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Technical assistance

Analysis of technical assistance needs emerging from the second cycle country reviews

Note by the Secretariat

Summary

The assessment of technical assistance needs, particularly those identified by States parties through the Mechanism for the Review of Implementation of the United Nations Convention against Corruption, and the availability of technical assistance to States parties upon request are essential to ensure that States parties are appropriately supported in addressing gaps in the full implementation of the Convention. Chapter VI of the Convention is devoted to technical assistance and information exchange.

The present report includes an analysis covering nearly a quarter of the 187 States parties to the Convention for which the second cycle review has been completed. Of the 44 States parties that had adopted their executive summaries by September 2020, 30 States had identified a total of 404 individual needs. These data have enabled the assessment and presentation to the Implementation Review Group of trends in technical assistance needs in relation to chapter II (Preventive measures) and chapter V (Asset recovery).



I. Introduction

1. In its resolution 3/1, the Conference of the States Parties to the United Nations Convention against Corruption adopted the terms of reference of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption. The Conference decided that the Implementation Review Group would be in charge of following up and continuing the work of the Open-ended Intergovernmental Working Group on Technical Assistance. Pursuant to paragraph 11 of the terms of reference, one of the goals of the Implementation Review Mechanism is to help States parties to identify and substantiate specific needs for technical assistance and to promote and facilitate the provision of technical assistance. In accordance with paragraph 44 of the terms of reference, the Review Group is tasked with considering technical assistance requirements in order to ensure effective implementation of the Convention.

2. In its resolution 4/1, the Conference recommended that all States parties, where applicable, in their responses to the comprehensive self-assessment checklists and in the country reports, should identify technical assistance requirements, preferably prioritized and related to the implementation of the provisions of the Convention examined during a given review cycle. In the same resolution, the Conference decided that the Review Group should consider, on the basis of the outcome of the review process and consistent with the terms of reference of the Implementation Review Mechanism, priority areas for the provision of technical assistance. Furthermore, in resolution 7/3 the Conference reiterated the importance of the Group considering such priority areas for the provision of technical assistance, as well as consolidated information on trends in technical assistance required and provided. States parties were encouraged to continue to voluntarily provide the Implementation Review Group with information on current, anticipated and unmet technical assistance needs, including those needs identified through the review process, and to use that information to inform technical assistance programmes.

3. The assessment of technical assistance needs, particularly through the Implementation Review Mechanism, and the availability of technical assistance to States parties upon request are essential to ensure that States parties have the support necessary to address gaps in the implementation of the Convention. Technical assistance spans all of the Convention's substantive areas and comprises a wide range of techniques, including the review and revision of legislative and policy frameworks; the development of new institutional bodies; coordination among public institutions, including across borders; increased support for criminal justice systems; and activities in the areas of asset recovery, education and the private sector.

II. Analysis of technical assistance needs identified during the second cycle of the Implementation Review Mechanism

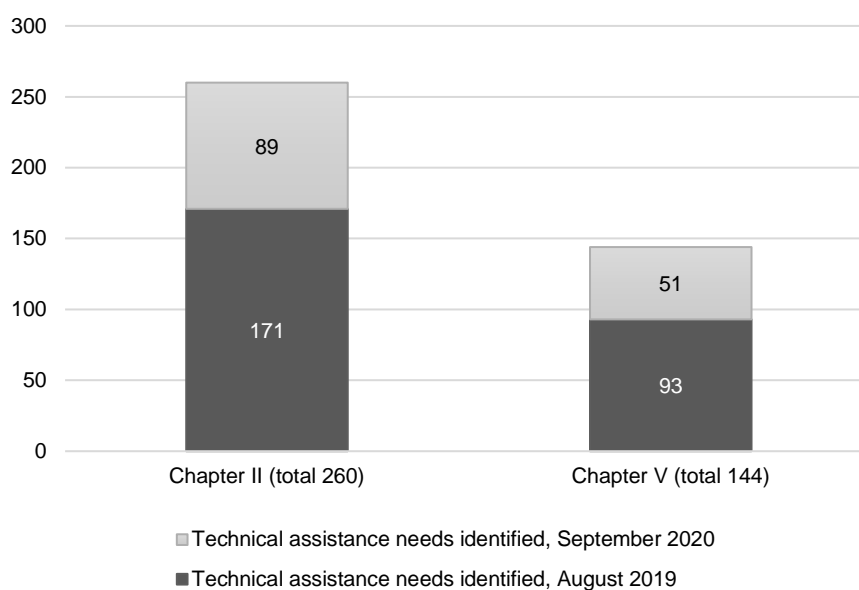
4. For the eighth session of the Conference of the States Parties to the Convention, held in December 2019, the Secretariat prepared a note analysing the needs emerging from the second cycle, entitled "Analysis of technical assistance needs emerging from the country reviews and assistance delivered by the United Nations Office on Drugs and Crime in support of the implementation of the United Nations Convention against Corruption" (CAC/COSP/2019/14). The analysis was tentative, as at that time only 17 of the 27 States that had finalized their executive summaries had identified technical assistance needs, reporting a total of 282 such needs.

5. Since then, a further 17 States parties have completed their executive summaries and 13 of those States have reported that they require technical assistance. Thus, 30 States had identified a total of 404 individual needs by September 2020 and that substantial increase in data – those data representing almost a quarter of the States parties to the Convention – has enabled a more substantiated analysis of technical

assistance needs in relation to chapter II (Preventive measures) and chapter V (Asset recovery).

Figure I

Number of technical assistance needs identified, by chapter (404 needs in total)

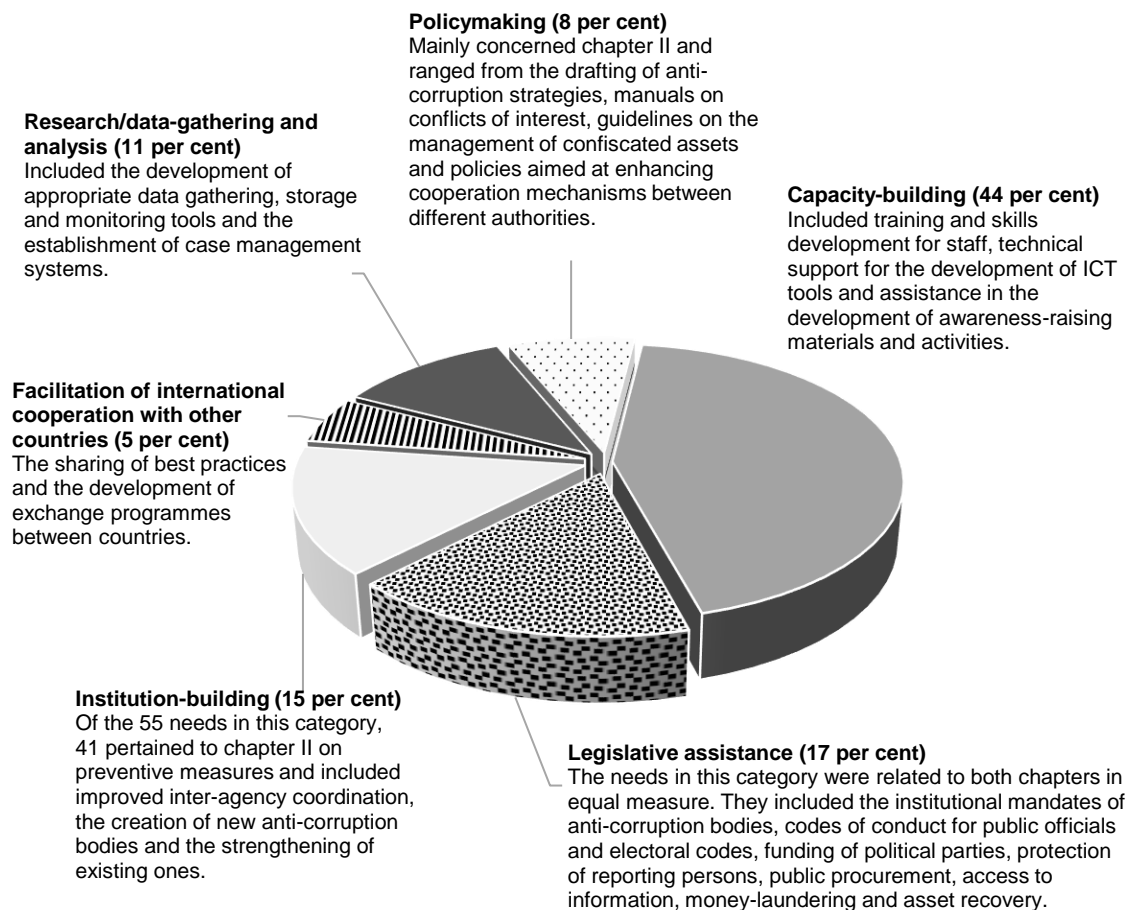


6. All 30 States reporting technical assistance needs did so with regard to chapter V, whereas only 23 States reported needs relating to chapter II. Of the total number of needs identified, however, 64 per cent related to chapter II and only 36 per cent to chapter V. Since August 2019, when the previous analysis was conducted, the percentage increase in the number of States identifying technical assistance needs has been almost the same for both chapters: 34 per cent for chapter II and 35 per cent for chapter V.

7. Capacity-building continued to be the most frequently identified type of technical assistance need, accounting for 44 per cent of all needs (177 of the total 404). This category included training and skills development for staff, technical support for the development of information and communications technology (ICT) tools and assistance in the development of awareness-raising materials and activities.

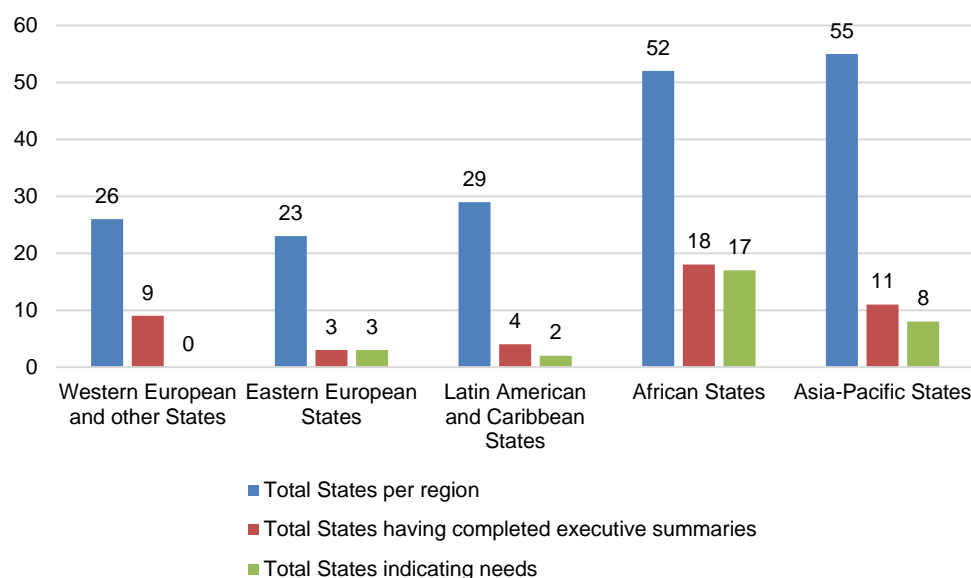
8. Legislative assistance was identified as a need in relation to almost all substantive provisions of the chapters under review in equal measure, accounting for 17 per cent of all needs. However, while that need pertained to chapter II in 35 instances and to chapter V in 32 instances, in relative terms there was a greater need for technical assistance relating to chapter V given the fewer number of provisions in that chapter. The types of needs falling within this category included assistance in relation to the institutional mandates of anti-corruption bodies, codes of conduct for public officials and electoral codes, funding of political parties, protection of reporting persons, public procurement, access to information, money-laundering and asset recovery.

Figure II
Technical assistance needs identified, by category and percentage of total needs



9. Despite this categorization, analysis shows that needs are often cross-cutting. For example, needs relating to the creation of new institutions, the strengthening of institutional independence or the avoidance of overlapping mandates often concern both legislative assistance and institution-building. Similarly, capacity-building and research/data-gathering and analysis often overlap, particularly with regard to the use of ICT tools and general enhancement of the implementation of policies and procedures through various means of monitoring. The relatively low number of needs identified in the category “Facilitation of international cooperation” may be misleading, since needs concerning the sharing of best practices may have been recorded by some States under another category.

Figure III
Regional breakdown of States having completed their executive summaries



10. Given that the regions are not equally represented among those States having finalized their executive summaries, it is too early to identify significant regional trends. Nonetheless, some tentative observations can be made.

11. As can be seen above (figure III) the group of African States accounted for the largest number of finalized executive summaries (18 out of 44, or 41 per cent). Furthermore, the technical assistance needs identified by those States amounted to 69 per cent of all needs (280 of 404).

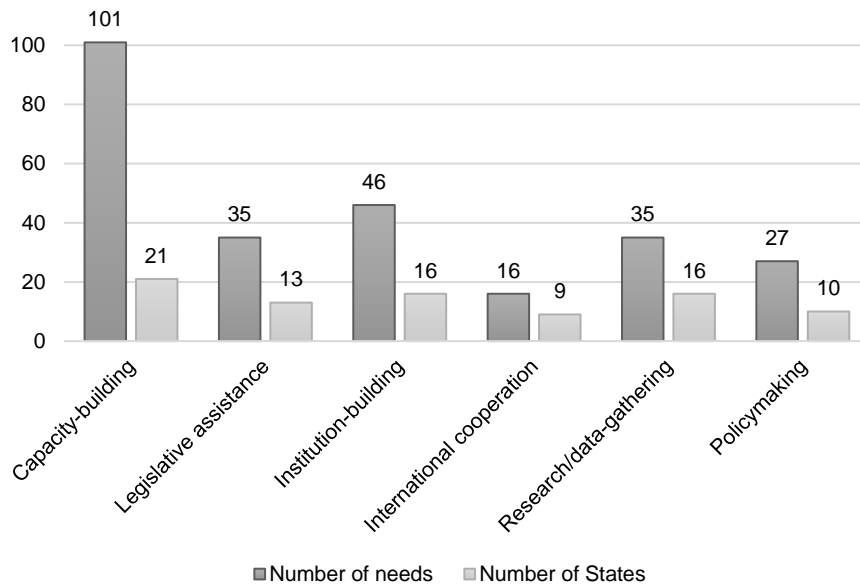
12. While States parties belonging to the group of Asia-Pacific States accounted for 11 of the 44 finalized executive summaries (25 per cent), the needs identified during the relevant country reviews represented only 18 per cent of the technical assistance needs analysed to date.

13. The group of Eastern European States accounted for less than 7 per cent of the finalized executive summaries. In contrast to the global trend, 68 per cent of the technical assistance needs identified by those States related to chapter V on asset recovery.

III. Analysis of technical assistance needs identified in relation to chapter II of the Convention

14. Twenty-three States reported a total of 260 needs relating to chapter II. Article 5 on preventive anti-corruption policies and practices (42 needs), article 7 on public sector measures (30 needs) and article 9 on public procurement and management of public finances (29 needs) accounted for the highest number of technical assistance needs reported during the review process, followed by article 6 on preventive anti-corruption bodies and article 13 on the participation of society, 28 needs having been identified in relation to each of those two articles.

Figure IV
Categories of technical assistance needs relating to chapter II, and number of States



Anti-corruption policies, practices and bodies (articles 5 and 6)

15. More than half of all States reported technical assistance needs in relation to article 5 on preventive anti-corruption policies and practices and article 6 on anti-corruption bodies.¹ To date, a quarter of all needs identified in relation to chapter II have concerned those two provisions.

16. Ten States required assistance in building the organizational and operational capacity of their anti-corruption bodies to implement, monitor and evaluate a prevention policy or strategy, while a further four States identified needs for policymaking assistance with a view to designing or developing anti-corruption policies. The prospective recipients of such assistance were not only the main anti-corruption bodies but also a wide range of public institutions, including audit offices, national environmental services, business, trade and investment boards and the offices of State controllers and investigators. One State indicated that it required support in the examination of the interlinkages between corruption and gender-related and human rights issues for the purpose of implementing its national anti-corruption strategy effectively.

17. In line with technical assistance needs that had emerged from the first cycle of the Implementation Review Mechanism, several States expressed the need to enhance their inter-agency coordination, one of them emphasizing the need to support integrity committees at all levels of government and another indicating a need for the sharing of good practices in establishing such committees. As during the first cycle, States reported the need for technological tools as a means of enhancing organizational effectiveness and achieving the participation of a wider range of stakeholders. One State indicated that it had established the specific goal of enhancing its capacity to organize and analyse large volumes of data through data mining.

18. States reported awareness-raising needs such as the development of public education and awareness materials aimed at diverse groups. One State requested the training of audiovisual system technicians in creating anti-corruption cartoons and other audiovisual messages as a means of reaching young people; another indicated the need to incorporate corruption prevention strategies into education curricula,

¹ Needs identified in relation to article 6 (Preventive anti-corruption body or bodies) are often linked to those identified with regard to article 36 on specialized authorities. See CAC/COSP/IRG/2016/13.

while yet another reported the specific need for advocacy support in order to ensure the adoption of a code of conduct bill and a human rights and public administration bill.

19. Needs encompassing both legislative assistance and institution-building were also expressed, including the establishment of a comprehensive legal framework in order to harmonize existing laws, clarify the roles of the relevant bodies, minimize duplication and maximize use of resources. Several States reported the need for model legislation relating to international cooperation agreements.

20. In the category of research/data-gathering and analysis, five States – including four States in the group of African States – expressed the need for assistance in conducting preventive risk assessments and surveys measuring corruption. One State requested assistance in researching issues relating to corruption in the public sector through data-gathering systems and statistical analysis, while another reported the need for examples of questionnaires and training in the analysis of data from surveys and in ways of responding to issues arising from those surveys. Similarly, a further State requested assistance in strengthening the capacity of staff of its anti-corruption units with regard to the collection and analysis of corruption survey data. One State indicated the need to develop a national corruption index and indicators to evaluate the impact of measures that are put in place as a result of recommendations emanating from State audits.

Conflicts of interest and whistle-blowing (articles 7 and 8)

21. Needs relating to article 7 on public sector measures and article 8 on codes of conduct for public officials were reported by 17 States and amounted to 20 per cent of all technical assistance needs indicated in relation to chapter II. General needs included the development of an e-learning platform, awareness-raising activities, training and the sharing by other States of best practices. Most needs related to the management of conflicts of interest and measures facilitating the reporting by public officials of acts of corruption.

22. One third of the 30 States that had identified technical assistance needs reported having established the goal of strengthening their respective systems for managing conflicts of interest. For example, some States requested assistance in drafting a manual for the management of such conflicts and in building the capacity of an ethics commission to make such management more effective, and one indicated a need for a comprehensive computerized system for identifying areas that may be vulnerable to conflicts of interest. A total of six States expressed the need to develop procedures and systems for receiving, monitoring and verifying declarations and disclosures of interests, assets and gifts. Similar needs were reported in relation to article 52 on prevention and detection of transfers of proceeds of crime (see sect. IV below).

23. With regard to measures to facilitate the reporting by public officials of acts of corruption, five States outlined how they would benefit from relevant technical assistance. Three of those States indicated a need for legislative assistance in drafting or adopting whistle-blower protection bills while another expressed a specific need for resource mobilization aimed at lobbying and advocating for such legislation.

24. Three States identified capacity-building needs concerning the facilitation of reporting by public officials and some of those needs were formulated in a general manner in relation to article 13, thereby extending the scope of such reporting to cover persons outside the public sector. One State suggested the establishment of a platform for dealing with reports of acts of corruption and for the effective implementation of measures to protect such reporting persons. Two States proposed complaint-handling mechanisms, one of those States specifically requesting guidance on conducting investigations into procurement violations on the basis of reports from whistle-blowers. Another State requested technical assistance in training judicial officials in how to respond to reporting persons generally and how to provide safe housing to ensure the physical safety of such persons.

25. This increased focus on the reporting by public officials of acts of corruption was consistent with the large number of States reporting having taken measures relating to articles 32 and 33 after completion of their first cycle reviews, as noted in the report of the Secretariat on good practices and experiences of, and relevant measures taken by, States parties after the completion of the country reviews, including information related to technical assistance (CAC/COSP/2019/11).

Public procurement and management of public finances (article 9)

26. Nearly half of all States (13 out of 30) reported technical assistance needs in relation to public procurement, eight of those States highlighting the need for training. The needs identified covered areas ranging from risk-based audit to the implementation of an e-procurement system, the prevention and detection of fraud in public procurement, the monitoring and evaluation of public procurement systems, procurement investigations and the preparation of procurement audit and investigation reports.

27. The issue of data-gathering and analysis, including the storage of electronic records, was another area of priority. Four States requested technical assistance with regard to research or the development of a comparative study and benchmarking in relation to fraud prevention strategies. Another State expressed a need to establish a system for detecting irregularities and fraud. One State reported the need to train public officials in ways to enhance transparency in budget and accounting management.

28. Training – one of the capacity-building subcategories in which needs are most commonly identified – was also highlighted by eight States in relation to article 9. The needs identified included support in establishing capacity-building programmes for auditors, accountants and clerks in relation to record management and internal control mechanisms. Risk management training for fraud investigators and forensic auditors were further specific needs identified by States. One State, pointing out the increasing difficulties caused by ongoing changes in financial reporting and auditing requirements, coupled with the sheer volume of transactions, expressed a need for regular training for the staff of its national audit office in order to manage the evolving situation.

29. One State indicated the need for training in internal control procedures and managerial responsibilities in relation to irregularities and fraud, as well as the need to develop and implement well-designed regulations based on qualitative analysis and the good practices of neighbouring countries.

30. Several States indicated that they required assistance in establishing or updating their legal frameworks. Such needs were wide-ranging and included the drafting of regulations to give effect to a public procurement act, the preparation of supplementary legal provisions enabling a public procurement authority to perform its mandate and the carrying out of a full review of laws on procurement and the administration of public finances with a view to making recommendations as to how to improve those laws. One State sought inspiration from other States' legislation on record management while another indicated a need for advisory assistance in bringing its legislation into line with internationally accepted standards of internal control and internal audit, methodologies and best practices. One State envisaged the establishment within its anti-corruption authority of a specific unit responsible for monitoring public contracts.

Public reporting and participation of society (articles 10 and 13)

31. Over half of the States having identified technical assistance needs did so in relation to the provisions of articles 10 (Public reporting) and 13 (Participation of society). In line with the observations made in the previous analysis, States continued to indicate needs related to the active participation of individuals and groups outside the public sector. Some States identified such needs with a view to encouraging the general public to report instances of corruption and one specified the need for

technological tools to facilitate such reporting. Another State reported the need to harness investigative journalism in uncovering acts of corruption.

32. States appear to be demonstrating an increasing interest in taking measures to encourage all persons to take an active part in preventing and combating corruption. This trend was also identified in the thematic report on the implementation of chapter II (Preventive measures), prepared by the Secretariat for the Group's first resumed eleventh session (CAC/COSP/IRG/2020/3/Rev.1), in which broad participation of stakeholders was a recurrent theme throughout the recommendations and good practices set out with reference to the articles of that chapter.

Measures relating to the judiciary and prosecution services (article 11)

33. The challenges inherent in investigating, prosecuting and adjudicating corruption cases were reflected in the needs identified with respect to the judiciary and prosecution services. Some 10 States indicated technical assistance needs in relation to article 11, those needs mostly concerning capacity-building and training for judicial officials, investigators and prosecutors. One State highlighted the need for training in relation to the complexities of corruption and financial crimes, while other States indicated needs for training in judicial integrity and transparency. States also sought examples of good practices in protecting judicial independence and promoting integrity among judicial officials and assistance in facilitating exchange programmes with other States and access to international research tools.

Private sector (article 12)

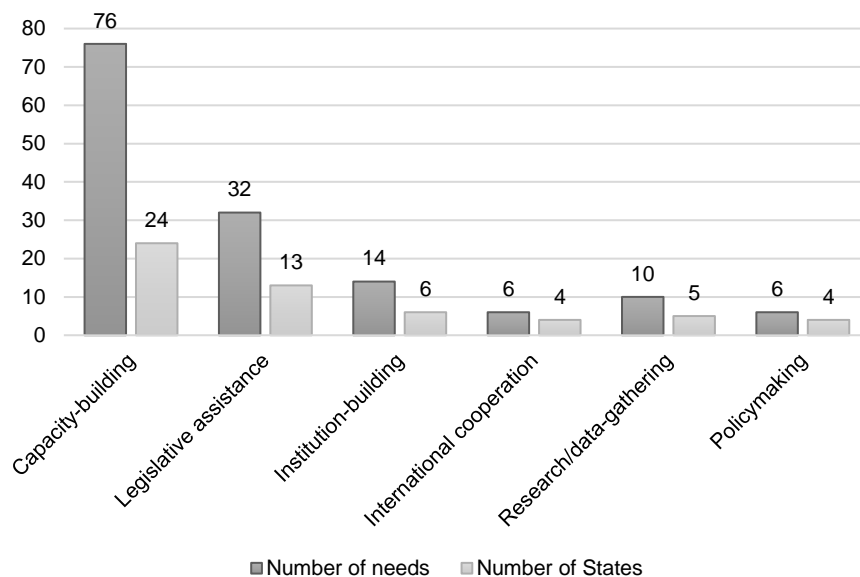
34. The number of technical assistance needs relating to the mandatory provisions on preventing corruption in the private sector was relatively low: only seven States identified a total of 11 needs, which ranged from the development of typologies of corruption offences in the private sector to the training of civil servants in the measures established in article 12 and the strengthening of governance and monitoring-related activities in that area. States also sought assistance in reviewing existing laws or drafting new ones in order to implement article 12, together with guidelines for public and private entities on the establishment of procedures for the prevention of bribery or on the development of codes of ethics in the private sector.

Measure to prevent money-laundering (article 14)

35. In view of the interconnectedness of article 14 on measures to prevent money-laundering and article 52 on the prevention and detection of transfers of proceeds of crime, the technical assistance needs pertaining to those provisions are considered jointly in the next part of the present note, relating to chapter V.

IV. Analysis of technical assistance needs in relation to chapter V of the Convention

Figure V
Technical assistance needs relating to chapter V, by category and number of States



36. All 30 States parties that identified technical assistance needs did so in relation to chapter V (Asset recovery), although the needs relating to that chapter represented only one third, approximately, of the overall number of needs identified (144 out of 404). As outlined in greater detail in the thematic report on the implementation of chapter V (Asset recovery), prepared by the Secretariat for the Group's second resumed eleventh session (CAC/COSP/IRG/2020/6), a number of States reported that their regulatory regime for asset recovery was still in the early stages of development. Institutional set-ups varied among States, including at the operational level – from multiple and decentralized to centralized and specialized asset recovery offices – as did experiences of dealing with asset recovery.

37. The three provisions of chapter V in relation to which the most needs were identified were article 51, which establishes the return of assets as a fundamental principle (32 needs), article 54 on mechanisms for recovery of property through international cooperation in confiscation (27 needs) and article 52 on the prevention and detection of transfers of proceeds of crime (18 needs). According to the thematic report (CAC/COSP/IRG/2020/6), articles 52 and 54 were also among the three articles in respect of which the most recommendations were issued.

38. Fourteen States expressed general capacity-building needs mirroring those indicated in relation to specific provisions of the Convention, such as the need for training, research and technological tools. A number of States also indicated needs relating to the facilitation of international cooperation or the sharing of best practices and lessons learned by other States in the implementation of chapter V.

39. More than a third of all States reporting needs in relation to chapter V did so with regard to the training of staff in the procedures involved in requesting the return of assets, such as the preparation of mutual legal assistance requests on the basis of information provided by financial intelligence units.²

² These needs are linked to the needs reported during the first review cycle in relation to article 46 on mutual legal assistance. For more information and analysis of those needs, see CAC/COSP/IRG/2016/13.

40. The use of ICT to support and facilitate the management of cases – through database management, the digitalization of court records to facilitate asset recovery and the development of software-based, real-time record-keeping systems and procedures – was highlighted by several States. One State indicated a need for the development of infographics software and its use to present cases in court, particularly in the case of complex financial investigations.

41. The institution-building needs identified by six States included assistance in the creation of an authority responsible for the management of confiscated assets or proceeds of crime, the establishment of asset recovery or forfeiture units and asset management units in all law enforcement agencies and the development of harmonized standard operating procedures, to be followed by all agencies, for managing assets.

42. Almost half of all States reporting needs for assistance in relation to chapter V did so with regard to legislative assistance. Some States required such assistance for the purposes of their legislation on proceeds of crime; one State requested support in establishing a mutual legal assistance regime. States also requested that model laws be made available, that workshops be conducted and that their legislation be reviewed by experts. Other more specific needs included legislative assistance in providing for confiscation in connection with virtual currencies and the development of procedures for the evaluation of seized property and its disposal by public auction.³

Prevention and detection of transfers of proceeds of crime (article 52)

43. Forty needs were identified through aggregation of the needs relating to article 52 with those identified in relation to article 14 on measures to prevent money-laundering. That figure represented more than a quarter of all needs identified with respect to chapter V, and almost 10 per cent of the overall total. Moreover, more than half of all States having reported technical assistance needs did so with regard to the provisions concerning money-laundering (16 needs).

44. Most of those needs related to capacity-building, research/data-gathering and analysis and the training of staff of financial intelligence units and law enforcement agencies in order to enhance their skills in financial analysis and in the use of technological tools for data-gathering and analysis.

45. States highlighted in particular the need for assistance in conducting financial investigations, tracing and detecting proceeds of crime and developing risk assessments. One State specifically indicated the need for training in cybercrime forensics and another requested training in the regulation of certain non-financial businesses and professions. Another State reported the need for information technology tools to enhance the means of communication between its financial intelligence unit and its reporting entities.

46. Almost a quarter of States indicating needs reported that they required technical assistance with regard to their financial disclosure systems. In most of those cases, assistance was sought in relation to the digitization of financial disclosure systems and the development of procedures for receiving, monitoring and verifying financial declarations. Legislative needs ranged from assistance in drafting a law on asset disclosures and support in broadening the scope of legislation to cover a larger range of officials to assistance in enabling a financial intelligence unit to access asset disclosure information.

47. The thematic report on the implementation of chapter V (CAC/COSP/IRG/2020/6) reflects identified challenges in establishing a legal framework that recognizes politically exposed persons, their family members and close associates in line with article 52. Since such frameworks diverged widely among States, nearly a third of States were recommended to bring their definition of

³ These needs are linked to the needs reported during the first review cycle in relation to article 31 on freezing, seizure and confiscation. For more information and analysis of those needs, see CAC/COSP/IRG/2016/13.

“politically exposed person” into line with the Convention. However, technical assistance needs relating specifically to politically exposed persons were identified by only three States. One State requested information on lessons learned with respect to the identification of politically exposed persons and related risk management; another reported the need for assistance in developing statutory instruments establishing a definition of politically exposed persons; and a third indicated a need for access to global databases on international politically exposed persons.

V. Technical assistance issues for further consideration

48. The needs identified by States parties during the review process often call for targeted long-term assistance that is adapted to and appropriate for each national system, including legislative, policy and technical advice components. This was exemplified by the reporting by one State of a number of capacity-building needs – such as the training not only of public officials but also of other stakeholders involved in public procurement, including suppliers and service providers – owing to the challenges posed by budget constraints and understaffing. In particular, chapter II requires an inclusive approach encompassing numerous agencies in order to achieve successful implementation, hence the need for training not only of public officials but also of other stakeholders outside the public sector that have important roles to play in preventing corruption.

49. In many cases, the outcomes of country reviews have continued to inform future programming or ensured that ongoing programmes appropriately address the needs identified by each State party. Notably, according to the thematic report on the implementation of chapter II of the Convention (CAC/COSP/IRG/2020/3/Rev.1), article 12 was one of the articles under review in respect of which the highest number of recommendations was made. This might indicate, in view of the low number of needs identified in relation to article 12, that private sector engagement remains an important area where increased efforts to provide technical assistance may be warranted.

50. Furthermore, in the thematic report on the implementation of chapter V of the Convention (CAC/COSP/IRG/2020/6), it is explained that while a number of States had reported a considerable number of successful asset recovery cases, others indicated that they had never received a request in relation to asset recovery but had established the necessary legal framework.

51. The comprehensiveness of the reviews and their technical nature resulted in the identification of technical assistance needs focused on national priorities but at the same time validated through a peer review process. This is borne out by the heterogeneity of the needs for capacity-building assistance, which makes it difficult to showcase and analyse trends. The varying needs have confirmed that technical assistance must be tailored to each country-specific situation and context.

Figure VI
Technical assistance needs in the capacity-building category, by grouped sub-category

