



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

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## Report of the sixth open-ended intergovernmental expert meeting to enhance international cooperation under the United Nations Convention against Corruption, held in Vienna on 6 and 7 November 2017

### I. Introduction

1. In resolution 4/2, entitled “Convening of open-ended intergovernmental expert meetings to enhance international cooperation”, adopted by the Conference of the States Parties to the United Nations Convention against Corruption at its fourth session, held in Marrakech, Morocco, from 24 to 28 October 2011, the Conference 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 its resolution 5/1, the Conference directed the open-ended intergovernmental meeting of experts on international cooperation to continue studying the issue of the identification and analysis of existing obstacles to law enforcement cooperation in the detection of corruption offences in the framework of the United Nations Convention against Corruption and to draw up recommendations on how those obstacles might be overcome.

### II. Organization of the meeting

#### A. Opening of the meeting

3. The sixth open-ended intergovernmental expert meeting to enhance international cooperation under the United Nations Convention against Corruption was held in Vienna on 6 and 7 November 2017, during the seventh session of the Conference of the States Parties to the United Nations Convention against Corruption.

4. The sixth expert meeting was chaired by Mohammed Abu Zafar (Bangladesh), Vice-President of the Conference. In opening the meeting, the Chair delineated the framework for discussion and provided explanations regarding the development of the provisional agenda and organization of work.

#### B. Adoption of the agenda and organization of work

5. On 6 November 2017, the sixth expert meeting adopted the following agenda:

1. Opening of the meeting.



2. Adoption of the agenda and organization of work.
3. Implementation of chapter IV of the United Nations Convention against Corruption: lessons learned, good practices and challenges.
4. Electronic tools and systems used by national authorities for the processing and tracking of requests for extradition and mutual legal assistance.
5. Civil and administrative proceedings relating to corruption.
6. Tools and services of the United Nations Office on Drugs and Crime to promote international cooperation.
7. Adoption of the report, including conclusions and recommendations.

### **C. Attendance**

6. The following States parties to the United Nations Convention against Corruption were represented at the meeting: Albania, Algeria, Angola, Argentina, Austria, Bangladesh, Bhutan, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Canada, Central African Republic, China, Czechia, Dominican Republic, Ecuador, Egypt, France, Greece, Guatemala, Honduras, Indonesia, Israel, Japan, Lao People's Democratic Republic, Lesotho, Mali, Myanmar, Oman, Peru, Philippines, Republic of Korea, Saudi Arabia, Sierra Leone, Singapore, Sudan, Sweden, Thailand, Turkey, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United States of America and Viet Nam.

7. Barbados, a State signatory to the Convention, was represented.

8. The following intergovernmental organizations were represented by observers: International Criminal Police Organization (INTERPOL) and International Monetary Fund.

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

9. In an effort to promote the exchange of information and synergy between the open-ended intergovernmental expert meetings to enhance international cooperation under the United Nations Convention against Corruption and the Working Group on International Cooperation, established by the Conference of the Parties to the United Nations Convention against Transnational Organized Crime, a representative of the Secretariat, in an introductory statement, presented the outcomes of the meeting of the Working Group on International Cooperation held in Vienna from 9 to 13 October 2017 and the meeting of the Working Group of Government Experts on Technical Assistance held in Vienna from 11 to 13 October 2017.

10. The representative of the Secretariat noted that the Working Group on International Cooperation, at its meeting held in October 2017, had considered practical considerations, good practices and challenges encountered in the area of transfer of criminal proceedings as a separate form of international cooperation in criminal matters; good practices for bilateral consultations between central authorities, including preparation, case tracking, training and participation; and recent developments in obtaining electronic evidence.

11. The representative of the Secretariat introduced the most prevalent trends and findings in the implementation of chapter IV of the United Nations Convention against Corruption, based on an analysis of the completed reviews of the first review cycle of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption, as well as challenges in the implementation of chapter IV of the Convention. It was noted that, throughout the first review cycle, a significant

amount of additional information had been collected, and that information had been thoroughly analysed in the second edition of the study entitled *State of Implementation of the United Nations Convention against Corruption: Criminalization, Law Enforcement and International Cooperation*, which had been prepared by the Secretariat. It was also noted that the Implementation Review Mechanism had played a dynamic role by triggering domestic reform and encouraging more frequent exchanges between States parties in matters of extradition and mutual legal assistance.

12. In the ensuing discussion, the representatives of several States sought guidance from the Secretariat on various issues of international cooperation, including the transposition of the Convention into domestic law, particularly in countries following a dualist approach to international law; the reluctance of practitioners to recognize the self-executing character of certain provisions of the Convention; the extradition of nationals with dual citizenship; and jurisdiction for offences committed outside the territory of the requested State. Furthermore, the representative of one State mentioned that international conventions were being used more frequently to facilitate the provision of mutual legal assistance.

#### **IV. Electronic tools and systems used by national authorities for the processing and tracking of requests for extradition and mutual legal assistance**

13. A representative of the Secretariat provided an analytical summary of the replies received from States parties to a note verbale dated 14 March 2017, which had been sent with a view to collecting information on the use of software programs for case management systems in the field of international cooperation. It was reported that as at 15 August 2017, the Secretariat had received replies from 21 States parties and that 15 of the States parties had indicated that they had used software programs for case management in the field of international cooperation. The replies had been analysed and summarized in a conference room paper ([CAC/COSP/EG.1/2017/CRP.1](#)).

14. The representative of the Secretariat noted that all of the States that used software programs to manage incoming and outgoing requests for international cooperation did so for all areas of international cooperation, including extradition and mutual legal assistance in criminal matters. In all but one of the States, however, the case management systems used were stand-alone systems that did not form part of a more comprehensive case management system (e.g. for the criminal justice system as a whole). Likewise, almost all States indicated that the software solutions they used were custom-built applications. For that reason, most States indicated that they were not prepared to make the software solutions available to other States parties or that it would not be practical to make the solutions available to other States parties because of the amount of adaptation required. The functionalities of the systems varied greatly. While some were mere case registration systems, others were full-fledged case management systems that could also monitor deadlines, produce statistics and contain templates for the drafting of outgoing requests. All respondents agreed that the use of the software had greatly facilitated their reporting on international cooperation.

15. In the ensuing discussion, one speaker briefly mentioned the efforts in her country to establish a software system for the efficient management of requests for international cooperation, which made it possible to follow the entire life cycle of such requests and provided insight into which offences had been prosecuted the most frequently. Another speaker underlined the importance of technical assistance in setting up case management systems and asked for such assistance to be made available to States in need of assistance in processing requests for mutual legal assistance. Another speaker referred to the work undertaken in that area by INTERPOL, which had been developing an electronic tool for the drafting of requests for mutual legal assistance and had been working on electronic tools to facilitate the transmission of requests for extradition.

## **V. Civil and administrative proceedings relating to corruption**

16. A representative of the Secretariat presented a summary of the information collected pursuant to Conference resolution 6/4, on practical issues encountered by States parties when requesting and providing assistance in investigations of and proceedings in civil and administrative matters relating to corruption offences. As at 7 August 2017, 37 States parties had provided such information. Most of the States had reported that they had limited experience in the use of civil and administrative measures in the context of international cooperation. The extent of the information that had been provided on specific civil and administrative proceedings varied considerably. The types of assistance requested generally included collecting evidence and statements; obtaining bank records; precautionary measures; identification, tracing, freezing, seizure and confiscation of assets; communication of procedural acts; and recognition of judgments. States had reported that most of the issues leading to the refusal of requests in civil and administrative proceedings involved: (a) lack of familiarity with the domestic civil and administrative proceedings of the requesting State; (b) non-acceptance of requests sent through channels other than those used for coordinating cooperation in criminal matters; and (c) lack of open criminal cases against the suspects. Some States had suggested a number of measures aimed at facilitating cooperation in the use of civil and administrative proceedings against corruption.

17. It was emphasized that as more than half of the States parties had not responded to the Secretariat's request, more information was needed to develop a better understanding in that area. It was noted that some of that information could probably be collected through the ongoing reviews of the implementation of the Convention.

18. In the ensuing discussion, several speakers noted that the use of international cooperation in civil and administrative proceedings relating to corruption offences had the potential to enhance effectiveness and efficiency. One speaker referred to article 46 of the Convention, emphasizing its focus on effective international cooperation in criminal matters.

19. A representative of the Regional Anti-Corruption Initiative, a regional initiative bringing together nine States (Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Montenegro, Republic of Moldova, Romania, Serbia and the former Yugoslav Republic of Macedonia), presented the Initiative's activities in the areas of corruption risk assessment and institutional integrity, whistle-blower protection, public awareness, building integrity capacities in law enforcement and the judiciary, countering money-laundering and recovering crime-related proceeds, public procurement, conflict of interest and asset disclosure. In particular, he presented the draft International Treaty on Exchange of Data for the Verification of Asset Declarations, aimed at enhancing international data exchange and access to information held by foreign authorities for the purpose of verification of asset declarations. The representative noted that the draft Treaty was based on the United Nations Convention against Corruption, in particular article 8, paragraph 5, article 43, paragraph 1, and article 48, paragraph 1 (f), of the Convention. In response to the presentation, several speakers shared their national experiences with regard to asset declaration systems. Some speakers also noted the importance of the identification of beneficial owners of funds deposited into high-value accounts.

## **VI. Tools and services of the United Nations Office on Drugs and Crime to promote international cooperation**

20. A representative of the Secretariat presented an update on the ongoing technical assistance projects of the United Nations Office on Drugs and Crime (UNODC) aimed at enhancing international cooperation. Those included projects to provide: capacity-building and advisory services at the regional and national levels; support for regional associations of anti-corruption authorities and networks of anti-

corruption agencies; and specific assistance to national institutions in order to strengthen their capacities to trace, seize, freeze, confiscate and return the proceeds of corruption offences.

21. The representative of the Secretariat informed the participants about the Secretariat's work on the analysis of technical assistance needs in the area of international cooperation. Information collected on technical assistance needs had been made available in a note by the Secretariat ([CAC/COSP/2017/7](#)). The three most commonly identified categories of technical assistance needs involved: technical assistance in the form of capacity-building; good practices and lessons learned; and legislative assistance. Article 46 (Mutual legal assistance), article 44 (Extradition), article 50 (Special investigative techniques) and article 48 (Law enforcement cooperation) of the Convention were the articles of chapter IV for which the highest number of technical assistance needs had been identified, and were also among the 10 articles of the Convention for which the greatest overall number of needs had been identified. It was noted that, with the second review cycle under way, it had become clear that the full implementation by States parties of chapters III and IV of the Convention remained crucially important for the implementation of the chapters under review in the second cycle, because of the natural linkages with chapters II and V of the Convention.

22. The representative of the Secretariat announced the finalization of a new version of the UNODC Mutual Legal Assistance Request Writer Tool. The Tool had been expanded to include additional substantive features, such as guiding components for requesting assistance in a timely and structured manner. It was noted that the Secretariat was in the process of making the tool available to practitioners, including through the use of an online application to gain access to the Tool. It was noted that it was possible for the Tool to be translated into other languages, including other official languages of the United Nations, subject to the availability of funds. It was also noted that a demonstration of the Tool had been organized by the Secretariat for interested participants.

23. A representative of the Secretariat presented the salient points of discussion of an informal expert group meeting on enhancing the effectiveness of central authorities to engage in international cooperation in criminal matters, especially mutual legal assistance, held in Vienna on 5 and 6 October 2017. It was noted that the meeting had been organized by the Organized Crime and Illicit Trafficking Branch of the Division for Treaty Affairs of UNODC, with a view to facilitating the implementation of resolution 8/1 of the Conference of the Parties to the Organized Crime Convention.

24. The representative of the Secretariat provided an update on the online directory of competent national authorities under the United Nations Convention against Corruption. The representative noted that, pursuant to a recommendation made by the fifth open-ended intergovernmental expert meeting to enhance international cooperation under the United Nations Convention against Corruption, the online directory had been expanded to include a new section on central authorities for extradition, including requirements and procedures for granting extradition. The representative noted that, as at 20 October 2017: 110 States parties had provided information about their authorities for assisting with measures for the prevention of corruption, pursuant to article 6, paragraph 3, of the Convention; 129 States parties had provided information about their central authorities for mutual legal assistance, pursuant to article 46, paragraph 13, of the Convention; 78 States parties had provided information about their asset recovery focal points, in accordance with resolution 4/4 of the Conference of the States Parties to the Convention against Corruption; 19 States parties had provided information about their central authorities for extradition, pursuant to a recommendation made by the fifth expert meeting; and 30 States parties had provided information about their focal points on the use of civil and administrative proceedings relating to corruption, in accordance with Conference resolution 6/4. The representative encouraged States parties to continue providing information on their competent national authorities, underlining the value of the online directory in facilitating effective international cooperation.

25. The representative of the Secretariat noted that, in order to increasing the accessibility of the online directory other significant UNODC initiatives in the area of international cooperation, the Office had launched a new online resource hub on international cooperation that provided one-click access to a vast array of its publications, tools, databases, directories, networks and events, as well as other useful resources and information.

26. In the ensuing discussion, the designation of central authorities for mutual legal assistance was highlighted by many experts as the core to making the Convention an effective instrument in the area of international cooperation. Some speakers encouraged the Secretariat to continue exploring the existing challenges and good practices in that area and expressed their countries' readiness to cooperate with the Secretariat in that work. Some speakers noted similarities between the provisions on international cooperation in the Convention against Corruption and those in the Organized Crime Convention, emphasizing the need for enhancing synergy and sharing information, not only among the relevant sections of UNODC, but also between the open-ended intergovernmental expert meetings to enhance international cooperation under the Convention against Corruption and the Working Group on International Cooperation, established by the Conference of the Parties to the Organized Crime Convention, and between the various relevant national authorities involved in those areas.

27. Several speakers reiterated the importance of expediting the execution of requests for mutual legal assistance and extradition. It was noted that the establishment of clear time frames and the development of guides and manuals for practitioners would be useful in that regard. Making available to other States information on existing national requirements and procedures for incoming requests was seen as important for facilitating international cooperation. One speaker recommended considering the feasibility of adopting a protocol to the Convention to address issues such as time frames for extradition and mutual legal assistance proceedings, as well as joint investigations and the use of special investigative techniques in transnational investigations of corruption offences.

28. The need to provide timely and meaningful responses to requests for mutual legal assistance based on the Convention against Corruption was stressed. The importance of using the Convention as a legal basis for requests, where applicable, was also emphasized.

29. Other speakers highlighted the need to address the issue of mutual legal assistance in the context of safe havens and noted that the expert meetings should be encouraged to focus more on that issue.

30. Some speakers noted the role of international cooperation in the use of civil and administrative proceedings in the fight against corruption. One speaker called on the Secretariat to organize an ad hoc expert group meeting to address the practical aspects of such cooperation and to prepare a guide on the execution of requests for mutual legal assistance relating to corruption. With a view to enhancing the exchange of information in that area, the Secretariat was encouraged to explore the possibility of including in the Tools and Resources for Anti-Corruption Knowledge (TRACK) platform a separate section dedicated to civil and administrative measures relating to corruption.

## **VII. Conclusions and recommendations**

31. The sixth expert meeting reiterated the importance of States parties providing to each other the greatest possible extent of assistance in the investigation and prosecution of corruption offences in the most flexible and effective way, including by endeavouring to simplify the relevant procedures, in accordance with domestic law.

32. The sixth expert meeting reaffirmed the recommendations made by the third, fourth and fifth expert meetings (see [CAC/COSP/EG.1/2014/3](#), [CAC/COSP/EG.1/2015/3](#), [CAC/COSP/EG.1/2016/2](#)).

33. Furthermore, the sixth expert meeting agreed on the following recommendations:

(a) States parties to the United Nations Convention against Corruption should continue their efforts with regard to bridging the gap between different legal systems, particularly in the area of criminal procedure and evidence standards, by using the Convention as a legal basis, and by concluding detailed bilateral treaties and arrangements on mutual legal assistance;

(b) States parties should continue to exchange information on the use of new technologies for the purposes of extradition and mutual legal assistance and provide such information to the Secretariat on a regular basis;

(c) The Secretariat should continue its work on the provision of technical assistance in the area of international cooperation, focusing on capacity-building and closing gaps in the domestic legislation of developing countries;

(d) The Secretariat should continue its work on maintaining the online directory of competent national authorities;

(e) Where applicable and subject to their domestic legal system, States parties should endeavour to have the capacity to provide assistance in civil and administrative measures relating to corruption;

(f) The Secretariat should continue its work on the analysis of practical challenges arising in the work of central authorities responsible for requests under the United Nations Convention against Corruption with a view to strengthening their effectiveness and efficiency;

(g) The Secretariat should organize for the seventh expert meeting a thematic panel discussion dedicated to the problem of requesting mutual legal assistance from safe havens with regard to those who committed corruption offences under the Convention;

(h) UNODC should consider the possibility of creating in the Legal Library of the TRACK platform a specific section dedicated to civil and administrative measures relating to corruption, with a view to raising awareness and facilitating cooperation in those matters among States parties to the Convention;

(i) The Secretariat should be commended on its efforts to ensure synergy between the work of the open-ended intergovernmental expert meetings to enhance international cooperation under the United Nations Convention against Corruption and the work of the Working Group on International Cooperation, established by the Conference of the Parties to the United Nations Convention against Transnational Organized Crime, and information collected through the Implementation Review Mechanism of the United Nations Convention against Corruption should be made available to the Working Group on International Cooperation;

(j) The Secretariat should explore the feasibility of developing a practical guide containing considerations relating to how requests for mutual legal assistance of a *de minimis* nature should be handled, and in the future the issue should be included in the deliberations of one of the expert meetings;

(k) The Secretariat should facilitate discussions with the Bureau of the Conference of the States Parties to the United Nations Convention against Corruption to ensure that when the expert meeting is held during the sessions of the Conference, it is not held at the same time as the informal consultations on draft resolutions relating to international cooperation, so that the relevant experts participating in those consultations can also attend the expert meeting.

## **VIII. Adoption of the report**

34. On 7 November 2017, the sixth expert meeting adopted its report ([CAC/COSP/EG.1/2017/L.1](#)).

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