
**Conference of the States Parties to the United Nations
Convention against Corruption
Open-ended Intergovernmental Working
Group on Technical Assistance
Vienna, 1 and 2 October 2007**

**International Cooperation Workshop on Technical
Assistance for the Implementation of the United Nations
Convention against Corruption**

**28 May to 1 June 2007
Montevideo, Uruguay**

Background Documentation

The Conference of the States Parties to the United Nations Convention against Corruption at its first session recommended in its resolution 1/6 to organize a workshop with development and law enforcement experts to discuss good practices and potential avenues of coordination. The workshop was held in Montevideo, Uruguay, from 28 May to 1 June 2007. Participants at the Workshop decided to submit the report of the Workshop to the Intergovernmental Working Group on technical assistance (see CAC/COSP/WG.3/2007/CRP.1) together with one document comprising the salient parts of two background papers submitted to the Workshop, in order to provide inputs for discussion at the working group.

The present document presents a summary of the two background papers commissioned by the Government of Norway, through the U4 Anti-Corruption Resource Centre, and the Government of Finland as their contributions to the International Cooperation Workshop.

I. Introduction

1. The Conference of the States Parties at its first session adopted resolution 1/6, in which it acknowledged that the implementation of the United Nations Convention against Corruption and the fight against corruption are among the essential elements of sustainable development. The Conference reminded all parties involved in technical assistance of the need to coordinate efforts and align them with the needs and priorities of requesting States and thought one way of advancing this issue was to authorize the organization of a workshop to bring together development and legal expertise related to anti-corruption policies, with the main purpose to contribute to mutual understanding among experts, discussing issues related to best practices and coordination.
2. The Conference also adopted resolution 1/4, by which it established an open-ended intergovernmental group of experts on technical assistance. The group's mandate is to review the needs for technical assistance that developing countries and countries with economies in transition will express in the context of providing to the Conference information on their efforts to implement specific provisions of the Convention. Following this review, the group is expected to determine priorities for technical assistance and discuss ways and means of ensuring the availability of such technical assistance to countries that request it. Its recommendations should enable the Conference to make informed decisions about ways and means of ensuring that the technical assistance required by developing countries and countries with economies in transition is made available and contributes to the full implementation of the Convention.
3. The two resolutions offer considerable opportunities for a thorough examination of the central issue of technical assistance from different perspectives, in line with the approach that the Convention itself took by devoting several articles to this matter.
4. Against this background, it would be highly desirable to assure the continued presence and involvement in the Conference of the States Parties and the working group on technical assistance of both development experts and those charged with the implementation of the Convention. It would also be extremely important that a solid basis for dialogue and mutual understanding between those two sets of experts is established and maintained.

II. Background

5. The successful conclusion of the negotiation of the United Nations Convention against Corruption in 2003 was heralded as perhaps the most significant achievement of the international community in action against corruption in recent years. Not only would the international community be equipped with a truly global, comprehensive, far-reaching and ground-breaking instrument of international law, but the new Convention was the product of a broad, inclusive and transparent process culminating to a well-grounded, thoughtful and deliberate consensus. The success of the negotiation process was the product of an arduous and sometimes very complex exercise of analyzing issues and concepts thoroughly, reaching mutual understanding, and overcoming or allaying entrenched ideas or fears. This exercise became more complicated, but also considerably richer, by the involvement of development practitioners in the negotiating teams who progressively developed an interest in the new endeavor. The negotiations came at a time when development assistance practitioners were in the course of a re-appraisal of approaches and concepts that had gained prominence and acquired special importance in their work. Terms such as capacity, good governance and aid effectiveness were rising in importance and commanding attention leading to a rich debate in various circles, often outside the traditional development assistance community. The interaction with the other experts of the negotiating team led to a fresh look at the importance and potential of certain key provisions of the Convention. The negotiators decided to include specific provisions in the Convention that were designed to bridge the need to fight

corruption as a scourge with equally important domestic and transnational dimensions, and respond to the need to combat it as an indisputable impediment to development.

6. In its preamble, the Convention recognizes unequivocally that corruption jeopardizes sustainable development and the rule of law. Also in its preamble, the Convention highlights the principles of proper management of public affairs and public property, fairness, responsibility and equality before the law and the need to safeguard integrity and foster a culture of rejection of corrupt practices. These preambular pronouncements, which embody and project the basic tenets of democracy and good governance, permeate and support the entire structure of the Convention.

7. One of the three purposes of the Convention, as stated in article 1, is to “promote integrity, accountability and proper management of public affairs and public property.” To underpin the pursuit of these objectives and promote their key role, the Convention includes a comprehensive chapter on prevention, which contains what has been recognized as a broad range of state-of-the-art measures and which has been elevated as one of its fundamental principles. The Convention contains elaborate provisions on technical assistance and the importance of technical assistance for effective and full implementation, thus the Convention emphasizes the central role of technical assistance to developing countries and countries with economies in transition to support their efforts to implement the Convention.

8. The three articles in the chapter on technical assistance and exchange of information (articles 60-62) are designed to cover each of the three key components of partnership between developed and developing countries that one finds in the ongoing debate on development assistance: capacity-building, with special emphasis on skills development; information as the underpinning of situational analysis, policy development and assessment of progress; and the sharing and transfer of knowledge and material assistance to help the achievement of the aims of the Convention.

9. Article 62 is of special importance in that regard as it affirms the importance for sustainable development of preventing and controlling corruption and of implementing the Convention. The article calls for broad partnerships between developed countries, as well as international and regional organizations with developing countries. It also underscores the importance of effective coordination of such efforts. As it stresses the need to focus on building capacity for the implementation of the Convention, it also accentuates the need for this effort to be joined by financial institutions. Finally, it emphasizes that measures to help with the implementation of the Convention shall be without prejudice to existing foreign assistance commitments or to other financial cooperation arrangements at the bilateral, regional or international level.

10. The latter component of the article brings to the fore the need for dedicated technical assistance to support the anti-corruption agenda, which is now without a doubt shared by all countries, developing and developed alike¹. At the same time, it raises the issue of the relationship between the implementation of the Convention and the related efforts to prevent, detect and control corruption with development efforts. Indeed, the implementation of the Convention becomes thus a key component of development assistance.

11. The unprecedented speed of the entry into force of the Convention accentuated its success, raised awareness of its innovative features and brought to stark relief its role as the principal instrument in the field. This in turn reinforced the momentum to rally behind this new instrument and to look seriously into how it can be implemented in the most effective and efficient way. The strong support that developing countries gave to the Convention - by expeditiously ratifying or acceding to it - led to a strong call to pay special attention to technical assistance requirements for implementation. By the same token, a sense of urgency

¹ It is important to note that ratification by many developing countries contributed significantly to the speedy entry into force of the UNCAC, which illustrates how the Convention which serves as a bridge connecting desires and goals of donors and partners.

set in, especially for developed countries that had to expedite their generally elaborate ratification processes, in order to become States Parties.

12. These factors played an important role in shaping the dialogue at the Conference of the States Parties. Predictably, technical assistance rose to the top of the agenda of the Conference of the States Parties and became one of the three priority areas where the Conference decided to establish working groups - the other two priorities being asset recovery and review of implementation. It was perhaps not coincidental that the three subjects share common features and emerge clearly as the areas where action needs to be carefully coordinated and calibrated to achieve concurrent and tangible results.

III. The Relevance of Anti-Corruption Initiatives to Development Efforts

13. No country, regardless of its state of development, has a monopoly on corruption either on the supply or the demand side. Nonetheless, the effects of corruption are more devastating in fragile and developing countries, as the proportionate damage and costs are often much higher there. Corruption has gradually come to be regarded as one of the most important factors underlying poverty and the lack of development. Multilateral institutions and donors have moved toward a consensus that corruption is one of the most important obstacles to growth and development. In fact, many donors' anti-poverty strategies contain anti-corruption projects. Research by the World Bank suggesting that when countries improve controls on corruption and the rule of law, they can expect in the long run a four-fold increase in income per capita² is often cited in support of such strategies.

14. A common language has been evolving in recent years through a series of major conferences, declarations, as well as experiences, linking the issues of corruption, good governance and development.

15. The United Nations Development Programme (UNDP), for example, produced a corporate policy paper with the title "Fighting Corruption to Improve Governance" in 1998, which noted the importance of dealing with corruption as a development issue. UNDP's accountability, transparency and integrity (ATI) programs intended to strengthen democratic governance date back to 1997³. The link between governance and anti-corruption featured in the "cancer of corruption" speech given by then President of the World Bank James Wolfensohn at the 1996 World Bank-IMF Annual Meetings and the 1997 publication of *Helping Countries Combat Corruption: The Role of the World Bank*. The WB publication "Assessing Aid" in 1998 also noted how poverty can hardly be addressed effectively unless governments commit to act against corruption and weak governance⁴.

16. A most significant milestone, however, was the Millennium Declaration, the United Nations General Assembly resolution 55/2 of 8 September 2000. Even though neither the Declaration nor the Millennium Development Goals (MDGs) refer specifically to the problem of corruption, the MDGs formed the basis for many anti-corruption programs. The Millennium Declaration notes the central challenge to ensure that globalization becomes a positive force for all people, with benefits and costs more evenly distributed. It recognizes the special difficulties faced by developing countries and countries with economies in transition in dealing with this challenge. It calls for a global and consensual approach: policies and measures reflective of and responsive to the needs of developing countries that are to be formulated and implemented with their effective participation. The fundamental values underpinning this global effort are freedom, equality, solidarity, tolerance, respect for

² See statement at <http://www.un.org/webcast/merida/statements/world031209en.htm>

³ See UNDP Anti-Corruption Practice Note Feb. 2004

⁴ Available at <http://www.worldbank.org/research/aid/aidtoc.htm>

nature, and shared responsibility for managing worldwide economic and social development, as well as threats to international peace and security.

17. In response to many developing countries' call for changes in international financial relations, a United Nations-sponsored Conference on Financing for Development held in Monterrey, Mexico, in 2002, concluded that greater cooperation between public and private actors was necessary in order to overcome shortfalls of development finance and to achieve the MDGs. The Monterrey Consensus represents a valuable framework for thinking about how the international community could mobilize the necessary resources for that purpose. It contains principles, guidelines, policies and actions in six general areas: mobilization of domestic resources, mobilization of international private resources for development, international trade, international financial and technical cooperation for development, external debt and systemic issues. It also sets out a process for progress review and assessment. The Monterrey Consensus stresses the need for a holistic approach, good governance, coordination and consistency in trade and finance at both global and domestic levels. It states how essential the effective and equitable participation of developing countries is; country ownership of ODA is emphasized. Another theme in the Monterrey Consensus was the need for capacity building, but there were also explicit references to corruption and the (forthcoming at the time of its adoption) Convention: "Fighting corruption at all levels is a priority. Corruption is a serious barrier to effective resource mobilization and allocation, and diverts resources away from activities that are vital for poverty eradication and economic and sustainable development". And further, "We commit ourselves to negotiating and finalizing as soon as possible a United Nations convention against corruption in all its aspects, including the question of repatriation of funds illicitly acquired to countries of origin, and also to promoting stronger cooperation to eliminate money laundering."

18. On 4 September 2002, the Johannesburg Declaration on Sustainable Development underscored collective responsibility to advance economic development, social development and environmental protection, and the need to produce a practical plan on poverty eradication and human development. Recognizing the interconnections between development and criminal justice issues, it noted the challenge of a "deep fault line that divides human society between the rich and the poor and the ever-increasing gap between the developed and developing worlds pose a major threat to global prosperity, security and stability". It went on to list concrete scourges, including corruption: "We reaffirm our pledge to place particular focus on, and give priority attention to, the fight against the worldwide conditions that pose severe threats to the sustainable development of our people." The Declaration recognizes corruption as one of these conditions. It called on the private sector to make a contribution in the effort and enforce corporate responsibility "within a transparent and stable regulatory environment". Representatives undertook to "strengthen and improve governance at all levels, for the effective implementation of Agenda 21, the Millennium Development Goals and the Johannesburg Plan of Implementation".

19. On 2 March 2005, through the Paris Declaration on Aid Effectiveness, Ministers from developed and developing countries built on the Monterrey Consensus and re-affirmed the commitment of donors and partners to increased and more effective aid to support partner country efforts to strengthen governance and improve development performance. The Paris Declaration outlines five primary commitments (ownership, alignment, harmonization, management for results and mutual accountability) and describes progress indicators, time targets and monitoring provisions⁵. In particular the Ministers committed themselves to

⁵ The significance of this and later statements on aid effectiveness is illustrated by the findings of an Action Aid study: "Failure to target aid at the poorest countries, runaway spending on overpriced technical assistance from international consultants, tying aid to purchases from donor country's own firms, cumbersome and ill-coordinated planning, implementation, monitoring and reporting requirements, excessive administrative costs, late and partial disbursements, double counting of debt relief, and aid spending on immigration services all deflate the value of aid" (Action Aid International, 2005. *Real Aid: An Agenda for Making Aid Work*. Available

“taking concrete and effective action to address the remaining challenges, including: ...Corruption and lack of transparency, which erode public support, impede effective resource mobilization and allocation and divert resources away from activities that are vital for poverty reduction and sustainable economic development. Where corruption exists, it inhibits donors from relying on partner country systems”⁶.

20. Also in 2005, a Joint Statement by the Council and the Representatives of the Governments of the Member States Meeting within the Council, the European Parliament and the Commission was issued, known as the “European Consensus on Development”, which provides a vision to guide the development cooperation at the level of the European Union and its Member States. Consistently with the Millennium Declaration, this document sets out objectives and principles for development cooperation, while re-affirming the EU commitment to poverty eradication, ownership, partnership, delivery of increased and better aid, and promoting policy coherence for development. It offers concrete ways by which the objectives will be operationalized and prioritized, while underscoring the need for implementation monitoring and measurement. It stresses the importance of consensus through dialogue between EU and other countries. Corruption and other criminal justice issues are mentioned explicitly: “Political dialogue is an important way in which to further development objectives. ... This dialogue ... will also address the fight against corruption, the fight against illegal migration and the trafficking of human beings”. The document commits the EU to “promote democracy, human rights, good governance and respect for international law, with special attention given to transparency and anti-corruption.”

21. Following up on this document, through the Petersburg Communiqué of 2007, the EU re-affirmed that development is a goal in itself and that sustainable development includes good governance, human rights and political, economic, social and environmental aspects. It confirmed the EU’s commitment to the implementation of the Monterrey Consensus and the Paris Declaration on increased and more effective aid. It echoed previous statements on partner country initiatives, needs and ownership, emphasizing once more the importance of the participation of civil society and respect for the role of the parliament.

22. A subsequent report from the European Parliament⁷ added the need to focus more specifically on transparency and accountability in development programs. Reflecting many of the Convention’s provisions, it also stressed the role of inter alia civil society, free media, strong legal systems, and independent watchdogs. A more recent report again from the European Parliament⁸ added calls to the private sector for the adoption of corporate codes of conduct and monitoring of “the effectiveness of the Code of Conduct for European Enterprises operating in developing countries, particularly with regard to the implementation of Sustainable Development requirements”. It also called for the analysis of corruption in fiduciary risk assessments in relation to aid provided directly to national budgets. Finally, it urges countries where corruption-related assets can be found to take the necessary measures for asset recovery.

23. A 2004 UNDP “Anti-Corruption Practice Note” pointed out that “The negative impact of corruption on development is no longer questioned. Evidence from across the globe confirms that corruption impacts the poor disproportionately. Corruption hinders economic development, reduces social services, and diverts investments in infrastructure, institutions and social services. ... Moreover, it undermines efforts to achieve the MDGs. Corruption therefore reflects a democracy, human rights and governance deficit that negatively impacts poverty and human security”.

at: www.actionaid.org/assets/pdf%5Creal_aid_192005_153541.pdf)

⁶ See also how partners commit to “Make progress towards building institutions and establishing governance structures that deliver effective governance, public safety, security, and equitable access to basic social services for their citizens”.

⁷ See document A6-0048 2006.

⁸ See document A6-0474 2006.

24. In 2003, the OECD's Development Assistance Committee (DAC) started a process of developing guidelines for ways in which member states could prevent corruption in the framework of their development cooperation. It had been promoting donor coordination and aid effectiveness since at least the early 1990s through its Principles for Effective Aid (1992). Linked to DAC is the network for governance (GOVNET), a forum where practitioners in bilateral and multilateral organizations can exchange perspectives, experiences and views towards the improvement of development cooperation. DAC has been very active in anti-corruption activities and published a series of relevant and detailed documents. The most recent one, a "Policy Paper on Anti-Corruption: Setting an Agenda for Collective Action"⁹ argues that in the changing context in which anti-corruption efforts are placed, risks associated with piecemeal and uncoordinated approaches are expected to rise. The paper seeks to rely on new opportunities for collective action to draw donor anti-corruption strategies together into a coherent agenda, which would complement the anti-corruption strategy developed by the World Bank. (The World Bank which has been linking its anti-poverty mission with governance and anti-corruption (GAC) for a long time, recently developed an anti-corruption strategy and set of principles.¹⁰)

25. The paper notes that "To be consistent with the spirit of the Paris Declaration and the GOVNET Draft Principles for Donor Action in Anti-Corruption, action on corruption needs to be centred on more comprehensive initiatives at the country level. This, however, calls for an approach that views corruption in the context of the wider political economy of public-sector governance in each country". It argues for the fast-tracking of joint corruption assessments, beginning with pilot exercises in selected countries, supports anti-corruption benchmarks and targets, as well as an agreed division of labor among donors to maximize synergies and efficiency. It also goes beyond coordination and progress assessments to suggest a plan for instances where adjustments and change of course are necessary as some efforts do not succeed in meeting targets and objectives. The DAC paper recognizes the need for anti-corruption action and compliance with the Convention in developed countries as well and advocates for synergies between global and country-level initiatives¹¹.

26. It was concerns similar to those that led to the creation of the International Group for Anti-Corruption Coordination (IGAC)¹², which is devoted to the improvement of cooperation and coordination of anti-corruption efforts at the national and international levels. IGAC is composed of a variety of organizations, including NGOs, seeks active interactions with other anti-corruption coordination bodies and furnishes a platform for the exchange of views, experiences and best practices.

27. Former United Nations Secretary General Kofi Annan summarized well many of the above points by stating: "Corruption is an insidious plague that has a wide range of corrosive effects on societies. It undermines democracy and the rule of law, leads to violations of human rights, distorts markets, erodes the quality of life, and allows organized crime, terrorism and other threats to human security to flourish. This evil phenomenon is found in all countries – big and small, rich and poor – but it is in the developing world that its effects are most destructive. Corruption hurts the poor disproportionately – by diverting funds intended for development, undermining a government's ability to provide basic services, feeding inequality and injustice, and discouraging foreign aid and investment. Corruption is a key element in economic under-performance, and a major obstacle to poverty alleviation and development"¹³.

⁹ DCD/DAC/GOVNET(2006)3/REV2

¹⁰ Strengthening World Bank Group Engagement on Governance and Anticorruption;
<http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTGOVANTICORR>

¹¹ For a summary of proposed actions by the DAC see DCD/DAC/GOVNET(2006)3/REV2: 5.

¹² See in particular reports of the 2nd and 3rd meeting of IGAC available at www.igac.net

¹³ New York, 31 October 2003 - Secretary-General's statement on the adoption by the General Assembly of the United Nations Convention against Corruption; available at <http://www.un.org/apps/sg/sgstats.asp?nid=602>.

IV. Challenges for technical assistance¹⁴

A. Interdependence between cooperation for prevention and law enforcement

28. One of the biggest challenges to a coherent approach to technical assistance is the fact that traditionally, development and law enforcement actors have addressed the problem from two different perspectives. Technical assistance for the prevention of corruption focuses mainly on technical and financial support for the design and implementation of anti-corruption policies, institutional strengthening and capacity development, including that of anti-corruption bodies, the design and implementation of anti-corruption mechanisms (such as declarations of assets, codes of conduct, complaint mechanisms, and procurement), as well as the strengthening of civil society, media and the private sector. These measures are closely linked into broader governance reform, the modernization of the public administration and democratic consolidation. The success of these anti-corruption measures depends on (i) the extent to which they are linked with the above-mentioned broader reforms, (ii) clearly established authority and accountability lines assigned to adequately equipped public agencies with the capacity for implementation; and (iii) the political will and resources to follow through. Cooperation for the prevention of corruption tends to be developed from a governance and institution building perspective. And this vision is usually deeply rooted in the specialized approaches pursued by professionals and experts working in this area.

29. On the other hand, technical assistance for combating corruption mainly refers to the criminalization of corrupt practices and law enforcement, both at the domestic level, and issues such as mutual legal assistance, extradition and asset recovery at the international level. Cooperation in this field is less about the design and implementation of policies or mechanisms. It is rather about capacity development of the national justice system, including the prosecution authorities, investigative police, and the judiciary, as well as about the networks, capacities and compatibility of the legal frameworks that are needed if public agencies from different countries are to cooperate successfully with each other. Hence, cooperation in combating corrupt activities tends to be viewed from a law enforcement perspective where the focus lies on criminal aspects and the search for solutions concentrates on sanctions and repression. This vision tends to be also deeply rooted in the specific approaches of professionals and experts working in this area.

30. It is therefore hardly surprising to find on the ground of recipient countries important disconnections and, sometimes even, deep rifts between those who advocate mainly a preventive anti-corruption approach and those who believe that combating corruption needs to be privileged.¹⁵ The Convention provides an internationally agreed framework which balances preventive and punitive measures and creates an opportunity to bring cooperation and technical assistance approaches on these two fronts closer together. These different fields for anti-corruption technical assistance are intimately linked, reinforce each other and need to be understood as part and parcel of a systemic approach to address the multi-faceted and multi-layered problem of corruption. It is therefore useful briefly to illustrate their systemic interdependence.

¹⁴For the purpose of this paper technical assistance will be used broadly to refer to the provision of technical, material, financial and political support from donor countries to developing countries to help the latter prevent and prosecute corruption, as required by UNCAC implementation

¹⁵In this context the often advocated approach of “frying big fish”, based on R. Klitgaard’s early and pioneering anti-corruption work, has caught a lot of attention and found followers around the world. Whether or not such an approach is feasible in countries with weak institutions and endemic levels of corruption has been questioned and unambiguous answers have not emerged as yet

31. As indicated above the spirit of the Convention is not to prevent and combat corruption as an end in itself but “to promote integrity, accountability and proper management of public affairs and public property” as key ingredients for good governance which in turn is a crucial precondition for sustainable development¹⁶ .

32. The interdependence between corruption prevention and the use of criminal law and sanctions against corrupt practices cannot be overemphasized. On the one hand, effective preventive measures require not only their formal existence, incentive systems, accountability, leadership, transparency and deep behavioral change, but also the necessary “sticks” for those who violate the rules and harm the public good. On the other hand, an effective criminal justice system depends to a large extent on a well-functioning state administration in order to gain access to evidence, information, data and assets related to the cases under investigation. As a general rule of thumb it should be noted that the cost of repression is high and for it to be effective it should be applied to the most severe violations of the rules in a society. Penal law is a last resort and it should not be the first or the only one. Thus one of the main challenges for effective Convention implementation will consist in building bridges between technical assistance for corruption prevention with technical assistance for the combating of corruption.

B. The complex web of donor country agendas

33. Over the past ten years a certain international consensus has emerged among donor organizations about key issues to be addressed in the fight against corruption. But at the same time the different bi- and multilateral donor organizations have their own institutional mandates and objectives, which are determined by their home countries or management boards in line with national political interests, their respective visions about priorities in an interdependent world order, a concern for the good use of national taxpayers’ money as well as varying approaches on how best to achieve development in poor countries.¹⁷

34. Therefore, there are at times important differences between donor organizations regarding the motivations, focus, final goals and practical modalities of their anti-corruption cooperation (Hamm & Ludermann, 2006). Some donor organizations, for example, focus their anti-corruption cooperation on issues related to the fight against other forms of international crime that are considered a threat to national and international security. Others put great emphasis on national ownership of country-level anti-corruption policies. Some, in particular the larger donor organizations, try to exert strong political pressure on reform-resistant governments and may complement this with attractive financial incentives, while others privilege to hold dialogues with governments or support local actors to exert pressure on the ground (Anger, 2004; Hamm & Ludermann, 2006).

35. The attacks of 11 September 2001 in the USA have seemingly given a strong impetus to international cooperation, in particular in the areas of money laundering, freezing of assets and other forms of international crime as important means to combat corruption. However, caution is in order to avoid the risk that international anti-corruption initiatives inadvertently focus primarily on support to the above-mentioned issues at the expense of broader reforms of governance systems, national institution building to prevent corruption, and building strong integrity systems and transparency in recipient countries (ICPC, 2006). As illustrated

¹⁶ The United Nations Millennium Declaration of 2000 states as one of its primary objectives to “create an environment - at the national and global levels alike - which is conducive to development and to the elimination of poverty” and further says that “success in meeting these objectives depends on good governance within each country ... and at the international level ...”. General Assembly resolution 55/2 of 8 September 2000, paragraphs 12 and 13 in particular.

¹⁷ As the SIDA report on Anti-Corruption Strategies in Development Cooperation (2004) summarizes concisely: “Donor organizations are partly political organizations with the assignment of implementing their nation’s political agenda, partly supervisory agencies with the assignment of ensuring the tax-payers’ funds are administered well, and partly knowledge organizations with the assignment of transferring know-how to recipient countries and acquiring know-how from recipient countries”.

above, prosecutorial and investigative approaches will be more successful if pursued in the context of a well-functioning state.

36. Harmonization and alignment efforts for international cooperation as applied in the framework of the OECD draft DAC principles on anti-corruption cooperation are important initiatives to promote dialogue on the different interests and objectives and to find common ground. The challenges do not lie so much in having to deal with a variety of different approaches but rather in recognizing them, making them explicit and strengthening transparency and coordination mechanisms in order to make best use of each donor organization's interests and capacities.

C. Implementation realities

37. The implementation of the Convention at the domestic level will undoubtedly require a variety of different national actors, each of which may potentially be recipients of international cooperation and technical assistance. For example, to enable a criminal prosecution, a chain of administrative and criminal procedures needs to be carried out satisfactorily by a variety of public agencies. Hence, anti-corruption efforts focused on increasing the capacity of the attorney general's office would have limited chances of success if the other institutions involved, such as internal and external control organs, the police and the courts, were not strengthened, too.

38. First and foremost, targets of technical assistance include the different state agents (executive, judiciary and parliament). In addition, the private sector, civil society and media are critical. None of these groups forms a monolithic block as each individual player, such as the different ministries, control organs, anti-corruption bodies, professional associations or different civil society organizations, tends to have its particular political agenda, institutional objectives and interests. Thus, the majority of anti-corruption measures require the confluence of multiple interests in a common direction over several years.¹⁸

39. It is important to highlight that public players may be open to cooperation in their work towards national anti-corruption goals. However, they may also compete at the same time for economic resources. In this complex context, international cooperation and political support from donors can be a relevant incentive to provide viability to specific initiatives. However, caution is required not to generate inadvertently adverse effects by distorting or misbalancing a country's policy framework. For example, donor support to temporary anti-corruption organs depending on the executive may be an effective approach to creating momentum for anti-corruption policies in one country, but in others may only result in short-term effects because these organs may disappear with the government which set them up. Or technical assistance to carry out "zero tolerance" policies to crack down on corruption through repression may diminish the effects of other programmes designed to promote transparency or public integrity.

40. Diagnostics, information and assessments that are shared between donors can facilitate the effectiveness of their decisions in view of the above factors. Coordination of efforts is important for taking advantage of the dynamics of natural competition and collaboration between national players who are potential recipients of anti-corruption support.

41. Article 5 of the Convention stipulates that State Parties should have an effective and coordinated anti-corruption policy framework. This article is crucial as it emphasizes that anti-corruption initiatives cut across different sectors of a country's governance system and its multiple institutions, and can be promoted by a variety of public and private players with

¹⁸ For example, uniting public agencies and companies has been crucial for the success of procurement reform, while the association between civil society, media and academia has been an important factor in improving access to information in several developing countries.

multiple, often conflicting and at times changing political objectives. As said before, these policies and measures may complement, strengthen or even compete with each other and their dynamics and strengths depend on the broader governance context, an often changing political agenda and the capacities, will and power of the players involved.¹⁹

42. To date, considerable efforts have been made to develop practical advice and methodological guidance on what anti-corruption strategies, programmes or policies should consist of. However, these orientations have been largely prescriptive and some of the underlying assumptions have more recently come to be questioned.²⁰ Also, much attention has been centered on the design stage of anti-corruption policies and mechanisms. Given the importance of implementation, not enough attention seems to be paid to this phase. Often inter-institutional coordination is difficult, political incentives for implementing partners change, and institutional capacities require considerable financial and technical resources.²¹ It is important not to lose sight of the dynamics of the multiplicity of players, the influence of the political environment, and the identification of new needs for capacity development.

43. Anti-corruption initiatives should not be viewed as highly rational processes with static goals in which expert technocrats are in control of the instruments for achieving predicted or stated outcomes. Rather they need to be considered as “fuzzy betting attempting to influence the probability towards future situations”, in particular in the developing world (Turner & Hulme, 1997).

44. A considerable challenge for international cooperation therefore lies in recognizing and understanding the politics of anti-corruption policy making and implementation. This is crucial for the detection of opportunities for cooperation, the alignment of international and national efforts, and the provision of technical, material and political support to help ensure the sustainability of anti-corruption initiatives.

45. The prevention, detection, investigation and sanctioning of corrupt acts require institutional actors that are coordinated among each other and have access to shared information flows. However, in developing countries anti-corruption work is often deeply rooted in a “silo vision” – an approach that focuses on institutional capacity building at the expense of inter-institutional cooperation and coordination.

46. Important anti-corruption organs such as specialized anti-corruption bodies, the comptroller or auditor general, as well as the attorney general, are usually characterized by an important level of political and functional autonomy. This autonomy is necessary, among others, to fend off political pressures in the course of investigations for example, but it also creates a certain degree of political and operational isolation which may negatively affect their institutional work (JSCA, 2005).

47. The institutional autonomy and particular organizational culture typical of investigative and control institutions, such as secrecy or reservation, compartmentalization of information, and vertical control of decisions, contribute to the development of these “silo visions”. For that reason, public agencies with a prime role to play in the fight against corruption may act in a limited way influenced by their specific intra- and inter-institutional relations and the lack of process vision regarding the country’s overall objectives in fighting corruption. This situation is mirrored in the fact, for example, that one of the most common recommendations

¹⁹ “Few political leaders have been able to bind themselves to anti-corruption reforms over an extended period of time.” Quoted from Heilbrunn (2002).

²⁰ Shah and Schachter (2004) point out that support for anti-corruption agencies or awareness raising campaigns will have limited effects in a context with rampant corruption rather efforts should focus on broad underlying features of the governance environment. The focus on awareness raising has been criticized as it may mainly helps to create an atmosphere of public cynicism and the creation of broad coalitions has been put in question due to their limited success of sustainability (Tisné & Smilov; 2004)

²¹ For example, the political pressure often withers away with the passage of a new law or a legal amendment. However, the practical implementation of such measures requires administrative rules and regulations, procedures as well as capacity building to the wider public service and sometimes citizens or economic players.

of the follow-up mechanism to the Interamerican Convention against Corruption was that Latin American states needed to strengthen their supreme control institutions by establishing inter-institutional coordination mechanisms.²²

48. In this context, the potential role of donor cooperation and technical assistance is important not only for strengthening institutions through training programmes, financial support and the transfer of technologies, but also through financial and technical support for inter-institutional coordination mechanisms as well as a regular exchange of information between the key public actors.

V. Considerations for delivering technical assistance

49. The United Nations Convention against Corruption reinforces existing donor initiatives in the field of anti-corruption. The OECD DAC Principles on Anti-Corruption, for example, echo the Convention's holistic approach, calling for attention to both the supply and demand sides of the problem. The Paris Agenda is in line with the Convention, as the latter provides an agreed framework for support, based on common international standards. The preventive measures of the Convention reflect generally accepted principles of the good governance agenda. On the other hand, punitive measures and international legal assistance reinforce international agreements in areas such as money laundering, transnational bribery, and fraud, and add the criminalization of such crucial practices as the bribery of officials of public international organizations, bribery in the private sector and the liability of legal persons.

50. The Convention obliges States Parties to "enhance their cooperation at various levels with developing countries, with a view to strengthening the capacity of the latter to prevent and combat corruption". The Convention itself provides an internationally agreed framework for organizing such efforts. As emphasized above, however, a framework should not be confused with a blueprint. There is no single model of reform; instead, the leadership in each country must determine priorities and the appropriate sequencing of steps towards implementation (U4, 2007).

A. Aligning anti-corruption initiatives with broader governance reforms

51. Anti-corruption initiatives are crucial contributions to the achievement of superior development objectives, such as functioning political systems, economic development, access to justice, the rule of law, health and education. Hence, it is critical to ensure that anti-corruption efforts are in line with broader governance reform for at least the following main reasons.

52. First, opportunities for corruption are often one important risk factor in achieving the desired results of broader governance reform. It is therefore crucial to identify which types and forms of corrupt practices may threaten to jeopardize particular central reform efforts in a given country and take appropriate corruption risk management measures.

53. Second, anti-corruption initiatives are only one, often secondary, priority on the political agendas of governments and compete with numerous other reforms or policies for attention, resources and skills. Hence, linking anti-corruption efforts tightly into broader governance reforms may not only increase the effectiveness of the latter but also augment the chances of success of the former.

54. Third, responsibility and accountability for the implementation of anti-corruption efforts need to lie necessarily with the competent agency or agencies that have political-administrative authority over the reform in question and many of the corruption prevention measures cut across the state administration. This requires that, for example, the

²² Committee of Experts of the OAS Convention Follow-up Mechanism (2006), "Hemispheric Report of the First Round of Analysis". See www.oas.org

implementation of codes of conduct needs to be part not only of civil service reform in general but of each public agency in particular.

55. Fourth, resources and skills for anti-corruption work are limited; thus the development of anti-corruption strategies should take into consideration how best to create synergies, use the strength of existing priority policies and avoid having anti-corruption efforts, as a fashionable topic, divert attention and resources from the superior objectives of state activity.

B. Developing a gradual implementation approach based on a strategic vision

56. Given that the Convention contains a wide variety of preventive and punitive anti-corruption provisions, full compliance by states parties will be a challenge for the vast majority of countries around the globe. The scope and depth of this challenge will vary widely from country to country depending on the extent to which its normative system is already in line with Convention provisions and to what degree these norms are really being implemented. Two issues are of particular relevance in this context for international cooperation.

57. First, technical assistance should be provided to states parties with a view to helping them to develop a strategic vision on how to address country-specific corruption problems over time. Taking into account that quick fixes for corruption at the systemic and behavioral levels are virtually non-existent, the time horizon for such a strategic vision could extend over one to two decades. Developed countries have taken decades to establish and consolidate adequate integrity and ethical infrastructures. This does not mean that important changes and reforms are impossible in the short term; it is rather meant to call for realism when addressing entrenched problems.

58. Second, taking into account that state capacities, as well as financial and technical resources are limited in developing countries, technical assistance should be geared towards assisting developing countries taking into account other key policy and reform areas to translate gradually this strategic vision into concrete implementation of the Convention. Such a gradual approach needs to pay particular attention to focusing not only on legal reform but also on achieving sustainable change in practice. The latter is far more challenging than the former and will require sustained levels of cooperation and technical assistance for institutional reform and behavioral change.

59. Donors should foster dialogue between governments, civil society and donors themselves on what actions are required to meet the standards set out in the Convention and assist in the development of firm plans for who should be responsible for the implementation and monitoring of anti-corruption programmes. National Anticorruption Plans or Strategies can give both direction to government departments and a common standard and strategy for donors to align their activities with (Green et al., 2005). A built-in review mechanism to monitor priorities and sequencing in light of changing public policy agendas is necessary to make corrections and detect new opportunities. However, caution is advisable to avoid a situation where state parties and donors rush to adopt broad-based “formal compliance” plans while the capacity and will to implement them may be lacking.

C. Supporting national coordination mechanisms

60. Anti-corruption initiatives usually cut across a wide range of government activities, such as general governance, financial management, public sector reform, justice sector reform, and other general sector work, such as health and education. To ensure the success of

such a wide range of efforts with different institutional homes, inter-institutional coordination is indispensable. In many countries with a clearly identified governmental anti-corruption body, this task tends to be assigned to this institution. In other cases ministerial committees or other inter-institutional coordination mechanisms may exist. No matter which model is chosen, the vast majority of countries suffer from serious weaknesses in their coordination capacities. Some of them stem from the design of the coordination approach while others are due to a lack of human and financial resources.

61. International development partners should take these shortcomings seriously and look for creative ways to support existing national coordination mechanisms. The concrete form will vary widely from country to country, but donors need to start to think about this area and set some resources aside.

62. Finally, in a variety of countries, in particular those with large development cooperation budgets, donor-government consultative groups have been established to foster policy dialogue and coordination, and to facilitate joint funding initiatives. There does not seem to be a fixed model as yet with regard to the location of anti-corruption coordination in such frameworks. But there are some important questions that need to be raised at the country level, taking into consideration the local political culture as well as existing institutions. Such questions include whether to form a separate anti-corruption group or to mainstream anti-corruption into other sector consultative groups such as governance; how to make the group work; who should lead it; and whether there is scope for a division of labor among its members (Green et al., 2005). Considering the enormous breadth of activities and issues that an anti-corruption consultative group has to follow, donors should ensure that sufficient and competent human resources are available.

D. Profiling existing projects and analyzing gaps

63. Anti-corruption initiatives can be embedded in many development programmes, often implicitly. As a first step, donors could consider mapping the relevance of existing aid-funded programmes for Convention implementation. By profiling the interface of current activities with the Convention, donors may strengthen the position of all reform advocates – not just themselves – in discussions vis-à-vis the state (GTZ, 2006). Such a mapping would also provide an invaluable contribution to the coordination of efforts and avoidance of duplication²³.

64. Further, every country contains in its legal framework and administrative rules certain anti-corruption provisions. However, in most countries it is not known to what extent their national laws, rules and regulations are in line with the Convention. To overcome this lack of knowledge, it could be useful for donors to support national gap analyses in order to compare the national legislation with the Convention, not only in terms of whether or not legal provisions exist and comply with the international standards but going an important step further to assess to what extent these standards are applied in practice. In this regard, the experience of Indonesia and Colombia can be drawn upon for such gap analysis exercises.²⁴ Furthermore, the “Report Card” experience of Transparency International in Latin America

²³ Data bases for the systematic sharing of basic information concerning past, ongoing and future technical cooperation projects and programmes which focus on the prevention and control of corruption or, more broadly, work towards enhancing good governance could be used as a tool for this. The efforts undertaken in this area by the UNODC on behalf of the International Group Against Corruption members (IGAC) and the U4 can serve as an example.

²⁴ The German Technical Cooperation (GTZ), for example, conducted a study comparing Germany, Colombia, Indonesia and Cameroon.

and OECD countries may serve as an example for efforts to assess the degree of implementation of integrity norms.²⁵

E. Building long-term institutional and human capacity

65. The biggest challenges for anti-corruption efforts are usually not related to amending laws or passing new ones but rather to the state's capacity to implement and enforce them effectively. A number of countries have cutting-edge legislation on anti-corruption, often thanks to technical assistance from abroad and sometimes due to a strong formal legal culture, but their institutions have not been adapted accordingly, a multiplicity of norms from different times may be in conflict with each other, and above all the organizational culture and individual behavior within public institutions has not changed. Further, technical assistance has so far privileged training, policy advice and technical inputs into the design of specific anti-corruption measures, but support for the implementation phase, including the indispensable capacity development of public agencies, has been relatively minor.

66. For the prevention and control of corruption to be effective, the international community must convince itself that long-term institutional capacity development is one of the most crucial ingredients for success. Such an approach may not be as appealing as providing support for the design of anti-corruption measures or the training of relevant stakeholders as outputs there are clearly visible. However, the focus needs to shift towards creating outcomes and impacts and for that well-functioning institutions and a civil service culture of probity and integrity are indispensable. An important condition for achieving this lies in the need to strengthen the civil service career system, and to improve continuity in those positions which require specialized knowledge.

67. Further, such capacity development must go beyond financial and technical support for anti-corruption bodies. More importance needs to be given to strengthening the integrity and institutional capacities of other key institutions in preventing, controlling and combating corruption in line with the national priority reform agenda. For example, if public financial management and justice sector reform are central policy pillars of a country, the institutional development approach for the Ministry of Finance, Supreme Audit Organizations, Ministry of Justice, Attorney General's Office and court system need to have a strong integrity, transparency and accountability component with specific focus on eliminating opportunities for corruption. Support measures can include long-term advisors or mentors to provide hands-on technical support to governmental institutions, link institutional development efforts more explicitly with internal integrity and accountability initiatives²⁶, dedicate more resources to the implementation and monitoring of codes of conduct and integrity standards. Finally, the establishment or strengthening of national training institutions, in particular to train and prepare career officials for the public administration, should be considered.

F. Using research and analysis for better policy making

68. Research and analysis of corruption provides the foundation for sound policy making, as well as a benchmark for implementing reforms. This is widely acknowledged among development partners and has been reflected in practical advice published by them to guide the development of anti-corruption strategies. However, realities on the ground are still often characterized by the lack of a sound knowledge base.

²⁵ See www.transparency.org

²⁶ These include the development of internal accountability and oversight structures, codes of conduct, ethics training, service user charters, complaints reporting mechanisms, disciplinary actions, and complaints analysis.

69. Development partners should provide technical assistance and financial support to broaden this knowledge and to make it widely accessible. Specific attention should be given to the following areas: (i) Research on types, forms, locations and manifestations of corruption. This should include but not be limited to corruption perception surveys which can provide a baseline on which to design appropriate interventions, respond to the demands of the population and monitor change. Further, assessments of sector vulnerability to corruption should be considered that would provide the basis for specific corruption risk management plans; (ii) Research on local values, beliefs, traditions, principles and local accountability mechanisms is crucial for the design of interventions that are to meet with local expectations and behavioral standards. This is particularly important in countries where traditional societal values stand in stark conflict with the principles of a modern Weberian state bureaucracy; (iii) Assessments of the quality of the legal-judicial-penal sector, since this tends to fall outside existing diagnostic reviews (Green et al., 2005). Such assessments are an important complement to the above, in particular in view of the need to bring the fields of corruption prevention and corruption repression closer to each other²⁷; and (i) Ensuring that research results are made available in relevant local languages, widely disseminated and made easily accessible, in particular where information technology can be used.

70. Demand for research may easily go beyond available and reasonable means or be turned into an end in itself. A pragmatic approach to avoiding these potential pitfalls might consist of development partners supporting the government, civil society organizations, media, professional organizations and the private sector in creating broad agreement on a research agenda for the country.

G. Strengthening national monitoring and evaluation capacities

71. The lack of solid monitoring and evaluation capacities is a common problem for developing countries. Data collection systems tend to be unreliable and erratic, national statistic offices are weak and public agencies do not attribute great value to processing, systematizing, preserving and disseminating the information they produce. This lack of institutional capacity negatively impacts on the quality and efficiency of public policies, which is particularly true for anti-corruption policies.

72. On the other hand, development partners usually do apply monitoring and evaluation mechanisms to the anti-corruption projects they support, but these are often based on indicators and criteria more relevant to headquarters than for the actors on the ground involved in the implementation of broader policies into which these projects are supposed to feed. Further, despite the efforts of donors to make their monitoring and evaluation information more transparent, problems with accessing the information remain.

73. Within this context, technical assistance for implementing the Convention should provide specific support to the strengthening of national monitoring and evaluation capacities. First and foremost, this will require capacity development of state institutions in this area, in particular with regard to the creation of measurable indicators, data collection and processing of information. "In-house" capacity is crucial for the government to review its policies and programmes periodically and take corrective action where needed. Secondly, there also needs to be financial and technical support for the capacity development of independent monitoring and evaluation.

²⁷ Assessments undertaken in this area by UNODC (for example the assessment of judicial integrity in three Nigerian states) may provide insight and some lessons learnt on how to do this. See http://www.unodc.org/unodc/corruption_publications.html.

H. Inducing commitment and action by a broader range of relevant actors

74. The opportunities for corruption in every country are manifold, widely scattered through the mechanics of the political system, the decision-making process within the state administration and service delivery, and hence, involve a wide variety of different actors. The first wave of anti-corruption work has largely concentrated efforts on rather technocratic approaches to reforming the public administration and strengthening civil society in its watchdog and advocacy functions. The private sector was recognized later as a key partner, and recently the political nature of corruption has been acknowledged through increased work with parliaments and other political actors. There is no doubt that in different countries and regions other stakeholders have participated or been encouraged to participate in anti-corruption work as well. However, there seems to be a need to strengthen and induce anti-corruption action amongst a broader range of relevant actors.

75. To date, anti-corruption cooperation has put strong emphasis on the creation of coalitions in order to aggregate otherwise dispersed interest groups and stakeholders so that they have more “political weight”. While this approach is in general commendable, it should be noted that for coalitions to be effective they need to have a true common interest and concrete objective. A complementary approach to broad all-encompassing anti-corruption coalitions would be to bundle interests and energies around more concrete, possibly sector-related anti-corruption goals.

I. Streamlining the Convention against Corruption into education and training programmes

76. Prospects for effective and coherent implementation of the Convention will largely depend on the commitment of the multiple actors in a given country to turn this legal obligation into meaningful reality. Therefore, the Convention needs to be known by a far wider range of people.

77. Hence, international support for the development of user-friendly, practical and case-oriented training modules on the implementation of the Convention would be useful. These modules need to be tailored to different target audiences, such as the staff of government agencies, justice institutions, supreme audit organizations, parliament, civil society, media and the private sector, but also in particular to the staff of international development partners. The training should not only aim at raising awareness but also at generating demand and commitment for reform.

78. Awareness raising and education is particularly important when it comes to mainstreaming Convention provisions into general development cooperation projects. Well-informed and experienced anti-corruption professionals are relatively rare and most development cooperation projects will not enjoy the participation of such specialists. Hence, in order to ensure that a reasonably sound mainstreaming of the Convention can take place, education and training about the Convention within the donor organizations themselves is crucial.

J. Promoting sector approaches – converging supply and demand for reform

79. To date, anti-corruption cooperation has largely concentrated on support to the much needed strategic anti-corruption frameworks or plans, anti-corruption bodies, specific anti-corruption measures and the strengthening of external actors such as civil society, parliament and the media. More recently, a complementary approach has emerged which starts to look at corruption vulnerabilities in specific sectors, such as health, construction and justice.

80. Addressing corruption vulnerabilities in specific sectors has the potential to generate new or additional benefits for anti-corruption work. On the one hand, responsibility and accountability for sector anti-corruption initiatives would be more concentrated in the hands of sector-relevant public agencies. Those sectors which carry forward national priority reforms with committed leadership should be identified as pilots. On the other hand, sector specific approaches provide an opportunity to match better the supply and demand side for anti-corruption work with a view to strengthening internal and external demand and commitment for real change. This means that cooperation and technical assistance should be focused both on public agencies of the sector in question as well as on interest groups, clients and civil society organizations with a stake in that particular sector. They could include the following: (i) Risk assessments of sector vulnerability to corruption and ensuing risk management plans for whose implementation public agencies would be accountable; (ii) Agency-level internal integrity initiatives, including implementation and monitoring of codes of conduct, internal and external communication strategies, internal control framework, development of a hierarchy of accountability from the top to the lowest supervising grade, among others; (iii) Encouragement of private sector involvement relevant for a particular sector, e.g. the pharmaceutical industry in health, or construction companies in public works; and (iv) Support to professional organizations with a stake in the sector as well as to civil society organizations and client groups (e.g. parent-teacher associations in education) for them to develop or strengthen advocacy, education and monitoring capacities.

K. Cooperation and coordination of development partners

81. As stated above, the Convention provides for a comprehensive framework within which international cooperation and technical assistance for anti-corruption initiatives can be organized more effectively, in particular if different underlying political agendas are made explicit and are fully considered.

82. DAC alignment and harmonization principles set a common agenda for governments and development partners. They focus on increasing government capacity by using government systems and reducing donor congestion around government. This involves coordination among donors. Implementation of these principles depends on the effective coordination of technical assistance by governments as well as on donor leadership. The draft DAC “Principles for Donor Action in Anticorruption”²⁸ reflect international agreement regarding the collaboration needed in anti-corruption work.

83. Although these principles are a symbol of joint political will, the dynamics can be quite complicated and determine to a large extent whether and how donors really work together on anti-corruption. Coordinated donor activities are hindered when there are no significant government-led initiatives for donors to support collectively. But also, where collaboration is not a high priority for donor HQs there is less motivation for in-country collaboration (Green et al., 2005).

84. A starting point for increased cooperation could be to identify a small group of donors with shared priorities and good relations. Such groups can provide an opportunity for joint programming, sharing information, resources and training, developing joint strategies and common procedures, and taking common action.

L. Developing a shared, country-focused anti-corruption approach

²⁸ Principle 1: We will collectively foster, follow and fit into the local vision. Principle 2: We will acknowledge and respond to the supply side of corruption. Principle 3: Policy should be based on evidence. See www.oecd.org.

85. It is widely acknowledged that isolated or piecemeal anti-corruption activities will not bear fruit. Rather, country-specific anti-corruption strategies are needed, tailored to the particular problems of corruption as well as to the political culture and integrated into the overall national development plan. There is no doubt that technical assistance needs to be aligned with such national strategies or plans. There are also countries where no anti-corruption strategy or national plan has been developed as yet.

86. No matter what the circumstances, as the DAC draft principles for donor action on anti-corruption state, development partners should create a shared anti-corruption approach, in agreement with the government and based on a commitment to implement the Convention. An anti-corruption approach largely agreed upon by the international community would increase both the efficiency and effectiveness of its cooperation. It would help to avoid duplication, to divide responsibilities for support, focus interventions and convey a unified message to counterparts. It would also reduce often wasteful competition for funds. As a start towards such shared country visions on the ground, development partners should engage in joint diagnostic tools or analytical work specific to anticorruption.

M. Promoting donor accountability through transparency of donor cooperation

87. Transparency of donor cooperation and technical assistance for anti-corruption initiatives is crucial for several reasons. Effective access to information about donor-funded anti-corruption projects, their objectives and available funds facilitates: (i) coordination between donors and partners, (ii) equitable conditions for positive competition for funds, (iii) monitoring of implementation and (iv) evaluation of impact. Donor practice should reflect the standards that they try to instill in partner countries and lead by clear example.

88. Hence, donors should ensure that their agency practices are consistent with the standards of the Convention, in particular when it comes to the transparency of information. Further, information on the decision-making processes and on decisions that concern members of the public should be published (Article 10). Other relevant provisions for improving the integrity and accountability of donor agencies address the need for a code of conduct, a transparent, merit-based hiring and promotion process, transparency in the administration and auditing of funds, whistleblower protection for people who report cases of corruption, and the encouragement of civil society participation in their policy making.

89. During recent years, several organizations have chosen to integrate the corruption perspective into programme and project support in all sectors of development cooperation. Experience gained by NORAD, DFID, the World Bank and IaDB shows that the organization must allocate considerable resources to make it possible to integrate these issues in practice. There should, for example, be an autonomous group in the organization that has the specific mandate and political support to pursue the issues, both inside and outside the donor organization. The group should have a strategy that covers several years and contains a work plan with specific and measurable goals, as well as its own budget (Anger, 2004).

90. Finally, the modalities of international cooperation and technical assistance should reflect principles of integrity. It is recommended, therefore, that codes of practice and appropriate operating standards be introduced or strengthened in areas such as finance, procurement and human resources, as well as in reporting on those projects that contribute to good governance. The political will accompanying the process would increase political legitimacy at home and earn approval abroad (GTZ, 2006).

N. Exploring collaborative financing

91. Despite the increasing harmonization efforts of donors, international cooperation and technical assistance for anti-corruption is still often uncoordinated, fragmented and scattered and many organizations still work on a bilateral level and in relative isolation from each other. The reasons for this are manifold and certainly include different orientations from headquarters and varying financing mechanisms ranging from budget and sector support to off-budget support, but also a lack of coordination capacity.

92. One way to help overcome these difficulties could lie in the creation of jointly financed “Transparency Funds”, which would be put at the service of nationally determined anti-corruption work, be it anti-corruption strategies or action plans, specific anti-corruption policies, strengthening of non-governmental actors, research or a combination of all of this. There is arguably a greater incentive for donors to collaborate when they are spending money on the same activity.

93. Such funds could be governed by an independent structure consisting of government and donor representatives and, where appropriate, with civil society participation. Financial commitments to these trust funds should be at least medium term in order to help ensure the sustainability of anti-corruption activities. However, particular care is needed in terms of achieving a government co-financing scheme with an increasing share of funds provided by the national government as a sign of its political commitment to anti-corruption reform. The Joint Transparency Fund of Nicaragua and the Partnership for Governance Reform in Indonesia, for example, provide some experience to draw upon.

O. Ensuring long-term commitments to overcome challenges of government cycles

94. New governments can legitimately take up a new government programme and a specific agenda of priorities, which may or may not include an important focus on anti-corruption work and which may or may not build on prior anti-corruption programmes. Hence, the political cycle naturally affects the continuity and orientation of anti-corruption policies in the country. For example, efforts by one government may focus on increasing public ethics, probity and integrity, but the next government may shift the focus to internal control and auditing. Since anti-corruption efforts require a long term approach if they are to generate lasting change, progress made during the first government may be left abandoned half way down the road. The result is not only a waste of money and human resources, but also increasing disillusionment on the part of those involved as they adapt to changing priorities, learn to assume that reforms will not be carried through and that thus no change from them is really required, and hence lose commitment or willingness to change.

95. Cooperation should identify creative ways of breaking this dilemma of the political cycle, striking a balance between recognizing the legitimacy of varying government programmes and the need for sustained support to already initiated anti-corruption efforts. The above-mentioned “Funds for Transparency” may be one vehicle for achieving this if designed appropriately. Another way would be to put a greater focus on ensuring continuity of career civil servants in their positions, in which they acquire over time relevant technical and political management capacities.

P. Advocating for implementing the Convention against Corruption “at home”

96. Donor organizations also need to advocate for ratification and implementation of the Convention against Corruption “at home”, as it is impossible for them to engage in a credible dialogue with partners on corruption when their own governments are complicit in the problem. Hence, the Convention should be used to catalyze more coherent anti-corruption policies among development aid, law enforcement and foreign policy branches of government. Development actors should liaise with colleagues from relevant ministries within their own countries to ensure that Convention compliance is pursued in all branches. It is particularly important that donor countries address international drivers of corruption, which implies engaging proactively with the private sector both at home and in partner countries.

97. Therefore, international initiatives, such as the Extractive Industry Transparency Initiative, the Water Integrity Network or the United Nations Global Compact Initiative, merit particular support from donor agencies, both at the international coordination level and at the implementing country level.

VI. The United Nations Convention against Corruption in the context of development assistance

98. The entry into force of the Convention and the rapid increase in the number of Parties from the developing world has resulted in fresh demand for technical assistance dedicated to implementation. This demand has in turn increased the already formidable challenge for donor countries and agencies to be coherent and coordinate efforts efficiently and effectively.

99. The existence and rapidly rising adherence to the Convention has led to the realization that technical assistance efforts to promote governance and strengthen action against corruption may have been lacking in context, coherence and long-term sustainability. A review of the broad range of measures that the Convention contains brings into full view the fact that a much more consistent, coherent and comprehensive approach is needed. This in turn calls for a long-term strategy with clear and agreed priorities, and a set of commitments on the part of both donor and partner countries. It also calls for the establishment of the appropriate role that the implementation of the Convention needs to play in broader governance reform and strengthening efforts, together with a clear determination of the resources required to achieve those goals.

100. The comprehensive nature of the Convention has challenged concepts about and approaches to the broader development agenda, especially in the sense of which institutions qualified as relevant to development. In the past, “governance” or “rule of law” have been used as broad and all-encompassing terms that raised the comfort levels among development assistance providers who were reluctant to confront the reality of the central importance of the criminal justice system as a pillar to development. This reluctance has an historical explanation. The criminal justice system was viewed as a set of institutions that were important but not directly related to development in the more traditional sense of the term. Further, assistance to strengthen those institutions that are key to the criminal justice system, such as law enforcement raised concerns related to the protection and promotion of human rights. The result was that for many years, a number of development assistance providers dealt with the dilemma of allaying those concerns while devoting attention to the criminal justice system by folding such assistance into broader programs labeled as governance or rule of law related work. There have been significant achievements through these programs. However, the maxim that the first step to solving a problem is to confront it holds true also in

this case. The Convention has brought to centre stage the dire need to engage in a holistic manner and with a long-term sustained commitment with the criminal justice system and make serious investments in its development.

101. The broad range of measures included in the Convention and the innovative nature of many of its provisions has exposed the dearth of specialized expertise in this field around the world. This is an issue not only for developing countries, but equally for developed ones. Arguably, such lack of expertise is even more significant for developed countries, as one of their objectives and stated commitments is to provide expertise as part of technical assistance to developing countries, in the broad partnership called for by the Convention. Coupled with the desire to engage expeditiously and increase the volume of development assistance more generally and technical assistance for the implementation of the Convention more specifically, the problem assumes an even bigger importance. In many cases, the result of this combination has been the provision of advice and the promotion of solutions that fall far short of the requirements of the Convention.

VII. The Convention against Corruption as a rallying point

102. The Convention has emerged as an instrument of unity of purpose between the developing and developed worlds. It is the product of an open, transparent and comprehensive process and rallied consensus by combining the interests of the broad constituencies involved in its development. This consensus nature must be reflected in the way the instrument is used and implemented. Its potential as a point of convergence and commonality of purpose must be fully realized and exploited. Flowing from this would be a process by which the Convention is used as the common and agreed standard in the determination of joint goals and priorities, as well as the design of programmes to achieve its objectives. Without affecting established decision-making processes, employing the Convention as the common basis for the determination of desirable and pragmatic achievements and the development of ways to realize these achievements is bound to foster better understanding, overcome preconceived notions and focus on measurable results. The overall goal of making inroads against corruption and achieve clearly identifiable impact is doubtless shared among developed and developing countries. Everyone now agrees that such impact is a sine qua non in the achievement of development and growth. It is also a given that development priorities must be determined by the developing countries concerned. The Convention has been identified as the means to register progress in the fight against corruption and it lends itself to setting goals for the future, monitor progress through implementation and measure impact.

103. The flip side of the same coin is agreement among development partners about the joint investment in the implementation of the Convention. The Convention covers significant ground and its comprehensive implementation will require considerable investment in human and financial resources, which must be sustained over time and pursued with consistency and coherence. It would be desirable to design and put in place mechanisms that would enable development partners to agree on implementation priorities and a realistic pace of such implementation. This in turn would determine technical assistance priorities and ways of measuring success, as well as capturing and using lessons learnt through partnerships and efforts at all levels.

104. The achievement of these goals would require a dialogue among development partners that would aim at identifying and delineating the appropriate role that implementation of the measures called for by the Convention would have in development assistance efforts. It would be important to determine the investments required in infrastructure development and building or strengthening of institutions, as well as establishing the optimal parameters of sustainability and multiplier effect. It would be equally important to determine jointly what portion these investments would represent within broader development assistance programs

and efforts. In many cases, this dialogue may result in finding that additional resources, sometimes significant, would be necessary in order to address long-term structural reform needs. These resources would need to be identified and committed in the long-term, as investing in such institutional and structural reforms cannot be neglected.

105. Long-term investment in implementation of the Convention and in mainstreaming the Convention into broader efforts to pursue development and growth would require significant attention to be devoted to development of skills and expertise. The effort must begin by approaching the implementation of the Convention with the responsibility and sensitivity its broad and comprehensive provisions demand. It is imperative to make conscious efforts to guarantee consistency and accuracy in the development of methods, tools and solutions and to ensure those conform to the individual characteristics, requirements and traditions of States. Development of a cadre of specialists who would be charged with instituting and taking forward reforms at domestic levels must become one of the highest priorities. Concurrently, adequate resources must be devoted to education in order to develop over time a new generation of experts and practitioners in the full implementation of the measures foreseen by the Convention.

VIII. Ensuring coherence and consistency: the role of the Conference of the States Parties

106. In the past few years, the increased realization of the challenges facing development assistance providers in the area of governance and anti-corruption, as well as the entry into force of the Convention have resulted in significant efforts to instill a new sense of consistency and coherence in the design and delivery of development assistance. Those efforts have been most prominent in the Development Assistance Committee (DAC) of the OECD and, more specifically, that Committee's Governance Network (GOVNET), and have been described above. The formidable work of GOVNET needs to be encouraged and sustained in order to conclude the ambitious agenda that entity has set for itself. Its efforts can be further enhanced by making sure that DAC and its GOVNET become fully involved in the work of the Conference of the States Parties and that the latter be given the opportunity to realize fully its coherence and consistency function with which it has been entrusted by the Convention.

107. By its very nature and in view of its comprehensive and broad mandate, the Conference of the States Parties is uniquely placed to become a forum of active dialogue among development partners. It lends itself to development partners consulting and informing each other, as well as listening to problems and successes, finding common ground on determining and reviewing priorities and progress and working together to ensure success of common efforts. The Conference offers another advantage. It enables more traditional members of the donor community to engage and institute productive dialogue with emerging donors who may not be members of established mechanisms such as DAC. Such dialogue is the essential first step in establishing and achieving clear and pragmatic coordination objectives that would be shared by all and established within a common and consensus framework such as the Convention. Such a dialogue comes with significant added value, as it may go a long way towards avoiding the frustration of long and arduous efforts by the development community working within existing mechanisms to achieve coordination only to see its effects being diluted by the actions of emerging donors who determine their priorities outside those existing mechanisms.

108. Another equally important component of a coherent and consistent approach is internal coordination. The Conference lends itself to the achievement of this goal as by its broad coverage, it is bound to bring together representatives of various parts of government. Their interaction and co-existence, together with the inevitable need to formulate unified

government positions would contribute greatly to avoiding or discontinuing situations in which different parts of the same government tend to view issues in a completely different way. It may also encourage the building of national consensus on the priorities and objectives of development assistance.

109. The Conference of the States Parties also offers the potential to function as a meeting point of bilateral and multilateral donors and help them build a common platform for action. The nature of the Conference and the fact that its priorities will in all likelihood revolve around review of implementation and technical assistance for the foreseeable future offer great opportunity for the construction of this common platform within an environment where the purpose is clearly identified and agreed upon and there is no desire other than to ensure that the resources and efforts necessary to achieve these common objectives are channeled appropriately and efficiently.

110. Finally, the interaction and active dialogue between different set of experts in the context of the Conference is likely to promote approaches that will take the development community away from the views that may have prevailed in the past. In that scenario, when there are anti-corruption components or potential impact of anti-corruption measures in broader development programs, those will be properly recognized, recorded and addressed in their full dimensions, using the appropriate expertise that might be necessary.

IX. Recommendations

A. Sustaining priority for implementing the Convention

111. Success in implementation of the Convention and its mainstreaming in development assistance are achievable only in the long term. Therefore, sustainability of effort and unwavering commitment are essential. However, to have such sustainability and commitment, it is crucial that the political priority of action against corruption remain high on domestic and international agendas. For donors, it is important to make sure through the appropriate mechanisms and safety valves that emerging issues do not overshadow their commitment or the share of resources that need to be devoted. For development partners it is important to ensure that there is broad political and societal buy-in and support for institutional and structural reforms and the overall goals of effective reduction of corruption.

112. In short, the full implementation of the Convention by both developing and developed countries holds great promise for the improvement of governance nationally and globally, while enhancing a level-playing field for the private sector. Synergies and incentives for further and deeper implementation of the Convention will increase as countries ratify and practically implement its provisions.

113. The challenge facing any implementer and provider of technical assistance is summarized in article 1, which states the purpose of the convention and the scope of the work lying ahead: (a) To promote and strengthen measures to prevent and combat corruption more efficiently and effectively; (b) To promote, facilitate and support international cooperation and technical assistance in the prevention of and fight against corruption, including in asset recovery; and (c) To promote integrity, accountability and proper management of public affairs and public property.

114. The Convention reflects some of the best practices and lessons learned from anti-corruption initiatives over the years: without a comprehensive approach to which the international community, donor organizations, all parts of government, private sector and society are fully committed, the task cannot be accomplished. The project for many countries entails fundamental reform and re-organization of public and private governance. Without good governance, corruption can be expected to be a serious problem even if a given country happens to enjoy good money laundering laws or effective confiscation mechanisms.

115. The challenges in implementing the Convention are well recognized in public statements and documents, but not always in practice. Although the need for technical assistance and support is widely acknowledged as well as required by the Convention, current and anticipated demand exceeds the existing capacity. Yet, high quality technical assistance and good understanding of national specificities is a pre-condition for the success of the entire enterprise.

116. The technical assistance involves more than technocratic advice and transfer of expertise. In many instances the task involves support to structural changes and cultural shifts. The strategic planning, prioritization, sequencing and timing of reforms must be done methodically and thoughtfully taking into account local specificities. Knowledge, experience and sharing of information are more important than ever: such an opportunity to bridge the desires and goals of the global North with those of the global South does not arise often. In this context, the role of non-state actors, civil society, scholars and think tanks cannot be underestimated, in the global effort to let one's mind 'travel' away from home realities, understand and link issues, seek sustainable solutions through consensual knowledge, apply and participate. Academics are called upon to articulate problems, inspire and educate their "students", train and learn from practitioners in support of the good governance and anti-corruption endeavor.

117. Developing countries may seek technical assistance from multiple organizations at once. Coordination and quality controls are essential for success. The risk of not doing so include loss of momentum of anti-corruption programs, immunity of serious offenders, waste of resources, popular and private sector disenchantment, creation of dysfunctional institutions, constitutional challenges, need for further legal amendments, and inability to coordinate and cooperate internationally. Prevention, legislative, procedural, institutional, and international cooperation issues along with private sector, civil society and asset return provisions relate to so many facets of society that this provides an excellent opportunity to assist countries toward wide-ranging reforms conducive to good governance, respect for the rule of law and justice, economic growth and democracy. The risk is that if this is not done well, serious setbacks in all these regards can be expected. Limiting resources or underestimating the significance of the implementation of this Convention therefore can be counterproductive.

118. If a government grows dependent on aid donors, there may be no domestic ownership over the policy agenda to reduce poverty and no democratic mandate for such an agenda. Legitimacy and commitment to good governance can only flow from collaborative efforts that draw on and consolidate local support and societal initiatives.

119. Reviewing the work-in-progress is vital, but this exercise needs to go beyond prescriptive box ticking regimes and questionnaires towards processes based on agreed principles and an active environment where actors are committed to doing the right thing and doing it well.

B. The role of the Secretariat of the Conference of the States Parties

120. International cooperation and technical assistance are key factors for the successful implementation of the Convention at country level and at the same time cooperation and coordination between the providers of technical assistance need to be improved. As means to assist States parties to improve cooperation, to aid the provision and exchange of information and to facilitate coordination with relevant international and regional organizations (in accordance with article 64), the Secretariat should:

- Disseminate information with a particular focus on bringing the supply and demand side of anti-corruption efforts closer together. This could include the establishment

of a central “clearing house of information” with data on, as a minimum, donor strategies on anti-corruption (headquarters-level strategies); donor-supported anti-corruption programmes and projects at country level (including those governance projects with anti-corruption components relevant for the Convention); national anti-corruption strategies, plans or programmes; as well as specific national anti-corruption policies and measures. Not all of these need to be researched from scratch as relevant links to existing material can often be easily established. UNODC has already started collecting information about concrete projects as part of the IGAC database (www.igac.net).

- Facilitate coordination between the different international and regional players involved in the Convention implementation in order to detect opportunities for synergy or partnership and to avoid duplication. The provision of relevant information, as noted earlier, is a prerequisite. However, the secretariat should also identify gaps in the cooperation and technical assistance, create bridges between the two fields of anti-corruption cooperation, as pointed out above, and organize fora where donor organizations can discuss, align and harmonize their efforts, such as in the working group on technical assistance.

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