

I. Resolutions and decisions adopted by the Conference of the States Parties to the United Nations Convention against Corruption

A. Resolutions

At its second session, held in Nusa Dua from 28 January to 1 February 2008, the Conference of the States Parties to the United Nations Convention against Corruption adopted the following resolutions:

Resolution 2/1 Review of implementation

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

Recalling article 63, paragraph 1, of the United Nations Convention against Corruption,¹ which established the Conference of the States Parties to the United Nations Convention against Corruption to, inter alia, promote and review the implementation of the Convention,

Recalling also article 63, paragraph 7, of the Convention, according to which the Conference is to establish, if it deems it necessary, any appropriate mechanism or body to assist in the effective implementation of the Convention,

Bearing in mind that the review of implementation of the Convention is an ongoing and gradual process,

Recalling its resolution 1/2, in which it decided that a self-assessment checklist should be used as a tool to facilitate the gathering of information on the implementation of the Convention,

Welcoming the subsequent development of the self-assessment checklist, its effective use to compile initial information on the implementation of several articles of the Convention and the two reports of the Secretariat analysing the information collected,²

Noting the activities undertaken pursuant to its resolution 1/1 to collect and analyse information on several possible methods to review the implementation of the Convention,

Convinced that effective and efficient review of the implementation of the Convention in accordance with article 63 is of paramount importance and urgent,

Recalling its resolution 1/1, in which it agreed on the necessity of establishing an appropriate and effective mechanism to assist it in the review of the implementation of the Convention, and established an open-ended intergovernmental expert working group to make recommendations to the Conference at its second session on the appropriate mechanisms or bodies for reviewing the implementation of the Convention and on the terms of reference of such mechanisms or bodies,

1. *Takes note with appreciation* of the work of the Open-ended Intergovernmental Working Group on Review of the Implementation of the United Nations Convention against Corruption at its meeting held in Vienna from 29 to 31 August 2007 and the report on that meeting;³

¹ General Assembly resolution 58/4, annex.

² CAC/COSP/2008/2 and Add.1.

³ CAC/COSP/2008/3.

2. *Reaffirms* that any such mechanism established to assist the Conference of the States Parties to the United Nations Convention against Corruption in the effective implementation of the United Nations Convention against Corruption⁴ should:

- (a) Be transparent, efficient, non-intrusive, inclusive and impartial;
- (b) Not produce any form of ranking;
- (c) Provide opportunities to share good practices and challenges;
- (d) Complement existing international and regional review mechanisms in order that the Conference may, as appropriate, cooperate with them and avoid duplication of effort;

3. *Decides* that any such mechanism should also reflect, inter alia, the following principles:

- (a) Its objective should be to assist States parties in the effective implementation of the Convention;
- (b) It should take into account a balanced geographical approach;
- (c) It should be non-adversarial and non-punitive and should promote universal adherence to the Convention;
- (d) It should base its work on clear, established guidelines for the compilation, production and dissemination of information, including addressing issues of confidentiality and submission of the outcome to the Conference, which is the competent body to take action on such outcome;
- (e) It should identify, at the earliest stage possible, difficulties encountered by parties in the fulfilment of their obligations under the Convention and good practices adopted in efforts by States parties to implement the Convention;
- (f) It should be of a technical nature and promote a constructive collaboration, inter alia, in preventive measures, asset recovery and international cooperation;

4. *Decides* that the Working Group shall prepare terms of reference for a review mechanism for consideration, action and possible adoption by the Conference at its third session;

5. *Decides also* that the Working Group shall hold at least two meetings prior to the third session of the Conference in order to perform its mandated tasks;

6. *Requests* the United Nations Office on Drugs and Crime, in the interim and subject to the availability of voluntary contributions, to continue to assist parties, upon request, in their efforts to collect and provide information requested by the self-assessment checklist, and to analyse and report on the information collected to the Conference at its third session, and urges States parties and signatory States that have not yet done so to complete the checklist and submit it to the United Nations Office on Drugs and Crime;

7. *Requests* the Secretariat to explore the option of modifying the self-assessment checklist to create a comprehensive information-gathering tool that might serve as a useful starting point for collecting implementation information in any future reviews;

8. *Also requests* the Secretariat to assist the Working Group by submitting to it background information, including terms of reference of existing review mechanisms and information on the activities undertaken

⁴ General Assembly resolution 58/4, annex.

pursuant to Conference resolution 1/1 to collect and analyse information on possible methods for reviewing implementation;

9. *Calls upon* States parties and signatory States to submit proposals to the Working Group for the terms of reference of the mechanism sufficiently in advance of the meetings of the Working Group for its consideration;

10. *Requests* the Secretariat to assist, within existing resources, the Working Group in the performance of its functions, including by providing interpretation services.

Resolution 2/2

Appeal to States parties and invitation to signatories to the United Nations Convention against Corruption to continue to adapt their legislation and regulations

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

Recalling its resolution 1/3, entitled “Appeal to States parties and invitation to signatories to the United Nations Convention against Corruption to adapt their legislation and regulations”,

Bearing in mind General Assembly resolution 62/202 of 19 December 2007 entitled “Preventing and combating corrupt practices and transfer of assets of illicit origin and returning such assets, in particular to the countries of origin, consistent with the United Nations Convention against Corruption”, in which the Assembly encouraged all Governments to penalize corruption in all its forms,

Recognizing that adaptation of the domestic legal systems of the States parties to the United Nations Convention against Corruption⁵ is essential to the implementation of the Convention,

Taking note with appreciation of the analytical report of the Secretariat on the self-assessment of the implementation of the Convention,⁶ including the self-assessment of technical assistance needs for its implementation,

Welcoming the efforts of States parties and signatories to the Convention that have enacted laws and taken other positive measures to prevent and combat corruption in all its forms,

Acknowledging that some States parties have expressed technical assistance needs with a view to adopting measures fully consistent with the Convention in order, inter alia, to criminalize bribery of national public officials, bribery of foreign public officials and officials of public international organizations, embezzlement, misappropriation or other diversion of property by a public official, laundering of proceeds of crime and obstruction of justice,

1. *Requests* the States parties to the United Nations Convention against Corruption,⁷ to adapt their legislation and regulations, pursuant to article 65 of the Convention, in order to comply with the obligation to establish as criminal offences the acts covered by the Convention in articles 15, 16 (paragraph 1), 17, 23 and 25, if they have not yet done so;

⁵ General Assembly resolution 58/4, annex.

⁶ CAC/COSP/2008/2.

⁷ General Assembly resolution 58/4, annex.

2. *Stresses* also the importance of all provisions of the Convention and requests States parties to continue to adapt their legislation and regulations in order to implement the Convention;

3. *Invites* the States signatories to the Convention, to adapt their legislation and regulations in accordance with paragraph 1 above and encourages them to ratify the Convention as early as possible;

4. *Requests* all States that have not yet done so to provide, through the self-assessment checklist, information on their programmes, plans and practices, as well as on their legislative and administrative measures to implement this Convention, inter alia, its Chapter III, pursuant to article 63, paragraphs 5 and 6, of the Convention;

5. *Invites* States and the Secretariat to assist, within existing resources, States requesting technical assistance with a view to enabling them to adopt measures fully consistent with the provisions of the Convention including, criminalization and law enforcement.

Resolution 2/3 **Asset recovery**

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

Bearing in mind that the return of assets is one of the main objectives and also a fundamental principle of the United Nations Convention against Corruption and that States parties to the Convention are obligated to afford one another the widest measures of cooperation and assistance in that regard,

Recalling its resolution 1/4, in which it established an interim open-ended intergovernmental working group to advise and assist it in the implementation of its mandate on the return of proceeds of corruption,

1. *Welcomes* the report of the meeting of the Open-ended Intergovernmental Working Group on Asset Recovery held in Vienna on 27 and 28 August 2007;⁸

2. *Decides* that the Working Group shall continue its work, according to its mandate as laid out in Resolution 1/4 of the Conference of States parties to the United Nations Convention against Corruption, to advise and assist the Conference on the implementation of its mandate on the return of proceeds of corruption, including the consideration of any further proposals, should it deem it appropriate;

3. *Also decides* that the Working Group shall continue its deliberations on the conclusions and recommendations of its report with a view to identifying ways and means to translate them into concrete action;

4. *Decides also* that the Working Group shall hold at least two meetings prior to the third session of the Conference in order to perform its mandated task, within existing resources;

5. *Further decides* that the Working Group shall explore the means of building confidence, facilitate the exchange of information and ideas on the expeditious return of assets among States and encourage cooperation between requesting and requested States;

6. *Requests* the Working Group to continue its discussions with a view to further developing cumulative knowledge in the area of asset

⁸ CAC/COSP/2008/4.

recovery, especially on the implementation of chapter V, entitled “asset recovery” of the United Nations Convention against Corruption;

7. *Requests* the United Nations Office on Drugs and Crime and invites, as appropriate, other organizations to continue to support States to strengthen their capacities in all areas relevant to the successful recovery of assets, taking into account these conclusions and recommendations;

8. *Decides* that the Working Group shall submit reports on all its activities to the Conference of the States Parties, at its third session;

9. *Requests* the Secretariat, within existing resources to assist the Working Group in the performance of its functions, including by providing interpretation services.

Resolution 2/4

Strengthening coordination and enhancing technical assistance for the implementation of the United Nations Convention against Corruption

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

Recalling its resolution 1/5, entitled “Technical assistance”, and its resolution 1/6, entitled “International cooperation workshop on technical assistance for the implementation of the United Nations Convention against Corruption”,

Taking note of the report on the International Cooperation Workshop on Technical Assistance for the Implementation of the United Nations Convention against Corruption, held in Montevideo from 30 May to 1 June 2007,⁹ and the report on the meeting of the Open-ended Intergovernmental Working Group on Technical Assistance held in Vienna on 1 and 2 October 2007,¹⁰

Recognizing that technical assistance is an essential element in the effective and speedy implementation of the United Nations Convention against Corruption,¹¹ having regard to the deliberations of the Workshop and the conclusions of the Working Group,

Reaffirming that a clear request for technical assistance in order to implement the Convention remains a prerequisite,

Recalling also that it is useful for recipient States to be able to define clearly their needs, in order to facilitate the provision and coordination of technical assistance,

Emphasizing the fact that, given the multiplicity of cooperation programmes and agencies, the coordination of technical assistance must be an ongoing concern and absolute priority,

Emphasizing also the fact that the primary purpose of such coordination must be to optimize the use of resources and the impact of technical assistance by avoiding duplication to the extent possible,

I. Donor coordination

1. *Requests* national, regional and international anti-corruption donors to continue their coordination efforts, as agreed in the Paris

⁹ CAC/COSP/2008/6.

¹⁰ CAC/COSP/2008/5.

¹¹ General Assembly resolution 58/4 annex.

Declaration on Aid Effectiveness, both in host countries and at the international level, including in forums such as the International Group for Anti-Corruption Coordination and the Network on Governance of the Development Assistance Committee of the Organization for Economic Cooperation and Development, so that they can share their approaches on how to implement the needs identified by the recipient states and to define guidelines and policies based on their best practices and comparative advantages, with a view to enhancing the effectiveness of technical assistance and regular information exchange, and, to that end, encourages all donors to establish effective coordination between departments and agencies at the national level in the donor's country;

2. *Calls upon* donors to consider developing their capacity to assess the results of their anti-corruption cooperation by strengthening, in particular, their standards on transparency in the implementation of such activities;

3. *Calls upon* the international community to continue to develop tools and training programmes that can be applied through technical assistance efforts;

4. *Invites* providers of technical assistance to emphasize coordination efforts in host countries, including consultation with relevant host country national authorities to ensure that technical assistance activities meet identified needs;

5. *Urges* donors to enhance their technical assistance by giving high priority to using the provisions of the UNCAC in the formulation of their general development and other relevant anti-corruption assistance policies;

II. Identification of technical assistance needs

6. While recognizing that many development programmes may help countries in need of technical assistance in implementing the provisions of the United Nations Convention against Corruption, reaffirms that delivery of development assistance should not be linked to the implementation of this Convention; *Reaffirms* that the delivery of technical assistance should be based on the needs and priorities identified by the requesting states and should respect the national sovereignty of states;

7. *Invites* states receiving technical assistance in the framework of the United Nations Convention against Corruption to develop, if they have not already done so, a multi-year national framework on their needs for technical assistance to prevent and combat corruption. This should be made known to the donor community, which can use it as the basis for the implementation of cooperation activities, pursuing a coordinated approach through specific allocation of tasks among donors;

8. *Urges* states to designate a focal point to avoid duplication and facilitate contacts with the donor community;

III. Intergovernmental Working Group

9. *Decides* that the Open-ended Intergovernmental Working Group on Technical Assistance shall continue its work to advise and assist the Conference in the implementation of its mandate on technical assistance and shall meet during the session of the Conference of the States Parties and as appropriate and, utilizing existing resources shall hold at least two intersessional meetings;

10. *Also decides* that the Working Group shall submit reports on its activities to the Conference;

11. *Requests* the Secretariat to assist the Working Group in the performance of its functions.

Resolution 2/5

Consideration of the issue of bribery of officials of public international organizations

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

Recalling General Assembly resolution 58/4 of 31 October 2003, in which the Assembly requested that this Conference address the criminalization of bribery of officials of public international organizations, including the United Nations, and related issues, taking into account questions of privileges and immunities, as well as of jurisdiction and the role of international organizations, by, inter alia, making recommendations regarding appropriate action in that regard,

Recalling also article 16 of the United Nations Convention against Corruption,¹² in paragraph 1 of which States parties are obliged to adopt legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the active bribery of officials of public international organizations, and in paragraph 2 of which States parties are requested to consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the solicitation or acceptance, directly or indirectly, of an undue advantage by an official of a public international organization,

Recalling further its resolution 1/7, entitled “Consideration of bribery of officials of public international organizations”,

Taking note with appreciation the efforts made by UNODC in applying resolution 1/7, establishing an open-ended dialogue and also expressing appreciation to the Member States and international organizations who participated in the dialogue,

Welcoming the report presented by the United Nations Office on Drugs and Crime on efforts to address the concerns of the General Assembly expressed in its resolution 58/4 of 31 October 2003,

Taking note of the document prepared by the Secretariat on the implementation of Conference resolution 1/7, it was noted that additional work would be required,¹³

Taking note that participants in the open-ended dialogue established pursuant to Conference resolution 1/7, agreed that the United Nations Convention against Corruption did not affect the system established by the Convention on the Privileges and Immunities of the United Nations¹⁴ and the specialized agencies,

1. *Recalls* paragraph 2 of resolution 1/7 of the Conference which encourages States parties that have not already done so, when appropriate and consistent with their principles of jurisdiction, to criminalize the offences contained in article 16 of the Convention;

2. *Invites* the United Nations Office on Drugs and Crime to continue the dialogue initiated with relevant public international

¹² General Assembly resolution 58/4, annex.

¹³ CAC/COSP/2008/7, para. 64.

¹⁴ General Assembly resolution 22 A (I).

organizations in order to gather concrete information concerning the manner in which they ensure prevention of corruption and manage corruption cases that may involve their agents, and to present to the Conference of the States Parties to the United Nations Convention against Corruption at its third session a report on the efforts undertaken to align the financial and other public integrity rules of public international organizations to the principles set forth in the Convention;

3. *Recommends* that an open-ended workshop of practitioners and experts, including representatives of the Office of Internal Oversight Services and the Office of Legal Affairs of the Secretariat, the oversight offices of other international organizations, members of the judiciary and law enforcement officers who have had to deal with corruption cases involving officials of public international organizations, should be held before the end of 2008, the main purpose of the workshop being to exchange best practices and to address the technical issues highlighted in the note by the Secretariat on the implementation of Conference resolution 1/7,¹⁵ in particular cooperation between public international organizations and States parties, exchange of information on ongoing investigations, and jurisdiction. The outcome of this workshop could lead, inter alia, to the setting-up of a network able to allow further exchanges between participants;

4. *Requests* the Secretariat, in consultation with Member States and subject to the availability of extrabudgetary resources, to facilitate the organization of the workshop.

5. *Requests* the Secretariat to coordinate its work as relevant with the Ad Hoc Committee on criminal accountability of UN officials and experts on mission established by General Assembly resolution 61/29.

B. Decisions

At its second session, the Conference of the States Parties adopted the following decision:

Decision 2/1

Venue for the third session of the Conference of the States Parties to the United Nations Convention against Corruption

The Conference of the States Parties to the United Nations Convention against Corruption, recalling General Assembly resolution 47/202 A of 22 December 1992, on the pattern of conferences, taking into consideration rule 3, paragraph 2, and rule 6 of its rules of procedure and welcoming the offer by the Government of Qatar to act as host to the third session of the Conference, decides that its third session will be held in Qatar in 2009.

¹⁵ CAC/COSP/2008/7.