



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

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Report of the ninth open-ended intergovernmental expert meeting to enhance international cooperation under the United Nations Convention against Corruption, held in Vienna from 16 to 18 November 2020

I. Introduction

1. In its resolution 4/2, entitled “Convening of open-ended intergovernmental expert meetings to enhance international cooperation”, adopted at its fourth session, held in Marrakech, Morocco, from 24 to 28 October 2011, the Conference of the States Parties to the United Nations Convention against Corruption decided to convene open-ended intergovernmental expert meetings on international cooperation to advise and assist it with respect to extradition and mutual legal assistance.
2. In the same resolution, the Conference decided that the expert meetings would perform the following functions: (a) assist the Conference in developing cumulative knowledge in the area of international cooperation; (b) assist the Conference in encouraging cooperation among relevant existing bilateral, regional and multilateral initiatives and contribute to the implementation of the related provisions of the Convention under the guidance of the Conference; (c) facilitate the exchange of experiences among States by identifying challenges and disseminating information on good practices to be followed in order to strengthen capacities at the national level; (d) build confidence and encourage cooperation between requesting and requested States by bringing together relevant competent authorities, anti-corruption bodies and practitioners involved in mutual legal assistance and extradition; and (e) assist the Conference in identifying the capacity-building needs of States.
3. In its resolution 5/1, the Conference directed the open-ended intergovernmental meeting of experts on international cooperation to continue studying the issue of the identification and analysis of existing obstacles to law enforcement cooperation in the detection of corruption offences in the framework of the Convention and to draw up recommendations on how those obstacles might be overcome.
4. In its resolution 7/1, the Conference invited the open-ended intergovernmental expert meeting to propose future agenda items. It also decided that the expert meeting should continue its work by exchanging information on common reasons for refusals and delays in mutual legal assistance requests related to corruption offences under the Convention and on international cooperation in civil and administrative proceedings related to cases of corruption and possible measures to protect the confidentiality of the information provided in the context of assistance in criminal, civil and administrative measures.



II. Organization of the meeting

A. Opening of the meeting

5. The ninth open-ended intergovernmental expert meeting to enhance international cooperation under the United Nations Convention against Corruption was held in Vienna from 16 to 18 November 2020, in an online format.

6. The open-ended intergovernmental expert meeting to enhance international cooperation under the Convention held five meetings, which were chaired by Harib Saeed al-Amimi (United Arab Emirates), the President of the Conference at its eighth session; most of those meetings were held jointly with the Implementation Review Group and the Working Group on Asset Recovery.

B. Adoption of the agenda and organization of work

7. On 16 November 2020, the open-ended intergovernmental expert meeting to enhance international cooperation under the United Nations Convention against Corruption adopted the following agenda:

1. Opening of the meeting.
2. Adoption of the agenda and organization of work.
3. Implementation of chapter IV of the United Nations Convention against Corruption: lessons learned, good practices and challenges.
4. Adoption of the report, including conclusions and recommendations.

8. Agenda item 3 was considered jointly with the Implementation Review Group and the Working Group on Asset Recovery.¹

C. Attendance²

9. The following States parties to the Convention were represented at the meeting: Afghanistan, Albania, Algeria, Argentina, Armenia, Australia, Austria, Azerbaijan, Belgium, Bolivia (Plurinational State of), Brazil, Bulgaria, Cambodia, Canada, China, Colombia, Costa Rica, Cyprus, Czechia, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Finland, France, Germany, Greece, Guatemala, Honduras, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Italy, Japan, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Latvia, Lebanon, Liechtenstein, Lithuania, Luxembourg, Malaysia, Malta, Mexico, Morocco, Myanmar, Namibia, Nicaragua, Nigeria, Norway, Oman, Panama, Paraguay, Peru, Poland, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, Saudi Arabia, Singapore, Slovakia, Slovenia, South Africa, Spain, State of Palestine, Sudan, Switzerland, Thailand, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela (Bolivarian Republic of) and Yemen.

10. The European Union, a regional economic integration organization that is a party to the Convention, was represented at the meeting.

11. The following Secretariat units, specialized agencies of the United Nations and institutes of the United Nations crime prevention and criminal justice programme network were represented by observers: Department of Peace Operations, Office of

¹ In view of the joint meetings held by the open-ended intergovernmental expert meeting with the Implementation Review Group together and the Working Group on Asset Recovery, some of the proceedings have been reflected in the reports on the sessions of those bodies, contained in documents CAC/COSP/IRG/2020/8/Add.2 and CAC/COSP/WG.2/2020/5, respectively.

² The attendance as presented in the present report is based on confirmed online connections.

the United Nations High Commissioner for Human Rights, World Bank, Basel Institute of Governance and Naif Arab University for Security Sciences.

12. The following intergovernmental organizations were represented by observers: Central Asian Regional Information and Coordination Centre, Commonwealth of Independent States, Group of States against Corruption (GRECO) of the Council of Europe, European Union Agency for Criminal Justice Cooperation (Eurojust), European Union Agency for Law Enforcement Cooperation (Europol), International Anti-Corruption Academy, International Centre for Criminal Law Reform and Criminal Justice Policy, International Development Law Organization, International Criminal Police Organization (INTERPOL) and Organization for Economic Cooperation and Development.

13. The Sovereign Order of Malta, an entity maintaining a permanent observer office at Headquarters, was represented.

III. Implementation of chapter IV of the United Nations Convention against Corruption: lessons learned, good practices and challenges

14. In paragraph 8 of its resolution 8/2, the Conference called upon States parties to further promote, facilitate and support international cooperation and technical assistance in the prevention of and fight against corruption, in line with article 1 (b) of the United Nations Convention against Corruption, with a view to facilitating the implementation of article 43 of the Convention.

15. Furthermore, in paragraph 17 of its resolution 8/6, the Conference encouraged States parties that had not yet done so to consider the Convention as a legal basis for extradition in respect of offences covered by it, when possible, in their domestic legal system, and to endeavour to conclude bilateral extradition agreements and arrangements to carry out or to enhance the effectiveness of extradition.

16. In paragraph 18 of the same resolution, the Conference encouraged States parties to conclude appropriate bilateral or multilateral agreements or arrangements, for the use of special investigative techniques in the context of international cooperation to investigate and prosecute transnational bribery cases, as set forth in article 50 of the Convention, without prejudice to article 4 of the Convention.

17. In paragraph 19 of the same resolution, the Conference encouraged States parties, consistent with domestic law, to transmit information related to foreign bribery, without prior request, to interested competent authorities of other States parties, in line with article 46, paragraph 4, of the Convention, when they believed that such information could assist those authorities, without prejudice to mutual legal assistance.

18. A representative of the Secretariat provided an update on the implementation of the mandates emanating from the Conference resolutions and previous expert group meetings. She referred to a note verbale dated 5 August 2020 that had been sent to all States parties with a view to collecting information on six topics: approaches and practices to promote and facilitate international cooperation and technical assistance in the prevention of and the fight against corruption; use of the Convention as a legal basis for extradition and approaches to conclude extradition agreements and arrangements; agreements or arrangements for the use of special investigative techniques; spontaneous sharing of information on transnational bribery; challenges and good practices in international cooperation and other topics in the Conference resolutions and recommendations of the expert meetings; and legal requirements for international cooperation, including statistical information and examples. She provided a summary of the responses from 44 States parties to the note verbale pertaining to those topics and drew the attention of the expert meeting to the note by the Secretariat (CAC/COSP/EG.1/2020/2) which contained further analysis of all the responses.

19. The representative of the Secretariat also presented the most prevalent trends and findings in the implementation of chapter IV of the Convention, on international cooperation, based on an analysis of finalized country reviews under the first cycle of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption. She indicated that, following the finalization of six new executive summaries, the findings regarding the implementation of chapter IV of the Convention remained largely consistent with those previously identified. Referring to the United Nations Office on Drugs and Crime study entitled “*State of Implementation of the United Nations Convention against Corruption: Criminalization, Law Enforcement and International Cooperation*”, she highlighted that the study contained a thorough analysis of issues in relation to criminalization, law enforcement and international cooperation and the outcomes of the reviews of the first cycle, regarding the implementation of chapters III and IV of the Convention by 156 States parties. In addition, the representative presented a new publication containing the set of non-binding recommendations and conclusions based on lessons learned regarding the implementation of chapters III and IV of the United Nations Convention against Corruption, which had been endorsed by the Conference of the States Parties at its eighth session and, in its resolution 8/2, approved as a potentially useful guide for practitioners. The publication was based on an analysis of over 6,200 individual recommendations and nearly 1,100 good practices identified in 169 completed country reviews of the first cycle, as well as on comments provided by interested States parties. Furthermore, she introduced an array of issues which reflected the most prevalent trends and nuances in the implementation of chapter IV as gathered from the completed reviews, such as dual criminality and use of the Convention as a legal basis for international cooperation.

20. In an effort to enhance the exchange of information and synergies between the open-ended intergovernmental expert meeting to enhance international cooperation under the United Nations Convention against Corruption and the Working Group on International Cooperation established by the Conference of the Parties to the United Nations Convention against Transnational Organized Crime, another representative of the Secretariat provided an overview of the salient outcomes of the deliberations of the Working Group on International Cooperation at its eleventh meeting, which had been held in Vienna on 7 and 8 July 2020. At that meeting, the Working Group had considered the topics of the use and role of joint investigative bodies in combating transnational organized crime and international cooperation involving special investigative techniques. Discussion at the meeting of the Working Group had also revolved around the impact of the COVID-19 pandemic on the effectiveness of international cooperation in criminal matters. Further information was provided on the follow-up to that meeting of the Working Group on International Cooperation and the agenda for its twelfth meeting, to be held on 25 and 26 March 2021. Future synergies between the open-ended intergovernmental expert meeting to enhance international cooperation under the United Nations Convention against Corruption and the Working Group on International Cooperation established by the Conference of the Parties to the United Nations Convention against Transnational Organized Crime, through possible back-to-back meetings, were also mentioned. Reference to such synergies was made also in the light of the future role of the Working Group within the framework of the Mechanism for the Review of the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto, established in accordance with resolution 9/1 of the Conference of the Parties to the Organized Crime Convention, whose review process had been launched through a resolution of the Conference adopted at its tenth session.

21. In the ensuing discussion, speakers reiterated the importance of international cooperation in combating corruption and stressed the vital role played by the different existing practitioners’ networks in this domain. One speaker recommended the establishment of a United Nations special committee to coordinate between States parties in facilitating international cooperation, in particular in the field of asset recovery and the return of assets.

Panel discussion on measures to promote, facilitate and support international cooperation and technical assistance in the prevention of and fight against corruption

22. To facilitate the deliberations under the agenda item and in line with the recommendations of previous expert meetings, a thematic panel discussion was held, in accordance with paragraph 8 of Conference resolution 8/2, on the topic of measures to promote, facilitate and support international cooperation and technical assistance in the prevention of and fight against corruption, in line with article 1 (b) of the Convention, with a view to facilitating the implementation of article 43 of the Convention.

23. The panel discussion covered two distinct sub-topics: (a) practical topics in extradition cases involving offences under the Convention, as highlighted in Conference resolution 8/6, and (b) effective law enforcement cooperation and networks (art. 48 of the Convention). Experts from Canada, Romania, Singapore and Europol participated in the panel.

24. The panellist from Romania started the debate on the first sub-topic by presenting information on practical aspects, challenges and good practices in the field of extradition. She noted that the Convention was a valuable instrument when it came to providing a legal basis for extradition for corruption-related offences. In addition, she listed some challenges in connection with extradition, such as the possibility for States parties to make extradition conditional upon the existence of a specific extradition treaty, excessive formalities and evidentiary requirements. She highlighted, however, that the Convention imposed upon States parties an obligation to seek to conclude treaties on extradition with other States and to expedite extradition procedures and simplify evidentiary requirements. Given that negotiating bilateral instruments could be a difficult and lengthy process, she encouraged States parties to make the most of the possibilities the Convention offered in that regard and pointed out that the use of existing networks of experts would facilitate cooperation.

25. In order to address those and other practical challenges, she proposed several possible solutions, including (a) the drafting of model requests; (b) the requirement for States to fill in a checklist indicating the competent authorities to which extradition requests should be addressed, and the requirements such requests should meet; and (c) making all online resources easily accessible. She also suggested that the expert meeting should continue to discuss challenges and solutions faced by practitioners on this matter.

26. The panellist from Canada discussed his country's experience in addressing the principle of *aut dedere aut judicare* (the obligation to prosecute or extradite) enshrined in article 44, paragraph 11, of the Convention. He indicated that the Supreme Court of Canada in a decision rendered in 1989 in the Cotroni case, established that extradition did in fact violate a Canadian citizen's constitutional right to remain in Canada but that the same constitutional document allowed for principled and justifiable infringements of that right.

27. The panellist noted that in its decision, the court had laid down 12 factors to be considered by Canadian authorities when deciding on an extradition request. These "Cotroni factors" included questions such as where the impact of the offence was felt, in which jurisdiction most of the acts in furtherance of the alleged crime had been committed, where the evidence was located and whether it was mobile, whether all the accused involved could be tried in one place, and which jurisdiction had the greater interest in prosecuting the offence, was ready to proceed to trial and had the most comprehensive case. He indicated that when the central authority of Canada for extraditions and mutual legal assistance received a request for extradition, the relevant prosecutorial authorities were asked to consider the Cotroni factors shortly after receipt of the request. The panellist noted that a comprehensive analysis of all factors was typically necessary to determine whether a national prosecution should be instituted. However, while a pending or anticipated domestic prosecution was not necessarily determinative in deciding whether to grant the extradition request, the panellist indicated

that in practice this tended to be the persuasive factor. In conclusion, the panellist stated that the regime and analysis offered in the Cotroni decision allowed for the effective implementation of the principle of *aut dedere aut judicare*, while respecting both the constitutional rights of the individual in question and the independence of the relevant authorities who decided on a request for extradition.

28. Opening the discussion of the second sub-topic, on effective law enforcement cooperation and networks, the panellist from Singapore presented information on the effective use of technology in enhancing cross-border law enforcement cooperation in investigations and prosecutions of offences under the Convention. The panellist shared information on the development of a digital forensics branch in the structure of the Corrupt Practices Investigation Bureau of Singapore and its functions. He noted that while it was still in its initial stages of operation, the branch dealt mainly with digital evidence originating in computers and mobile devices and it increasingly worked with cloud storage facilities and electronic communication platforms. The panellist noted that following that trend, the Bureau had developed secure collaborative investigation methods and forensic analytics platforms that allowed for automated correlation of findings across the web, mobile and social data, among other platforms. He further provided an outline of the evidentiary value of some digital forensic material, such as computers, mobile phones, tablets and cloud technologies, and an overview of the analytic approach used in the branch. The panellist concluded by indicating that the Bureau was part of several technical groups such as the INTERPOL Digital Forensics Expert Group Meeting and the Asian Forensic Sciences Network and shared information with national and foreign counterparts.

29. The panellist from Europol gave an overview of the role of Europol in the joint investigation teams formed to combat serious and international organized crime and terrorism. He highlighted that joint investigation teams were an important tool to facilitate the coordination of investigations conducted in several Member States. Such teams were established by an agreement signed by its members and, when applicable, by Europol. The panellist further explained that the role of Europol in joint investigation teams included participating in team activities, assisting with the exchange of information among the team's members and offering technical expertise. He also described the Secure Information Exchange Network Application, a platform that enabled a swift and secure exchange of information. To conclude, he listed the operational and strategic partners of Europol.

30. In the ensuing discussion, several delegates highlighted the crucial role of international cooperation in achieving the objectives of the Convention. Several speakers noted, however, that practitioners continued to face challenges in connection with mutual legal assistance in criminal matters and extradition. One speaker indicated that States parties often requested a significant amount of additional information that could not be obtained prior to legal assistance from the requested States and referred to significant delays in executing mutual legal assistance requests. Another speaker noted that a number of States either did not execute or did not respond to requests for mutual legal assistance that were transmitted by his Government or refused to extradite criminals in contravention of their international legal obligations. He appealed to the Governments of those countries to strictly adhere to their obligations and to promote international cooperation.

31. Several speakers proposed solutions to improve international cooperation. One speaker stressed the important role that the networks of practitioners and initiatives could play in preparing comprehensive requests for effective international cooperation and noted that the Mutual Legal Assistance Request Writer Tool developed by UNODC was a useful tool for use in that process. She also highlighted that many of the challenges could be resolved by providing the central authorities with the necessary tools and resources to fulfil their obligations effectively and urged States parties to establish and train such authorities and provide them with all the necessary tools and resources they needed to effectively participate in the international cooperation process. The speaker also noted that lowering standards and legal requirements for international cooperation should not be considered as a

solution because those standards existed to protect the fundamental rights of individuals and ensure due process. Accepting digital documents and the transmittal of mutual legal assistance requests through electronic communication channels was highlighted by another speaker as a reliable and effective means of international cooperation. Another speaker called on the open-ended intergovernmental expert meeting to further explore the challenges and strengthen international cooperation.

32. One speaker noted the constructive role played by UNODC in the facilitation of cross-border mutual legal assistance in a high-level corruption case in the fisheries industry, in relation to which her country had sent 14 mutual legal assistance requests since December 2019 on the basis of relevant provisions of the United Nations Convention against Corruption and the United Nations Convention against Transnational Organized Crime. Her country made use of the UNODC digital platforms to access laws, contact details and other information pertaining to requested States. In addition, UNODC facilitated contacts and assisted in the coordination of bilateral meetings with several counterparts from foreign jurisdictions, including during the last session of the Conference of the States Parties to the Convention. She further emphasized some challenges her country encountered in the course of the investigation such as unresponsiveness despite persistent follow-up and supplementary requests, limited resources, lack of expertise in specialized areas of investigation, and admissibility of evidence.

33. One speaker briefed the meeting on the Riyadh Initiative, which was aimed at establishing a global operational network of anti-corruption law enforcement authorities under the umbrella of UNODC. He described the three components of the Initiative: (a) establishing a Vienna-based global network of anti-corruption law enforcement authorities; (b) establishing a one-stop online hub for the network, with a secure communication channel; and (c) developing knowledge and capacity for the network. He emphasized that the new network was not intended to replace but rather to complement existing networks by offering an additional channel for anti-corruption law enforcement authorities. The speaker concluded by encouraging all States parties to join the network.

34. Another speaker shared the experience of her jurisdiction on the Pacific Transnational Crime Network as an example of effective law enforcement cooperation. The speaker highlighted the Network's multi-agency law enforcement approach to targeting transnational crime and underscored its crucial role. It was also emphasized that the Network cooperated with other international organizations and national law enforcement authorities, and specific examples were shared.

35. Several speakers stressed the importance of having access to relevant information on central authorities and requirements for mutual legal assistance requests for rapid and effective collaboration and urged States parties to ensure that details were correct and updated regularly on the UNODC website.

36. One speaker also shared that, owing to the challenges relating to the pandemic, her jurisdiction had not been able to meet the pre-pandemic targets in international cooperation. She also highlighted that challenges in the extradition process occurred mostly in the form of review and appeal proceedings against extradition decisions, often at the constitutional court where the processes were such that it could take years until fugitives were surrendered.

37. Another speaker, while sharing the experience of his country with regard to international cooperation, noted that the Office of the Attorney General of his country had taken strategic actions through legislative proposals and by establishing inter-agency working groups and building effective communication channels with their counterparts through various networks and regional forums in order to enhance international cooperation.

38. A representative of INTERPOL and a representative of the International Development Law Organization described the activities of their organizations, which included training and capacity-building, aimed at assisting States with international cooperation. It was pointed out that national anti-corruption commissions, upon

request, could be granted access to INTERPOL databases and services through one of the 194 national central bureaus.

IV. Update on the tools and services of the United Nations Office on Drugs and Crime to promote international cooperation

39. A representative of the Secretariat provided an update on the tools and services of UNODC to promote international cooperation. She briefed the expert meeting on the latest status of the online directory of competent national authorities under the United Nations Convention against Corruption, which maintained information on five different types of authorities. The representative indicated that, as at 11 November 2020, 119 States parties had provided information on their prevention authorities; 132 States parties had shared information with regard to their central authorities for mutual legal assistance; 86 States parties had provided information on their asset recovery focal points; 29 States parties had designated their central authorities for extradition; and 34 States parties had provided information about their focal points on the use of civil and administrative proceedings relating to corruption. Recalling that the data of the directory had been merged with another directory of competent national authorities on the Sharing Electronic Resources and Laws on Crime (SHERLOC) knowledge management portal, she highlighted that the SHERLOC portal also contained a large amount of information regarding international cooperation. She also explained the procedure for submitting new information or updates to the directory and encouraged States parties to continue providing information in that regard.

40. The representative of the Secretariat also introduced the process of redesigning and reconceptualizing the Tools and Resources for Anti-Corruption Knowledge (TRACK) comprehensive portal, in order to relaunch it within a new one-stop hub. It was envisaged that the hub, aimed at facilitating cooperation and communication for anti-corruption practitioners, would provide a secure communication platform and link together existing UNODC resources in one central place as part of a new operational network for anti-corruption law enforcement cooperation. UNODC would provide technical and operational services accordingly. She also provided an update on the guides and handbooks produced by UNODC, in particular the handbook entitled International Cooperation for Investigation of Corruption in South-East Asia.

41. During the discussions, several speakers welcomed the development by the Secretariat of online tools to facilitate international cooperation, including the Mutual Legal Assistance Request Writer Tool and the online directory of competent national authorities. With the objective of promoting direct contact among competent authorities, several speakers urged States parties to update the information in the UNODC online directory of competent national authorities on a regular basis, in particular on central authorities for mutual legal assistance. A number of speakers also encouraged States parties to continue to provide to the Secretariat information on challenges and good practices in international cooperation so that the Secretariat could continue its analytical work in that regard.

V. Adoption of the report

42. The report of the ninth open-ended intergovernmental expert meeting to enhance international cooperation under the United Nations Convention against Corruption was adopted by means of a silence procedure on 11 December 2020.