in order to extend its scope, whereby assistance was extended to judicial institutions at the local level, in three additional provinces (Bamyan, Baghlan and Herat). In 2008, international experts were recruited to develop training material and curriculum for judges and prosecutors on trafficking in human beings and juvenile justice. In addition, the specialist on anti-human trafficking criminal justice capacity building in Afghanistan reviewed and modified existing material to develop trafficking in persons training material for parliamentarians. Technical assistance is being provided for the creation of legal aid offices, in conjunction with the establishment of the Afghan Bar Association. In this respect, an international attorney was selected to develop training material for

lawyers and legal aid providers. UNODC works with ISISC and the Independent Bar Association for the implementation of activities under this project framework.

AFG/T03 – Criminal Justice Capacity Building – Extension to the provinces

Budget (US\$)	2,734,400
Duration	2 years (2007 to 2009)
Thematic Area	Criminal Justice Reform
Source of Funds	Crime
Donor	Canada
Funding status	Fully funded

This project's execution started in last quarter of 2007. It was planned in response to an increasing awareness on the part of the Afghan government of the need to reform the criminal justice system at the provincial level and the UNODC lessons and good practices developed under project AFG/R42 (e.g. Justice Support Centre and related training). The planned technical assistance activities aim to further strengthen the institutional capacity of the permanent judicial institutions in selected provinces, in order to create favourable conditions for socio-economic and political development at the provincial level.

This project retains the main goals of AFG/R42, with an expanded scope: (a) to construct offices for members of the justice sector, to continue with the construction of justice support centers, and to equip these sites with necessary materials and furniture (Herat, Bamyan, Nangarhar, Kunduz and Kandahar provinces); (b) to strengthen the institutional capacity of prosecutors and judges in the provinces to arrest, investigate, prosecute and convict criminal offenders – in particular of drugs-related crimes – through specific training and mentoring courses on criminal law and procedure; and (c) to assist the Legislative Department of the Ministry of Justice in the revision of selected criminal laws and procedures. In this respect, UNODC, in partnership with the United States Institute for Peace (USIP) and the International Institute of Higher Studies in Criminal Science (ISISC) organized a Workshop on the Law Reform in Afghanistan, which held in Siracusa, Italy. In 2008, construction activities started in Herat, Bamyan, and Kunduz, for the construction of an office for the AGO and in Nangarhar for the construction of an office for the local staff of the Ministry of Justice. In addition, UNODC initiated the process to select a subcontracted company for the construction of a regional Justice Support Centre in Kandahar province.

AFG/R86 – Strengthening anti-corruption measures in Afghanistan

Budget (US\$)	3,167,200
Duration	2 years (2007 to 2009)
Thematic Area	Anti-Corruption
Source of Funds	Crime
Donor	Canada, UNDP, Norway, Poland
Funding status	Additional funding required (\$1,321,701)

This project's overall objective is to strengthen the capacity of the Supreme Court and the Attorney General's Office to fight corruption. It works to ensure the development of effective measures to fight corruption in Afghanistan, to monitor the implementation of the UN Convention against Corruption (UNCAC) and to strengthen key legislation. Project activities are continuing to be executed since the commencement of the project in late 2007. In particular, a training manual and related curriculum for judges and prosecutors on countering corruption is being developed by UNODC and UNICRI. The training activities will be conducted nationwide in the second quarter of 2009. UNODC also worked with Internews, a specialized international NGO, to conduct a three-month training program for local journalists and editors from a range of media organisations, including print, TV, and radio outlets. Furthermore, a preliminary survey on corruption in Afghanistan has been conducted through pilot

studies on integrity in the judiciary, legal profession and public institutions in selected provinces. UNODC and UNDP are currently also finalizing a systematic review of the existing national legislation, regulations and administrative procedures, comparing them with the UNCAC's mandatory and optional domestic legislative and programmatic provisions in order to take stock on Afghanistan's legal framework as to monitor whether it is in conformity with the UN Convention. Finally, UNODC provided extensive technical advice and support to the establishment of the High Office of Oversight (HoO) for implementation of the Anti-Corruption Strategy.

The project will strengthen the capacity of the Supreme Court and the Attorney General Office also with the provision of equipment and refurbishment of premises for special anti-corruption task force as well as support the elaboration of an AC national strategy and implementation provincial plans.

2. Purpose of the Evaluation

The purpose of this evaluation is to determine what the identified projects have achieved and if the projects have attained their objectives successfully and efficiently. More specifically, the purpose of this evaluation is to assess how the UNODC development cooperation builds the capacity of the Afghanistan government agencies in the area of Rule of Law. The evaluation will draw lessons learned and recommend improvements. At the same time, the evaluation will address the issue of what is the net value added of UNODC's work and its strategic positioning.

The evaluation will:

Provide an assessment of the results achieved through UNODC's support through its project activities and in partnership with other key development actors.

Provide an analysis of how UNODC has positioned itself strategically to add value in response to national needs and changes within the specific thematic area of Rule of Law.

Provide an assessment of design, coherence, and focus of the selected projects.

Provide an analysis to what extent activities and results are sustainable at their respective levels (communities, intermediate or higher level institutions) and connected to local, regional and national capacities and/or other forms of external support.

Provide accountability to the UNODC management, member states and donors

Based on the analyses of achievements and positioning above, present key findings, draw lessons and provide clear and forward looking recommendations in order to suggest effective and realistic strategies by UNODC and partners towards intended results.

3. Evaluation scope

The evaluation shall focus mainly on the project's concept, design, implementation, results, outputs and outcomes. The evaluation should appraise:

(a) Project concept and design:

The evaluation should analyse whether and how the project contributed or is contributing to a priority area or comparative advantage for UNODC. It should review the problems identified by the project and the corresponding strategy chosen in order to address these. The evaluation should also encompass an assessment of the relevance and attainability of the objectives and of planned outputs, activities and inputs, as compared to other cost-effective alternatives. An analysis of the clarity, logic and coherence of the project should also be conducted. Some of the questions that this evaluation should address are:

Are the objectives of the project aligned with the current policy priorities and action plans of Government of Afghanistan, Compact, ANDS, UNODC mandates and United Nations Development Assistance Framework (UNDAF) for the Islamic Republic of Afghanistan?

Is the design of the project technically sound? Are the project objectives clear, realistic and coherent in terms of collectively contributing to the achievements of the Strategic Programme Framework and Afghanistan Development Strategy, and other strategic instruments?

Are response activities and implementation strategy appropriate for meeting stated objectives, with a focus on assessing project elements directly related to capacity building, coordination and sub-contract performance?

How well do the project objectives reflect the specific nature of the problem and needs of Afghanistan government?

(b) Objectives, outputs, impact and sustainability:

The evaluation should seek to determine whether results have been achieved, and if not fully, whether there has been some progress made towards their achievement. Taking into account these factors, the overall impact of the project should be assessed. This should also encompass the likely sustainability of results and benefits as well as the project's contribution to human and institutional capacity building. The beneficiaries' perception towards the achievements should be taken into consideration, as appropriation is an important factor in determining sustainability. Another fundamental aspect in result sustainability is beneficiary capacity building (have the beneficiaries gained the necessary tools and skills?). Furthermore, financial sustainability should also be assessed (for instance, once the project is terminated, will the benefits be self-sustainable?). Some of the questions that this evaluation should address are:

To what extent the project contributed to the achievement of Afghanistan Compact and or Strategic Programme Framework and Afghanistan Development Strategy? What are the reasons for the achievements and non-achievement of objectives?

To what extent key skills of criminal justice practitioners and law enforcement have been enhanced? Have improvement of leadership skills been enhanced at institutional and individual levels in order to drive coordination and more effective actions?

Is there any improvement in programming and acting in terms of addressing, country problem related to drug and corruption related offenders and producing results over the period of time?

How were project internal UNODC factors affecting effectiveness, including human resources logistic support, and the predictability and regularity of resources and flexibility of the budget (UNODC constrains)?

How are project external factors like limits on access to interventions sites, human resource constraints etc. impacted on effectiveness (security situation)?

(c) Overall implementation process:

The evaluation should assess how effectively/efficiently project planning and implementation have been carried out. This includes assessing the extent to which organisational structure, managerial support and coordination mechanisms used by UNODC effectively support the project. Efficiency should be analyzed namely as the project's capacity to achieve the desired effects at an acceptable cost when compared to alternative approaches reaching the same effects. The role played by the field office in the development and implementation of the project or programme should also be assessed. The evaluation will analyse problems and constraints encountered during implementation as well as the quality and timeliness of inputs and the efficiency and effectiveness of activities carried out. Some of the questions that this evaluation should address are:

Were alternative less costly interventions modalities considered in designing this project? Do they exist?

Are there less costly methods which could achieve the same outcome/impact at the beneficiary level?

To what extent was a transparent operating environment and accountability of government established?

To what extent have partnership been sought with other relevant actors (including UN-agencies) and synergies been created in the delivery of assistance?

Was there effective coordination among government, UNODC and other implementing partners including donor countries?

Is the country human resource structure appropriate and efficient? Assess quality, timeliness, effectiveness and sustainability of management arrangements, technical inputs and assistance

Has adequate and appropriate backstopping support been provided by field and HQ staff (administrative / managerial support and coordination)? Have partner institutions fully and effectively discharged their responsibilities?

What are the positive and negative, intended and unintended, effects of interventions on people, institutions and the physical environment?

Do the beneficiaries and other stakeholders affected by the intervention perceive to be the effect of the interventions on themselves?

What are the perceptions of the different stakeholders, especially government of Afghanistan, implementing partners, other UN agencies, bilateral and multilateral donors, about the overall impact of UNODC's project activities?

Does the national government take the lead in developing and implementing frameworks and strategies for eradicating illicit drug production, trafficking and consumption of illicit drugs, monitoring and reporting on production of illicit crop and strengthening the rule of law on its territory?

Are the UNODC supported policies and strategic issues mainstreamed into the key national development documents?

What are the specific legal, policies and regulatory changes that were supported that incorporate issues of UNODC thematic area?

Do the project interventions have a potential for scaling up or replication?

To what extent have the findings and recommendations from the past project evaluations been followed up and implemented to address some of the challenges already identified.

(d) Lessons learned from the concept, design and implementation of the project, as well as good practices:

Recommendations may also be made in respect of issues relating to the implementation and management of the project as well as follow up projects dealing with the same issues. The evaluation shall assess in what ways the project design and/or delivery can be improved to enhance its effectiveness. The evaluation should identify the key elements, assumptions and risks for the development of similar initiatives in other regions.

4. Evaluation methods

The evaluation will be a participatory process that will give due importance to self-assessment by stakeholders involved in programme design and implementation. All information to the largest possible extent be triangulated (use of three or more sources of information to verify and substantiate an assessment) and validated. Findings, conclusions, recommendations and lesson learned should clearly be action oriented and feed into major decision-making for future strategy and programme development.

The evaluation methods will include:

(a) Document review; this will include all major documents, such as the project documents, progress and monitoring reports, terminal narrative reports, as well as assessments, manuals developed under the project etc. (desk study)

(b) Visits to Ministry of Justice (Legislative and Publication Departments), Supreme Court, Attorney General Office, High Office of Oversight (HoO), United Nations Assistance Mission in Afghanistan (UNAMA)-Rule of Law Unit, UNAMA-Human Rights Unit, United Nations Development Programme (UNDP), International Institute of Higher Studies in Criminal Sciences (ISISC), Justice sector Support Programme/INL (JSSP/INL), EUPOL, EC, and other relevant stakeholders and interviews with key staff. It's also recommended to organize a telephone conference with staff of the United Nations Interregional Crime and Justice Research Institute (UNICRI) in Turin, Italy.

- (c) Field assessment missions to Kabul, Mazar-e-Sharif, Herat and Jalalabad to visit Justice Support Centres as well as office for justice officials, if feasible and authorized by UNSECCORD.
- (d) Meetings and interviews with other relevant judicial institutions.
- (e) Request selected judiciary staff to complete and submit a questionnaire prepared by the evaluators.
- (f) Drafting of a final report for each project.

5. Evaluation Team composition and requirements

Each Criminal Justice Project is planned to be evaluated by 2 International Experts (Evaluators) who have relevant skills for the task. The Evaluators will be recruited by UNODC HQs on competitive basis and will travel to Afghanistan for the evaluation of the projects. One evaluator should have excellent knowledge in the criminal justice and capacity building of judiciary institutions in developing countries. The other Evaluator should possess extensive knowledge on anti-corruption reforms. Both evaluators should have an in-depth knowledge of projects and programme design, implementation, monitoring and evaluation.

In addition to the above, both Evaluators should:

- 1) Be familiar with the project implementation in the UN and possibly in UNODC.
- 2) Have experience in conducting evaluations.
- 3) Have at least 10 years relevant professional experience.
- 4) Have obtained a post-graduate degree a relevant area.
- 5) Possess excellent drafting and communication skills in English. Knowledge of Afghanistan local languages could be an asset.

The evaluators are selected by the UNODC Vienna, in consultation with the Country office of Afghanistan. Coordination is to be sought also with the Europe, West and Central Asia Section, PDB/DO, and the Criminal Justice Reform Unit, HSB/DO, and the Independent Evaluation Unit, in UNODC Vienna, using the agreed criteria and drawing expertise from the roster of experts.

6. Planning and implementation arrangements

This evaluation will be a joint effort between the Evaluators and UNODC. As for substance, it is critical that the evaluation should be carried out independently by the Evaluators Team and they conduct a thorough evaluation covering all aspects of the project objectives, achievements, implementation and management. The Evaluators will have access to all relevant documents and the UNODC Country Office for Afghanistan will provide the required support for the Evaluators during the evolution. The UNODC officials responsible for briefing of the Evaluators are:

UNODC Country Office for Afghanistan:

Mr. Jean-Luc Lemahieu, Representative

Ms. Elisabeth Bayer, Deputy Representative

Mr. Michael Hartmann, Manager and Senior Advisor, Criminal Justice Programme

Mr. Matteo Pasquali, Criminal Justice Expert

UNODC Head Quarters in Vienna (Austria):

Mr. Roberto Arbitrio, Chief, Asia and Europe Section, Division for Operations

Mr. Andrea Mancini, International Project Coordinator, Asia and Europe Section, Division for Operations

Independent Evaluation Unit if needed

UNODC Country Office will secure office space, administrative basic support, and travel arrangements for the evaluators during his/her stay in Kabul. UNODC will also assist with accommodation bookings, visa facilitation etc....

Following recruitment, the Evaluators will make preparation in 2 days to undertake a mission to Afghanistan. While in Kabul the Evaluators will received a briefing from the relevant staff of the Country Office and a desk-review of the Criminal Justice Programme documentations will be conducted by the Evaluators which will be followed by a visit to the Ministry of Justice, other relevant Departments and justice stakeholders for meetings and interviews. (5 days)

At the end of the field visits, meetings, interviews, etc. the Evaluators will prepare a draft report for each project within 10 working days and submit it to the UNODC Country Office for Afghanistan and UNODC HQs for comments.

Time Frame & Tentative programme for the Evaluator

Programme & Activity	Days Required
Preparation/travelling to Afghanistan	2
Briefing by Country office staff	2
Desk-review of documentations	5
Meetings/interviews with Ministries, Departments, UN Agencies and relevant stakeholders.	8
Field visit to the provinces	4
Preparation of the draft report	10
Returning home	2
After Termination of the Consultancy contract:	
Incorporating the UNODC comments in the report and preparing the final draft	5
Total Working & Travel Days	38

Note: Detailed itinerary and programme will be prepared upon arrival and in consultation with the Evaluators.

Deliverables of the evaluation

At the end of the evaluation mission, a debriefing meeting will be held at the UNODC Country Office for Afghanistan and the Evaluators will present a summary of the evaluation's findings and recommendations. Following the field visits and overall assessments, the draft report will be submitted to UNODC Country Office for Afghanistan within 10 days, which will be subsequently share with UNODC HQs and the Government Counterparts for comments.

The Evaluators are obliged to follow the UNODC standard format and guidelines for the preparation of the project evaluation report. The Terms of Reference of the Evaluators and the UNODC Format and Guidelines for the Evaluation should be annexed to the report. Other annexes to the report should be kept to an absolute minimum. Only those annexes that save to demonstrate or clarify an issue related to a major finding should be included.

Payment

The Evaluators will be issued a consultancy contract and paid as per the common UN rules and procedures. The final payment will be made only after the acceptance of the final draft of the evaluation report by UNODC HQs and the Country Office for Afghanistan.

List of Persons met in Kabul

Meeting with H.E. Sarwar Danish, Minister of Justice
Meeting with Dr. Abdul Malik Kamawi, SC
Meeting with Head of Legal Aid department of MOJ
Meeting with Mr. Ahmed Tafik, UNAMA
Meeting with Mr. Aloko, AGO
Meeting with Mr. Charlie Jenkins, US DoJ
Meeting with Mr. Dr Abdul Hakim, JSSP
Meeting with Mr. Farid Mushin, AIHRC
Meeting with Mr. Francesco Ponzoni, Italian Embassy
Meeting with Mr. Haleem, DG of Legislative Department, Ministry of Justice
Meeting with Mr. Jaleb Deputy DG Legislative Department, MOJ
Meeting with Mr. Jawed Mobasher, JSSP
Meeting with Mr. Mark Carroll, British Embassy
Meeting with Mr. Matteo Pasquali, International Criminal Expert
Meeting with Mr. Mr Qarizada, Head of AIBA
Meeting with Mr. Nehad Gamal, ISISC
Meeting with Mr. Nils Taxell, UNDP
Meeting with Mr. Pietro Spera, Italian Embassy
Meeting with Ms. Kristine Peduto, UNICEF
Meeting with Ms. Mary-Alice Kovac, JSSP
Meeting with Ms. Noriko Izumi, UNICEF
Telephone conference with Mr. Alex Wilks, IBA
Telephone conference with Mr. Douglass McCrae
Telephone conference with Ms. Athanassia Sykiotou