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English only

**Open-ended Intergovernmental Working
Group on Technical Assistance**

Vienna, 18 and 19 December 2008

**Harnessing the potential of technical assistance to deliver
UNCAC****Submitted by OECD DAC Network on Governance (GOVNET)****I. Introduction**

1. The purpose of this issues paper is to set out how technical assistance can better support countries looking to strengthen their anti-corruption institutions and implement UNCAC. It has been prepared to inform discussions at the UNCAC Open-ended Intergovernmental Working Group on Technical Assistance (TA) in Vienna, on 18-19 December 2008. It has been prepared and endorsed by the OECD/DAC Network on Governance.
2. The paper starts with a summary of recent thinking about UNCAC and TA. It then considers how TA provision relates to four country level anti-corruption processes. Practical measures needed to improve TA provision are then suggested.
3. It should first be noted that the Convention refers to technical assistance in a broad sense of the term: it does not only refer to making available specialized expertise, but, as mentioned in article 60, relates to all material and financial assistance provided to countries in order to implement the Convention. In addition, articles 61 and 62 specify exchange of knowledge and co-operation. Technical assistance, as used in the Convention, can therefore include many types of modality, instrument and activity (which go beyond the more narrowly defined OECD/DAC understanding of Technical Assistance). For the purposes of conformity with the intentions of the convention the term has been used to reflect this broader meaning.

II. Background

4. UNCAC is a strong and comprehensive framework for anti-corruption policy development, addressing preventive and enforcement measures. UNCAC defines



obligations for both developed and developing countries and as such, is also the basis for strengthened co-operation on supply side issues such as asset recovery.

5. Significant analytical work to date has developed thinking on the relationship of UNCAC and technical assistance, including:

- The UNCAC 2007 Intergovernmental Working Group meeting in Vienna and International Cooperation Workshop in Montevideo (and associated reports).
- The Report of Self Assessment Review findings in relation to TA needs.
- The Note Verbale from the Netherlands (presented to the Second Conference of States Parties (CoSP)).
- The U4 analysis and recommendations on anti-corruption policy making in practice as stipulated in Article 5.¹

6. These contributions have emphasised that there is considerable demand for TA and that developing countries should lead the process of defining their anti-corruption priorities. The role of donors and external TA is to *support* these processes. The Convention should form the basis of country-development partner dialogue on anti-corruption and should facilitate country-development partner co-ordination. The result of this initial work was seen in the final resolutions (1/5 and 2/4 on TA) at the first and second Conferences of State Parties. This emphasised:

- The importance of Technical Assistance;
- The requirement for country articulation of needs based on a multi-year national framework;
- The need for better co-ordination of donor efforts based on the Paris Declaration on Aid Effectiveness;
- “that the delivery of development assistance should not be linked to the implementation of the Convention” (para 6).

7. This paper considers what these points of agreement mean in practical terms by looking at four country level anti-corruption processes as implied by the Convention:

- Anti-corruption Assessment;
- Definition and dialogue on national AC policies and programmes;
- The nature and scale of external support for implementation;
- Monitoring progress and revising approaches.

8. Each of these will be considered in turn, and a number of “core conclusions” will be arrived at. The paper will then make suggestions as to how this agenda can be taken forward and implemented.

¹ U4 2007 Anti-corruption policy making in practice: What can be learnt for implementing Article 5 of UNCAC? A report of six country case studies.

III. Anti-Corruption Assessment

9. Work to strengthen anti-corruption approaches at a country level, needs to start from a clear evidence based analysis of the present situation. The 71 articles that comprise UNCAC provide common standards for national policies and practices, and as such UNCAC represents a valuable means of framing an assessment. The UNCAC Self Assessment Checklist is available and has been completed by 66 countries (October 2008).

10. A number of countries (e.g. Colombia, Indonesia, Bangladesh, and Kenya) have also completed an independent gap analysis on UNCAC compliance. These are stakeholder processes which not only assess the present status of legislation but also consider implementation issues, allowing forward planning for implementation based on national short to medium term priorities. In many cases civil society and the media have been actively involved in the processes. Such reviews are an additional tool that complements the Self Assessment Checklist.

Bangladesh Analysis of UNCAC Compliance

After acceding to UNCAC in February 2007 the Government of Bangladesh chose to conduct a Compliance Review in order to inform the revision of anti-corruption policies and processes. An Inter-Ministerial Committee chaired by the Ministry of Law, Justice and Parliamentary Affairs led the process, and between October 2007 and January 2008 a number of activities were undertaken including; the completion and submission of the UN Self Assessment Checklist and the formation of a research team. An orientation and methodology workshop was held together with desk based research, focus group discussions and interviews with technical specialists in Government ministries and departments.

In January 2008 the Government presented the report to the public and to the second Conference of States Parties in Bali. In May, a Needs Assessment Workshop was then held to prepare a strategy for the future implementation of UNCAC. Key follow up steps have included:

- (i) Wider dissemination of the report;
- (ii) Updating of the report with further legislative and other changes;
- (iii) Capacity development for relevant Government officers;
- (iv) Administrative efforts to update reforms on issues such as extradition and mutual legal assistance;
- (v) Enhancing Bangladesh's engagement with the UNCAC working group meetings at the UN Office of Drugs and Crime (UNODC), and modes of coordination among the stakeholders.

This work was carried out in partnership with experts from the Institute of Governance Studies (IGS) at BRAC University Bangladesh, with financial and technical support from German Technical Cooperation (GTZ) and expert advice from the Basel Institute on Governance in Switzerland. UNDP also supported the process with financial and technical resources.

Adapted from GTZ Fact Sheet: Compliance and Gap Analysis Bangladesh

11. In many countries other types of assessments are commonly being undertaken,² often involving research organisations, civil society organisations, and donors. Where undertaken in a co-ordinated manner, this work is helpful, particularly in improving understanding of underlying drivers of corruption. Such assessments cannot, however, substitute for an UNCAC-based review. The latter is the best means of helping a country to analyse what it needs to do to combat corruption. As such, there is a need for donors, in countries which have ratified UNCAC, to use the UNCAC framework to a greater degree in analysis, dialogue with government and programming.

***Core Conclusion:** The UNCAC framework is the core means of framing country level dialogue, implementation and monitoring of anti-corruption work. As they are developed the UNCAC-based assessment tools should be further mainstreamed, bringing together preventive and enforcement dimensions around common standards.*

IV. Definition and Dialogue on national AC policies and programmes

12. Chapter II of UNCAC provides standards on preventive anti-corruption policies and practices, including the establishment of effective anti-corruption policies, and associated anti-corruption bodies. The form and content of such policies, programmes and practices varies from country to country, and some countries may choose to focus on broader governance reforms, for example supporting oversight institutions. Policies and programmes need to reflect Chapter III of UNCAC which provides standards on criminalisation and law enforcement and Chapter IV which governs international cooperation in the enforcement of the UNCAC.

13. These country policies and programmes then need to be underpinned by realistic implementation plans which define tasks, timetables and agencies responsible for delivery. These should consider levels of implementation capacity and where skills and knowledge gaps exist. In many lower capacity countries a gradual and sequenced approach to change will be appropriate.

14. A range of forms of TA might be provided to support these reform processes, and moving from identification of legislative, institutional and capacity gaps to TA provision requires dialogue between government and donors. The precise form of such dialogue mechanisms will again vary from country to country. Where structures for aid related policy dialogue between government and external partners exist, it is important that the anti-corruption dialogue is integrated into this broader aid relationship. Such dialogue could also base itself more on findings of the Self Assessment Checklist. To date these have been considered at a global level through UNODC synthesis reports, such as that being presented at the Vienna meeting. They have not yet been used in country level dialogue.

² For example UNDP has developed a set of governance and anti-corruption indicators.

Government – Development Partner Co-ordination in Uganda

In Uganda anti-corruption co-ordination and dialogue is addressed within the broader architecture for policy dialogue which is focused on the implementation of Uganda's Poverty Eradication Action Plan.

Cross governmental co-ordination is promoted through Inter Agency Forum at which the major institutions of government are represented. The Forum is brought together by the Directorate of Ethics and Integrity. Information on the various donor-supported anti-corruption initiatives is shared between donors at the Anti-Corruption Working Group. The Chair of this group has regular dialogue on behalf of the donors with GOU counterparts about anti-corruption progress.

The Anti-Corruption Group forms part of a larger Partners for Democracy and Governance (PDG) group. The PDG is comprised of Heads of Mission (Ambassador level). This is an appropriate level for dialogue of a more political nature.

This dialogue through PDG structures is complemented by building anti-corruption progress into joint budget support frameworks. The Government undertakes specific commitments to fighting corruption, including time-bound anti-corruption improvements. These improvements are agreed between development partners and the government of Uganda and are reviewed annually.

Source: drawn from Kamugasha 2007 & verbal communication from DFID Uganda country office

15. Both donors and partner governments need to work to strengthen the basis of dialogue around action against corruption, recognising that this is critically important to taking forward an anti-corruption agenda.

Core Conclusion: *The identification of capacity gaps (which might be addressed through external TA) should emerge from a country led dialogue and process of developing anti-corruption policies and programmes. Sound country level government – development partner dialogue mechanisms are required to ensure that TA provision is appropriate and demand led. Where broader aid dialogue structures exist, UNCAC implementation assistance elements should be integrated into these processes.*

V. The nature and scale of external support

16. There are a number of ways in which support can be provided: whether through stand alone targeted projects, or as a part of a programme of sector support working through government systems. This will depend upon the given context and the wishes of the partner country itself. It is however important that support adheres to the principles of the Paris Declaration on Aid Effectiveness. This will help to maximise positive development impacts. There is an extensive literature setting out good practice and experience in the provision of technical assistance. There is still much to be done to implement this aid effectiveness agenda, and to improve practices “in the field.” Both partner governments and donors have an obligation to consider how support is being provided and how this might be improved.

17. It should be stressed that there are a number of innovative donor programmes operating at a country level. For example, the Dutch, Norwegians and UK have

recently finalised support to a new World Bank Governance Partnership Facility which will ramp up Bank engagement with governance and anti-corruption. These programmes support countries in taking forward stronger governance and anti-corruption programmes, backed by additional analytical and advisory support.

The Paris Declaration on Aid Effectiveness

This Declaration, agreed in March 2005 sets out 5 principles for effective aid:

- **Ownership** Partner countries commit to lead their development policies & strategies and co-ordinate development assistance
- **Alignment** Donors must base their support on partner countries national development strategies, institutions and procedures
- **Harmonization** Donors harmonize their actions and adopt simple & transparent common procedures
- **Results** Donors & partner countries commit to focus on development results
- **Mutual accountability** Donors and partner countries commit to hold mutual assessments of progress

In concrete terms it aims to ensure that

- Aid is allocated efficiently and effectively
- Aid is spent on the sectors and interventions that will have the greatest impact on poverty.
- Results are monitored and both partners and donors are held accountable for using resources effectively.
- Aid helps build up effective and accountable states that can lead their own development

Progress on Paris has been assessed at the Accra High Level Forum in September 2008. This adopted the *Accra Agenda for Action*, in which governments made specific commitments to strengthen country ownership of development, a greater emphasis on delivering and accounting for development results, including greater transparency and accountability about development partner commitments. Para 24 makes specific reference to UNCAC, stating:

“Donors and developing countries will respect the principles to which they have agreed, including those under the UN Convention against Corruption. Developing countries will address corruption by improving systems of investigation, legal redress, accountability and transparency in the use of public funds. Donors will take steps in their own countries to combat corruption by individuals or corporations and to track, freeze, and recover illegally acquired assets.”

18. While TA provision needs to be co-ordinated at a country level, activity and dialogue will also be needed at regional and international levels given the transnational nature of corruption. Regionally, peer to peer learning allows an exchange of experience between practitioners facing similar issues within similar institutional constraints.

Supporting Regional co-operation against Corruption in Asia and the Pacific: The ADB/OECD Anti-Corruption Initiative

The Anti-Corruption Initiative for Asia-Pacific was launched in 1999 by member countries under the joint leadership of the Asian Development Bank (ADB) and the OECD. Today, 28 countries have committed to action and have jointly developed the Anti-Corruption Action Plan for Asia and the Pacific. This sets out the goals and standards for establishing sustainable safeguards against corruption in economic, political and social spheres. The Initiative supports the member governments' efforts through fostering policy dialogue, providing policy analysis, and capacity building.

The initiative's member countries lay down the priorities for their joint work in the Strategy and Work Program. A number of partners - regional and international organizations, as well as donors – then support the efforts of the member countries.

Since the Action Plan's adoption 7 years ago, the initiative's members have made significant progress in developing safeguards against corruption; much of this progress is facilitated through the Initiative, especially through the development of specific reform programs by its member countries.

The cooperation and exchange of experience has also resulted in a significant body of analytical reports and proceedings. An online database provides information on the fight against corruption in each of the Initiative's member jurisdictions. The initiative is jointly managed by the Secretariat of OECD and ADB staff.

Adapted from the ADB/OECD Anti-corruption Initiative website

19. Internationally OECD/DAC has a vital role in promoting experience sharing between countries and regions and the adoption of best practice. There is also space for “specialist” initiatives which can provide expertise not commonly available at a country level.

Core Conclusion: *The nature and scale of external support will vary according to the country context, but should respect the Paris Principles of Aid Effectiveness. Regional and international actors have a role in improving access to international experience or specialised skills.*

VI. Monitoring progress and revising approaches

20. Effective monitoring and evaluation of TA provision will allow learning and the adoption of improved approaches. Donors should ensure that they are supporting and strengthening government monitoring systems and not setting up their own parallel systems. At the same time the Paris Principle of mutual accountability is important. Donors need to be transparent about the support they are providing and should allow assessment of the impact of this support.

21. The UNCAC Review Mechanism will potentially be helpful, in providing insights into the nature and form of technical assistance that is required. The scope and operation of the Review Mechanism is still under development, but in the longer term reviews could help inform and improve TA provision.

22. There is also a need internationally, preferably within the process of the Conference of States Parties to ensure systematic lesson learning about the

experience of different countries. This would conform with the third OECD/DAC Anti-corruption principle: “Marshal knowledge and lessons systematically and measure progress.” UNODC is particularly well placed to play this role and to share good practice internationally. UNODC’s documentation of lesson learning from the self assessment processes is an encouraging example. The experience of the U4 anti-corruption resource centre, as shown in the box below, also represents a form of initiative that could be further developed.

Experience sharing and lesson learning – the U4 Anti Corruption Resource Centre

The U4 Anti-Corruption Resource Centre assists donor practitioners to address corruption challenges using their development support. U4 serves (and is funded by) seven development agencies and is operated by the Chr. Michelsen Institute (CMI).

The service consists of an extensive online resource centre, through which users are guided to relevant anti-corruption information, including applied research, policy briefs summarising recent policy thinking, and a searchable database of projects and initiatives. Training on anti-corruption measures and strategies is available both online and in country for partner agencies and their counterparts. Finally a Help Desk service can provide answers to technical queries through conducting literature searches. U4 has undertaken work on UNCAC related issues.

***Core Conclusion:** Monitoring of TA provision will improve future practice. The Review Mechanism will also provide insights into future TA needs. Marshalling knowledge and lessons from experience is important. A range of international organisations, such as UNODC, UNDP and the OECD Working Group on Bribery, have important roles to play in this regard.*

VII. Overall Conclusions

23. Work to date on UNCAC and TA has resulted in agreement of key principles. Going forward the challenge is to change practice on the ground. This paper has suggested that the most important means of improving TA is to strengthen national policy processes, and to improve the relationship and dialogue between governments and external partners. In this respect TA provision fits with the DAC anti-corruption principle “Collectively foster, follow and fit with the local vision”.

24. This paper has further suggested that:

- The UNCAC framework should play a central role in framing country level dialogue, implementation and monitoring of anti-corruption work. As they are developed, the UNCAC-based assessment tools should be further mainstreamed, bringing together preventive and enforcement dimensions around common standards.
- The identification of capacity gaps (which might be addressed through external TA) should emerge from a country led process of developing anti-corruption policies and programmes. Sound country level government – donor dialogue mechanisms are required to ensure that TA provision is appropriate and demand led. Where broader aid dialogue structures exist, UNCAC implementation assistance elements should be integrated into these processes.

- The nature and scale of external support will vary according to the country context, but should respect the Paris Principles of Aid Effectiveness. Regional and international actors have a role in improving access to international experience or specialised skills.
- Monitoring of TA provision will improve future practice. The Review Mechanism will also provide insights into future TA needs. Marshalling knowledge and lessons from experience is important. A range of international organisations, such as UNODC, UNDP and the OECD Working Group on Bribery, have important roles to play in this regard.

VIII. Next Steps

25. These conclusions in turn suggest a number of strands of future work:

1. *Promoting awareness of UNCAC and its implementation*

26. There is a need to raise awareness of the relevance and potential application of UNCAC and its assessment tools, encouraging both partner governments and donors to incorporate UNCAC into their thinking, dialogue and programming. This will help to both promote stronger country leadership. Dimensions include:

- Raising awareness across key stakeholders about UNCAC, its relevance and its potential applications.
- Promoting, documenting and disseminating practical experience of countries using UNCAC to guide their anti-corruption work. The ongoing work of UNODC and GTZ work on this represents a good foundation.
- Continuing work to draw lessons from the results of the Review Mechanism that can support countries to implement UNCAC.

2. *Improving donor practices*

27. Donor practices “on the ground” can be improved. Donors could be encouraged to commit to the following:

- Using UNCAC to a greater degree in analysis, dialogue with government and programming.
- Improving country level donor–government dialogue and co-ordination platforms with greater emphasis being placed on using UNCAC. This could include using the Self Assessment reports in country level discussions with partners about their TA needs.
- Improving the skills and expertise of donor agency staff – including through providing training on UNCAC and its application.
- Improving the knowledge management so that good experience is disseminated.
- Ensuring that Paris Principles of Aid Effectiveness are being applied to anti-corruption interventions. A key objective in this regard should be strengthening transparency of information about donor anti-corruption

support, through better integration of anti-corruption assistance in mutual accountability mechanisms that are being developed as a part of the Paris Declaration consultations and the Accra Agenda for Action.

3. *Monitoring progress and sharing good practice*

28. Key steps in this areas include:

- Encouraging more partner countries to complete the Self Assessment Checklist and then using this in discussions with donors about external support.
- Developing and implementing a Review Mechanism that can help countries to take forward their anti-corruption agenda.
- Strengthening experience sharing and cross learning between partner countries.
- Strengthening knowledge and understanding about how to deliver progress on corruption.

29. There is a need to translate these proposals into practical TA related activity “on the ground”. State Parties need to undertake relevant country level activities which will build experience and understanding and thereby improve practices.