



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

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Item 5 of the provisional agenda*

Tools and services of the United Nations Office on
Drugs and Crime to promote international
cooperation

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, and to convene one such meeting during its fifth session and, prior to that, within existing resources, at least one intersessional meeting.

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 United Nations Convention against Corruption 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.

* CAC/COSP/EG.1/2019/1.



3. At its fifth to seventh sessions, the Conference decided to continue to convene the expert meetings. The first to seventh expert meetings were held annually from 2012 to 2018.
4. The present note has been prepared to inform the eighth expert meeting of the status of implementation of its recommendations and those of the Conference relating to international cooperation. Its purpose is to assist the expert meeting in its deliberations and in determining its future activities.
5. In its resolution 7/1, the Conference of the States Parties called upon States parties that used electronic tools and systems for processing and tracking international requests for assistance to continue to share with the Secretariat, for further dissemination, information on such tools and systems.
6. In the same resolution, the Conference welcomed the recommendations of the sixth open-ended intergovernmental expert meeting to enhance international cooperation under the Convention and decided, inter alia, that the meeting should continue its work by exchanging information on best practices and challenges on:
 - (a) Common reasons for refusals and delays in mutual legal assistance requests related to corruption offences under the Convention, with a view to proposing innovative solutions;
 - (b) 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.
7. Also in the same resolution, the Conference requested the Secretariat to continue, within existing resources, to collect statistics or other relevant information on the use of the Convention as a legal basis for mutual legal assistance, unless a bilateral and regional arrangement applied, and, where appropriate and consistent with domestic legal systems, in relation to civil and administrative proceedings and asset recovery, and to make the information available to the Conference.
8. The seventh open-ended intergovernmental expert meeting to enhance international cooperation under the United Nations Convention against Corruption, held in Vienna on 8 June 2018, recommended that the Secretariat should continue its analytical work by seeking information from States parties, in particular in relation to the reasons for refusal of mutual legal assistance requests based on the Convention and related procedural timelines, in order to develop a road map to address related issues in the future.
9. The seventh expert meeting also encouraged States parties 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.
10. The present document has been prepared pursuant to the mandates contained in Conference resolution 7/1 and the recommendations of the seventh expert meeting.
11. It also contains information on technical assistance and other activities of the Secretariat in the field of international cooperation under the Convention.
12. In order to facilitate the implementation of the above-mentioned mandates, on 17 December 2018, the Secretariat sent to States parties a note verbale seeking information on the issues identified above.
13. As at 13 March 2019, 23 States parties had provided responses. The extent of the information provided varied: a few States provided comprehensive responses, while others provided specific information. All responses received from States parties containing 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. Electronic tools and systems for processing and tracking international requests for assistance

14. The present section contains a summary of the responses received from States parties in response to the request contained in the note verbale dated 17 December 2018 for information on the use of electronic tools and systems for processing and tracking international requests for assistance.

Austria

15. The operational unit of the Federal Bureau of Anti-Corruption regularly used the Secure Information Exchange Network Application (SIENA) of the European Police Office (Europol). That platform enabled the user-friendly exchange of operational and strategic crime-related information among European member States, as well as third parties with which Europol had cooperation agreements.

Algeria

16. There was no electronic system or mechanism in place to track international judicial cooperation requests, including ones related to corruption. Nonetheless, international judicial cooperation requests, whether incoming or outgoing, were subject to follow-up by a specialized office at the Ministry of Justice, the Office of International Criminal Judicial Cooperation.

Bolivia (Plurinational State of)

17. The Plurinational State of Bolivia did not use any specific software program to manage international cooperation requests. Internally, the Ministry of Justice and Institutional Transparency had established an information system for transparency, prevention and the fight against corruption (SITPRECO). This was an open system that was self-explanatory regarding the use, registration and updating of corruption-related information. It allowed for cross-referencing information with several public entities and companies. Work was under way to implement new sub-modules, such as those on judicial proceedings and the recovery of State assets and debts, for which similar systems could be implemented in public entities for incoming and outgoing requests for international cooperation on anti-corruption.

18. The judicial branch of the Plurinational State of Bolivia had established an integrated judicial registry system (NUREJ), which allowed online access to judicial records in criminal and civil cases. Furthermore, the Public Prosecutor's Office had implemented an integrated criminal case management system (i4P), which recorded procedural actions. The system was easy to operate and self-explanatory. It allowed for processing of scanned documents and electronic files and facilitated the submission of reports on the handling of cases registered in NUREJ, i4P and SITPRECO.

Colombia

19. The Attorney General's Office and the Comptroller General's Office used special software systems in the field of international cooperation. The document management system used by the Comptroller General's Office was called SIGEDOC. That system did not support functionalities for drafting requests or for creating statistical records. Since the implementation of SIGEDOC, monitoring timely follow-up to requests had improved and reporting on international cooperation activities was facilitated. The document management and information exchange systems used by the Attorney General's Office, called ORFEO and SIPRAIN, respectively, made it possible to create electronic files, generate statistics and monitor

the status of requests. The program was not specific to international cooperation matters, but used consolidated information of the International Affairs Directorate of the Attorney General's Office.

El Salvador

20. The Ministry of Foreign Affairs, through the General Directorate of Legal Affairs, used an electronic system called Diligencias de Cooperación Jurídica Internacional, which recorded requests for all types of international legal cooperation. The system identified each case by means of a number, and a register was created manually from the date on which a request for legal assistance was entered. This feature allowed for the adequate tracking of requests. Outgoing requests were processed in steps according to the progress in the investigation of cases, when the Attorney General's Office, through the Supreme Court, sent corresponding documents or findings, thus guaranteeing the expeditious execution of requests.

Guatemala

21. Guatemala responded that it did not use any electronic tools or systems for processing and tracking international cooperation requests.

Iraq

22. The Commission of Integrity of Iraq used general programs such as Microsoft Windows and Excel for processing and tracking mutual legal assistance requests. The guidebook on mutual legal assistance to recover criminal proceeds in Iraq provided for the use of electronic means in correspondence.

Italy

23. The Department of Judicial Affairs of the Ministry of Justice managed all areas of international cooperation through a single web-based document management software system called Calliope. That custom-made software was integrated with a certified email system and therefore could not be made available to other States. The system allowed for the automatic acquisition of incoming documents and annexes, and for the registration of hard-copy documents, giving each document a different official registration number. After the official registration, the system delivered each incoming document to the person in charge of the proceedings. Over 90 per cent of outgoing documents were sent automatically using both certified and regular email systems. There were no specific system requirements. The system used regular Microsoft Windows software. Although the software was user-friendly and self-explanatory, magistrates and civil servants in the Department were trained on its use. While Calliope did not allow for the drafting of outgoing requests, it was possible to scan incoming documents and acquire electronic files, providing a paperless work environment. The system was equipped with monitoring and reporting functions for incoming and outgoing documents, which allowed the tracking of workflows and deadlines. For some proceedings, average reply times were periodically checked, and the system could give a timely view of proceedings, offering users all necessary information to enhance the quality of responses.

24. In 2018, the Department completed the development of a new, custom-made piece of software called Watson, based on the Calliope database. The new software supported the creation of statistical reports about international cooperation proceedings, distinguished by country, crime category, legal basis and type of activity.

Kenya

25. Kenya did not use any electronic tools or systems for processing and tracking international cooperation requests. Technical assistance was needed to develop an electronic system to process and track requests.

Kuwait

26. Regarding the management of mutual legal assistance requests, Kuwait followed the rules and procedures of the Convention and bilateral cooperation agreements. In this regard, the use of tools and systems was limited to communication and coordination among national authorities, which were relevant to the process of receiving, executing and tracking requests in accordance with the Convention. Kuwait was working towards adopting e-government systems, which would ensure the use of electronic systems and tools for processing and tracking requests, as well as the implementation of the country's obligations under the Mechanism for the Review of Implementation of the Convention in a cooperative and effective manner.

Mongolia

27. In accordance with the criminal procedure law and guidelines for the supervision of investigation proceedings approved by Prosecutor General's decree in 2017, electronic systems were used for registering international cooperation requests.

North Macedonia

28. The Ministry of Interior used a software program for the management of international cooperation requests, called LURIS. The system allowed for the recording of all activities during the life cycle of requests. The software had been received as a contribution from the Government of the Netherlands and facilitated reporting on international cooperation. LURIS was used at the Ministry of Justice as a separate, independent system, and its linkage with the Public Prosecutor's Office was being considered.

Pakistan

29. Pakistan made use of universal software applications such as Microsoft Office for processing and managing international cooperation requests.

Portugal

30. A software program called ProGest was applicable to all areas of competence of the central authority of Portugal, both as requesting and requested State. That program, which was custom-made using mostly open-source tools, could be made available to other States parties. Using the software, scanned copies of documents could be obtained, registered and distributed, responsible legal and administrative persons could be appointed, and internal information and draft communications could be produced. Incoming requests were scanned, so that it was possible to work entirely on electronic (paperless) files. The system created statistics on incoming and outgoing requests and included a function to keep track of deadlines. Although the software was largely self-explanatory, several training sessions had been provided to users. While ProGest did not allow for the drafting of outgoing requests, other competent judicial authorities (i.e., the courts and prosecution services) used another program, called Citius, which supported the drafting of requests. Although the two systems had not yet been linked, their integration to create a comprehensive case management system was under study. The use of the ProGest software had yielded improvements in the quality and timeliness of responses and the reporting on international cooperation, even though the system had been installed barely more than one year ago. However, the final part of each cooperation case – the transmission – still had to be done on paper owing to the absence of a secure transmission mechanism.

Russian Federation

31. The competent authorities reported that they did not have any specialized software in the area of international cooperation and used general document and information management systems.

Thailand

32. The International Affairs Department of the Office of the Attorney General used Microsoft Excel to manage incoming and outgoing requests.

Tajikistan

33. The Prosecutor General's Office, as the competent authority for international cooperation in criminal matters, used an electronic document registration and record system that also covered requests for mutual legal assistance and extradition. The system registered incoming and outgoing requests and tracked their status in real time.

Ukraine

34. The Ministry of Justice, responsible for international cooperation in criminal matters, kept records through a generic electronic journal of requests. Requests were classified by type of cooperation, the existence of international agreements and the offences involved. Technical assistance was required to introduce a unified electronic system at the Ministry of Justice, which would allow for the prompt execution of requests by the competent authorities, including reminders of deadlines and automatic downloads of documents.

United States of America

35. The central authority for mutual legal assistance, the Department of Justice's Office of International Affairs (OIA), had operated software and hardware case management systems for more than 20 years, which permitted tracking of incoming and outgoing requests from domestic and foreign prosecutors and following the life cycle of extradition and mutual legal assistance requests. OIA had created specialized teams to expedite the execution of requests by seeking court orders for the production of business and computer records and had coordinated with law enforcement agencies to provide other assistance. OIA had also augmented staff to assist federal prosecutors on extradition. Furthermore, OIA had implemented more streamlined processes for the review and execution of requests, reducing processing times and ensuring that communications with foreign partners were regular and responsive. Similar software systems operated in the Department of State for the internal management of extradition records. The United States Government also relied on extradition records maintained by the Department of Justice, which gave an overview of incoming requests, relevant crimes and next steps.

III. Common reasons for refusals and delays in mutual legal assistance requests related to corruption offences under the Convention, with a view to proposing innovative solutions

36. The present section contains a summary of the responses received from States parties in response to the request in the aforementioned note verbale for information on best practices and challenges in relation to common reasons for refusals and delays in mutual legal assistance requests related to corruption offences under the Convention, with a view to proposing innovative solutions. Information provided in the responses also addresses the recommendation of the seventh expert meeting, held in Vienna on 8 June 2018, that the Secretariat should continue its analytical work by seeking information from States parties, in particular in relation to the reasons for refusal of mutual legal assistance requests based on the Convention and related procedural timelines, in order to develop a road map to address related issues in the future.

37. Algeria indicated that there were difficulties in corruption matters with outgoing requests for banking information, freezing of bank accounts and the seizure of property or financial assets. Countries rejected or delayed the execution of requests in order to avoid seizure and confiscation procedures without providing reasons.

Some countries returned requests for minor defects, such as incomplete information that was not available to requesting authorities but could be obtained by the requested authorities. Additional reasons included unnecessary formalities that were not recognized by the Convention or international agreements. To avoid or limit such difficulties, the Algerian judicial authorities sought to execute incoming and outgoing requests, whenever possible, on the basis of the Convention, in addition to bilateral agreements. They also sought to meet any requested conditions that did not conflict with the domestic law and were not provided for in bilateral agreements, such as signing and stamping all pages of judicial cooperation requests. Among the reported good practices was the acceptance of urgent requests through informal channels and starting their execution before official requests were received through formal channels.

38. The Plurinational State of Bolivia referred to delays and challenges in its outgoing requests, which could be addressed through better communication. Accordingly, it was suggested that requesting States be kept informed about the grounds for refusal or delay. Regarding incoming requests, the Plurinational State of Bolivia reported on its legal framework protecting the confidentiality of information.

39. China reported that common reasons for refusals and delays in mutual legal assistance related to corruption offences could be divided into substantive and procedural reasons. Substantive reasons included the following: requesting States were not States parties to the Convention; the criminal conduct did not meet the requirement of dual criminality or was related to military or political offences; and the provision of assistance would impact the sovereignty, security or public interests of the requested States. An example of a procedural reason was that documents did not satisfy the formal requirements and further evidentiary documents were required. China thus suggested holding advance consultations with requested States, with a view to understanding the applicable laws and legal requirements.

40. El Salvador reported that the main reasons for delays in responding to mutual legal assistance requests were the incompleteness of requests, lack of authentication of documents, submission to the wrong authority and the volume of requests. In addition, the domestic framework required the participation of the Supreme Court, Ministry of Justice and Public Security and, subsequently, the Ministry of Foreign Affairs, which could affect the statute of limitations. Asset recovery cases were subject to substantial delays, as they were processed through central bodies for precautionary measures and for confiscation purposes. It was suggested that bilateral or international agreements be signed to facilitate the imposition of precautionary measures for confiscation purposes.

41. Guatemala reported the indirect submission of requests to the judiciary as a common reason for delays, owing to the fact that requests were transmitted to the Ministry of Foreign Affairs and the Attorney General and had to be transferred to the judiciary. The lack of direct transmission channels was a source of delay.

42. Iraq indicated that the most important reasons for rejecting mutual legal assistance requests were differences in legal systems and laws between States; not recognizing the Convention as a legal basis for mutual legal assistance; a weak tendency in States to conclude bilateral mutual legal assistance and asset recovery agreements; obstacles arising when requests were not formulated in a recognized language and had to be translated; and banking secrecy.

43. Kuwait indicated that its competent authorities were keen to respond to mutual legal assistance requests as soon as possible, as long as such requests met the rules and procedures provided for by the Convention and bilateral cooperation agreements. The only reason for refusals or delays would be the failure of requests to meet the necessary conditions or content requirements of the Convention.

44. Mongolia reported that the absence of dual criminality and lack of international cooperation agreements were common reasons for refusals of mutual legal assistance.

45. Pakistan listed complex domestic legal frameworks and communication through diplomatic channels as common grounds for refusals and delays in mutual legal assistance. To avoid unnecessary delays, it was suggested that central authorities communicate directly with one another and that a dedicated unit be created in the secretariat of the United Nations Office on Drugs and Crime, which would facilitate enforcement of requests under the Convention.

46. Portugal reported that there were no known cases in which assistance had been refused. Often very long delays resulted in a no-answer situation. In some specific cases assistance could not be provided, allegedly for reasons of amnesty or immunity.

47. The Russian Federation reported that reasons for delays in responding to mutual legal assistance requests related to the incompleteness of requests, insufficient supporting materials and a lack of clarity of submitted information. Examples included insufficient information to conclude that assets subject to a freezing order were proceeds of crimes and insufficient information to locate assets. Outgoing requests were delayed or denied owing to differences in legislation and the absence of dual criminality. The execution of requests was also delayed because of the lack of an official in the requested State to process the request or the citizenship of suspects in the requested State. Furthermore, even when a request was submitted on time, delays in executing requests led to the expiration of applicable statutes of limitation and subsequent refusals on that ground. Requests were also denied because some States required that the owners of assets subject to freezing orders be notified and provided an opportunity to appeal such orders, and that interested parties be afforded the right to appeal decisions on mutual legal assistance. In addition, requests were denied when suspects with assets located in one European Union member State had refugee status in another European Union member State or when suspects no longer owned the assets in question.

48. Saudi Arabia reported that reasons for refusal or delay in implementing mutual legal assistance requests included: the absence of sufficient details to locate accused persons, which led to delays; limited channels of direct communication with requesting States; incomplete data, absence of required attachments or unclear content of requests, especially photocopies; and the need for additional time to execute requests requiring multiple procedures. To avoid those obstacles, it was suggested that the relevant authorities: ensure accuracy, objectivity and completeness when recording defendants' data and information; provide contact information of the requesting party through various channels, especially email and telephone numbers; formulate specific and direct requests; increase the number of bilateral agreements between countries; and make efforts to reduce requirements and complexities in internal regulations that were not recognized in international agreements.

49. Tajikistan reported that the absence of dual criminality and the possession by suspects of refugee status or citizenship in requested States were common reasons for its outgoing mutual legal assistance requests being denied.

50. Thailand reported that common reasons for refusal and delays included: the submission of requests through the wrong channels; the submission of requests related to civil matters to the central authority, which could not honour such requests; incomplete information; requests not being sent by the central authorities of requesting States; and missing translations. However, in general, Thailand's central authority did not refuse requests and allowed requesting States to provide additional information or submit requests through the proper channels. To avoid delays, it was suggested that requesting States could consult with the central authority, if possible, before submitting requests, could consider submitting draft requests in advance, and could consider contacting the relevant authorities informally to expedite the execution of requests.

51. The United States reported that many factors determined whether and how quickly it could respond to requests for assistance. For instance, a factually substantiated request for financial records was usually addressed in a few months. Requests for electronic evidence were also common, but could take longer to execute

if the results of the production order were voluminous and in a foreign language. Electronic evidence had to be reviewed by law enforcement authorities to ensure that the evidence produced complied with the parameters of the court order granting the search and seizure and that irrelevant materials were not transmitted. Notably, many requests involving seizure, restraint and confiscation took much longer to complete, as the United States had to identify and gather evidence of the assets and observe due process requirements under domestic law. When a challenge to the execution of a restraint or confiscation request was made, resolution of the matter could take time, given United States legal requirements of due process and privacy, as well as other constitutional and legal protections, in the course of international cooperation.

IV. 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

52. The present section contains a summary of the responses received from States parties in response to the request in the aforementioned note verbale for information on best practices and challenges in international cooperation in civil and administrative proceedings related to cases of corruption and suggestions for possible measures to protect the confidentiality of the information requested for the purposes of civil and administrative proceedings related to cases of corruption in the requesting country, where the relevant matter was addressed by criminal proceedings in the requested country.¹

53. Algeria reported that there had been no processed cases of international judicial cooperation that included civil or administrative proceedings, as the cases had been handled criminally.

54. Colombia reported that the Attorney General's Office had limited or no experience in international cooperation in civil and administrative proceedings related to corruption. Nonetheless, it was suggested that States could provide assistance in administrative and civil matters, even when the underlying act was subject to criminal proceedings. The importance of requested States adhering to the confidentiality rules established under the Convention was highlighted.

55. Iraq indicated that international cooperation in relation to civil and administrative proceedings linked to corruption and measures to protect the confidentiality of information were secured through the applicable legal and diplomatic channels. In addition, the authorities concerned treated information within the scope of international cooperation with full confidentiality.

56. Kenya reported that in the last six years it had made one mutual legal assistance request through international cooperation in civil proceedings relating to corruption. In the same period, it had not made or received any requests in relation to administrative proceedings in corruption cases. Should such a request be received, the matter would be dealt with through the mechanism for enforcement of foreign judgments. The confidentiality of requests and the material supplied had always been and must be maintained, except for disclosure in criminal matters specified in the request and where otherwise authorized by the requesting State. Kenya included confidentiality clauses in all its requests, and it was suggested that mutual legal assistance requests should include such clauses, unless otherwise requested, to ensure the sanctity of criminal investigations and civil proceedings. To protect confidentiality, States should also have in place processes to ensure that the staff of relevant authorities maintained high professional standards.

¹ For more information on this issue, see [CAC/COSP/2017/2](#) and [CAC/COSP/EG.1/2017/2](#), section II.

57. Kuwait reported that it could reciprocate mutual legal assistance in accordance with the provisions of the Convention. In addition, it could implement the provisions of the Convention that were relevant to international cooperation in civil and administrative procedures, as they were in conformity with the national legislation. In relation to the confidentiality of information provided, Kuwait indicated that it would be suitable for all parties to exercise full coordination and consultation. Additionally, a model guidebook could be produced on rules and measures that States could apply to ensure the confidentiality of information relevant to civil and administrative proceedings, in accordance with the Convention.

58. Pakistan reported that all corruption-related cases were based on criminal proceedings and subsequent civil procedures were treated as criminal ones. Pakistan had not sent or received any requests related to civil or administrative proceedings in corruption cases. The confidentiality of information must be maintained in the requested State.

59. Portugal reported that it was not aware of any cases of international cooperation in civil and administrative proceedings related to cases involving the application of the Convention.

60. Saudi Arabia reported that it recognized civil and administrative measures to enhance international cooperation and asset recovery. Foreign administrative decisions could be enforced domestically if supported by a relevant judicial order.

61. Thailand reported that the Attorney General, as the central authority, could provide assistance only with regard to criminal matters. However, if other matters were linked to criminal ones, the central authority would consider providing assistance wherever possible, subject to national law. Hence, it was suggested that requesting authorities should consult with the receiving central authority, if possible, before submitting requests through the proper channels.

62. The United States noted that the Convention did not impose a binding requirement on States parties to provide assistance in administrative and civil proceedings. While certain illicit activities could be effectively addressed through certain civil or administrative proceedings, most States addressed corruption primarily through criminal justice processes or ancillary proceedings. Nonetheless, the United States provided assistance in civil and administrative proceedings in situations where there were related criminal investigations or proceedings or when the administrative agency involved sought assistance to determine whether to make a criminal referral. When possible, the United States could provide assistance that did not require compulsory action. In addition, even when its central authority could not provide assistance because there was no criminal proceeding, it frequently referred foreign authorities to other authorities that could assist. With respect to the confidentiality of requests in the context of criminal and civil investigations, most bilateral treaties and the Convention allowed requesting parties to demand confidentiality (except where necessary to execute the request), and requested States had to comply with such requests or inform the requesting State that it could not comply.

V. Use of the Convention as a legal basis for mutual legal assistance, unless a bilateral and regional arrangement applies, and, where appropriate and consistent with domestic legal systems, in relation to civil and administrative proceedings and asset recovery

63. The present section contains a summary of the responses received from States parties in response to the request in the aforementioned note verbale for information, including statistics and cases, on the use of the Convention as a legal basis for mutual legal assistance and, where appropriate and consistent with domestic legal systems, in relation to civil and administrative proceedings.

64. Algeria, Bolivia (Plurinational State of), China, Iraq, Italy, Kuwait, North Macedonia, Pakistan, Romania, the Russian Federation, Saudi Arabia, Ukraine and the United States reported that the Convention could be used as a legal basis for mutual legal assistance.
65. Algeria reported that in 2016, there had been 10 international judicial cooperation requests by Algerian authorities to foreign judicial authorities, 4 of which relied on the Convention against Corruption and 1 of which relied on the United Nations Convention against Transnational Organized Crime. The other requests relied on bilateral judicial cooperation agreements.
66. China reported that since 2013, there had been 13 cases in which requesting States had used the Convention as a legal basis to submit mutual legal assistance requests to China (2 in 2013, 1 in 2014, 2 in 2015, 3 in 2016, 3 in 2017, 2 in 2018). In addition, in 6 cases China had used the Convention as a basis to submit mutual legal assistance requests to foreign States (1 in 2013, 1 in 2014, 3 in 2017, 1 in 2018).
67. Iraq indicated that the Convention was the legal basis for mutual legal assistance requests, in accordance with national legislation.
68. Italy reported that in 2018, there had been 19 new proceedings based on the Convention, 10 of which were letters rogatory issued by Italian judicial authorities and the remaining 9 of which were letters rogatory issued by foreign judicial authorities.
69. Kenya stated that it had made 25 mutual legal assistance requests in the last three years and received 2 mutual legal assistance requests on the basis of the Convention within the same period.
70. Kuwait indicated that the Convention could be used as a legal basis, including in civil and administrative procedures, consistent with the national legislation.
71. North Macedonia reported that, in the International Legal Assistance Department of the Ministry of Justice, since launching its electronic case management in January 2018, one case had been dealt with using the Convention as a legal basis for mutual legal assistance.
72. Pakistan indicated that, since its ratification of the Convention, the National Accountability Bureau had received 74 incoming mutual legal assistance requests and provided information in response to 31 requests through direct application of the Convention.
73. Portugal reported that the main prosecution service for the investigation of corruption had made requests in one case in 2014, in five cases in 2015, in six cases in 2016, in three cases in 2017 and in two cases in 2018. Additionally, the authorities highlighted a case addressed to Portugal, based on the Convention, that was extracted from a civil proceeding, which raised difficulties in the identification of the competent national authority to process its execution.
74. Romania reported that, according to the National Anti-Corruption Directorate, in 2018 it had formulated 11 mutual legal assistance requests and had received 4 mutual legal assistance requests based on the Convention.
75. Saudi Arabia indicated that it was committed to applying the provisions of the Convention directly in the absence of a treaty on mutual legal assistance, in accordance with national legal and procedural requirements. Priority was given to executing requests on the basis of multilateral agreements, and then in accordance with the principle of reciprocity.
76. Thailand reported that it did not use the Convention as a legal basis but required bilateral or multilateral treaties to provide mutual legal assistance in criminal matters. In the absence of such treaties, reciprocity was required.
77. Ukraine reported that the Ministry of Justice had received two mutual legal assistance requests based on the Convention, in 2014 and 2017. In practice, there had

been no examples of the use of the Convention as a legal basis for international cooperation in civil or administrative proceedings.

78. The United States reported that since 2004, there had been more than 1,400 incoming and outgoing requests for extradition and mutual legal assistance in corruption-related matters. Overall, at least 177 requests for mutual legal assistance and at least 28 extradition requests cited the Convention as a legal basis. Of those, 97 were incoming and 80 were outgoing. Furthermore, since the Convention had entered into force, the United States had used the Convention more than 200 times as a basis for cooperation with more than 70 different States.

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

79. The present section contains a summary of the information received from States parties in response to the request in the aforementioned note verbale on practical challenges arising in the work of their central authorities responsible for requests under the Convention against Corruption.

80. The information received from States on challenges and good practices in international cooperation echoed to some extent the information provided in regard to the common reasons for refusals and delays in mutual legal assistance, as summarized in section III above.

81. Algeria reported on practical challenges in handling international cooperation requests. Among the difficulties faced by the Algerian central authority (Ministry of Justice) were: delayed responses to outgoing requests; incomplete information provided in foreign requests, which prevented the identification of the national judicial authority that could respond to the requests; and difficulties in tracking international cooperation requests with foreign judicial authorities owing to the absence of information on liaison contact points. In regard to good practices in this area, Algeria's response is summarized in section III above.

82. The Plurinational State of Bolivia reported on challenges in international cooperation arising when central authorities had to communicate grounds for refusal to requesting countries, including those recognized by the Convention or domestic law. A lack of compliance with international instruments and insufficient detail about the location where requests should be executed presented further challenges. Outgoing requests were frequently denied without adequate reasons for refusal being provided. Another obstacle was a lack of communication regarding the status of requests, which affected the possibility of resolving issues and facilitating assistance.

83. China reported both challenges and good practices in international cooperation. Challenges in the area of extradition related to differences in legal systems having to do with matters such as conviction, punishment, statutes of limitation and terms of reference of competent national authorities. Furthermore, some countries could not use the Convention as a legal basis for extradition and were not proactive in concluding extradition treaties with other States to implement the Convention. The ineffective application of the Convention presented a further challenge, because in practice States using the Convention as a legal basis for extradition could not fully make use of its provisions. Thus, the visibility of the Convention needed to be enhanced through awareness-raising training. In the area of mutual legal assistance, challenges related to the different information requirements of States, which led to time-consuming and inefficient processes, as well as confidentiality requirements that hindered the provision of comprehensive information by requested States. Accordingly, China suggested strengthening communication and coordination on international cooperation and expediting the process, including by developing templates on extradition and mutual legal assistance. Regarding good practices in international cooperation, China reported that these included the establishment of

diverse channels and platforms for international cooperation, such as concluding treaties on extradition and mutual legal assistance; the establishment of inter-agency coordination mechanisms; and the maintenance of close communication with relevant States through bilateral consultation mechanisms.

84. Colombia referred to the lack of central authorities' contact details as a common challenge and highlighted the need for updated international cooperation tools, such as the directory of competent national authorities. In addition, the length of procedures for obtaining responses from requested States hindered investigations conducted in requesting States. Regarding good practices, Colombia highlighted the support of diplomatic representations in facilitating the follow-up to international cooperation requests.

85. El Salvador noted that domestic procedures for processing international cooperation requests needed to be streamlined. In some cases, the Supreme Court of Justice required a constitutionality assessment in order to determine if a request was in conformity with the national legal framework. The Ministry of Justice and Public Security acted as an intermediary between the Supreme Court of Justice and the Ministry of Foreign Affairs, which affected the expeditious treatment of requests.

86. Guatemala referred to practical challenges arising from the need to address requests through several ministries before being considered by the judiciary, although this requirement was also considered an important guarantee of due process. Guatemala highlighted the need to respect the domestic legal framework and the need for cooperation among national authorities tasked with the execution of requests.

87. Iraq indicated that challenges in international cooperation included weak cooperation in tracking corruption-related funds; the insufficiency of information provided by countries regarding the financial and commercial activity of accused persons; refusals by States to conclude bilateral agreements; the introduction of unrelated issues, sometimes political in nature, in negotiations regarding asset recovery; and the absence of guidance by some States on the legal requirements for mutual legal assistance.

88. Italy reported that in some cases regarding service of summonses, foreign requests were received too close to the date of the hearing, thus affecting the ability to execute the request.

89. Kenya listed as main challenges differences in legal systems; central authorities' lack of investigative capacities, specialized skills and resources; a lack of electronic tools to process and manage requests; the use of diplomatic channels and bureaucratic systems, which led to delays; and incomplete factual and legal information in mutual legal assistance requests. Further challenges of the central authority included insufficient mandates to execute requests; delays in servicing incoming requests; destruction of evidence; and the slowness of the process of preserving assets located in other jurisdictions.

90. Kenya reported that good practices in international cooperation included the establishment and designation of a single central authority to facilitate international cooperation in mutual legal assistance and extradition, for which Kenya had designated the Office of the Attorney General; adequate resources of central authorities, including specialized and well-trained legal experts; the ability of central authorities to communicate, transmit and receive requests directly among each other; measures to maintain the confidentiality of requests; and the empowerment of central authorities to execute or coordinate the execution of requests. It was suggested that central authorities should ensure that international cooperation requests from domestic authorities complied with the terms of applicable laws, treaties and conventions before transmitting such requests. Central authorities should not inhibit other forms of cooperation. Informal consultations prior to the submission of requests were encouraged so as to avoid unnecessary delays and obtain guidance in drafting requests. Other good practices included bilateral agreements on direct cooperation in criminal investigations and civil recovery procedures; regional arrangements to

enhance international cooperation and asset recovery capabilities; inter-institutional cooperation and joint training sessions; and the introduction of measures to improve transparency, communication and information-sharing among central and competent authorities.

91. Kuwait reported that a primary challenge was the failure to fulfil required conditions and provisions of the Convention regarding the format and content of requests, which led to delays or refusals. Therefore, the competent authorities highlighted the need for a guidance paper on international cooperation under the framework of the Convention, which could include general and practical models and guiding principles that States could consult when receiving and responding to requests relevant to the Convention. Regarding the methods and practices of national authorities, Kuwait reported that its central authority examined incoming mutual legal assistance requests to ensure that they complied with the necessary conditions, information and data requirements, and then referred the requests to the competent national authorities (usually the public prosecution) for implementation as soon as possible, in the light of domestic principles, laws and procedures. The Ministry of Justice was the central authority for mutual legal assistance requests in accordance with the Convention. Pursuant to national law, upon receipt of a corruption-related request the central authority was required to notify the General Anti-Corruption Authority to take the necessary action, in coordination with other authorities and in implementation of the Convention.

92. Mongolia reported that challenges related to a lack of agreements with so-called tax havens and countries to which criminal assets were transferred. Furthermore, under the criminal procedure law, seizure was possible only after the court had established a person's guilt, which often led to difficulties in recovering stolen assets from foreign countries that required proof of a valid court judgment.

93. Pakistan listed as main challenges differences in legal systems; difficulties in obtaining information in response to requests from "safe havens" for illicit flows; a reluctance to provide information because of data privacy concerns; the absence of dual criminality; insufficient criminalization of predicate offences to money-laundering; and refusal or inability to provide assistance where requests contained minor deficiencies. Moreover, the use of diplomatic channels was considered a source of delay, in addition to the absence of international cooperation agreements that could expedite information-sharing. Pakistan further referred to a lack of direct interaction among central authorities, a lack of practical guidelines to clarify national legal requirements and delays in receiving inputs from national authorities to respond to requests. Accordingly, it was suggested that central authorities communicate directly.

94. Portugal's competent authorities underscored the significance of previous contacts between issuing and executing authorities in minimizing delays in the execution of international cooperation requests. Additionally, Portugal reported that its central authority did not have competence in concrete cases. According to domestic law, the role of the central authority was to transmit requests, and it was up to the judicial authorities, including the prosecution services, to issue or execute requests. Practical challenges could be diminished through the creation of solid practitioner networks, as well as rigorous training in the use of available instruments.

95. The Russian Federation reported that differences in legal systems presented a challenge for the operations of central authorities and highlighted incomplete requests, in both form and substance, as a challenge. The average time to execute foreign requests for mutual legal assistance was three to six months and depended on the distance between the federal capital city and the territory where the request was to be executed, the volume of information requested and the completeness of requests. According to figures from the Prosecutor General's Office, in 2018, 61 foreign requests pertaining to corruption cases had been processed, 55 of which were executed; and 66 requests had been sent to other States, 48 of which were executed.

96. The Russian Federation further reported that the domestic legislation regulating the procedure for sending requests to trace and freeze assets of criminal origin and for subsequent cooperation to return such assets was in need of improvement. Cooperation with certain “offshore” jurisdictions also posed a challenge and the existing multilateral treaties did not sufficiently address this matter. It was therefore suggested that concluding bilateral treaties with “offshore” jurisdictions on the tracing, freezing, seizure and confiscation of assets constituting proceeds of crime and sharing of such confiscated assets would increase the effectiveness of international cooperation.

97. Saudi Arabia had a specialized department for international cooperation in the Ministry of Interior, responsible for extradition and mutual legal assistance. In recognition of the importance of integrated work with the international community, the country’s central authority for mutual legal assistance, the Standing Committee for Legal Assistance Requests, comprised different governmental bodies that could be called upon when specific competence or experience was required. Practical challenges in international cooperation included conditions in the legislation of some States that were not recognized in international cooperation agreements and prevented or delayed the execution of requests, challenges related to bank secrecy and inaccurate translations of requests. In addition, some requests were sent to the Ministry of Justice rather than the central authority and had to be forwarded accordingly. To address these issues, it was suggested that qualified translators be used and that the competent central authority be verified before sending requests. As a member of the Group of 20, Saudi Arabia had provided practical information in the form of a guide to enable requesting countries to seek judicial assistance on asset recovery and specific steps that foreign judicial authorities should follow.

98. Thailand referred to the small number of requests received under the Convention. As a result, the authorities responsible for the execution of requests might not be familiar with the Convention and the necessary procedures. Thailand also referred to the challenges in responding to requests for assistance in civil or administrative matters.

99. Ukraine reported that in practice there had been no difficulties in processing requests on the basis of the Convention. Issues in the execution of requests, such as incomplete information, were usually resolved through direct communication with foreign authorities. To ensure full and prompt execution, it was preferred that requests and supporting documents be translated before submission.

100. The United States suggested that countries establish clearly identified central authorities to facilitate international cooperation in criminal matters through mutual legal assistance, in order to concentrate experience and resources, reduce bureaucracy and overlapping authority, and ensure the visibility of and accountability for incoming and outgoing requests. Where countries participated in regional information-sharing platforms, it was considered a good practice to name national central authorities as contact points. Central authorities needed to be adequately resourced and staffed with specialized legal experts and experienced practitioners. In order to seek and provide assistance rapidly, build trust, clarify complex legal issues, overcome legal barriers to cooperation and discuss the status of pending requests, direct communication between central authorities was essential, including by email and telephone. For more complicated requests, a good practice was to consider sending draft requests in advance so that receiving central authorities could begin reviewing them. The use of diplomatic channels through which central authorities could not transmit and receive requests directly could delay or prevent effective investigations and the collection of evidence. Central authorities should ensure that requests were kept confidential, to the degree possible, to protect the integrity of investigations and prosecutions. In addition, central authorities should be empowered by their governments to execute requests directly, within their competence, or to coordinate the execution of requests with other competent entities. A further good practice was to review incoming and outgoing requests to ensure their quality and compliance with domestic laws and treaties before transmission. Finally, central authorities should discern when mutual

legal assistance was more appropriate than other forms of cooperation and should facilitate assistance without inhibiting informal cooperation.

VII. Online directory of competent national authorities

101. The sixth expert meeting had recommended that the Secretariat continue its work on maintaining the online directory of competent national authorities (available at www.unodc.org/compauth_uncac/en/index.html).

102. Further to that recommendation, the Secretariat continued to update the online directory.

103. As of March 2019, the directory contained information on the following:

- (a) Central authorities for mutual legal assistance in 129 States parties;
- (b) Prevention authorities in 115 States parties;
- (c) Asset recovery focal points in 80 States parties;
- (d) Central authorities on extradition in 24 States parties;
- (e) Focal points for international cooperation in the use of civil and administrative proceedings in 32 States parties.

104. The secretariat has initiated the data migration of 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 (SHERLOC) portal. In the future, States parties will enjoy a single outlet of information through SHERLOC regarding various types of competent national authorities. Furthermore, the secretariat continues to enhance information-sharing between the Tools and Resources for Anti-Corruption Knowledge (TRACK) and SHERLOC systems.

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

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

106. UNODC field-based anti-corruption advisers played an important role in providing such assistance and professional expertise. UNODC deploys advisers with regional responsibilities for Central America and the Caribbean, the Pacific, South-East Asia, South Asia, West and Central Africa, and East Africa, as well as a senior global adviser based in Vienna.

107. UNODC continued to work with States parties in South Asia, South-East Asia and East Africa to implement the priority recommendations identified in the Implementation Review Mechanism through regional platforms established to fast-track the implementation of the Convention. This work addresses international cooperation, among other areas. Additional regional platforms will be established in South America and Southern Africa in the coming year.

108. UNODC held a training event on corruption investigations and regional cooperation in the Greater Mekong region (Cambodia, Lao People's Democratic Republic, Myanmar, Thailand and Viet Nam) in Hanoi from 14 to 16 March 2018. The training was aimed at enhancing international cooperation among anti-corruption agencies, prosecutors' offices and financial intelligence units in the region in corruption cases.

109. UNODC also delivered two workshops for anti-corruption and law enforcement agencies on international cooperation in criminal matters and financial investigations of corruption and money-laundering. The first workshop (Bangkok, 24–26 September 2018) brought together law enforcement agencies from Bangladesh, Myanmar, Nepal and Thailand. The second workshop (New Delhi, 12–14 November 2018) was aimed at enhancing the operational skills and effectiveness of law enforcement agencies in South Asian countries and fostering cooperation in investigations, prosecutions and court proceedings in complex corruption cases.

110. In partnership with the Corrupt Practices Investigation Bureau of Singapore, UNODC delivered a training course on financial investigations and mutual legal assistance to experts from across South Asia and South-East Asia, in Singapore in May 2018.

111. In collaboration with the Stolen Asset Recovery Initiative, UNODC delivered a workshop in Addis Ababa from 20 to 22 February 2019 concerning financial investigations and international cooperation. It was aimed at improving the capacity of practitioners within the Federal Police and Attorney General’s Office.

112. In December 2018, UNODC provided legislative advice to the Attorney General’s Office of Ghana in relation to the country’s Extradition Bill, taking into account the recommendations stemming from the Implementation Review Mechanism.

113. UNODC also continued to develop and disseminate guides, handbooks and other tools. Over 25 publications were made available online and regularly reprinted and distributed. A handbook on international cooperation for investigation of corruption cases in South-East Asia was drafted and will be launched in 2019, and will provide information on regulations and procedures for mutual legal assistance requests in South-East Asian countries.

IX. Conclusions and recommendations

114. While the secretariat continues to collect additional information from States parties pursuant to the mandates contained in Conference resolution 7/1 and the recommendations of the expert meeting, at the time of the preparation of the present report, the majority of States parties had not yet provided the information requested.

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

116. 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.

117. The expert meeting may also wish to consider organizing for its future meetings expert panel discussions on extradition and mutual legal assistance cases based on the Convention and relevant challenges and good practices.

118. 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.