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

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Technical assistance

Analysis of technical assistance needs emerging from the country reviews

Note by the Secretariat

Summary

     The present note contains information on the technical assistance needs identified by States parties in the context of the country review processes relating to the implementation of chapters III (Criminalization and law enforcement) and IV (International cooperation) of the United Nations Convention against Corruption.[1]

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* CAC/COSP/2015/1.
[1] The information contained in the present note provides a general overview and analysis of the country reviews for which the executive summary had been completed by 1 August 2015 and, to this end, may at times repeat information that was submitted as part of the oral updates during the resumed fifth session and sixth session of the Implementation Review Group. Reference is also made to document CAC/COSP/2015/2, on technical assistance in support of the implementation of the Convention against Corruption.

I. Introduction

1.   In its resolution 3/1, the Conference of the States Parties to the United Nations Convention against Corruption adopted the terms of reference of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption. The Conference decided that the Implementation Review Group would be in charge of following up and continuing the work of the Open-ended Intergovernmental Working Group on Technical Assistance. Pursuant to paragraph 11 of the terms of reference, one of the goals of the Implementation Review Mechanism is to help States parties to identify and substantiate specific needs for technical assistance and to promote and facilitate the provision of technical assistance. In accordance with paragraph 44 of the terms of reference, the Implementation Review Group is tasked with considering technical assistance requirements in order to ensure effective implementation of the Convention.

2.   In its resolution 4/1, the Conference recommended that all States parties, where applicable, in their responses to the comprehensive self-assessment checklists and in the country reports, should identify technical assistance requirements, preferably prioritized and related to the implementation of the provisions of the Convention examined during a given review cycle, and decided that the Implementation Review Group should consider, on the basis of the outcome of the review process and consistent with the terms of reference of the Implementation Review Mechanism, priority areas for the provision of technical assistance, as well as consolidated information on trends in technical assistance required and provided.

3.   The present note contains updated information on technical assistance needs identified in the country reviews for the implementation of chapters III (Criminalization and law enforcement) and IV (International cooperation) of the Convention by States parties under review in the first cycle of the Mechanism. It is based on information included in the country review reports and the executive summaries of the reviews of 101 States parties that had been completed, or were close to completion (with the executive summary agreed upon), at the time of drafting.

4.   The comprehensive self-assessment checklist contains several predetermined categories of technical assistance needs: legislative drafting and legal advice; model legislation; development of an implementation action plan; a summary of good practices or lessons learned; model treaties or agreements; capacity-building programmes; assistance by an on-site expert; technological assistance; and a catch-all category for other assistance. Many of the needs identified during the country review processes fall within these broad categories, but other needs are also reflected in the country review reports and executive summaries.

5.   Of the 101 States that had completed their reviews, 59 identified technical assistance needs. With an increasing number of first cycle reviews completed, the present note provides a wider and more comprehensive update of trends relating to technical assistance needs identified through the Implementation Review Mechanism. It reflects an analysis of technical assistance needs divided by geographical region and category, and also contains information on the requests

that fall outside the predetermined categories contained in the self-assessment checklist.

6.   The 59 States parties that identified technical assistance as a means of enhancing their implementation of the Convention included 16 States parties from the Group of African States, 24 from the Group of Asia-Pacific States, 7 from the Group of Eastern European States and 12 from the Group of Latin American and Caribbean States (see figure I). States parties from the Group of Western European and other States did not identify any technical assistance needs. While presenting regional comparisons, it is worth noting that the number of States that identified technical assistance needs as a proportion of the total number of States in that region that have completed their reviews varies from one region to another.
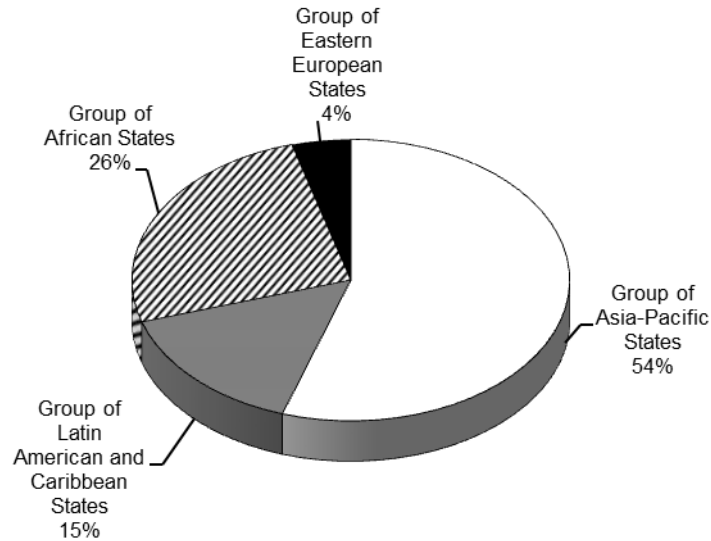
Figure I
Number of States per regional group with technical assistance needs

■States with technical assistance needs   □Reviews completed   ▨States in the region
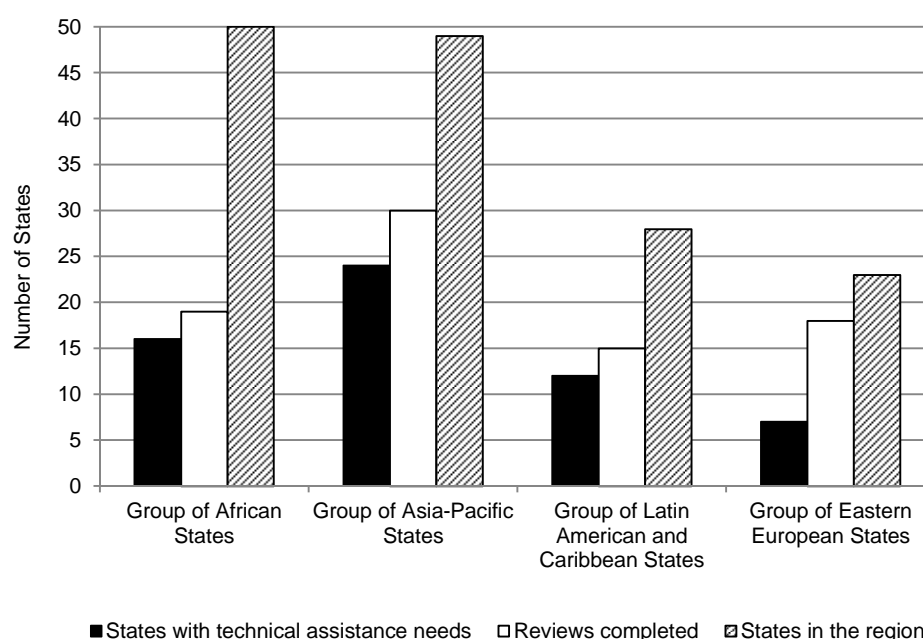
7.   The overall number of individual needs identified in the country review reports and their executive summaries presently stands at 2,202. When the needs are distributed by regional group (see figure II), the Group of African States represents 26 per cent (551 needs), the Group of Asia-Pacific States 54 per cent (1,191 needs), the Group of Eastern European States 4 per cent (94 needs) and the Group of Latin American and Caribbean States 15 per cent (327 needs).

Figure II
Percentage of total identified technical assistance needs, by regional group


8.   Figure III illustrates the nine articles of the Convention with the greatest overall number of needs identified by the 101 States. Those nine articles are as follows: article 16 (Bribery of foreign public officials and officials of public international organizations), article 20 (Illicit enrichment), article 32 (Protection of witnesses, experts and victims), article 33 (Protection of reporting persons), article 37 (Cooperation with law enforcement authorities), article 44 (Extradition), article 46 (Mutual legal assistance), article 48 (Law enforcement cooperation) and article 50 (Special investigative techniques). By way of comparison, in the previous assessment of needs (CAC/COSP/IRG/2014/3), which was based on the reviews of 56 States parties, of which 34 had identified technical assistance needs, articles 32 and 46 were also those with the most needs identified. While the subsequent articles have shifted position, the only article that no longer features among them is article 23 (Laundering of proceeds of crime), having been overtaken by article 20 (Illicit enrichment).

Figure III
Articles under which the largest number of needs were identified
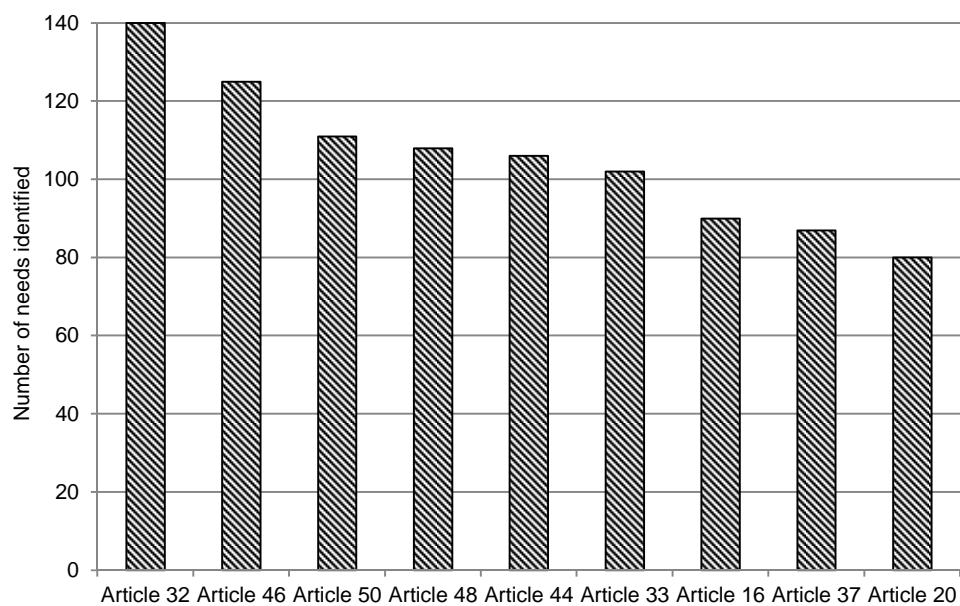
9.   Figure IV below provides an overview of the number of the different types of needs identified by States parties for all articles of the chapters under review.

Figure IV
Technical assistance needs identified by States parties, by article number (total equals 2,202)
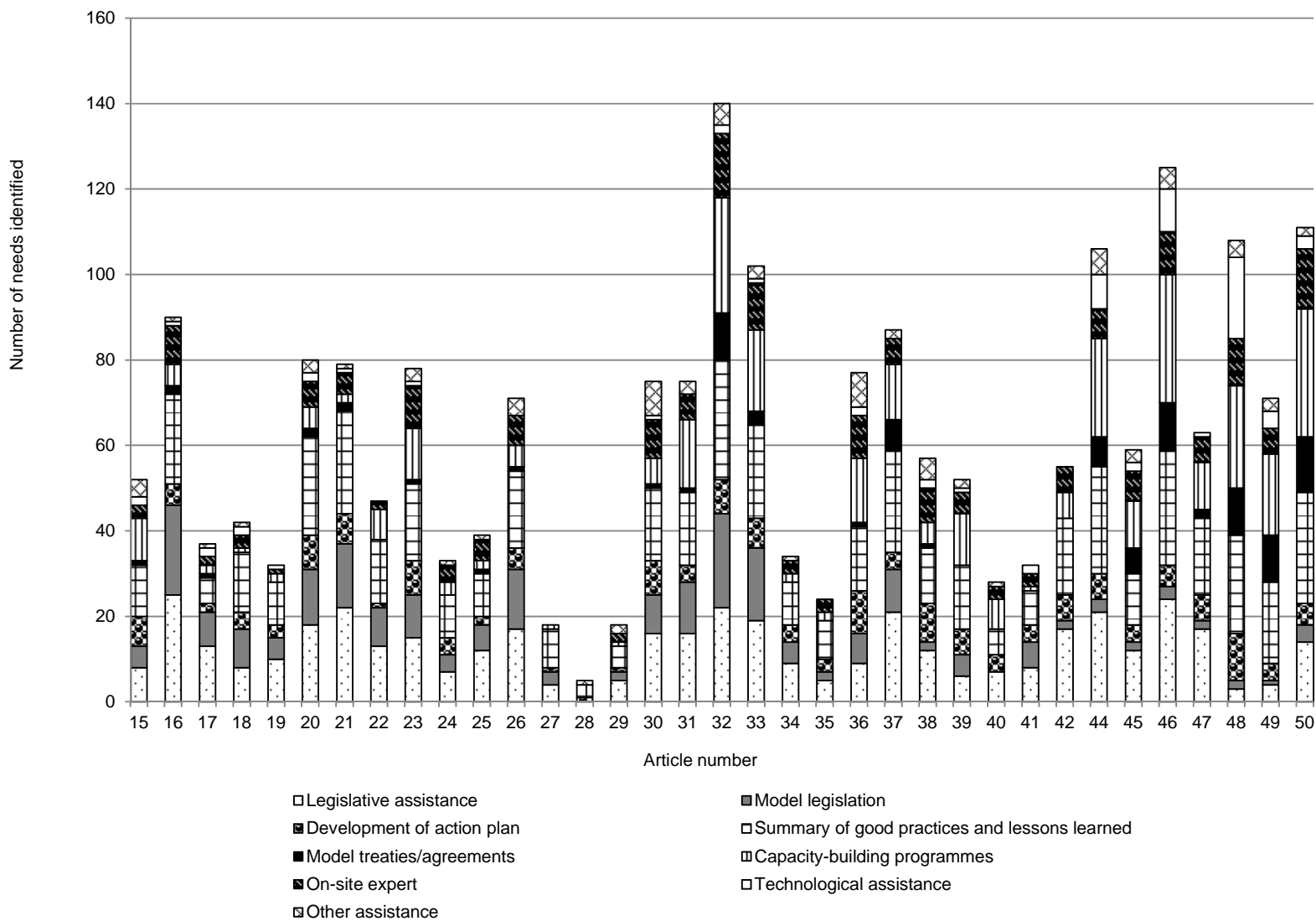
II. Technical assistance needs identified for the implementation of chapter III

10.   A total of 1,559 technical assistance needs were identified by 55 States for the implementation of chapter III.

11.   In the previous analysis (CAC/COSP/IRG/2014/3), it was highlighted that the most frequently identified need for technical assistance overall was for legislative assistance. This could be seen as a natural consequence of the implementation of chapter III of the Convention, which includes a large number of provisions calling upon States to ensure the criminalization of corruption offences. However, it is interesting to note that the present analysis shows that the number of needs for summaries of good practices and lessons learned (400) now surpasses the need for legislative assistance (344), making that now the second most commonly identified need (see figure V).

12.   The three articles where the number of needs for legislative assistance exceeds that for summaries of good practices and lessons learned are articles 16, 17 and 25, all of which include mandatory provisions. It is noteworthy that the majority of countries have identified challenges relating to the implementation of article 16.

Figure V
Comparison of the two most frequently identified needs in chapter III, by article
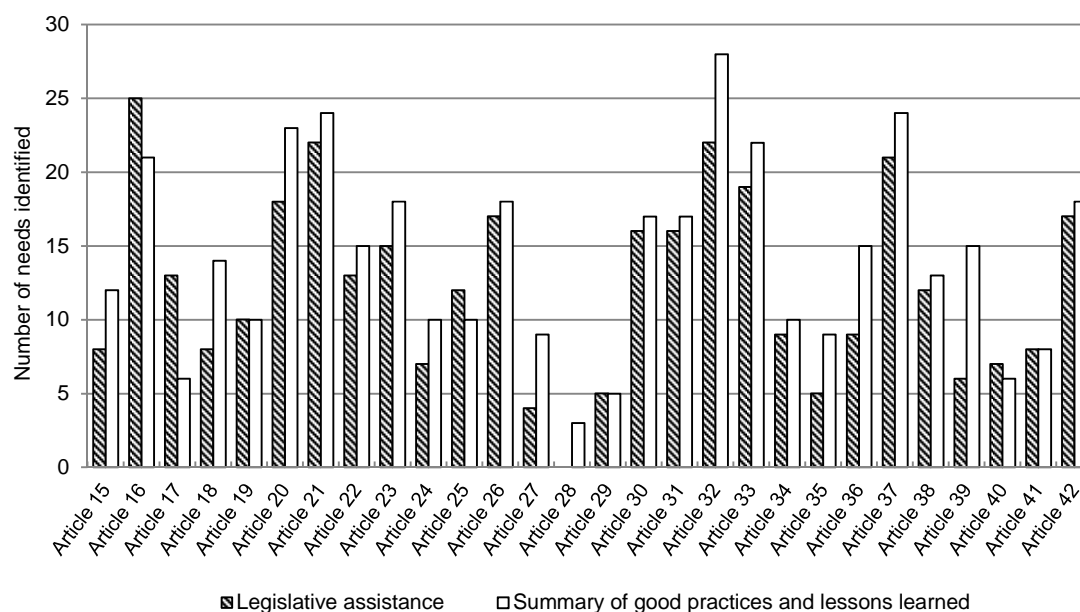
13.   The following paragraphs contain an analysis of specific articles for which there were the largest number of needs identified by States during the country reviews and in the executive summaries. The samples below are presented with a regional breakdown.

Bribery of foreign public officials and officials of public international organizations
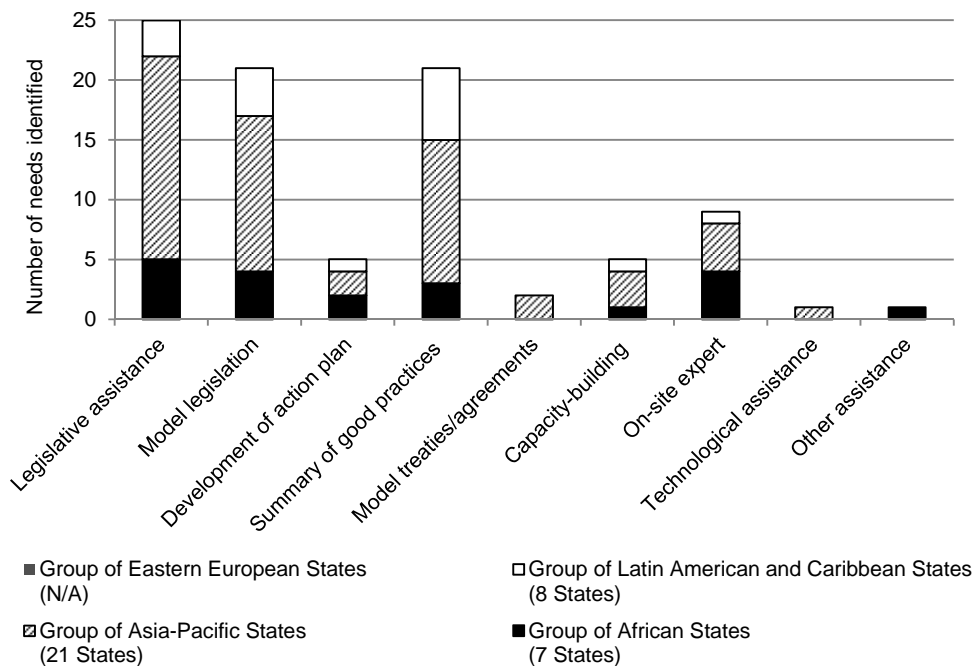
Technical assistance needs relating to article 16

14. A total of 34 States parties identified 90 needs for technical assistance to support the implementation of article 16. Details of the main types of needs are given in figure VI.

15. Article 16 was considered as one of the most challenging for States to implement, specifically with regard to the absence of a criminal offence of bribery of foreign public officials and officials of public international organizations or the category of individuals covered by such an offence, as well as coverage for third persons and entities. One of the highest number of States under review identified technical assistance needs for the implementation of that provision, correlating with the challenges faced in establishing a legal framework in that regard. In terms of regional analysis, the Group of Asia-Pacific States had the greatest number of identified needs, mostly relating to their legal frameworks (16 out of 25 legislative drafting needs, and 12 out of 21 model legislation needs), as well as for summaries of good practices and lessons learned (12 of 21 needs globally), which may reflect South-South initiatives within the region to provide technical assistance.

Figure VI
Technical assistance needs relating to article 16, by regional group and type

- Group of Eastern European States (N/A)
- Group of Latin American and Caribbean States (8 States)
- Group of Asia-Pacific States (21 States)
- Group of African States (7 States)

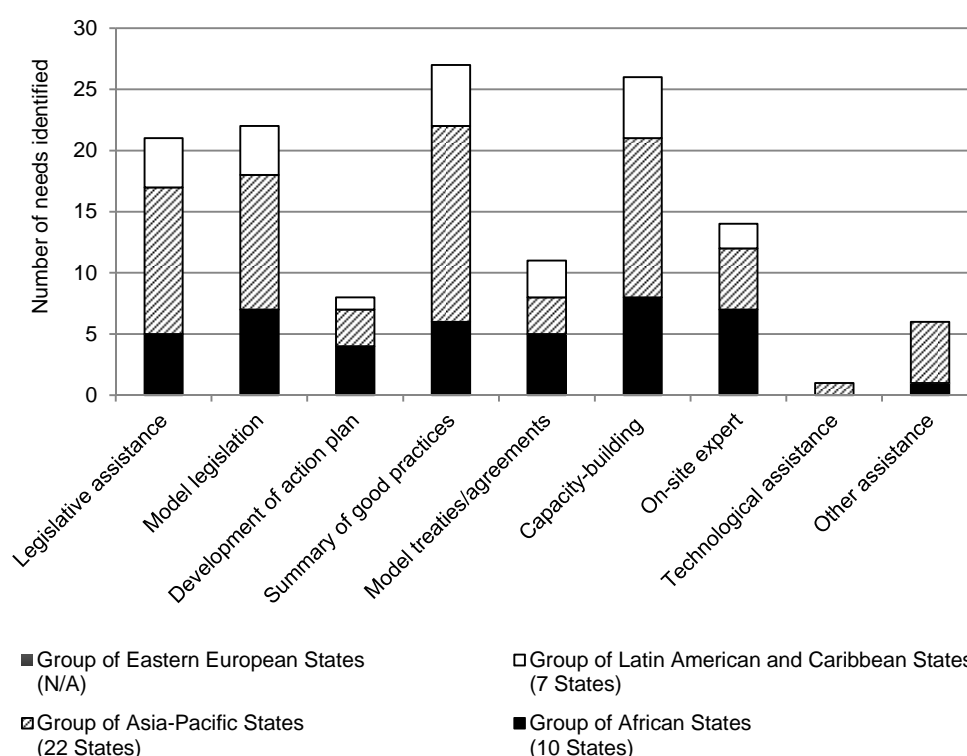**Protection of witnesses, experts and victims**

Technical assistance needs relating to article 32

16.   A total of 39 States parties identified 140 needs for technical assistance to support the implementation of article 32. Of all the articles under review, article 32 had the largest number of States parties identifying technical assistance needs for its implementation, in a wide variety of types and across three regional groups.

17.   Details of the main types of needs are depicted in figure VII. As with article 16, the Group of Asia-Pacific States identified the majority of needs (50 per cent). However, the Group of African States identified 30 per cent of the overall needs under this article, which included the largest number of needs relating to the on-site visit of an expert (7 needs of 14 globally).

Figure VII
Technical assistance needs relating to article 32, by region and type

■ Group of Eastern European States
(N/A)

□ Group of Latin American and Caribbean States
(7 States)

▨ Group of Asia-Pacific States
(22 States)

■ Group of African States
(10 States)

18.   Despite article 32 having the largest number of technical assistance needs (140 overall), these were identified by a relatively small number of States (39 out of 59). States identified assistance with establishing and enhancing the functioning of witness protection programmes as a priority. The technical assistance needs identified in this regard were the sharing of summaries of good practices and capacity-building.
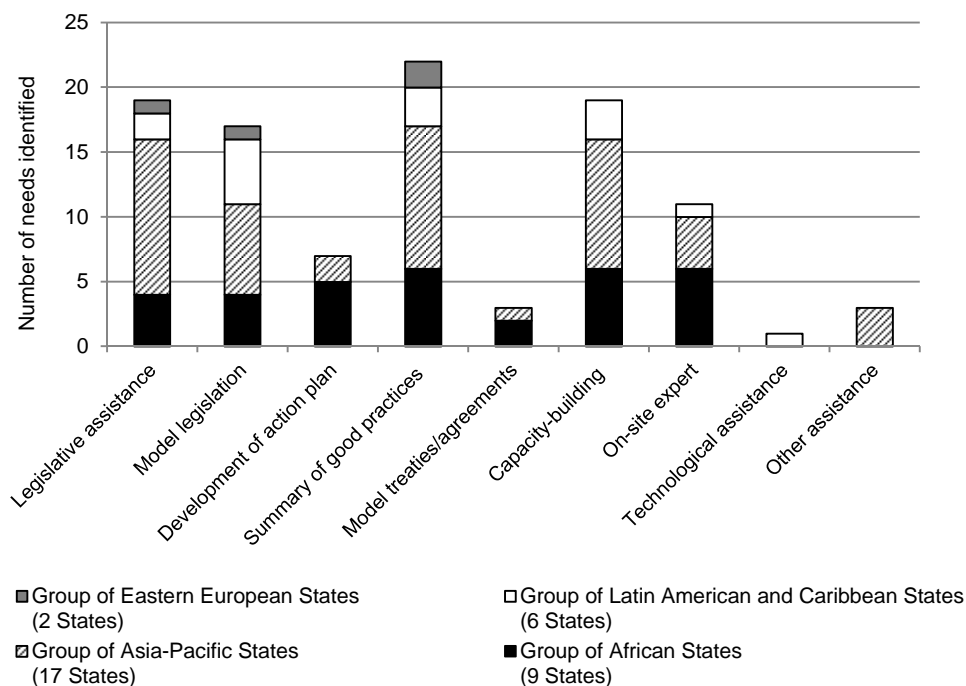
Protection of reporting persons

Technical assistance needs relating to article 33

19. A total of 34 States parties identified 102 needs for technical assistance to support the implementation of article 33. Details are given in figure VIII.

Figure VIII
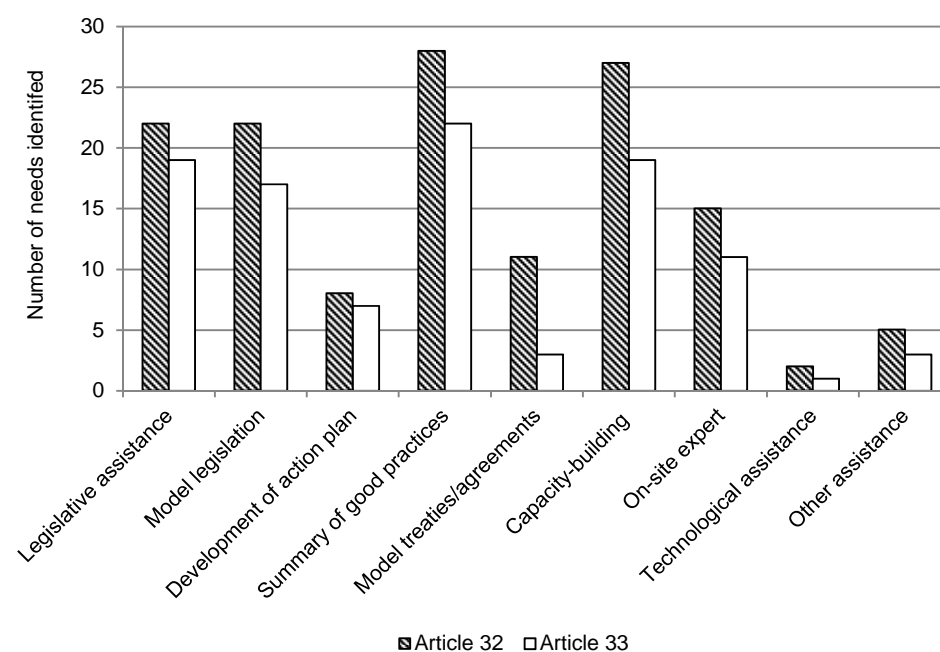**Technical assistance needs relating to article 33, by regional group and type**

■ Group of Eastern European States
(2 States)

□ Group of Latin American and Caribbean States
(6 States)

▨ Group of Asia-Pacific States
(17 States)

■ Group of African States
(9 States)

20. While article 33 has consistently remained one of the articles with the most States facing challenges in its implementation,[2] it has, since the previous analysis, seen an increase in the number of technical assistance needs identified, thereby bypassing article 37 and article 16 to become the article with the second greatest number of needs of chapter III.

21. During the peer reviews, the implementation of articles 32 and 33, relating to witness and whistle-blower protection, respectively, are frequently examined together, owing to the potential overlaps between reporting persons and witnesses and the measures that ensure their protection. The number of States identifying technical assistance needs for each of the articles was almost the same. In addition, a comparison of the types of needs identified highlights that the needs for the two articles follow the same pattern, to a certain extent, as visualized in figure IX.

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[2] In response to the high number of challenges and needs identified by States parties in relation to article 33, the United Nations Office on Drugs and Crime has recently finalized the *Resource Guide on Good Practices in the Protection of Reporting Persons*. Available at www.unodc.org/documents/corruption/Publications/2015/15-04741_Person_Guide_eBook.pdf.

Figure IX
Comparison of technical assistance needs identified under articles 32 and 33, by type and number of needs

▨ Article 32   ☐ Article 33

III. Technical assistance needs identified for the implementation of chapter IV

22.   Forty-nine States parties identified technical assistance needs in relation to the implementation of chapter IV (International cooperation) of the Convention. Figure X provides a breakdown, by number of needs identified and the number of States for which such needs were identified.

Figure X
Number and type of technical assistance needs in chapter IV, by article
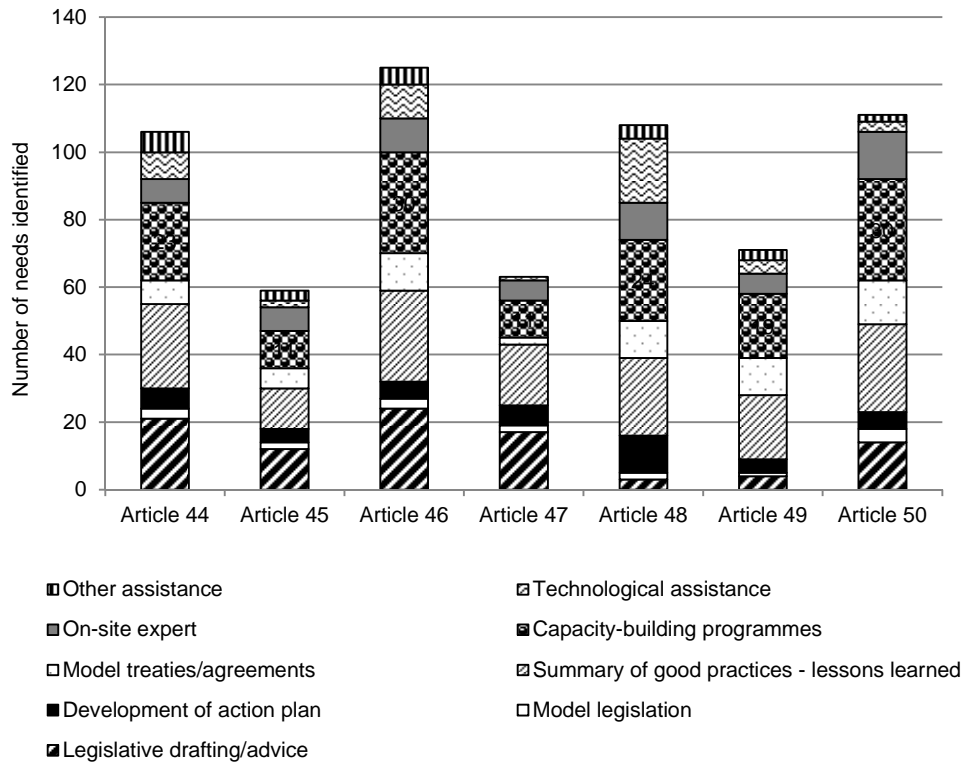

23. In total, 643 technical assistance needs were identified with regard to chapter IV. The two categories of needs that were most commonly identified related to the summary of good practices and lessons learned (150 needs) and capacity-building (148 needs). Needs for support relating to legislative drafting in relation to chapter IV were the third most common (95 needs), down from where they had been in the previous analysis.

Extradition and mutual legal assistance

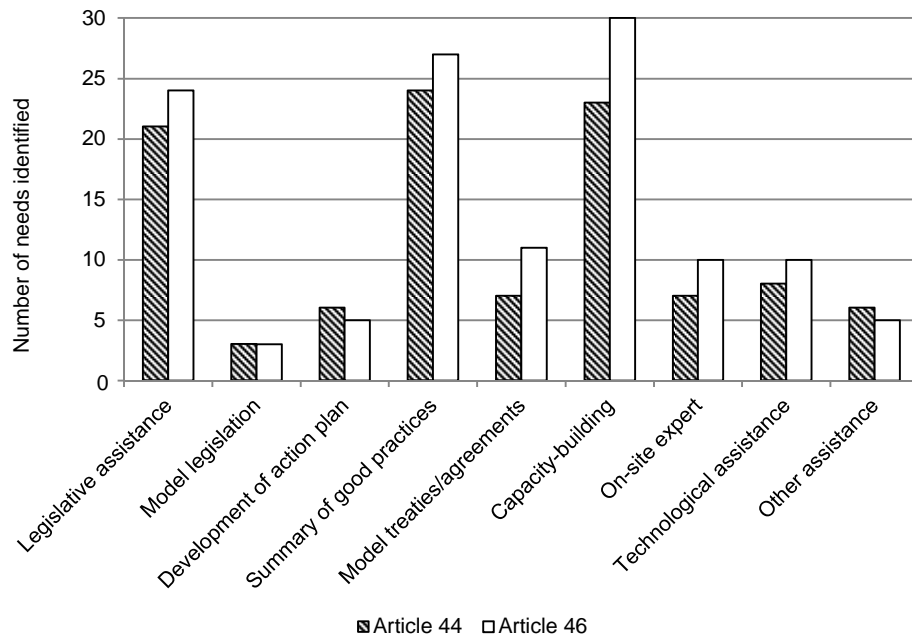*Technical assistance needs relating to articles 44 and 46*

24. A total of 106 technical assistance needs were identified by 36 States with regard to the implementation of article 44. Article 46 followed a similar trend, with a total of 121 technical assistance needs identified by 43 States (see figure XI). While the legislative requirements for the implementation of the two articles differ, there are some commonalities in the frameworks that govern the processing of extradition and mutual legal assistance requests and in the challenges that countries face in achieving successful international cooperation in practice.

Figure XI
Number of technical assistance needs identified by States under chapter IV, by region
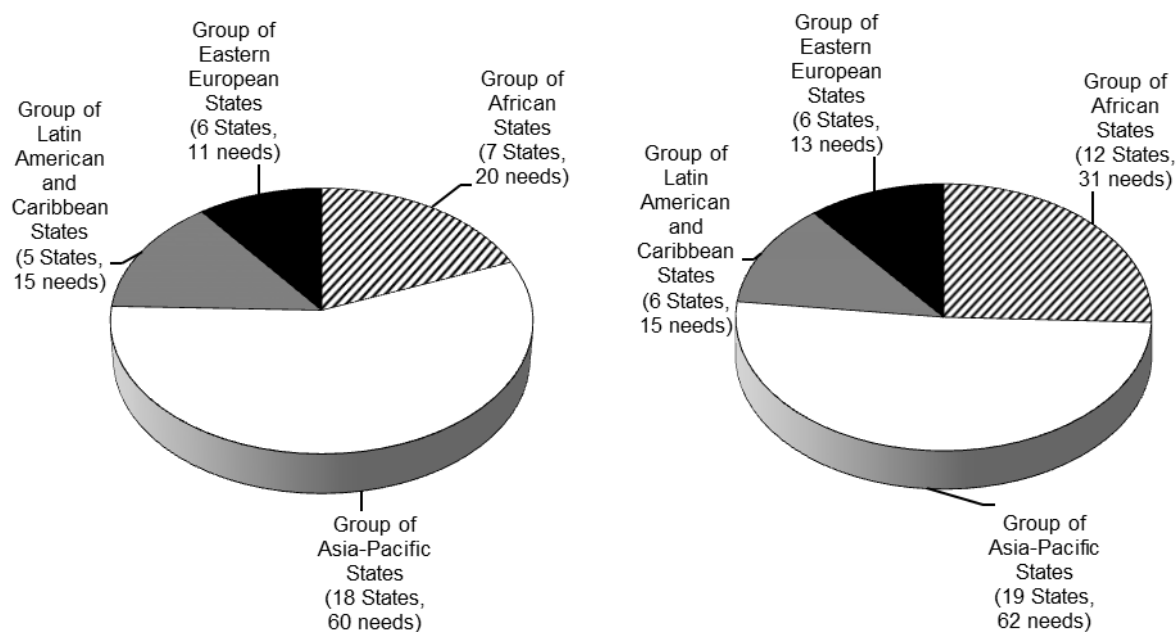
25. In effect, the similarity between the number of needs and their distribution by regional group is striking. As with the articles of chapters III examined above, the largest number of needs relates to summaries of good practices (article 44 with 24 needs; and article 46 with 26 needs) and capacity-building programmes (article 44 with 23 needs; and article 46 with 30 needs) (see figure XII). The needs identified under articles 44 and 46 appear to indicate that, here too, States have prioritized capacity-building and good practices for the relevant central and competent authorities.

Figure XII
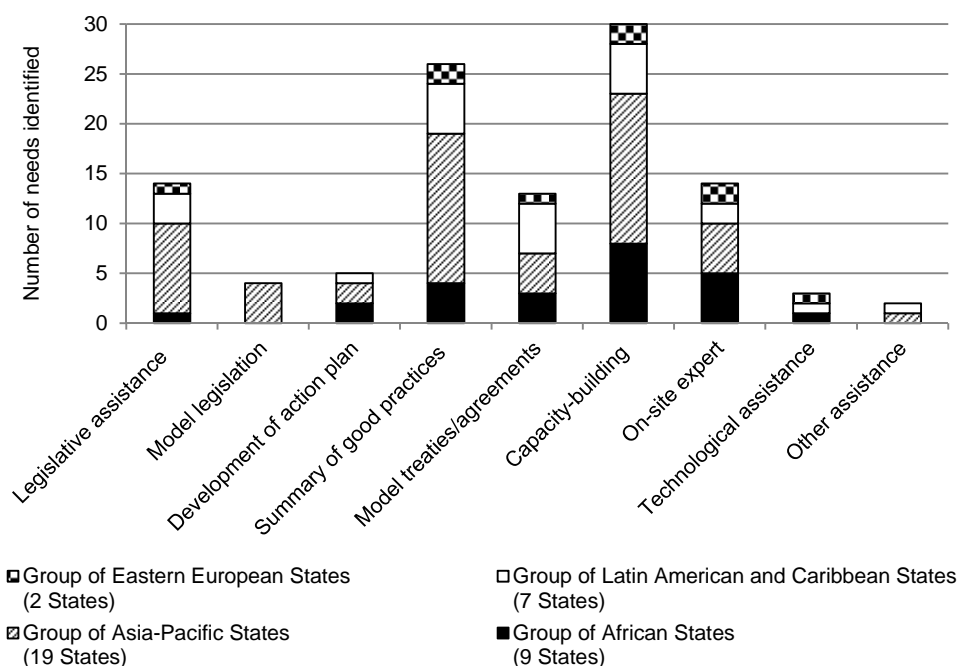**Technical assistance needs relating to article 44 and article 46**

■ Article 44   □ Article 46

Special investigative techniques

Technical assistance needs relating to article 50

26.   A total of 111 technical assistance needs were identified by 37 States for article 50, which is the article with the second largest number of needs in chapter IV, and the third largest number of needs overall. The needs were identified by all regional groups with a comparatively similar level of prevalence among the Group of African States and the Group of Asia-Pacific States and were most prominent among the Group of Eastern European States, with two States identifying nine needs between them (see figure XIII).

27.   The category of capacity-building programmes contained the most frequently identified needs across the regions (identified by a total of 30 States with technical assistance needs), which would appear to be a natural consequence of the types of measures envisaged in article 50. The second largest category of need was for a summary of good practices (26 States) and was proportionately sought after more in the Group of Latin American and Caribbean States (five out of seven States). In analysing the regional breakdown further, it was noted that the Group of Asia-Pacific States had identified a relatively large number of needs in relation to legislative assistance (9 States out of 19) compared with the other regions (one out of nine States in the Group of African States) and was the only region to have identified the need for model legislation.

Figure XIII
Number of States identifying needs, by type and regional group

☐ Group of Eastern European States
(2 States)

☑ Group of Asia-Pacific States
(19 States)

☐ Group of Latin American and Caribbean States
(7 States)

■ Group of African States
(9 States)

IV. Trends relating to the types of needs identified and technical assistance needs beyond the provisions under review

Trends in the types of technical assistance needs identified and other needs emerging from the country reviews

28. Overall, the number of countries identifying technical assistance needs in the reviews analysed in the present report remains proportionately similar to that in the first analysis conducted, i.e. 59 of 101 States (58 per cent), compared with 34 of 56 States (60 per cent) in the first analysis.

29. Comparing these two analyses, however, we can observe some differences in the types of technical assistance needs identified. The States that had completed their reviews by 2013 predominantly identified needs that focused on the establishment or strengthening of legal frameworks, which correlated with both the challenges in implementation identified and the thematic findings of the country reviews. However, the analysis of the assistance needs of the 101 States that have completed their reviews to date has widened the gap between summary of good practices as the most frequently identified technical assistance needs (550 instances) and legislative assistance (439 instances), with capacity-building in third place (337 instances).

30. When analysing the number of States that identified a type of need in one of the pre-defined categories in the self-assessment checklist (figure XIV), the need for summaries of good practices and lessons learned took the lead (50 States), followed by capacity-building and legislative assistance in joint second place (47 States).

A comparison with the previous analysis indicates that States have increasingly turned toward capacity-building as a priority need. The secretariat has also observed that many States sought technical assistance to enact new legislation or establish new institutions to bring them into compliance with the Convention before the completion of the reviews. With the reforms already enacted, the State would not require any additional technical assistance of this type. It is possible that this could be one of the reasons behind the lower number of States indicating the need for legislative assistance in the reviews undertaken in the later years of the review cycle.

Figure XIV
Total number of States identifying needs, by type
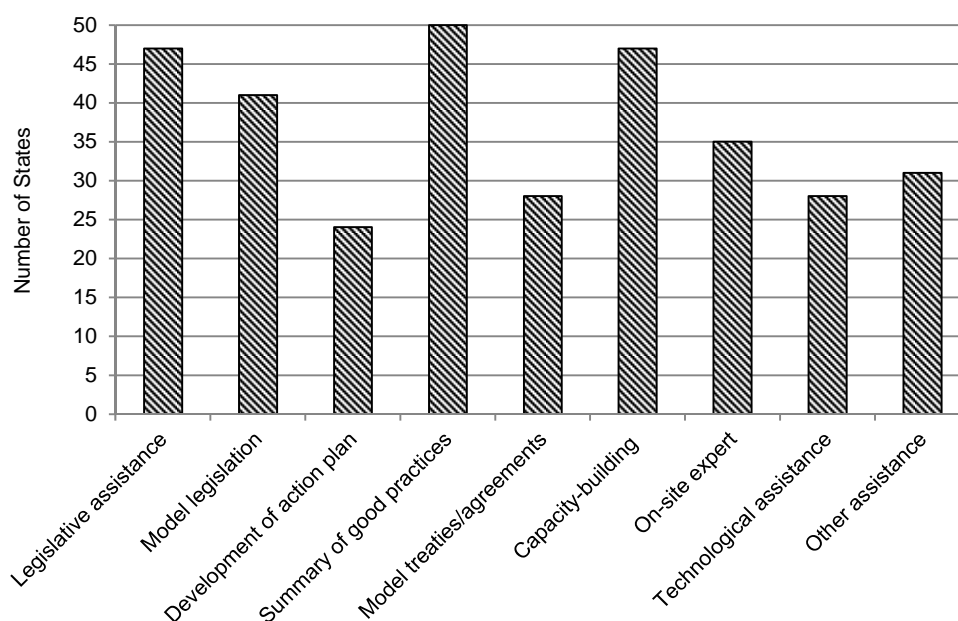
31.   The need for States parties to share good practices and lessons learned was an aspect of the outcome of the country reviews that was also echoed by many States parties during the deliberations of the Implementation Review Group and underlines the peer review aspect of the Implementation Review Mechanism. States parties have also frequently emphasized that the peer review nature of the Mechanism has already contributed to the provision of technical assistance, in that the reviews have given them the opportunity to learn from one another and to share good practices.

32.   The number of requests for support in preparing for the second review cycle has grown over the past year, and several global, regional and even bilateral capacity-building initiatives have been organized (for more detail, see CAC/COSP/2015/3 and CAC/COSP/2015/8). The focus on capacity-building and the establishment of well-functioning systems and institutions also relate to the work on sustainable development goal 16, which includes the aims of substantially reducing corruption and bribery in all their forms and developing effective, accountable and transparent institutions at all levels.

Priority areas based on the analysis of other specified needs

33.   As noted above, the comprehensive self-assessment checklist contains several predetermined categories of technical assistance needs, as well as a catch-all category for other needs. Many of the needs identified during the country reviews did fall within the predetermined categories, but a number of other needs were also reflected in the country review reports and executive summaries. In total, 41 of the 59 States that identified technical assistance needs specified needs outside the predetermined categories. An analysis of that additional information revealed that the highest priority was the need to establish case management systems or record-keeping databases. This is also the only common specific need across the regional groups (see figure XV).

Figure XV
Specific need for case management systems, number of States
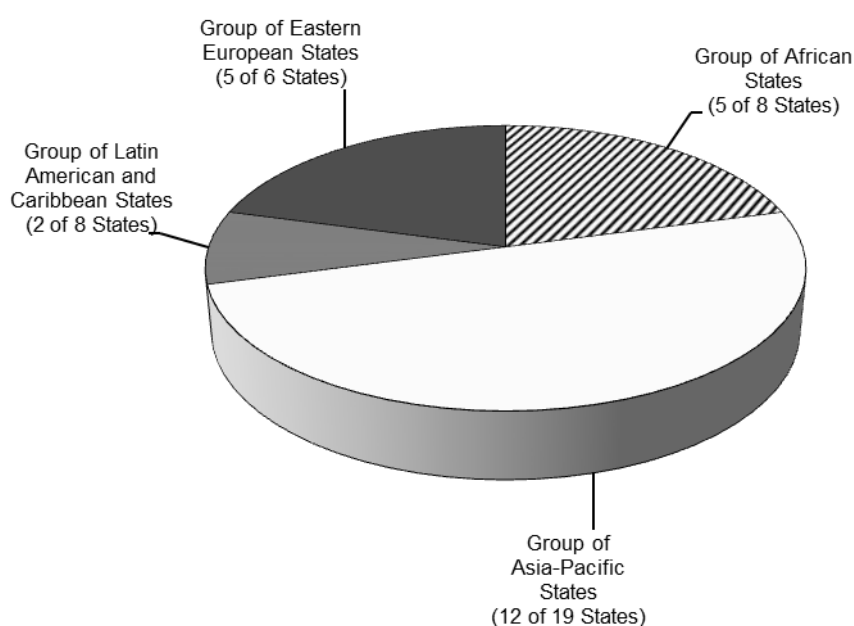
34.   The other most frequently identified needs that fell outside the predetermined categories included strengthening their practice, capacity and resources (14 States), awareness-raising (8 States) and templates or guidelines for extradition and mutual legal assistance (7 States). A few States indicated needs related to information technology crime or computer forensics. This is a category that will likely become more prominent in relation to chapter V (Asset recovery), where the tracing of assets is a central feature.

35.   The Group of Asia-Pacific States had the largest number of States that identified specific needs, as well as the largest number of specific needs overall (19 States having identified 101 needs) (see figure XVI).

Figure XVI
Specific needs: Asia and the Pacific regional breakdown, number of needs
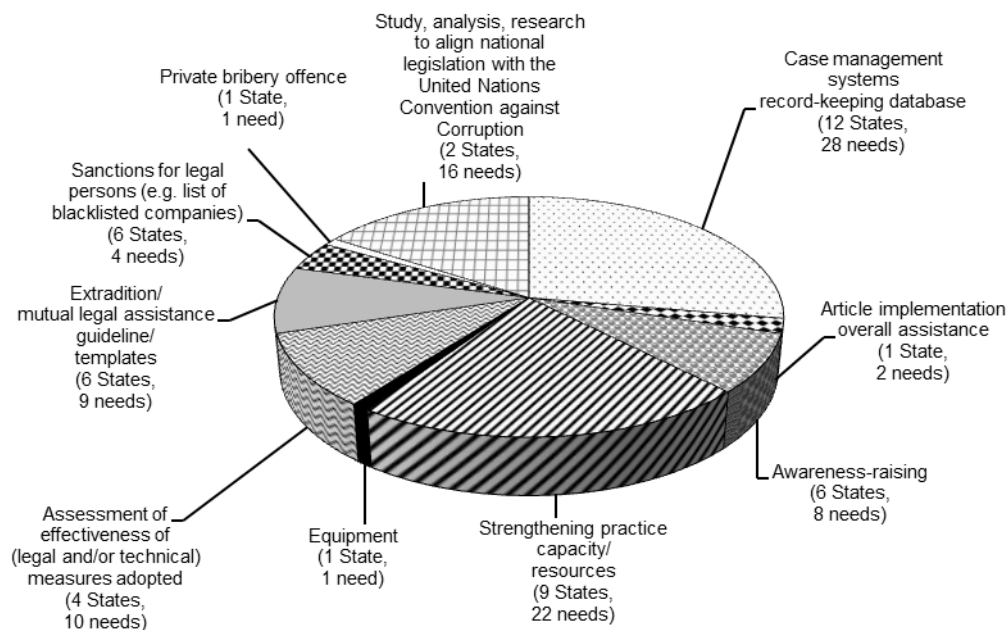
36.   The Conference recommended in its resolution 4/1 that States parties should identify technical assistance requirements in their responses to the comprehensive self-assessment checklist and in the country reports, and that these should preferably be prioritized. The variety of specific needs reflects the efforts of States to identify their own priority areas and to set the path for national action. The United Nations Office on Drugs and Crime (UNODC) has gained experience showing that higher-quality review reports and better-defined technical assistance needs enhance the overall utility of the process and of the country reports after the completion of the review. Hence, in the majority of States in the Group of African States, the Group of Asia-Pacific States and the Group of Latin American and Caribbean States, needs were identified from outside the predetermined categories, with the direct support by the secretariat to further outline those needs.

Information on needs already addressed and national efforts for follow-up

37.   Based on a small sample of information provided in response to a request by the secretariat for information on national action taken following the completion of the country review, a number of correlations between which actions were prioritized for follow-up and the identified technical assistance needs were detected in the case of five of the eight States that had indicated specific needs. In their responses, States reported that they had engaged in follow-up on the outcome of their reviews, using the initial review as a basis for a more comprehensive analysis of their technical assistance needs.

38.   One State that had indicated priority needs only in relation to articles 32 and 33 during the review, noted that a draft bill on witness and whistle-blower protection was being reviewed by the State authorities. Another State, which had identified a summary of good practices as its priority need, indicated that it had participated in a number of meetings and seminars in order to both share its own experiences and benefit from that of other States. Several States indicated that legislative amendments had been undertaken in order to bring their national legislation in line with the requirements of the Convention in accordance with the recommendations and identified technical assistance needs stemming from their reviews. Other States highlighted how needs and recommendations had been addressed through the drafting of a national strategy, with the support of UNODC regional advisers. Further detail on national follow-up can be found in CAC/COSP/2015/6.

Future priority areas of technical assistance

39.   The 101 States that have completed their reviews have identified between none and 134 technical assistance needs each. Of the 59 States that identified technical assistance needs, there was an average of around 37 needs per State. With another 56 implementation reviews under way (i.e. as part of which the self-assessment checklist has been completed) and many others to come, it is expected, based on the experience gained to date, that States will continue to identify a similar number of needs for the remainder of the first cycle.

40.   It can be predicted that a significant proportion of States will identify a similar number of needs during the second cycle. This prediction takes into account the complexity of the chapters to be reviewed during the second cycle (on prevention and asset recovery). Furthermore, the type of technical assistance required for implementing the chapters on prevention and asset recovery is likely to be more complex in nature than, for example, the provision of legislative drafting assistance to criminalize certain offences in accordance with the Convention that was required to implement some provisions of chapter III.

41.   An analysis of the needs identified in the current 101 reviews, and the information received on subsequent follow-up from States themselves, as well as through UNODC field-based anti-corruption advisers, revealed that drafting an overarching national strategy has proved to provide an important vehicle for follow-up that can accommodate both the needs and recommendations identified through the review. The development of national strategies requires strong cooperation and coordination at the national level, both of which have been seen as recurring challenges during the current cycle. Well-functioning, coordinated and accountable institutions all feature prominently in chapter II as pre-conditions to successfully preventing corruption.

42.   It is clear from chapter IV of the Convention that countering corruption includes an international dimension. The provisions on international cooperation (mutual legal assistance, extradition and law enforcement cooperation) continued to feature high on the list of identified needs for technical assistance. States' efforts to improve international cooperation will have a positive effect on their ability to fully implement not only chapter IV (International cooperation), but also chapter V (Asset recovery).

Areas for further consideration to enhance the identification of technical assistance needs and to strengthen responses

43.   To date, 59 States parties have identified over 2,200 individual instances of technical assistance needs to allow them to fully implement the Convention. With considerable effort having been made to elaborate upon and prioritize these needs, the Conference may wish to underscore the importance of addressing the technical assistance priorities identified in the reviews.

44.   Experience to date confirms the Conference's guidance that technical assistance must remain country-led, country-based, integrated and coordinated. At the country level, while the executive summaries remain an important source of information, additional efforts are required to elaborate upon the needs identified that do not fit into the predetermined categories and transform them into actionable national priorities. It should be noted that the full country review report frequently contains a more elaborate outline of technical assistance needs. While the decision to make the full country report public remains the prerogative of the State party under review, such reports have on occasion been shared informally by States with their development partners in order to guide any forthcoming assistance. The Conference may wish to encourage States to support and further refine priorities contained in the reviews, and to continue to share detailed information.

45.   More in-depth analysis would be useful to determine which aspects of the needs identified, including the predetermined categories, were more useful and how these translated, together with the observations of the peer reviewers, into a roadmap for an enhanced implementation of the Convention at the country level. With the preparations for the second cycle under way, it is time to recall that technical assistance remains a cornerstone of the Convention and to take stock of lessons learned in order to better guide the next cycle. In noting that the revised self-assessment checklist for the second cycle of the Implementation Review Mechanism (CAC/COSP/IRG/2015/CRP.1) allows for the insertion of assistance needs and priorities in a freer manner, the Conference may wish to consider how technical assistance needs can best be defined in the reviews, including whether the predetermined categories of needs should be retained or not.

46.   While some States use the needs identified in the country report primarily to help coordinate their own priorities, several States and development partners have incorporated the findings in the executive summaries into their assistance programmes and external actions. UNODC has seen how holding a general donor briefing during or after the country visit helps raise the profile not only of the Implementation Review Mechanism, but also of the importance of the Convention as a whole. The Mechanism facilitates dialogue between the national authorities and relevant development partners to seek support for the programme by, inter alia, ensuring that the activities are in line with the needs that have been validated through the review process. The Conference may wish to consider urging States to enhance their coordination in relation to assistance efforts.

47.   Discussions in the Implementation Review Group have highlighted the fact that South-South cooperation has already enhanced the provision of technical assistance for the implementation of the Convention. In addition, in many cases, the review process itself has already provided the framework for peer learning. To this end, the secretariat has witnessed how States that have received technical assistance

are able to become assistance providers. With the deployment of UNODC regional and national anti-corruption advisers, these efforts to coordinate and establish bilateral connections in response to technical assistance needs have already shown one way in which the exchange of regional good practices has created lasting bilateral, multilateral and regional exchanges of knowledge and expertise. The work of the anti-corruption advisers is further detailed in documents CAC/COSP/2015/2 and CAC/COSP/2015/8.

48.   The Conference may wish to consider how technical assistance needs should be identified and elaborated upon in the next cycle in order to continue to ensure their overall utility for both technical assistance providers and recipients.

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