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## Pilot testing of the use of United Nations Convention against Corruption assessment tools in identifying and prioritizing technical assistance: country studies from Indonesia, Kenya and Peru

### Note by the Secretariat

## I. Introduction

1.    The discussion on technical assistance for the implementation of the United Nations Convention against Corruption[1] in the sessions of the Conference of the States Parties to the United Nations Convention against Corruption and the Open-ended Intergovernmental Working Group on Technical Assistance has evolved over the past years. Technical assistance is now an integral component of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption. The present note contains the findings of three country studies, conducted in Indonesia, Kenya and Peru, with the aim of determining how existing tools to assess implementation of the Convention can assist in identifying and coordinating the provision of technical assistance. The tools covered in the present study include the initial Convention self-assessment checklist, the pilot review programme and the comprehensive analysis of compliance with the Convention by States parties, using the gap analysis method pioneered in Indonesia and further developed in Kenya and Bangladesh.

2.    The present note provides a brief background of the study, outlines its objectives and methodology, and gives an overview of the Convention against Corruption assessment tools used in the pilot countries. The note further provides insights into the key developments in Indonesia, Kenya and Peru with regard to the

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technical assistance needs identified for implementation of the Convention and how those needs have been taken into account by donor agencies in in-country programming and, in particular, whether those needs have been met and gaps in implementation of the Convention filled. This note highlights good practices and challenges encountered in identifying gaps and delivering and coordinating technical assistance. In doing so, each country study considers the country's self-assessment of Convention implementation, anti-corruption reform measures and programmes of technical assistance delivered. Finally, this note analyses the commonalities and differences among the experiences of Indonesia, Kenya and Peru, with a view to developing recommendations that the Implementation Review Group and other actors concerned, including countries that receive technical assistance, as well as donor organizations, may wish to consider.

## II.  Background

3.    In its resolution 1/5, the Conference of the States Parties to the United Nations Convention against Corruption decided to establish an interim open-ended intergovernmental working group to advise and assist the Conference in the implementation of its mandate on technical assistance. The Conference also decided that the Working Group should perform the following functions: (a) review the needs for technical assistance in order to assist the Conference on the basis of the information provided by States to the Conference; (b) provide guidance on priorities, based on programmes approved by the Conference and its directives; (c) consider information gathered through the self-assessment checklist approved by the Conference; (d) consider information, as appropriate and readily available and in the areas covered by the Convention, on technical assistance activities of the Secretariat and States, including successful practices, and on projects and priorities of States, other entities of the United Nations system and international organizations; and (e) promote the coordination of technical assistance in order to avoid duplication.

4.    In its resolution 2/4, the Conference requested national, regional and international anti-corruption donors to continue their coordination efforts both in host countries and at the international level so that they could share their approaches on how to implement the needs identified by 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, encouraged all donors to establish effective coordination between departments and agencies at the national level in the donors' country.

5.    At its meetings, the Open-ended International Working Group on Technical Assistance discussed a range of proposals submitted by the Secretariat, which were endorsed for further development. In its resolution 3/4, the Conference endorsed country-led and country-based, integrated and coordinated technical assistance programme delivery as an effective vehicle for furthering implementation of the Convention, and encouraged donors and other assistance providers to incorporate those concepts and capacity-building into their technical assistance programmes. In that resolution, the Conference also encouraged States, donors and other assistance providers to use the Convention and, as appropriate, other relevant international

instruments as a framework for country-level dialogue to facilitate programme delivery. To that end, it was proposed that a small number of countries be selected to conduct this study.

6.    In its resolution 3/1, the Conference adopted the terms of reference of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption. The Conference also decided that the Implementation Review Group would be in charge of following up and continuing the work undertaken previously by the Working Group on Technical Assistance. For that reason, this study is being presented to the Implementation Review Group.

## III.    Objectives and methodology

7.    The objective of this study is to assist States parties in improving the use of Convention against Corruption assessment tools to develop and coordinate future technical assistance initiatives so as to ensure further compliance with the Convention. It is hoped that this study will provide guidance for the provision of targeted and coordinated technical assistance to States parties to the Convention, with a view to facilitating implementation of the Convention. By strengthening the link between the Convention implementation reviews and relevant technical assistance projects, the quality and effectiveness of technical assistance will be further improved, and that the Convention implementation assessment tools can be put to multiple uses, at the domestic, regional and international levels.

8.    The present note contains the collective analysis of findings from the three studies, conducted in Indonesia, Kenya and Peru, all of which volunteered to participate. Three researchers were employed, each carrying out the analysis of one of the three countries. The study for each country commenced with an in-depth desk review of findings based on the country's various assessments of compliance with the Convention and, where applicable, other regional or international instruments.

9.    That initial stage was followed by a visit to each of the three countries, during which the researchers liaised with key Government counterparts, donor organizations and representatives from civil society, the media, the local business community and academia, in order to analyse the findings of the desk review and further enhance the understanding of researchers of how the Convention assessment tools had been used in practice to identify needs and inform the provision of technical assistance in the country. The visit to the country also, in part, informed the study about existing processes to identify and coordinate technical assistance in the field of anti-corruption in the country. Finally, the researchers endeavoured through their on-site visits to assist in further developing national action plans for coordination of anti-corruption reform and/or technical assistance. On the basis of the findings of the desk reviews and on-site visits, the researchers developed separate country reports to serve as the basis for the comparative analysis contained in the present note.

10.    In all three countries, the researchers enjoyed exceptional support and cooperation from the local authorities in organizing and conducting the study.

## IV. Tools to assess implementation of the United Nations Convention against Corruption

11. The countries covered in the present study used different tools to assess their compliance with the Convention against Corruption. As a basis, the three countries completed the initial self-assessment checklist, which has since been replaced by the comprehensive self-assessment checklist, pursuant to Conference resolution 3/1. Indonesia and Peru also volunteered to participate in the pilot review programme. In addition, Indonesia and Kenya conducted the gap analysis, while Peru, as a party to the Inter-American Convention against Corruption (E/1996/99), has been participating in the Mechanism for Follow-up on the Implementation of the Inter-American Convention against Corruption (MESICIC) since 2001. Like the United Nations Convention against Corruption self-assessment checklist, MESICIC, as one of its main features, provides for the identification of technical assistance needs of parties to the Inter-American Convention against Corruption.

### A. United Nations Convention against Corruption self-assessment checklist

12. The initial self-assessment checklist of the United Nations Convention against Corruption was a computer-based application developed to gather information about implementation of the Convention. It consisted of a set of eight questions for each provision of the Convention, including a number of questions aimed at identifying whether and what form of technical assistance was needed,[2] whether any assistance had already been provided, and how that assistance would effectively support full implementation of the Convention provisions concerned. As such, of all the assessment tools considered in this study, the checklist is the main tool providing for the explicit identification of technical assistance needs and ongoing assistance programmes.

13. The initial self-assessment checklist, tested by Indonesia, Peru and Kenya, was limited in scope and focused on a selected number of articles and provisions of the Convention against Corruption, because the aim was the pilot testing of the usefulness of this type of tool in assessing compliance with the Convention, rather than undertaking a comprehensive assessment of compliance. In its resolution 3/1, the Conference endorsed the comprehensive self-assessment checklist developed by the Secretariat in consultation with States parties, to serve as the backbone of the Review Mechanism, as well as the Convention against Corruption implementation self-assessments.

14. Pursuant to Conference resolution 3/1, the comprehensive self-assessment checklist is to be used as a tool to facilitate the provision of information on implementation of the Convention. In its resolution 3/4, the Conference welcomed

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[2] In the initial self-assessment checklist, if a State party answered that they had adopted in part or not yet adopted the measures required under a given provision of the Convention, various sub-items with regard to technical assistance needs could be checked, including the following: no assistance would be required; model legislation; legislative drafting; legal advice; site visit by an anti-corruption expert; development of an action plan for implementation; and other assistance (to be specified by the responding State).

the efforts of the Secretariat to analyse the technical assistance needs identified by States parties and signatories to the Convention against Corruption in their responses to the self-assessment checklist and the development by the Secretariat of a computer-based information-gathering tool to produce statistics and visual aids, such as charts and other graphics, enabling the Conference to better identify technical assistance needs. To that end, during the consultative process that led to the finalization of the comprehensive self-assessment checklist, the technical assistance questions were modified.[3] These answers are wider in scope and enable States parties to identify a broad spectrum of technical assistance needs. Based on that information, pursuant to Conference resolution 3/4, the United Nations Office on Drugs and Crime (UNODC) will be able to continue to share with other possible technical assistance providers information on technical assistance needs compiled on the basis of responses to the self-assessment checklist and included in the matrix of technical assistance needs, in particular information on needs at the country level, in order to inform assistance activities in coordination with the beneficiary countries.

## B. Pilot review programme

15. Pursuant to Conference resolution 1/1, in which the Conference agreed that it was necessary to establish an appropriate mechanism to assist in the review of the implementation of the Convention, UNODC developed the pilot review programme, a technical assistance project to provide adequate opportunities for testing possible means of reviewing implementation of the Convention. Participation in the pilot review programme was strictly voluntary and limited in scope and time. The scope of review included eight articles (arts. 5, 15-17, 25, 46 (partial), 52 and 53).

16. The initial self-assessment checklist provided a solid foundation for the review exercise to begin. This was further complemented by active dialogue between the country under review and its reviewing States parties, in the form of meetings in Vienna or country visits. It was deemed that the Secretariat played a vital role in coordinating and facilitating the entire review process. The final reports were considered to be of great use to the countries under review, particularly in assisting them with their technical assistance needs.

17. In the pilot review programme, technical assistance, including that provided through the initial self-assessment checklist, was highlighted as being an integral part of all phases of the review process. For some countries under review, technical assistance was therefore linked to a follow-up procedure, such as the development of an action plan.

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[3] The self-assessment checklist includes the following questions with regard to technical assistance needs: "Which challenges and issues are you facing in (fully) adopting/implementing the provision under review? (Check all the answers that apply and provide an explanation in the 'Comments' field)". The answers include: "inter-agency coordination"; "inadequacy of existing normative measures (constitution, laws, regulations, etc.)"; "specificities in our legal system"; "competing priorities"; "limited capacity (e.g. human/technological/institution/other; please specify)"; "limited resources for implementation (e.g. human/financial/other; please specify)"; and "other issues (please specify)".

## C. Gap analysis

18.   The gap analysis with respect to implementation of the Convention against Corruption, as conducted in Indonesia in 2006 and in Kenya from 2007 to 2009, and used by other States parties such as Bangladesh, Kuwait and Mongolia, is aimed at comprehensively reviewing a country's legal and institutional anti-corruption framework, in order to assess its compliance with the provisions of the Convention. The self-assessments seek to achieve a comparative analysis of the extent to which a country's national anti-corruption systems, notably its laws, regulations, policies, institutions and programmes, comply de jure and de facto with the requirements of the Convention. Typically, a gap analysis is led by a steering committee composed of key concerned government agencies and is implemented by an interdepartmental team of experts, sometimes supported by international experts. The analysis is based on a desk review of relevant legislation and a series of consultations with practitioners and experts from a broad range of governmental and non-governmental stakeholders, including all relevant government entities, civil society, the local business community, donor organizations, academia and the media.

19.   The gap analysis can produce a comprehensive list of gaps and loopholes in a country's legal and institutional anti-corruption framework and practical implementation thereof, as well as recommended remedies. As such, it is a valuable tool to inform national anti-corruption reform planning and implementation. The gap analysis does not explicitly provide for the identification of technical assistance needs.

20.   The United Nations Development Programme and UNODC have prepared a guidance note on Convention implementation self-assessments, entitled *Going Beyond the Minimum*. The self-assessments seek to achieve a comparative analysis of the extent to which a country's national anti-corruption systems, notably its laws, regulations, policies, institutions and programmes comply de jure and de facto with the requirements of the Convention. The guidance note provides a methodology for Convention against Corruption self-assessments by drawing upon the comprehensive self-assessment checklist and encouraging broad national stakeholder consultations in order to promote national anti-corruption reform and prepare the country for review under the Review Mechanism.

# V.   Indonesia

## A.   Self-assessment

21.   Indonesia has proven its strong commitment to implementing the Convention against Corruption and supporting the Convention's Implementation Review Mechanism by conducting a series of assessments of compliance with the Convention, including, notably, the gap analysis as devised by the Indonesian authorities in 2006, the initial self-assessment checklist in 2007 and the pilot review programme in 2009.

22.   The Indonesian authorities found the gap analysis, initial self-assessment checklist and pilot review programme to be useful for revealing weaknesses and potential gaps in the Indonesian legal and institutional framework as compared with

the standards set forth by the Convention against Corruption. The assessment processes were also considered helpful for identifying areas in which reform efforts are needed and, consequently, for signalling where Indonesia could potentially benefit from technical assistance. Indeed, there was a great degree of coherence between the findings of the above-mentioned reports in the areas where their scope overlapped. The researcher's broad assessment of the current state of anti-corruption reform through the desk review and meetings during the on-site visit further confirmed the gaps and technical assistance needs identified in those reports.

23.   Findings made through the assessment tools are therefore highly relevant and, as a consequence, have been well integrated into the Indonesian anti-corruption reform efforts through the national strategies and action plans for corruption eradication, as outlined below. However, interviews revealed a patchy individual and institutional knowledge of the Convention implementation assessment tools. While the gap analysis is widely understood, the initial self-assessment checklist and the pilot review programme were not well known. That can be largely attributed to the fact that they were only pilot activities testing the implementation of the Convention, and information about them was therefore not as widely disseminated. In addition, because of their narrower scope, only a limited number of organizations were involved in those activities.

24.   Only the initial self-assessment checklist specifically allowed for technical assistance needs to be identified, and it was thought to be a useful addition to other assessment tools previously used in Indonesia. Various counterparts have noted the risk of confusing the need for reform with the need for technical assistance and, as a result, ignoring existing local capacities and resources available to remedy a gap. Some also felt that the considerable number of questions in the initial self-assessment checklist might lead to a temptation to tick boxes just to ensure that any potential needs were covered, without giving adequate consideration to existing programmes and capacities. The comprehensive self-assessment checklist, which was not available at the time that the local research and interviews for this study were done, will diffuse some of these concerns. Finally, some counterparts suggested that the technical assistance options appeared limited to legal compliance and did not give sufficient consideration to practical implementation. Finally, some counterparts suggested that the technical assistance options appear limited to legal compliance without giving sufficient consideration to practical implementation.

## B.   Anti-corruption reform

25.   Indonesia recently completed drafting the new National Strategy for the Eradication of Corruption (STRANAS-PK) for the period 2010-2015. As with the previous strategy, the national Action Plan for the Eradication of Corruption (RAN-PK), drafting of the National Strategy was based on the findings of the gap analysis, with updates where necessary. The process was in each case coordinated by the National Development Planning Agency of Indonesia (BAPPENAS) with input from a wide range of governmental and non-governmental stakeholders. The action plans of the National Strategy, each corresponding to a chapter of the Convention, consist of a series of detailed individual action priorities, including output indicators, results indicators, a timeline for implementation and assigned responsibilities for implementation to one or several agencies. The National

Strategy also provides for a relatively elaborate mechanism for coordinating and monitoring implementation, consisting of a multi-stakeholder implementation working group, a secretariat and a separate sector coordinator for each action plan.

26. Overall, the National Strategy for the Eradication of Corruption is comparatively comprehensive and enjoys considerable credibility among concerned stakeholders in Indonesia. It is an excellent example of how Convention implementation assessments can directly influence and be used to inform national strategic planning processes. However, a number of elements have yet to be clarified, for instance, in relation to responsibilities for coordination and implementation, and, of course, the overall effectiveness of the strategy will need to be evaluated over time.

## C. Technical assistance

27. Indonesia is committed to implementing international standards such as the Paris Declaration on Aid Effectiveness and the Accra Agenda for Action (A/63/539, annex). In addition, Indonesia launched the intergovernmental initiative entitled "Jakarta Commitment: Aid for Development Effectiveness — Indonesia's Road Map to 2014", committing the Indonesian Government and bilateral and multilateral donors to a set of principles and actions to improve effective management of foreign aid.

28. Coordination of development assistance is the responsibility of the National Development Planning Agency, which plans and coordinates the country's national development plans, including both nationally and externally financed programmes. The Agency set up a system for collecting information about technical assistance needs and how they are met by donor commitments and ultimately, project implementation. This process is in direct support of the President's one-door policy for international donor assistance.

29. However, despite this far-reaching engagement, the coordination and planning of integrated technical assistance remains a real challenge in Indonesia, with a lack of coordination as much among donors as among recipient agencies. For example, according to various counterparts, not all concerned parties make adequate use of the National Development Planning Agency system for collecting information, and the system itself needs to be further refined to overcome some of its current limitations, for instance, pertaining to the registration of in-kind contributions. In addition, coordination of technical assistance is said to be particularly weak in the area of anti-corruption, while other sectors such as decentralization and countering money-laundering have established relatively mature coordination mechanisms. In addition, existing efforts to coordinate technical assistance for anti-corruption efforts, such as the list of donor-funded anti-corruption projects maintained by the Agency, the biannual donor coordination meetings organized by the national Corruption Eradication Commission (KPK), jointly with the Partnership for Governance Reform (Kemitraan) and the Corruption Eradication Commission's online anti-corruption project/programme database, at which donors provide information on their current projects. The Government then provides feedback on what are regarded as priorities and on existing technical assistance requirements.

Unfortunately, this form of donor coordination remains patchy, and the Corruption Eradication Commission and other Government agencies are not coordinated.

30.   It is hoped that a coordination mechanism to support the National Strategy for the Eradication of Corruption can overcome some of those weaknesses and bring together donors, as well as all recipient agencies, in a more systematic process of coordination and provision of technical assistance across the whole public sector. The fact that the National Strategy is already largely oriented towards implementation of the Convention against Corruption suggests that using the comprehensive self-assessment checklist will be of assistance in that regard. It is noted that Indonesia volunteered to undergo review in the first year of the review cycle, and, as described above, the self-assessment checklist is the information-gathering tool that is to facilitate the initial step of the review process.

## D.   Key findings

31.   As Convention implementation assessments require considerable time and human resources, it is important that they be nationally owned, widely supported and well understood. This can be achieved by integrating them into a national cycle of reform, as has occurred partially in Indonesia. In addition, the purpose and added value of the review process for each country must be well communicated in order to generate ownership and support. In order to generate support among all concerned stakeholder groups and to ensure the assessment's quality, the processes should be conducted in an inclusive and consultative manner. As such, the assessment exercise becomes a process of national coordination and capacity-building, in addition to being in compliance with international commitments. Finally, with a view to establishing a comprehensive understanding of technical assistance needs, an assessment for this purpose should take into account existing local capacities and complement legal tools for overcoming gaps with an understanding of the practical obstacles to Convention implementation.

32.   More broadly speaking, the experience of Indonesia has shown that the coordination of anti-corruption reform and corresponding technical assistance programmes, ideally in the form of a national strategy or action plan, is essential to ensuring the effective use of resources and to strengthening inter-agency coordination. Such national strategies should be developed in a participatory manner and be based on an in-depth assessment of the country's existing legal and institutional anti-corruption framework. Existing tools for assisting compliance with the Convention against Corruption have been successfully used for this purpose in Indonesia. National strategies should clearly assign roles, responsibilities and timelines for each element of the strategy and provide for meaningful and measurable performance indicators. Finally, a national mechanism for coordinating and monitoring implementation of national anti-corruption reform, ideally coordinated with the Review Mechanism, should be in place, with clearly assigned responsibilities and leadership roles.

33.   The Review Mechanism may also usefully serve the purpose of coordinating the provision of technical assistance and ensuring that such assistance is provided in line with the commonly agreed and nationally owned strategy. Such a coordination mechanism for technical assistance must be mindful of involving not only all

donors, but also all concerned Government agencies, and encompass not only all forms of externally funded projects, but also nationally driven reform projects, the latter with a view to ensuring that domestic capacity is used and strengthened whenever possible.

## VI. Kenya

### A. Self-assessment

34. Like Indonesia, Kenya has shown strong commitment to the implementation of the Convention against Corruption and the review of implementation through the testing of the initial self-assessment checklist and the gap analysis between 2007 and 2009. Those tools have been useful in the Kenyan context to gain a comprehensive understanding of the strengths and weaknesses of Kenya's legal and institutional anti-corruption framework and to identify corresponding reform needs. Some counterparts noted that the initial self-assessment checklist was limited in its ability to identify problems in relation to institutional capacity and effectiveness and practical enforcement of legislation — something that was also noted in Indonesia — owing to the experimental nature and the limited scope of the initial self-assessment checklist. However, generally, the findings of the initial self-assessment checklist and gap analysis were considered to be a sound basis for developing a national strategy and action plan to combat corruption.

35. The Kenyan counterparts recognized the initial self-assessment checklist as a nationally initiated and driven process. As such, the checklist generated considerable ownership and was described as a catalyst for an informed dialogue among relevant institutions. However, Kenyan counterparts noted that while the checklist was useful in developing a broad understanding of technical assistance needs, the limited scope of the initial self-assessment checklist did not allow the country to go into great detail with respect to priorities, timelines, responsibilities and resource requirements. As such, it was felt that while the technical assistance-related tools of the initial self-assessment checklist were a good starting point, they did not provide a sufficiently comprehensive basis to enter into a meaningful dialogue with donors. Nonetheless, both processes seem to have played a valuable role in keeping implementation of the Convention against Corruption on the agenda of donors and concerned governmental departments.

36. In addition, the above-mentioned findings have had an immediate impact on legislative projects, as well as the general understanding and acceptance of the Convention against Corruption within the Government. For example, participants in the review of the Convention's implementation successfully lobbied for the drafting of two key pieces of legislation, on mutual legal assistance and on the proceeds of crime and money-laundering. Further, official reservations by the Kenyan Government with respect to articles 44 and 66 of the Convention have been withdrawn as a result of joint efforts by the Ministry of Justice, National Cohesion and Constitutional Affairs, the Kenya Anti-Corruption Commission and non-State actors that had participated in the Convention implementation assessments.

37. Participants in the gap analysis reported that the in-depth analysis of that assessment was initially found to be technically challenging because of a lack of

experience with similar processes. An initial proposal to involve external consultants was rejected in favour of an inclusive multi-stakeholder approach already tested in other countries. This led to the understanding that no single governmental institution in Kenya is likely to have the necessary knowledge and experience to conduct a comprehensive review of implementation of the Convention. In addition, Kenya consulted with other countries that have conducted similar reviews in the past, notably Indonesia and Bangladesh, and found that international exchange to be of great value.

38. Like Indonesia, Kenya experienced the importance of clearly assigning responsibilities for leadership, oversight and coordination of the assessment process in order for it to be efficient and effective and in order to produce timely, comprehensive and relevant results. To overcome the challenge of various authorities competing to lead the gap analysis on Convention implementation in Kenya, for instance, responsibility was divided between two leading institutions. The gap analysis and the development of the corresponding action plan became the responsibility of the Kenya Anti-Corruption Commission, while the Ministry of Justice, National Cohesion and Constitutional Affairs was placed in charge of assessing technical assistance needs for the implementation of the action plan. To structure the dialogue and participation of a considerable number of actors involved in the gap analysis, the Kenya Anti-Corruption Commission established a comprehensive organizational structure, including an oversight committee composed of various concerned institutions, and a number of technical committees in charge of analysis and research. After the gap analysis was completed, a separate team also set up to develop an implementation action plan, as described below.

## B.  Anti-corruption reform

39. The processes of assessing Kenya's compliance with the Convention against Corruption were planned as an integral part of the country's Governance, Justice, Law and Order Sector Reform programme established in 2003. The programme was spearheaded by the Ministry of Justice, National Cohesion and Constitutional Affairs and involved a number of other ministries concerned. That integrated approach clearly demonstrated to participants that the processes were contributing to Kenya's overall development programme. As a consequence, the processes have enjoyed comparatively broad support.

40. As in Indonesia, the gap analysis on implementation of the Convention was followed by the elaboration of a detailed action plan for implementing measures to remedy identified weaknesses and gaps. The action plan identifies lead agencies, timelines, critical milestones and result indicators, and it will be followed by a detailed assessment of the existing capacities of the designated lead agencies to execute the actions assigned to them and to determine those areas in which technical assistance is needed to complement existing capacities.

41. This process, which is yet to be completed, predominately corresponds to what the Indonesian authorities realized should be the next step in relation to implementation of their strategy. With respect to that step, counterparts in Kenya were in agreement that the follow-up established to drive the assessment of capacity and the identification of complementary technical assistance needs and to

coordinate the implementation of the action plan must involve all stakeholders concerned and operate in an inclusive manner. Two main reasons for selecting a participatory approach in that regard were outlined. First, none of the lead agencies involved were found to have sufficient capacity and adequate knowledge with respect to the whole range of provisions of the Convention against Corruption to comprehensively and competently oversee implementation. Secondly, a broad political and institutional backing was considered essential to ensure that the implementation processes be deemed sustainable and effective.

## C. Technical assistance

42.   A number of donors, as well as the Government of Kenya, have provided resources to a basket fund in support of the Governance, Justice, Law and Order Sector Reform programme, of which implementation of the Convention against Corruption is a part. The programme's donor coordination group and Thematic Group on Ethics, Integrity and Anti-Corruption oversee the provision of technical assistance in the area of governance and anti-corruption funded from the basket fund. This structure is generally considered to be useful in promoting dialogue and the coordination of technical assistance among donors and concerned Government agencies.

43.   Donors participating in the Governance, Justice, Law and Order Sector Reform programme basket fund were provided with the findings of the initial self-assessment checklist and the gap analysis through the coordination mechanism. Thus, a certain level of consistency between future technical assistance and review findings could be expected. In addition, the ongoing negotiations on the continuation of the Governance, Justice, Law and Order Sector Reform programme could provide an excellent opportunity to further highlight the benefits of including the Convention against Corruption and, ultimately, the results from the Review Mechanism in the design of and dialogue with the Government with respect to technical assistance in the area of governance and anti-corruption.

## D. Key findings

44.   The findings of Kenya are in many respects highly consistent with those of Indonesia. Notably, the experience in Kenya has shown that in order for an analysis of implementation of the Convention against Corruption to be comprehensive and technically sound, it is helpful to have the participation of a broad range of stakeholders from both within and outside Government. In addition, a participatory approach to assessing compliance with the Convention has been shown to enhance ownership and support for subsequent reforms. Finally, the consultative process applied in Kenya has led to greatly enhanced cooperation among Government institutions and between Government and non-State actors, an outcome which in turn will prove beneficial when it comes to planning, coordinating and implementing governance and anti-corruption reform programmes.

45.   Technical assistance needs must be based on a detailed assessment of requirements — for which Convention implementation assessment tools have proved valuable — and on a comprehensive evaluation of available domestic

capacities. This latter point is critical in the context of ensuring that technical assistance strengthens existing institutions rather than duplicating or weakening them. In addition, for technical assistance needs assessments to form the basis of an informed and constructive dialogue with donors, those technical needs should be sequenced in terms of priority and timing, and sufficiently detailed schedules and budgets should be established. The experience of Kenya has further shown that technical assistance is coordinated and provided more effectively if it is aligned with nationally defined action plans and strategies, as is being attempted through the drafting of a Convention implementation plan and the subsequent technical assistance needs assessment now under way. Finally, involving all concerned stakeholders from within Government, as well as potentially from outside Government, in the process of identifying technical assistance needs is likely to provide a particularly comprehensive picture and thus avoid duplication and encourage collaboration in the implementation of reforms.

## VII. Peru

### A. Self-assessment

46.    Peru has been committed to supporting the development and refining of Convention implementation assessment tools by voluntarily participating in the use of the initial self-assessment checklist for implementation of the Convention against Corruption in 2007 and the pilot review programme in 2009. In addition, Peru actively participates in the implementation review process for the Inter-American Convention against Corruption.

47.    The initial self-assessment checklist and the pilot review programme have been very useful in Peru to understand where national anti-corruption and transparency reform agendas need to be adjusted in order to align the country's obligations with the United Nations Convention against Corruption. Those exercises were also found to offer a solid basis for national dialogue on anti-corruption reform and were said to have served well as a practical guideline for defining the general objectives and preparing implementation of Peru's national plan for the fight against corruption.

48.    Nevertheless, the Convention implementation assessment tools are not sufficiently known among the stakeholders concerned and thus are not recognized as being key tools for identifying technical assistance needs in relation to governance and anti-corruption. One of the causes of that limited awareness of Convention implementation assessment processes, as identified by the researcher, was the clear lack of institutional transmission of information, which was also noted in Indonesia. In addition, only a limited number of organizations within the Government of Peru seem to have been directly involved in the assessment exercises, which is likely to have limited the level of awareness and knowledge of the tools. Nevertheless, a civil society organization forming part of the commission overseeing the national plan for the fight against corruption actively participated in the completion of the initial self-assessment checklist.

49.    Many of the institutions directly involved in or at least aware of the initial self-assessment checklist process and pilot review programme stated that they were

good tools for systematically identifying technical assistance needs in areas where the institutional and legal framework of Peru was considered to require further strengthening in order to fully comply with the Convention against Corruption. Notably, needs for strengthening capacities in the area of law enforcement and asset recovery were identified. One counterpart further suggested that the self-assessment checklist should, instead of being a one-off tool, be used on an ongoing basis to identify technical assistance needs and match them with actual technical assistance provided. As such, it could be used to establish a comprehensive and long-term database of anti-corruption technical assistance needs and programmes across the country.

## B. Anti-corruption reform

50.   In Peru, coordination of national policies in the area of anti-corruption and governance is the responsibility of the President of the Council of Ministers. The national plan for the fight against corruption (publicly available but never officially approved) is broadly recognized as a guide for setting policy in the areas of transparency, public ethics, integrity and anti-corruption. Implementation of the national plan is coordinated by a special commission composed of agencies of the Executive Branch, as well as, since recently, the Office of the Ombudsman and civil society organizations. The Commission is currently in the process of defining an operational action plan to implement the national plan for the fight against corruption.

51.   Some interviewees stated that progress in effective anti-corruption reform is impeded by continuously changing institutional settings. Indeed, Peru has seen two specialized anti-corruption offices established and abolished between 2002 and 2007 before the responsibility for anti-corruption was handed over to the President of the Council of Ministers. The greater institutional continuity that has existed since then is expected to bring more sustainable results in the country's anti-corruption efforts.

## C. Technical assistance

52.   Interviews with key donor agencies have shown that donors have not been involved or consulted in the review processes and that Convention implementation assessment tools are not currently used by the Peruvian Government in its dialogue with donor agencies. However, a representative of the "Umbral" programme established under the Millennium Challenge Corporation of the United States, which has a strong anti-corruption and governance component, noted that many priorities for future work under that programme were related to implementation of the Convention against Corruption. Some programmes related to Convention implementation and aimed at disseminating information about the Convention are supported by donors.

53.   One particular challenge in Peru is the expected future reduction in donor funds as a result of the improvement of Peru's macroeconomic situation. As a consequence, it will become even more important that the technical assistance programmes remaining be well designed and specifically target those areas in which

Peru lacks domestic capacity. In the field of anti-corruption and governance, using the Convention implementation assessment tools for the identification of gaps and corresponding technical assistance needs could be useful in that regard. Moreover, numerous counterparts from Government agencies, as well as donors, have acknowledged the potential of relating their technical assistance needs assessments to the Convention implementation assessment tools.

54. Finally, some counterparts have suggested that in the immediate future, the country would benefit from technical assistance provided by donors for the purpose of implementing the Convention implementation review process and, later, for disseminating the findings of the review process among all concerned stakeholders.

## D. Key findings

55. Consistent with the findings of Indonesia and Kenya, the experience of Peru has revealed the importance of consistent and regular communication with respect to the Convention against Corruption and, now, the comprehensive self-assessment checklist and Review Mechanism, with a view to remedying the unavoidable loss of information caused by personnel rotation and institutional changes. Lack of institutional transmission of information has been found to severely diminish the level of awareness about the Convention within the Government agencies concerned.

56. In a similar attempt to strengthen awareness of the Convention and, eventually, implementation across the board, a broad involvement of relevant stakeholders in the Convention implementation review process is recommended. As has been seen in the other case studies, this will further strengthen ownership of, commitment to and consistency in implementing Convention-related anti-corruption and governance reforms. In addition, when the Convention implementation review process can be directly linked to nationally owned strategies and action plans, for instance Peru's national plan for the fight against corruption, it is likely to gain greater acceptance and be better integrated into the programmes of concerned agencies and organizations.

57. This is equally true when it comes to using the Convention implementation assessment tools for the identification and coordination of technical assistance. The early involvement of donor agencies, ideally beginning at the stage of completing the comprehensive self-assessment checklist, will be critical to enlisting the support of those donor agencies when it comes to the implementation of identified projects. In the light of the fact that donor assistance may diminish in Peru over the coming years, this early involvement of donors in the identification of requirements and corresponding technical assistance needs will become even more important.

58. Finally, the experience of Peru in the area of promoting anti-corruption reform in line with the United Nations Convention against Corruption and other international treaties, notably the Inter-American Convention against Corruption, has shown the importance of the continuity of the institutional framework put in place to support those instruments. It is critical to clearly assign responsibilities for the implementation of anti-corruption reforms and implementation of the United Nations Convention against Corruption, as has been found in Indonesia and Kenya, in order for the reform to be effective and efficient. In addition, those assigned

responsibilities should remain comparatively stable over time with a view to achieving long-term outcomes from the processes.
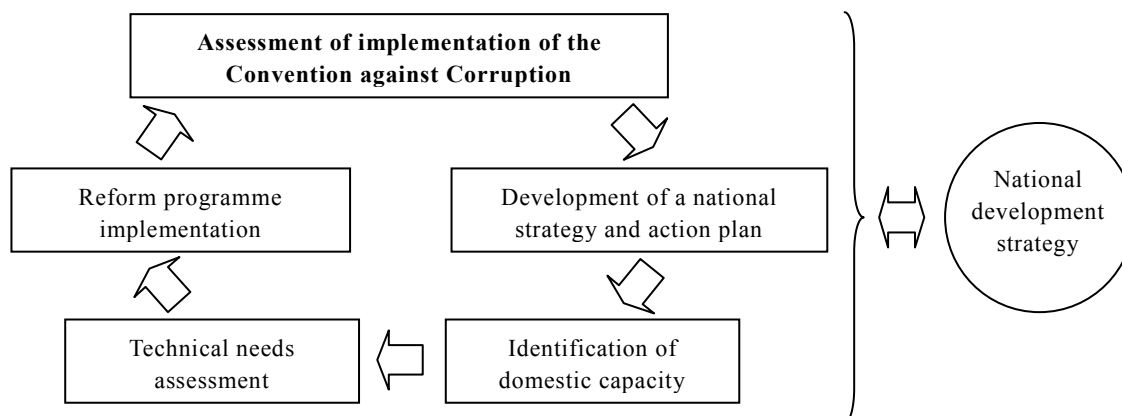
# VIII.  Conclusions and recommendations

59.   The experiences of Indonesia, Kenya and Peru in using the Convention implementation assessment tools over the past four years provide interesting examples of how an international treaty such as the Convention against Corruption can improve quality, focus and coordination of national reforms and technical assistance provided in that context.

60.   The work for this study was based on the initial self-assessment checklist, which was limited in scope and depth and was intended to test the tool. Therefore, the weaknesses of the initial self-assessment checklist for implementation of the Convention and how that checklist was linked to national processes were identified. A common concern to Indonesia, Kenya and Peru was the lack of means for sequencing, budgeting and timing reforms and technical assistance. These countries also expressed concerns about the risk of neglecting domestic capacity by placing the technical assistance needs assessment too early in the process. Finally, in some countries, participants in the review process suggested more strongly integrating the Convention implementation assessment tools in national processes for the formulation, implementation and evaluation of reform plans and programmes. That would prevent duplication or adding to the workload of already overstretched Government agencies and would ensure that the Convention implementation assessment tools be put to multiple uses.

61.   The Convention implementation assessment tools have proved to be highly useful to guiding the design of national anti-corruption reform. They have a great potential to strengthen inter-agency and coordination, as well as multi-stakeholder cooperation, in anti-corruption reform and to contribute to enhancing the quality and coordination of technical assistance in this area. Finally, the assessments of Convention implementation carried out, if fully integrated into national reform efforts, can potentially serve as a benchmark for the progress of domestic anti-corruption efforts, the results of which, in turn, will be useful to re-evaluate and adjust, if needed, the national anti-corruption strategy and/or reform programme.

62.   Therefore, in an attempt to capitalize on the significant strength of the self-assessment checklist while also remedying some of the weaknesses identified above, a key conclusion of the present study is the following recommended cyclical process, based upon observed good practices, which uses the Convention against Corruption as a guide to national anti-corruption reform (see figure) .

Figure.
**Use of the United Nations Convention against Corruption as a guide to
anti-corruption reform**



63. To make maximum use of the synergies that the model above generates, its implementation must take into account the following lessons learned from the experiences in Indonesia, Kenya and Peru.

64. In relation to the process of conducting the reviews of implementation of the Convention against Corruption, the following lessons were learned:

(a) As the self-assessment checklist and participation in the Review Mechanism require considerable time and human resources, it is important that those processes be nationally owned, widely supported and well understood. This can be achieved by integrating them into a national cycle of reform, as suggested above, and by adequately communicating their purpose and added value for the country;

(b) To generate support among all concerned stakeholder groups, the assessment process should be conducted in an inclusive and consultative manner. Thus, the Convention implementation review process should be able to strengthen national coordination and capacity-building, in addition to being in compliance with international commitments;

(c) Ensuring the greatest degree of transparency in these processes and implementing a comprehensive communication strategy upon completion of the process are critical to counter a lack of institutional transmission of information and to ensuring that the results from the Convention implementation reviews succeed in penetrating the national anti-corruption reform agenda.

65. The following lessons were learned in relation to the formulation and implementation of related anti-corruption reform programmes:

(a) Coordination of anti-corruption reform programmes, ideally in the form of a national strategy or action plan, is essential to ensuring effective use of resources and to strengthening inter-agency coordination;

(b)   Strong leadership of anti-corruption reform programmes and strategies is critical and will make an important contribution to overcoming potential inter-agency competition. Similarly, a comprehensive mechanism for coordinating and monitoring implementation, with clearly assigned responsibilities, must be established. In that context, it is important that a degree of consistency be achieved over time to ensure effectiveness of implementation;

(c)   National anti-corruption reform programmes should be designed in an inclusive manner, ideally involving a wide range of relevant stakeholders, so as to ensure comprehensiveness, broad acceptance and generate synergies and cooperation throughout Government and between Governments and non-State actors in their implementation;

(d)   An in-depth assessment of the country's existing legal and institutional anti-corruption framework should be conducted prior to developing a comprehensive national anti-corruption strategy through the Convention implementation self-assessment checklist;

(e)   To ensure effective implementation of national anti-corruption reform programmes and strategies, roles, responsibilities and timelines for each element of the strategy must be assigned, and meaningful and measurable performance indicators must be provided.

66.   Finally, the following lessons were learned in relation to the coordination and provision of technical assistance:

(a)   Ideally, efforts to improve coordination of technical assistance should involve all donors, as well as all concerned recipient agencies throughout the Government, and should encompass not only externally funded projects but also nationally driven reform projects, as well as all forms of technical assistance, including in-kind contributions and other assistance not involving an actual transfer of funds. National, regional and international anti-corruption donors have a role to play by continuing their coordination efforts both in host countries and at the international level so that they can share their approaches for implementing the needs identified by recipient States and for defining guidelines and policies based on their best practices and comparative advantages. That will support the effectiveness of technical assistance and regular information exchange and, to that end, encourage all donors to establish effective coordination between departments and agencies at the national level in the donors' country;

(b)   Coordination efforts are more effective if they revolve around a commonly agreed and nationally owned strategy or action plan that, ideally, has been developed using the benchmarks of the Convention against Corruption and, where applicable, other regional or international treaties;

(c)   Leadership of the coordination mechanism must be strong, and the leading institution must have the relevant competence and capacity, necessary authority and sufficient political clout;

(d)   Technical assistance in those areas where domestic capacity is lacking should be given top priority. In addition, donor coordination mechanisms should map the respective strengths, strategic and competitive advantages and particular experiences of donors. By doing so, effectiveness and outcomes can be maximized because assistance targets primarily those areas where domestic capacity is lacking

and will be provided by those assistance providers that have a corresponding strategic advantage;

(e)  Technical assistance delivery itself should be assessed as part of the process of reviewing progress in the implementation of the country's national anti-corruption strategy/reform programme.

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