



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

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## Open-ended intergovernmental expert meeting to enhance international cooperation under the United Nations Convention against Corruption

Vienna, 16–18 November 2020

Item 3 of the provisional agenda\*

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

## Progress in implementing the mandates of the open-ended intergovernmental expert meeting to enhance international cooperation under the United Nations Convention against Corruption

Note by the Secretariat

### I. Introduction

1. In its resolution 4/2, entitled “Convening of open-ended intergovernmental expert meetings to enhance international cooperation”, 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 also decided that the expert meetings should perform the following functions: (a) assist it in developing cumulative knowledge in the area of international cooperation; (b) assist it 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. The first to eighth expert meetings were held annually from 2012 to 2019.
4. The present note has been prepared to inform the ninth expert meeting of the status of implementation of its recommendations and of the Conference resolutions

\* [CAC/COSP/EG.1/2020/1](#).



relating to international cooperation. Its purpose is to assist the expert meeting in its deliberations and in determining its future activities.

5. 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 Convention, with a view to facilitating the implementation of article 43 of the Convention.

6. 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.

7. In addition, 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.

8. In paragraph 19 of the same resolution, the Conference also 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 believe that such information could assist those authorities, without prejudice to mutual legal assistance.

9. Furthermore, in line with the recommendations of the eighth open-ended intergovernmental expert meeting to enhance international cooperation under the United Nations Convention against Corruption, held in Vienna on 31 May 2019, States parties were encouraged to continue to provide to the secretariat information on challenges and good practices in international cooperation and other topics outlined in the Conference's resolutions and the recommendations of the expert meetings, with a view to the secretariat continuing its analytical work with regard to challenges in international cooperation based on the Convention and relevant to the implementation of chapter IV.

10. In line with the recommendations of the same meeting, States parties were also encouraged to share information on their legal requirements for international cooperation as well as statistical information and examples relevant to international cooperation in transnational corruption cases.

11. The present document has been prepared pursuant to the mandates contained in the aforementioned resolutions of the Conference and the recommendations of the eighth expert meeting.

12. It also contains information on technical assistance and other activities of the secretariat in the field of international cooperation under the Convention.

13. In order to facilitate the implementation of the above-mentioned mandates, on 5 August 2020, the secretariat sent to States parties a note verbale seeking the information referred to in paragraphs 5 to 10. As at 1 October 2020, a total of 44 States parties had provided responses.<sup>1</sup>

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<sup>1</sup> Argentina, Austria, Bahrain, Belgium, Botswana, Bulgaria, Burundi, Cambodia, China, Cuba, Cyprus, Czechia, Denmark, Ecuador, Germany, Greece, Hungary, Israel, Japan, Jordan, Latvia, Lithuania, Mexico, Myanmar, North Macedonia, Norway, Philippines, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, Samoa, Saudi Arabia, Senegal, Slovenia, Spain, Sudan, Tajikistan, Turkey, Turkmenistan, United Republic of Tanzania, Uruguay and Venezuela (Bolivarian Republic of).

14. The extent of the information provided varied: a few States submitted comprehensive responses, while others provided specific information. All responses that contained substantive information are summarized below. The secretariat will continue to analyse the information received from States and will make it available to future expert meetings.

## **II. Approaches taken and practices engaged in by States parties 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 United Nations Convention against Corruption, with a view to facilitating the implementation of article 43 of the Convention**

15. States parties reported on a number of approaches taken and practices engaged in by their competent authorities to facilitate international cooperation and technical assistance in several key areas.

### **Direct bilateral and regional cooperation with foreign competent authorities and international organizations, including through relevant agreements and arrangements, in the prevention of and fight against corruption**

16. A number of States reported on the benefits of direct cooperation mechanisms among competent authorities, including through relevant agreements and direct contacts, which helped build relationships of trust. For example, several States reported that their anti-corruption bodies investigated and prosecuted domestic and international cases and maintained close networks with foreign counterparts, especially at the regional level. One European State reported that its anti-corruption authority was responsible for international cooperation in investigations within the framework of international police cooperation and administrative assistance and cooperated directly with foreign authorities and international institutions.

17. A number of States had signed bilateral cooperation agreements to facilitate the aforementioned exchanges. For example, the anti-corruption authority in one Eastern European State had signed bilateral agreements of an administrative nature that aimed to facilitate the exchange of information, joint actions and professional cooperation in preventing and combating corruption; joint access to European or internationally funded projects; and the holding of regular meetings among experts. Another State's anti-corruption body had concluded with most neighbouring States police and other cooperation agreements, arrangements and memorandums of understanding that included provisions on cooperation in anti-corruption matters. In one African State, the Director of Public Prosecutions and the anti-corruption authority had entered into bilateral agreements with their foreign counterparts, and national authorities cooperated and exchanged information bilaterally and regionally through joint permanent cooperation commissions. In one State from the Group of Latin American and Caribbean States, the authority responsible for financial investigations had signed inter-institutional memorandums and memorandums of understanding and agreements with foreign counterparts on the exchange of information, and the Office of the Attorney General also maintained cooperative ties with counterpart bodies in 20 countries, as reflected in the signing of 16 cooperation agreements.

18. In that context, States also referred to regional cooperation mechanisms to strengthen judicial cooperation in criminal matters among member States, including the African Union, the Commonwealth of Independent States, the European Union and the Southern African Development Community, as well as platforms such as the Regional Judicial Platform of the Sahel countries and the Commonwealth Scheme on Mutual Legal Assistance in Criminal Matters.

19. With regard to cooperation with international organizations in the area of corruption, States reported on cooperation with the United Nations Office on Drugs and Crime (UNODC), the Group of 20 Anti-Corruption Working Group, the Anti-Corruption and Transparency Experts Working Group of the Asia-Pacific Economic Cooperation forum (APEC), the Working Group on Bribery of the Organization for Economic Cooperation and Development, the Asian Development Bank, the Mechanism for Follow-up on the Implementation of the Inter-American Convention against Corruption, the Organization for Security and Cooperation in Europe and the International Anti-Corruption Academy. More specifically, in relation to the Group of 20, reference was made to the High-level Principles on Cooperation on Persons Sought for Corruption and Asset Recovery, the Anti-Corruption Action Plan 2017–2018 and the establishment of the Research Centre on Cooperation Regarding Persons Sought for Corruption and Asset Recovery in Group of 20 Member States.

20. In addition to cooperation in criminal matters, several States referred to cooperation among national authorities with mandates relevant to corruption prevention, including supreme audit institutions and national procurement authorities, and their participation in relevant international organizations.

21. Some States also referred to effective cooperation in the areas of money-laundering and asset recovery by specialized investigative and prosecution bodies and financial intelligence units, as well as through dedicated practitioner networks, including the Egmont Group of Financial Intelligence Units, regional inter-agency asset recovery networks, the Financial Action Task Force and its regional bodies, the European Union Asset Recovery Offices, the World Customs Organization, the Ibero-American Network for International Legal Cooperation and the Stolen Asset Recovery Initiative.

22. States reported that the aforementioned direct cooperation mechanisms and agreements enabled better cooperation among States when relevant transnational corruption cases occurred. For example, one State in the Group of Asia-Pacific States reported that between 2014 and June 2020, a total of 7,831 fugitives were returned and assets of approximately \$2.871 billion were recovered through cooperation with anti-corruption and law enforcement agencies from more than 120 countries and regions.

### **Communication channels**

23. A number of States reported on the effective use of communication channels provided by international and regional law enforcement bodies, notably the I-24/7 Global Police Communications System of the International Criminal Police Organization (INTERPOL) and the Secure Information Exchange Network Application of the European Union Agency for Law Enforcement Cooperation (Europol). Reference was also made to channels under the Police Cooperation Convention for South-East Europe, the South-East European Law Enforcement Centre and the European Financial and Economic Crime Centre.

24. Several States referred to the important role of direct communication among central authorities, such communication facilitating the drafting of international cooperation requests. Direct communication was of particular importance in asset recovery cases. For example, the Asset Recovery Office in one State maintained direct channels of communication with similar offices abroad, particularly in Portuguese-speaking African countries, as well as Brazil and Timor-Leste, which greatly assisted prosecutors and expedited requests for asset confiscation and restraint. Authorities in one State in the Group of Asia-Pacific States reported having annual bilateral meetings and frequent direct exchanges with counterparts in countries with which there were many mutual legal assistance cases. States also referred to direct communication among law enforcement and other competent authorities. In another State in the region, provincial anti-corruption offices had been established along the border to promote closer cooperation with neighbouring States, and those

offices met regularly with their counterparts. One European State reported that procedures for mutual legal assistance were cumbersome without international agreements that supported direct communication among law enforcement authorities.

25. In addition, some States reported on the benefits of domestic and foreign liaison officers in relation to issues of corruption. Liaison officers usually had direct contacts with local authorities or were part of relevant networks, which were conducive to improving cooperation with foreign authorities.

### **Networks**

26. States referred to participation by their competent authorities in a number of regional and international anti-corruption networks and forums for practitioners in the areas of corruption, law enforcement and police supervision, such as European Partners Against Corruption, the European Contact-Point Network Against Corruption, the European Anti-Fraud Office, the Network for Enhanced Regional Cooperation of Internal Security Units and the Network of Corruption Prevention Authorities. States also referred to regional cooperation under the Southeast Asia Parties Against Corruption, the APEC Network of Anti-Corruption Authorities and Law Enforcement Agencies, the West African Network of Central Authorities and Prosecutors and the Regional Anti-Corruption Initiative for Eastern European States. Some States referred to effective cooperation through the European Union Agency for Criminal Justice Cooperation and the European Judicial Network, as well as the recently established Network of European Integrity and Whistleblowing Authorities as a means of preventing fraud and corruption.

### **National structures and domestic coordination**

27. A number of States reported on the establishment, role and functions of specialized authorities dedicated to combating corruption and economic crime. Those authorities facilitated the investigation and prosecution of transnational corruption cases and promoted international judicial and police cooperation.

28. Several States referred to the importance of close and effective inter-agency cooperation among national authorities and national central authorities to facilitate the drafting and implementation of international cooperation requests. For example, in one European country the central authority worked closely with prosecutors in charge of investigations and transmitted relevant information. Units of specialized prosecutors had been established to fight corruption and money-laundering offences, and local units for judicial cooperation in criminal matters had been established in the country's four main regions, allowing local prosecutors to be easily contacted by authorities investigating corruption offences and to clarify requests for international cooperation. Some States also referred to systems that had been established in several national institutions to facilitate the tracking and provision of mutual legal assistance.

29. The importance of adequate capacity and the professionalism of the authorities involved in international cooperation was underscored by several States. For example, one European State reported that mutual legal assistance requests were handled efficiently and professionally by experienced prosecutors and investigators, who endeavoured to take immediate action if there was a legal ground for law enforcement or other legal actions. Another State reported that it promoted capacity-building of members of the judiciary and authorities engaged in international cooperation in the area of crime prevention and transnational crime. One State from the Group of Latin American and Caribbean States reported that it sought to implement requests expeditiously and maintained an up-to-date website containing model forms for requests for international cooperation and applicable regulations. One State in the Group of Asia-Pacific States reported on a road map for capacity-building and training for national authorities on how to combat money-laundering and the financing of terrorism, which included international cooperation components.

30. In that context, reference was also made to enhanced cooperation among 22 member States of the European Union with a view to establishing a European public prosecutor's office.

#### **National legal frameworks and law reform**

31. Several States reported on steps that had been taken towards strengthening national legal frameworks to enhance international cooperation in the fight against corruption. Those legal reforms had been promoted by national reviews of domestic legislation and through the implementation reviews under the Convention. For example, one State referred to improvements made to its mutual legal assistance and criminal laws with a view to giving effect to the framework on European arrest warrants and enhancing the extradition procedure, which had been implemented following the country's implementation review under the Convention. One State in the Group of Asia-Pacific States reported on planned reforms of its law on mutual legal assistance, which would enhance cooperation on transnational corruption cases and provide professional resources to support the law's implementation and the delivery of technical assistance. Another State reported on measures that had been introduced to permit the national competent authority on the prevention of corruption to exchange data with foreign authorities and international organizations.

#### **Bilateral, regional and international agreements, conventions and treaties**

32. A number of States referred to the importance of relevant international and regional agreements on international cooperation as the frameworks through which national authorities provided international judicial and law enforcement cooperation. Examples referred to include the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between the Member States of the European Union (and its protocols), the Council of Europe Criminal Law Convention on Corruption, the Arab Anti-Corruption Convention, the African Union Convention on Preventing and Combating Corruption, Protocol A/P3/12/01 on the fight against corruption among members of the Economic Community of West African States (ECOWAS), the ECOWAS Convention on Mutual Assistance in Criminal Matters, the Inter-American Convention against Corruption, the Inter-American Convention on Mutual Assistance in Criminal Matters, the Association of Southeast Asian Nations (ASEAN) Treaty on Mutual Legal Assistance in Criminal Matters, the Riyadh Arab Agreement on Judicial Cooperation, the Minsk Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters (among the countries of the Commonwealth of Independent States), the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and the European Convention on the Transfer of Proceedings in Criminal Matters, as well as other multilateral and bilateral instruments.

33. The relevant treaties provide tools and mechanisms to facilitate international cooperation, such as the European arrest warrant, European investigation orders pursuant to Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 and confiscation, freezing and seizure orders issued on the basis of the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959 and its protocols.

#### **Technical assistance**

34. States also referred to the importance of technical assistance in the prevention of and fight against corruption. For example, one State in the Group of Eastern European States reported that its anti-corruption authority provided technical assistance and capacity-building to partners in neighbouring countries and hosted meetings and conferences on corruption prevention topics. Another State in the same region reported that the frameworks and memberships of INTERPOL and Europol supported international cooperation and provided opportunities for technical and financial assistance in the fight against corruption among law enforcement agencies tackling cross-border crime. One European State reported on the technical assistance

it provided in the prevention of and fight against corruption through its bilateral and global cooperation portfolio, multilateral technical assistance delivered by UNODC and complementary partnerships with civil society. In the Group of Asia-Pacific States, one State reported that its national authorities conducted two to three training courses a year to strengthen the capacity of foreign anti-corruption and law enforcement authorities, in particular in developing countries. One European State reported on technical assistance projects it had implemented that were aimed at addressing the root causes of State fragility in partner countries, particularly corruption in the extractive industries, while another State referred to the training courses and seminars offered to criminal justice practitioners by the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders.

### **III. Use of the Convention as a legal basis for extradition, and approaches taken and practices engaged in by States parties to conclude bilateral extradition agreements and arrangements to carry out, or to enhance the effectiveness of, extradition pertaining to matters under the Convention**

35. Several States reported that they recognized the Convention as a legal basis for extradition, in some cases in the absence of other applicable bilateral agreements. However, most States parties reported that to date, there had been no extradition cases in relation to which the Convention had been used as a legal basis or that no statistics were kept in that regard. One State reported that it had formulated one request for extradition on the basis of the Convention in 2019, while another State had processed one extradition request for the crime of embezzlement in 2012 on the basis of articles 44.1 and 44.6 (a) of the Convention. One State reported that, since March 2018, it had made one extradition request to a foreign country on the basis of the Convention and that, in recent years, its authorities had successfully used the Convention as a basis for requesting criminal judicial assistance from foreign law enforcement and judicial authorities in connection with a number of corruption cases. Those foreign authorities had provided a great deal of evidentiary material in response to the requests, thus effectively promoting international law enforcement and judicial cooperation against corruption and jointly combating transnational corruption crimes. Another State reported that to date, it had not received or sent any extradition requests on the basis of the Convention and that there had been only a few cases in relation to which mutual legal assistance had been requested solely on the grounds of the Convention, those requests having been successfully executed. One State referred to cases of requests for extradition made both by and to it in recent years on the basis of the Convention. Two States reported that there was no record of the use of the Convention in extradition cases, but that there had been cases of mutual legal assistance requests referring to the Convention as a legal basis. One State reported that the Convention could not be accepted as a legal basis for extradition, although there was theoretically no obstacle to meeting requests for extradition within the scope of the Convention. Another State reported that it was considering amending its declaration that it could not consider the Convention as a legal basis for extradition for reasons of dual criminality, in order to allow it to use the Convention as a basis for extradition provided the dual criminality requirement was satisfied.

36. Several States provided a list of their extradition agreements. Some States reported that the existing international mechanisms (in particular, the Convention and multilateral agreements) provided an adequate legal basis and that concluding new bilateral agreements was either unnecessary or would be considered only in situations where the possibility of extradition pertaining to matters under the Convention was hindered owing to the absence of an extradition agreement. Two States reported that they supported efforts and practices to increase the efficiency of extradition processes and the signing of new bilateral extradition agreements in the areas covered by the Convention.

37. Some States reported that extradition was carried out in accordance with international treaties or, in the absence of a treaty, in accordance with domestic law or the principle of reciprocity, and they provided statistics on extradition cases involving corruption offences. One State reported that in the absence of a legal basis for extradition, it could request extradition on the basis of reciprocity but could not respond to extradition requests on the basis of that principle. Furthermore, its nationals could be extradited only pursuant to a bilateral treaty or a European arrest warrant.

38. With regard to challenges in extradition, one State reported that its recent experience had shown that some countries had little experience in respect of extradition, had only recently adopted legislation on the matter and needed additional training for their practitioners. One important topic, which could also be developed in the framework of the expert meeting, was the specialty principle and how that principle was applied in the domestic legislation of States parties in the context of extradition procedures.

#### **IV. Approaches taken and practices engaged in by States parties to conclude 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**

39. A number of States reported that they had concluded bilateral agreements containing provisions on special investigative techniques, in particular with neighbouring States. Examples included police cooperation agreements that one State had concluded with two neighbouring States and that contained provisions on cross-border observations and special forms of police cooperation. Other States also reported that they had concluded agreements with law enforcement authorities of neighbouring States that allowed for assistance to be rendered in cross-border investigations. One State indicated that provisions on special investigative techniques in the context of international cooperation were contained in its law on international judicial cooperation in criminal matters and in bilateral treaties with most of its neighbouring States.

40. In addition, some States referred to regional or international arrangements on special investigative techniques. The framework agreement on cooperation between the States parties of the Southern Common Market and associated States for the creation of joint investigation teams was given as an example by one State. Another State mentioned a police cooperation convention for Southeast Europe, which contained provisions on special investigative techniques such as the conduct of undercover investigations into suspected criminal behaviour. Within the European Union, the directive on the European investigation order served as the legal basis pursuant to which the investigative measures referred to in article 50 of the Convention could be requested and carried out. It was further noted that the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters allowed for the use of special investigative techniques.

41. Several States reported that their national legislation provided for the possibility of using special investigative techniques in international or cross-border investigations. One State in particular noted that under its Act on International Mutual Assistance in Criminal Matters, all investigative measures that existed under its domestic law, which included the special investigative techniques mentioned in article 50 of the Convention, could also be carried out in cross-border investigations. Consequently, it had not yet been necessary for that State to conclude specific international treaties for the prosecution of bribery cases.



42. One State indicated that its national legislation did not include generic provisions on the use of special investigative techniques, but that it was in the process of being amended.

43. Finally, some States reported that they had not yet concluded bilateral or multilateral agreements for the use of special investigative techniques as referred to in article 50 of the Convention.

## **V. Sharing of information related to transnational bribery, without prior request, to interested competent authorities of other States parties, in line with article 46, paragraph 4, of the Convention**

44. Many States referred to the importance of the spontaneous sharing of information related to transnational bribery; however, only a few States reported having actual cases related to transnational bribery.

45. A number of States referred to specific provisions on the spontaneous sharing of information in their domestic legislation. Such provisions, which usually set out the conditions for that type of international cooperation, were contained in various laws, including laws on international cooperation, anti-corruption laws and money-laundering laws. One European State reported that information was shared among Member States of the European Union without prior request in accordance with Council Decision 2007/845/JHA of 6 December 2007 concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to, crime.

46. A number of States reported that despite a lack of specific provisions, nothing in their domestic legislation prevented their competent authorities from sharing information with foreign authorities without prior request.

47. One State reported that its law enforcement authorities were only allowed to contact their international partners directly in exceptionally urgent cases.

48. Some countries reported that the spontaneous sharing of information was usually done through existing networks such as INTERPOL, Europol, the European Union Agency for Criminal Justice Cooperation, the Egmont Group, the Asset Recovery Inter-Agency Networks and the Southeast European Law Enforcement Centre, or directly through liaison officers.

## **VI. Challenges and good practices in international cooperation and other topics outlined in the resolutions of the Conference and the recommendations of the expert meetings**

49. Many States referred to the importance of international cooperation in the prevention of and fight against corruption. Some States indicated that the challenges in international cooperation regarding corruption cases were generally no different to those related to other types of offences. One State highlighted that requests related to asset recovery nevertheless usually took longer to be executed in comparison with other requests for mutual legal assistance.

50. Many States indicated that delayed or missing responses to mutual legal assistance requests presented the main challenge to international cooperation. Similarly, a lack of resources and specialized expertise and skills were cited by several States as posing a significant challenge to international cooperation.

51. Some States referred to the lack of a comprehensive domestic legal and institutional framework for international cooperation and the non-domestication of

international instruments such as the Convention among the challenges to international cooperation.

52. Other challenges mentioned by States included banking secrecy and restrictions on the exchange of information and documents, differences in legal systems and detailed legal requirements in requested States, a lack of or ambiguous communication channels and focal points, a lack of bilateral arrangements, language-related challenges, insufficient use of informal international cooperation mechanisms preceding the stage of mutual legal assistance, missing or inaccurate information in requests for mutual legal assistance, a lack of non-conviction-based forfeiture mechanisms, and political issues. One State cited political asylum and dual criminality as challenges to extradition procedures.

53. One State indicated that the international health crisis caused by the coronavirus disease (COVID-19) pandemic was among the recent challenges facing anti-corruption efforts.

54. Regarding good practices, many States referred to their participation in formal and informal cooperation networks and platforms to enhance international cooperation. Reference was made to INTERPOL, Europol, the European Union Agency for Criminal Justice Cooperation, European Partners against Corruption, the European Contact-Point Network against Corruption, the Working Party of Senior Public Integrity Officials of the Organization for Economic Cooperation and Development, the Network of Corruption Prevention Authorities, the Network of European Integrity and Whistleblowing Authorities, the European Union Asset Recovery Offices and the Global Focal Point Network on Asset Recovery of INTERPOL and the Stolen Asset Recovery Initiative, and to various asset recovery inter-agency networks.

55. Two States indicated that since June 2013, the Europol Secure Information Exchange Network Application had been used for handling international requests for administrative assistance regarding corruption offences. The Application enabled the swift and user-friendly exchange of operational and strategic crime-related information among Europol liaison officers, analysts and experts, member States and third parties with which Europol had cooperation agreements. When using the Application, the participating authorities/departments must comply with data protection regulations and various other legal provisions relating to international police cooperation. As the Application speeded up the processing of requests for administrative assistance, it was an essential element of international communication. One State cited the Europol Analysis Project Corruption as an example of a good practice for enforcing international cooperation. Analysis Projects are part of the Europol Analysis System – an information processing system – and focus on certain areas of crime from a commodity-based, thematic or regional perspective.

56. One State in the Group of Asia-Pacific States referred to the Southeast Asia Parties Against Corruption, an ASEAN-affiliated entity that comprises 10 anti-corruption agencies in the region. Members of that regional network meet regularly each year to share experiences, raise concerns and make requests to each other.

57. Another State in the same region referred to the establishment of the APEC Network of Anti-Corruption Authorities and Law Enforcement Agencies, which was an important outcome of the APEC Informal Senior Officials' Meeting.

58. One European State explained that the European Union Agency for Criminal Justice Cooperation assisted prosecutors and other investigators from European Union member States in cases of serious crime that affected two or more member States or required prosecution on common bases, on the basis of operations conducted and information supplied by member State authorities, Europol, the European Public Prosecutor's Office and the European Anti-Fraud Office.

59. One State in Eastern Europe referred to the establishment of the European Public Prosecutor's Office. The process of necessary legislative and budgetary adjustments had been expedited in order to enable the Office to commence operations at the end

of 2020, as planned. Because of its organizational structure and significant powers, it was recognized as the first supranational prosecutorial body with competence to prosecute crimes affecting the financial interests of the European Union, including active and passive corruption or misappropriation, in the 22 participating member States.

60. One State in the Group of Western European and other States cited the use of the financial intelligence unit as a good practice, particularly in urgent cases where the Unit could send requests for temporary freezing to its counterpart financial intelligence unit in the requested country. That cooperation afforded a critical window of time in which to ensure that assets were restrained before the formal submission of a request for mutual legal assistance, and had resulted in successful seizures when a request for mutual legal assistance would not have arrived before the assets were dissipated. The State noted that the success of that course of action was, however, largely dependent on the varying seizure capabilities of the different financial intelligence units.

61. Several States emphasized the importance of having direct contacts and liaison officers who could facilitate, accelerate and improve cross-border cooperation. One State also referred to the benefits of the participation by representatives of the requesting party in the execution of requests abroad.

62. The existence of an effective domestic legal framework on international cooperation, the preparation of guides for international cooperation and internal guidelines for the timely execution of requests for mutual legal assistance, the designation of central authorities for international cooperation and the existence of electronic tools to process and manage requests were also considered by a number of States as good practices for enhancing international cooperation.

63. In order to mitigate the risk of their request going unanswered, it has been suggested that States should familiarize themselves with the procedures of the requested State and comply with those procedures before sending their request. That might be facilitated through the continuous sending by States of updates on relevant laws and institutions to UNODC for their inclusion in the Tools and Resources for Anti-Corruption Knowledge portal.

64. Other good practices cited by States included bilateral agreements and memorandums of understanding on international cooperation, inter-institutional cooperation through study missions, coordination meetings and joint training sessions, joint investigations, parallel investigations, the sending of advance copies of requests before the originals were received through diplomatic channels and participation in international forums such as the Conference of the States Parties.

65. Some States referred to successful cases that illustrated good practices in international cooperation. In that context, one European State referred to a case against a global company that, thanks to fruitful cooperation with the authorities in a neighbouring country, resulted in a joint settlement in 2019, whereby the company agreed to pay a fine of approximately \$35.1 million to the national and foreign authorities in relation to bribery payments made in both countries. In addition, one Asian State referred to a case in which cooperation between the public prosecutor and the financial intelligence unit and federal police of two other States in the same region resulted in the conviction of a domestic businessman for transnational bribery.

## **VII. States parties' legal requirements for international cooperation, including statistical information and examples relevant to international cooperation in transnational corruption cases**

### **General principles and legislative basis**

66. A number of States across different regional groups indicated in their responses that, as a general principle, they intended to provide the widest measure of international assistance or cooperation possible under their domestic laws and applicable international treaties. In a similar vein, several States indicated that they had central authorities that dealt with questions of international cooperation in criminal matters or authorities that focused on combating (international) corruption that were also responsible for handling requests for international cooperation or mutual legal assistance in relevant cases.

67. Many States reported having adopted legislation regulating international cooperation and mutual legal assistance in criminal cases. That legislation typically governed how and under what conditions such cooperation and assistance could be provided, and it could either be specific or be enshrined in generic instruments such as criminal codes or codes of criminal procedure. One State in the Group of Asia-Pacific States reported that a law on mutual legal assistance had been adopted in mid-2020 with a view to improving and facilitating that State's international cooperation in transnational corruption cases, but that further resources and technical assistance would be needed to support the law's implementation.

68. In addition, the requirements for and modalities of international cooperation and mutual legal assistance in criminal matters were often regulated in bilateral, regional or multilateral treaties. Examples of such instruments are provided in paragraphs 32 and 33 above.

69. In the absence of pertinent international instruments, the principles of reciprocity and comity were also mentioned by several States as possible bases for international cooperation. One State in the Group of Asia-Pacific States indicated that, while it did entertain requests for legal assistance on the basis of reciprocity, such assistance was limited to measures that did not necessitate the involvement of the local courts.

### **Scope of assistance – requirements and limitations**

70. While the majority of States did not report any limitations on the types of offences for which international legal assistance in criminal matters could be rendered – and some States specifically indicated that no such limitations applied – a number of respondents reported that negative requirements could be applicable. Such States indicated, for example, that legal assistance would be withheld in cases of a political or military nature. A State in the Group of Latin American and Caribbean States indicated that while it could facilitate a wide variety of international cooperation proceedings, assistance in relation to asset recovery could pose difficulties owing to a lack of explicit regulations.

71. Article 43, paragraph 2, of the Convention recognizes the possibility for States parties to consider dual criminality a requirement in matters of international cooperation. Several States reported that they did apply that principle, while one State in Eastern Europe explicitly indicated that there was no such requirement in place, except with respect to fiscal offences.

### **Grounds for refusal**

72. In addition, some States mentioned certain grounds on the basis of which cooperation or assistance could be withheld. Such grounds for refusal could include potential prejudice to the requested State's sovereignty, national security or public

order. One State reported that a request for cooperation would also be denied if such cooperation ran counter to the fundamental rights and freedoms set out in the European Convention on Human Rights. A State in the Group of Asia-Pacific States indicated that it could withhold assistance if there were indications that the subject of the investigation might be exposed to punishment on discriminatory grounds. A State in the Group of Eastern European States noted that it had made a declaration in relation to the European Convention on Mutual Assistance in Criminal Matters to the effect that it would refuse legal assistance in cases where criminal responsibility was precluded by statutory limitation or where the alleged offender had already been tried or convicted for the same offence.

### **Formal requirements**

73. A number of States reported on the formal requirements they applied when reviewing requests for assistance, occasionally in great detail. Several States noted, for example, that any request should be accompanied by the relevant legal provisions pursuant to which the alleged facts were criminalized. In some jurisdictions, requests for mutual legal assistance should, in principle, be sent and received through diplomatic channels. Some States indicated that if a request did not meet the formal requirements, the authorities might ask the requesting State to provide additional information.

### **Statistics**

74. A few States provided statistical information, but most of them indicated that no information was available on specific types of crime. However, some States did provide detailed statistics on corruption-related requests for mutual legal assistance.

75. One State in the Group of Eastern European States indicated that, in 2019, it had received three and issued a total of 15 requests on the basis of the Convention. Another State in the same region reported that, in the same period, its Anti-Corruption and Financial Crime Division had issued five and received four requests for mutual legal assistance. Also in the same region, one State had recorded 34 instances of international cooperation in 22 cases of corruption in 2019, while another reported that in 2019, it had sent 178 requests for legal assistance in criminal matters pertaining to corruption offences, the majority of which related to asset recovery, and had received 110 requests from foreign competent authorities, of which 51 related to asset recovery. Yet another State in the same region indicated that it had issued one request for mutual legal assistance for a bribery-related offence in 2019, and that in addition, in the period 2017–2019, information had been exchanged in a total of 291 cases pertaining to corruption. A State in the Group of Latin American and Caribbean States reported that in the same period, it had issued 35 and received 11 requests for mutual legal assistance in cases involving corruption and economic crimes. Lastly, one State in the same region noted that a significant number (32 per cent) of the requests for mutual legal assistance its authorities had handled were related to corruption offences.

## **VIII. Online directory of competent national authorities**

76. In line with the recommendation of the sixth expert meeting, the secretariat continued to update the online directory of competent national authorities (available at [www.unodc.org/compauth\\_uncac/en/index.html](http://www.unodc.org/compauth_uncac/en/index.html)).

77. As of September 2020, the directory contained information on the following:

- (a) Central authorities for mutual legal assistance in 132 States parties;
- (b) Prevention authorities in 119 States parties;
- (c) Asset recovery focal points in 85 States parties;
- (d) Central authorities on extradition in 29 States parties;

(e) Focal points for international cooperation in the use of civil and administrative proceedings in 34 States parties.

78. The secretariat completed the migration of data from the online directory of competent national authorities under the Convention to the directory of competent national authorities in the Sharing Electronic Resources and Laws on Crime portal in July 2019. States parties can now access information on various types of competent national authorities through a single portal. UNODC also continues to redesign and reconceptualize the legal library that is part of the Tools and Resources for Anti-Corruption Knowledge portal in terms of its content and search functions and is in the process of moving it to a new platform in preparation for its relaunch.

## **IX. Technical assistance and other activities relevant to international cooperation under the United Nations Convention against Corruption**

79. UNODC continued to provide tailored capacity-building and advisory services at the global, regional and national levels and to participate in meetings and conferences aimed at coordinating international cooperation among States parties.

80. The Office's field-based anti-corruption advisers played an important role in providing rapidly deployable professional assistance and expertise. UNODC continued to deploy advisers with regional responsibilities for Central America and the Caribbean (until May 2020), the Pacific, Southeast Asia, South Asia, West and Central Africa and East Africa, as well as a senior global adviser based in Vienna. New advisers were deployed for South America and Mexico as well as the Western Balkans and advisers for Central Asia and a continental adviser for Africa were being recruited.

81. UNODC continued to work with States parties in Southeast Asia, East Africa, Southern Africa and South America and Mexico in order to implement the priority recommendations identified in the Implementation Review Mechanism through regional platforms established to fast-track the implementation of the Convention. All the platforms consider international cooperation as one of the priority areas where assistance is needed to accelerate that implementation.

82. UNODC organized several workshops at the regional and subregional levels. For example, a regional workshop on international cooperation in complex, cross-border corruption cases was organized for 10 ASEAN member States in Myanmar in November 2019. In January 2020, UNODC organized a plenary meeting of the West African Network of Central Authorities and Prosecutors in Vienna. The meeting included a training session on non-conviction-based asset forfeiture measures and discussion of ways to cooperate in those cases in which the requested country had not adopted such measures. Similar discussions were facilitated by UNODC in other instances.

83. A number of other regional and interregional training workshops, focusing on the investigation of corruption and the use of open-source data to support such investigation fostered channels of direct law enforcement cooperation for obtaining and sharing evidence and provided a platform to broaden interregional cooperation.

84. In addition to regional and subregional work, UNODC continued to provide support to individual States parties on issues related to international cooperation. For example, UNODC provided legislative advice on mutual legal assistance and extradition in respect of the relevant provisions of the draft criminal procedure code of Mali in June 2020 and is currently supporting the development of guidelines on international cooperation for South Sudan on the basis of the Convention. In October 2019, UNODC, together with the Saudi Arabian Ministry of the Interior, conducted a training workshop on enhancing the framework for mutual legal assistance. Additional information on the Office's activities in facilitating cooperation in asset

recovery cases is provided in the progress report on the implementation of the activities of the Working Group on Asset Recovery (CAC/COSP/WG.2/2020/3).

85. UNODC continued to facilitate international cooperation between individual States. For example, it facilitated negotiations between Italy and Mali on bilateral treaties related to mutual legal assistance, extradition and the transfer of sentenced persons and, in July 2019, facilitated meetings in Rome on the establishment of communication channels between Italian and Malian judicial authorities. The Office also brokered contact between national authorities in a number of cases, with a view to facilitating mutual legal assistance requests.

86. UNODC continued to engage in anti-corruption education. In January 2020, the Stolen Asset Recovery Initiative delivered a three-day course on asset recovery and international cooperation to students of the Master's in Anti-Corruption Studies at the International Anti-Corruption Academy. In September 2019, UNODC delivered a seminar on the Convention and international cooperation at Ouaga II University, Burkina Faso, as part of that degree.

87. In addition, UNODC participated in meetings and conferences on coordinating international cooperation, including meetings of the Group of 20 Anti-Corruption Working Group. With the aim of facilitating international cooperation, including mutual legal assistance, and of fostering direct contact between anti-corruption law-enforcement authorities, the Group of 20 Anti-Corruption Working Group welcomed the initiative of the Saudi Arabian Presidency to create a global operational network of anti-corruption law enforcement authorities. The Group also welcomed the scoping paper on international cooperation dealing with economic crime, offenders and the recovery of stolen assets, prepared by the Organization for Economic Cooperation and Development in collaboration with the Financial Action Task Force secretariat, UNODC and the World Bank Group for the Group of 20.

88. UNODC also continued to develop and disseminate guides, handbooks and other tools. Over 25 publications were made available online and regularly reprinted and distributed. In June 2019, UNODC published the Handbook on International Cooperation for Investigation of Corruption in Southeast Asia.<sup>2</sup> The Handbook contains information on applicable legislation and procedures as well as focal points for mutual legal assistance and extradition in Southeast Asia.

## **X. Conclusions and recommendations**

89. The secretariat continues to collect additional information from States parties pursuant to the mandates contained in Conference resolutions 8/2 and 8/6 and the recommendations of the expert meeting.

90. The ninth expert meeting may wish to provide further guidance to the secretariat on whether certain issues highlighted in the responses received deserve additional consideration.

91. In particular, the expert meeting may wish to consider ways to enhance direct communication between central and other competent authorities in charge of international cooperation, including through the development of good practices and by ensuring that relevant contact information and requirements applicable to incoming mutual legal assistance requests are made available and regularly updated.

92. In light of the challenges outlined above, the expert meeting may also wish to focus on improving the effectiveness of international cooperation, including by expediting relevant proceedings and simplifying evidentiary requirements, where appropriate, as well as ensuring proper coordination among competent authorities

<sup>2</sup> [www.unodc.org/documents/southeastasiaandpacific/topics/anti-corruption/ASEAN\\_International\\_Cooperation\\_Guidebook\\_-\\_final.pdf](http://www.unodc.org/documents/southeastasiaandpacific/topics/anti-corruption/ASEAN_International_Cooperation_Guidebook_-_final.pdf).

involved in responding to requests for international cooperation in criminal matters under the Convention.

93. In the context of the expert meeting, attention could also be drawn to the need to devote adequate resources and attention to training and capacity-building of competent authorities engaged in international cooperation, including by donors and technical assistance providers, to enhance the effectiveness of international cooperation.

94. States parties could also be encouraged to increase efforts to raise awareness of the utility and added value of the Convention as a legal basis for international cooperation.

95. The expert meeting may wish to consider organizing, in its future sessions, expert panel discussions on topics relevant to international cooperation cases based on the Convention and relevant challenges and good practices.

96. The expert meeting may also wish to consider whether additional actions should be undertaken by the secretariat to ensure the implementation of the relevant mandates.

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