



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

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**Alignment of rules and regulations of the members of the  
United Nations System Chief Executive Board to the  
principles of the United Nations Convention against  
Corruption**

**Background paper prepared by the Secretariat\***

**Contents**

	<i>Page</i>
I. Introduction . . . . .	3
II. Responses of participating CEB members to the checklist distributed by UNODC . . . . .	5
1. Chapter 1: Definition of “Official of a Public International Organization” (article 2 (c) of UNCAC) . . . . .	5
2. Chapter 2: Preventive measures. . . . .	7
A. Anti-corruption policies and bodies (articles 5 and 6 of UNCAC) . . . . .	7
B. Human resources policies (article 7 of UNCAC) . . . . .	9
C. Codes of conduct and financial disclosure requirements (article 8 of UNCAC) . . . . .	9
D. Procurement and management of finances (article 9 of UNCAC) . . . . .	12
E. Transparency and access to public information (article 10 of UNCAC) . . . . .	13
F. Integrity in justice system and investigation services (article 11 of UNCAC) . . . . .	14
G. Conditions for the private sector to enter into contractual arrangements (article 12 of UNCAC) . . . . .	14
H. Participation of society (article 13 of UNCAC) . . . . .	16

\* This document has not been formally edited.



3.	Chapter 3: Offences and enforcement .....	16
A.	Offences and sanctions .....	16
B.	Protection of witnesses, experts, victims and whistle-blowers (articles 32 and 33 of UNCAC) .....	17
C.	Consequences of corruption (article 34 of UNCAC) .....	18
4.	Chapters 4 and 5: International cooperation and asset recovery .....	18
5.	Additional question: Status of international organizations, privileges and immunities ..	20
III.	Conclusions and recommendations .....	21

## I. Introduction

1. In its resolution 58/4, the General Assembly adopted the United Nations Convention against Corruption (UNCAC) and requested the Conference of the States Parties to the United Nations Convention against Corruption to address the criminalization of bribery of officials of public international organizations, including the United Nations, and related issues, taking into account questions of privileges and immunities, jurisdiction and the role of international organizations.

2. In its resolution 1/7, entitled “Consideration of bribery of officials of public international organizations”, the Conference affirmed the commitment of the States parties, including in their capacity as States members of public international organizations, to align the financial and other public integrity rules of the public international organizations to which they belong to the principles set forth in the Convention; and the agreement of the parties to the Convention to use their voices in those international organizations in which they participate to achieve that end.

3. In April 2007, the United Nations Office on Drugs and Crime (UNODC) presented a proposal to the members of the United Nations System Chief Executives Board for Coordination (CEB) to undertake a system-wide institutional integrity initiative to extend the principles and standards of the Convention to the organizations of the United Nations system. UNODC invited the CEB members to participate in a voluntary consultative process to review internal rules and regulations against the standards of the Convention, with a view to examining together possibilities for their alignment. The CEB endorsed the recommendation of the High-level Committee on Programmes (HLCP) that the High-level Committee on Management (HLCM) and its relevant networks should be actively engaged in pursuing the matter with UNODC. In June 2007, pursuant to this mandate, UNODC circulated a checklist containing an overview of articles of the Convention that embody principles that are of relevance to international organizations. Thereby, CEB members were invited to comment on their internal integrity rules on the following issues:

- Definition of the term “official of a public international organization” (article 2 (c) UNCAC)
- Preventive measures (articles 5 to 13 of UNCAC)
- Offences and enforcement (articles 15 to 25 and 30 to 34 of UNCAC)
- International cooperation and asset recovery (articles 38, 46, 49 and 52 to 61 of UNCAC)
- Status of international organizations (article 105 of the Charter of the United Nations and section 20 and 21 of the Convention on the Privileges and Immunities of the United Nations of 1946)

4. The first meeting of the institutional integrity initiative was held in Vienna on 28 September 2007 with CEB members and interested Member States to share and compare results on the initial work undertaken. Participants considered the checklist a useful tool and concurred that the exercise might lead to a greater degree of convergence of rules among different organizations.

5. In its resolution 2/5, entitled “Consideration of the issue of bribery of officials of public international organizations”, the Conference of the States Parties invited the Secretariat to continue the dialogue initiated. A round-table discussion on bribery of officials of public international organizations was held in the context of the second session of the Conference on 31 January 2008. Participants reiterated their support for the initiative, provided further information and requested UNODC to create a web page that would provide an open and transparent platform for collating both responses to the UNODC checklist and other relevant materials.

6. The second meeting of the institutional integrity initiative was conducted with CEB members and interested Member States in Vienna on 28 January 2009 to assess the results of the consultative process. Several CEB members noted, *inter alia*, that the responses to the UNODC checklist were only the first step in the process. States parties also supported the initiative and highlighted that it was timely and necessary.

7. In its resolution 3/2, entitled “Preventive Measures” the Conference requested the Secretariat to continue its efforts to assist international organizations with their adoption and implementation of the principles of the Convention, in particular through the institutional integrity initiative, and encouraged States parties, in their capacity as States members of public international organizations, to continue promoting and aligning anti-corruption policies and rules of those organizations with the principles of the Convention.

8. As at 30 September 2010, 19 of the 28 CEB members had submitted their written responses to the checklist. The World Trade Organization pointed out that the transparency and integrity of the Organization’s financial management was guaranteed by the existence of an Internal Audit Charter establishing internal audit functions, reinforced and supplemented by external reviews. The International Monetary Fund recalled that the Fund was an independent intergovernmental organization governed by its own laws, rules and regulations. Substantial responses were submitted by the following 17 CEB members (hereinafter summarized as participating CEB members): Food and Agricultural Organization (FAO), International Fund for Agricultural Development (IFAD), International Labour Organization (ILO), International Maritime Organization (IMO), International Telecommunication Union (ITU), the United Nations Secretariat, via its Office of Legal Affairs, United Nations Conference on Trade and Development (UNCTAD), United Nations Development Programme (UNDP), United Nations Educational, Scientific and Cultural Organization (UNESCO), United Nations Population Fund (UNFPA), United Nations Human Settlements Programme (UN-HABITAT), United Nations Industrial Development Organization (UNIDO), United Nations Office on Drugs and Crime (UNODC), United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), Universal Postal Union (UPU), World Bank Group, and United Nations World Food Programme (WFP). UNCTAD and UNODC noted that as part of the United Nations Secretariat, internal integrity rules were applicable.

9. The contributions of the CEB members and any supplemental information submitted at the request of UNODC are accessible from the institutional integrity initiative web page hosted by the United Nations integrity awareness web portal.<sup>1</sup>

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<sup>1</sup> <https://integrity.unodc.org/iaun/en/institutional-integrity-initiative.html>. At the request of the

The web page was created by the Secretariat pursuant to the commitment undertaken during the round-table discussion held at the second session of the Conference of the States Parties. The web page also hosts additional materials, including relevant documents from the Ad Hoc Working Group of the United Nations Legal Advisers on Fraud and Corruption, the Ad Hoc Committee on criminal accountability of United Nations officials and experts on mission,<sup>2</sup> as well as material received from CEB members in response to an earlier invitation to comment on their positions regarding Conference resolution 1/5.

10. The institutional integrity initiative seeks to complement other initiatives undertaken to strengthen policies, procedures and common approaches to the fight against corruption in international organizations. In 1954, the International Civil Service Commission (ICSC) developed Standards of Conduct for international civil servants whose revised and updated version was welcomed by the General Assembly in 2001.<sup>3</sup> These Standards serve as a guideline on ethical questions for staff of the United Nations Common System. Many subsidiary bodies and international organizations have either endorsed them or use slightly adapted versions. In 2005, the Legal Advisers of the United Nations launched an initiative that culminated in the establishment of the Ad Hoc Working Group of the United Nations Legal Advisers on Fraud and Corruption. The General Assembly, in its resolution 61/29 of 4 December 2006, established the Ad Hoc Committee on criminal accountability of United Nations officials and experts on mission, whose reports have been referred to in the previous paragraph.

11. The present background document is based on the responses to the checklist, additional documents referred to by participating CEB members and open source material. It seeks to identify areas of convergence and assess them against the principles of UNCAC that are of relevance to international organizations. Thereby, the document aims to facilitate the deliberations of the Working Group on how to further pursue the alignment of the financial and other public integrity rules of international organizations with the principles set forth in the Convention, and how to use the voice of States parties in the international organizations in which they participate.

## **II. Responses of participating CEB members to the checklist distributed by UNODC**

### **1. Chapter 1: Definition of “Official of a Public International Organization” (article 2 (c) of UNCAC)**

12. Article 2 (c) of UNCAC defines an “official of a public international organization” as “an international civil servant or any person who is authorized by such an organization to act on behalf of that organization”. In light of the work of

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ILO and the United Nations through the Office of Legal Affairs of the Secretariat, their responses were not posted.

<sup>2</sup> Criminal accountability of United Nations officials and experts on mission. Note by the Secretariat (A/62/329); Reports on the first and second session of the Ad Hoc Committee (A/62/54; A/63/54).

<sup>3</sup> GA Res 56/244.

the Ad-Hoc Committee for the Negotiations of a Convention against Corruption, this definition applies to the whole personnel of the organization, regardless of their contractual status, i.e., regular staff, staff under temporary appointments, and contractual employees (consultants, individual contractors and other individuals performing services on a contractual basis). The provisions of the Convention referring to an “official of a public international organization” are therefore meant to cover the whole personnel of such organization.<sup>4</sup> The scope of application of article 2 (c) of the Convention is not the same as the categories of officials to which the privileges and immunities of the United Nations and its specialized agencies apply, as specified by the Secretary-General and the specialized agencies in accordance with article V, section 17, of the General Convention on the Privileges and Immunities of the United Nations of 1946, and article VI section 18, of the Convention on the Privileges and Immunities of the Specialized Agencies of 1947 respectively.

13. According to the replies of participating CEB members to the checklist, the definition of “official of a public international organization” needed to be further clarified. Several replies included an explicit request for further clarification, and one organization raised the question whether it was advisable to assign sensitive duties with financial implications to personnel that did not have the status of an international civil servant.

14. The replies to the checklist manifested broad consensus among participating CEB members that all staff members were to be considered officials of public international organizations, which was amply mirrored by staff regulations and rules. However, the scope of application of staff regulations and rules differed between institutions. This affected mostly the status of contractual employees. The World Bank Group declared that its staff manual applied to contractual employees. The United Nations Secretariat introduced the category of “officials other than Secretariat officials”, which was governed by special rules and regulations which partly covered contractual employees.<sup>5</sup> Most participating CEB members did not consider contractual employees staff members and applied to them other rules. Nevertheless, even those organizations that excluded contractual employees from the application of staff rules indicated that they applied to them similar ethical standards as foreseen in the staff rules. Further, all participating CEB members indicated that their anti-corruption, anti-fraud and similar policies applied also to contractual employees. A number of organizations also reported that they considered its staff to be international civil servants and applied to them the Standards of Conduct for International Civil Servants of the International Civil Service Commission. The Standards of Conduct, however, do not define the term “international civil servant”.

15. The legal status of contractual personnel becomes, however, relevant with regard to the consequences of misconduct. Those participating CEB members that excluded contractual employees from their definition of staff held that the consequence of misconduct was the termination of service for cause, while staff

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<sup>4</sup> See Travaux Préparatoires of the negotiations for the elaboration of the United Nations Convention against Corruption, Article 2, Use of terms, pp. 21-52.

<sup>5</sup> ST/SGB/2002/9: Regulations Governing the Status, Basic Rights and Duties of Officials other than Secretariat Officials and Experts on Mission.

faced disciplinary procedures. Also the model contracts for personnel not covered by the staff rules and regulations generally included standards of conduct and provide, in the case of misconduct, for termination of service for cause. In light of the increasing trend to recruit personnel on a contractual basis, often discharging similar duties and responsibilities as regular staff members, a broad definition of “official of a public international organization” in line with article 2 (c) of UNCAC may provide a practical solution to the uncertainties reported by some CEB members.

Box 1

**Example: Defining the term “Official of a public international organization” (FAO)**

The *FAO Conference Resolution N° 71/59* defines the term “Official” as “any official other than those recruited locally and remunerated on an hourly basis”.

## 2. Chapter 2: Preventive measures

### A. Anti-corruption policies and bodies (articles 5 and 6 of UNCAC)

16. Article 5 of the Convention prescribes the development and implementation of effective, coordinated anti-corruption policies and collaborative arrangements in promoting and developing such measures, including through participation in international programmes and projects. According to article 6 of the Convention, the implementation, oversight and coordination of these policies and the dissemination of knowledge about the prevention of corruption shall be performed by a specialized, functionally and financially independent anti-corruption body which should be granted the necessary material resources, specialized staff and the training of such staff.

17. All participating CEB members reported to have anti-corruption or anti-fraud policies in place. Pertinent provisions were primarily contained in the institution’s constitutional documents, staff regulations and rules, and financial regulations. All but three specialized agencies and one subsidiary body of the United Nations reported that they had consolidated documents promoting the values listed above. One institution reported to be in the process of adopting such a policy, and another organization reported that an overall review and gap analysis of its rules and regulations against UNCAC was being conducted with a view to developing such policies and practices. More than half of the participating CEB members reported on their efforts to systematically disseminate anti-corruption policy documents in order to enhance personnel’s awareness of integrity rules and procedures to be applied in the case of alleged misconduct. Several participating CEB members made reference to documents that were formulated in a concise and user-friendly format, such as in a question-and-answer style.

Box 2

**Example: Anti-fraud policy (ILO and UNESCO)**

***ILO Anti-Fraud Policy***

Director-General's announcements, CIRCULAR NO. 627, Series 1., Distribution A of 19.09.2007:<sup>6</sup> The policy addresses the following questions: what is fraud, anti-fraud culture, reporting fraud, and the different responsibilities of the internal integrity bodies.

***UNESCO — Brochure “Addressing Grievances in UNESCO — Where to go for information, advice, or help with grievances”<sup>7</sup>***

The brochure outlines main responsibilities and types of allegations/complaints to be reported of the Ethics Office, the Bureau of Human Resource Management, the Internal Oversight Service and the Office of Mediators, and provides the respective contact data.

18. Reportedly, all participating CEB members supplemented their anti-corruption policies by organizing periodic and mandatory staff training courses. All staff members of the United Nations Secretariat and the UN subsidiary bodies were obliged to undergo the online learning programme of the United Nations, which is part of the Integrity Awareness Initiative launched in 2005.<sup>8</sup> Of those participating CEB members which had international legal personality, approximately half stated that they provide for specific training on ethics and for special programmes to enhance awareness of their internal integrity rules. Such training programmes were generally conducted by the human resources departments.

19. Approximately half of the participating CEB members indicated that their anti-corruption policies were subject to periodic review by their internal audit and oversight bodies.

20. Many of the institutions indicated their readiness to cooperate with other institutions to promote and develop preventive anti-corruption measures, or that they were already engaged in such cooperation. Further to the institutional integrity initiative, this was shown, inter alia, by the broad support of and participation in the Ad Hoc Working Group of the Legal Advisers on Fraud and Corruption, the joint development by UNFPA, UNDP, and the United Nations Office for Project Services of a common fraud policy framework, and the Joint International Financial Institution Anti-Corruption Task Force in which the World Bank Group was engaged.

21. With regard to designated internal anti-corruption offices, participating CEB members referred to a number of institutions, ranging from internal audit and oversight bodies, ombudspersons or ethics offices to general service departments responsible for human resources and finance. In many cases, these offices addressed different aspects of anti-corruption policies. In a number of institutions, the internal audit and oversight body was not only responsible for investigation but also for

<sup>6</sup> [www.ilo.org/public/english/edmas/download/edms\\_001978.pdf](http://www.ilo.org/public/english/edmas/download/edms_001978.pdf).

<sup>7</sup> [http://portal.unesco.org/en/files/47564/12701356731Addressing\\_Grievances\\_EN.pdf/Addressing%2BGrievances%2BEN.pdf](http://portal.unesco.org/en/files/47564/12701356731Addressing_Grievances_EN.pdf/Addressing%2BGrievances%2BEN.pdf).

<sup>8</sup> ST/SGB/2005/17; the Integrity Awareness homepage is accessible for UN staff members on <https://integrity.unodc.org/iaun/login.html>.



overseeing and coordinating the implementation of the anti-corruption strategy. Reportedly, ethics offices or ombudspersons provided informal and confidential advice on situations of conflict of interest. In this context, it is pertinent to recall that the General Assembly, in its resolution 62/228, created a single, integrated and geographically decentralized Ombudsman structure that serves the Secretariat, UNDP, UNFPA, UNICEF, UNOPS and UNHCR. One organization reported to be in the process of establishing a dedicated ethics office. Another organization indicated that while it did not have a designated anti-corruption office, the internal auditor was mandated to assess the effectiveness of measures to prevent fraud.

## **B. Human resources policies (article 7 UNCAC)**

22. Article 7 of the Convention addresses systems for recruitment, hiring, retention, promotion and retirement of officials based on the principles of efficiency, transparency and objective criteria; selection and training of individuals considered especially vulnerable to corruption; adequate remuneration and equitable pay scales; and education and training. Further, it regulates systems to promote transparency and prevent conflicts of interest.

23. All participating CEB members reported to implement human resources policies in full compliance with the aforementioned principles. They referred to their recruitment manuals and human resource procedures, as well as the web sites on which vacancy announcements were published. A number of organizations indicated that regular reference checks were conducted prior to any formal appointment. Competency assessment processes may include an assessment of integrity, particularly for candidates for posts which may include greater vulnerability to corruption. Salary and remuneration scales were reported to be harmonized throughout the United Nations system and based, inter alia, on the Noblemaire principle.

24. Most participating CEB members reported on their efforts to provide their staff with broad training and staff development opportunities, including on integrity issues. However, several institutions stated that their education and training programmes on corruption risks should be reinforced, especially for operational managers and personnel working in procurement, contracting and investment departments.

25. Some participating CEB members provided details on their regulations to prevent conflicts of interest. Such regulations addressed, inter alia, decision-making by officials on matters in which they have an interest, outside activities and the employment of close family members.

## **C. Codes of conduct and financial disclosure requirements (article 8 of UNCAC)**

26. Article 8 of the Convention requires the promotion of integrity, honesty and responsibility of officials, and the adoption of codes of conduct. It further prescribes measures to facilitate the reporting of acts of corruption, and measures requiring personnel to declare outside activities, employment, investment and assets, gifts or benefits from which a conflict of interest may result. These measures shall be

complemented by adequate enforcement mechanisms and disciplinary measures in the event of violation of codes of conduct or standards.

27. All participating CEB members reported to have standards or codes of conduct in place. The Standards of Conduct for the International Civil Service of the International Civil Service Commission applied to all CEB members apart from the World Bank and the International Monetary Fund; about two thirds of the participating CEB members had endorsed it. Reportedly, some organizations had adopted their own standards of conduct. However, the codes of conduct appeared to be almost identical among participating CEB members and were complemented by the relevant staff regulations and rules. Nevertheless, one institution stressed that the adoption of a system-wide code of conduct would be required.

28. According to the responses to the checklist and open-source research, all but two participating CEB members had either established telephone and e-mail hotlines facilitating the reporting of acts of corruption, including through confidential and anonymous submissions, or availed themselves of the system established by the United Nations Secretariat. More than half of the institutions had an ethics office or officer, or relied on the services of the United Nations Ethics Office, which provided whistle-blower protection.

29. Reportedly, the policies of participating CEB members on gifts and gratuities received by individuals or entities outside the institution were widely coherent: It was consistently reported that the reception of honours, decorations, favours, gifts or remuneration of more than nominal value from a source external to the institution was prohibited if it had not been authorized in advance by the executive head of the institution. Further, it was reported that staff members were not allowed to engage in any outside occupation or employment without the approval of the executive head. Approval may be granted if the occupation was not in real, potential or apparent conflict with the official function of the individual or the interest of the institution. Model contracts for contractual employees generally contained a similar provision on conflict of interest. The requirement of disclosure and approval seemed to apply to unpaid occupations, except for one participating CEB member that restrained it to paid professional activities only.

## Box 3

**Example: Declaration of outside activity, employment and investment (UPU)***UPU Staff Regulations, Regulation 1.6, § 1-4*

- “1. Staff members shall not engage in any continuous or recurring occupation or employment outside the Union without the prior approval of the Director General.
2. No staff member may be actively associated with the management of, or hold a financial interest in, any business concern if it were possible for him to benefit from such association or financial interest by reason of his official position with the Union.
3. A staff member who has occasion to deal in his official capacity with any matter involving a business concern in which he holds a financial interest shall disclose the measure of that interest to the Director General.
4. The mere holding of shares in a company shall not constitute a financial interest within the meaning of this provision unless such holding constitutes a substantial control.”

30. All but four participating CEB members reported to have provisions on the disclosure of assets and investments of certain staff members, their spouses and dependent children. Two institutions informed that they were in the process of introducing a financial disclosure policy, and one institution reported that the standard clauses of contracts for consultants were being reviewed to include financial disclosure requirements. Similarities existed in the requirement for senior and key financial and procurement officials to periodically submit a complete and accurate financial disclosure statement. Some institutions provided for limited disclosure obligations for all officials; one institution reported a one-time disclosure of interest in 2006 by all officials. The disclosure statements were generally administered by the ethics office or officers.

## Box 4

**Example: Financial disclosure requirements for staff considered especially vulnerable to corruption (UNFPA)***UNFPA policy on financial disclosure and declaration of interest*

“The following UNFPA staff members have an obligation to file an annual financial disclosure statement:

- (a) All staff members at the D-1 or L-6 level and above;
- (b) All staff members whose principal occupational duties are the procurement of goods and services for UNFPA. Staff members falling into this category are designated as follows:
- All staff members in the professional category serving in the Procurement Services Section (“PSS”, i.e.: the Chief, PSS; Procurement Officers; Procurement Specialists etc.);
  - All staff members serving in PSS who are appointed at levels G-6 or G-7.

(c) All staff members whose principal occupational duties relate to the investment of the assets of UNFPA or of any accounts for which UNFPA has fiduciary or custodial responsibility. Staff members falling into this category are designated as follows:

- All staff members in the professional category serving in the Accounts Section;
- All staff members serving in the Accounts Section who are appointed at levels G-6 or G-7.

(d) Other staff members whose direct access to confidential procurement or investment information warrants the filing of a financial disclosure statement. Staff members falling into this category are designated as follows:

- All UNFPA Representatives or Chiefs of Operations (regardless of grade level);
- All UNFPA Operations Managers (regardless of whether they are internationally or locally recruited);
- All UNFPA Administration/Finance Associates or Assistants in UNFPA Country Offices (regardless of grade level)."

Box 5

**Example: Voluntary public disclosure of outside activities and financial interest (World Bank Group)**

In 2008, the World Bank Group's Senior Management Team voluntarily made their disclosure of financial and outside interests public, in the spirit and interest of good organizational governance. In 2009, many of the Bank Group's Vice Presidents also have elected to make their disclosures public.

31. All participating CEB members reported that failure to comply with the standards set out in the codes of conduct may lead to disciplinary measures, and provided information on their disciplinary system and procedure. Some replies included examples of disciplinary cases. In general, disciplinary measures were reported to be taken by the executive head, after consultation with a disciplinary committee. Further, a trend seemed to be the provision of a second instance of justice before an appellate body. The UN Secretariat adopted this system in the framework of the reform of the administration of justice system.<sup>9</sup>

#### **D. Procurement and management of finances (article 9 of UNCAC)**

32. Article 9, paragraph 1 of UNCAC provides for the establishment of appropriate systems of procurement based on transparency, competition and objective criteria in decision-making. This shall include, inter alia, the public distribution of information relating to procurement, the establishment of conditions in advance, the use of predetermined criteria, an effective system of review, and measures to regulate matters regarding personnel responsible for procurement such as declarations of interest, in particular procurement, screening of procedures, and training requirements.

<sup>9</sup> A/RES/61/261, A/RES/63/253.

33. All participating CEB members reported that their procurement rules and procedures fully satisfied the aforementioned principles. They referred to their financial regulations and rules, procurement manuals and service orders. All replies indicated that the relevant conditions were determined in advance, that procurement decisions were based on objective and predetermined criteria and that procurement actions above a certain volume were published. The majority of participating CEB members reported to use procurement rosters, mostly the United Nations Global Marketplace Procurement Roster, and published tenders on the institution's website. The thresholds above which purchases, works, supplies or services were subject to public bidding varied among CEB members (from \$20,000 to \$200,000), as well as the regulations on the threshold beyond which an international offer was required.

34. Only two participating CEB members reported on a procedure for bidders who had not been awarded a contract and believed to have been treated unfairly to protest.

35. Article 9, paragraph 2 of UNCAC calls for measures to promote transparency and accountability in the management of public finances, such as procedures for the adoption of budgets, the timely reporting on revenue and expenditures, a system of accounting and auditing standards and related oversight, effective and efficient risk-management and internal control systems, and corrective action in the case of failure to comply.

36. All participating CEB members reported that their financial regulations and rules fully met the requirements of the Convention. Budgets were generally prepared biannually. Management of finances reportedly followed internationally recognized accounting and auditing standards, such as those established by the International Public Sector Accounting Standards Board (IPSAS) or the International Organization of Supreme Audit Institutions (INTOSAI), or the United Nations System Accounting Standards (UNSAS). Some CEB members reported in detail on their risk management systems, while others stated they had elements of risk management but no formal risk management system in place.

37. The reported period of retention of records (article 9, paragraph 3 of UNCAC) varied between institutions (three to seven years), or had, in the case of one institution, not been determined yet.

#### **E. Transparency and access to public information (article 10 of UNCAC)**

38. The Convention provides for the establishment of measures to enhance transparency and public access to information on internal functioning and decision-making processes, as well as the publication of periodic reports on the risks of corruption.

39. Basic information on the organization, functioning and decision-making processes of international bodies was found in their respective founding documents. The constitutional documents of all but one participating CEB member, and the General Assembly resolutions establishing participating CEB members without international legal personality are available on their websites. This information is predominantly supported by the publication of organizational charts.

40. The policies on the dissemination of rules and regulations varied among participating CEB members. Most organizations posted their staff rules and regulations, anti-corruption policies and some financial information on the web. Out of the 17 participating CEB members, seven reported to publish their audit reports, which contain information on the risks of corruption. Financial reports and audited financial statements of the Board of Auditors were reported to be submitted on a biannual basis to the General Assembly as public documents. One participating CEB member stated that it was assessing to which extent financial information should be published. Another reported on the development of an instruction to all country offices on the minimum standard requirements for information to be posted on their websites. Some participating CEB members reported to publish information on cases of misconduct, and the Secretary-General informs Member States of disciplinary action taken on an annual basis.

#### **F. Integrity in justice system and investigation services (article 11 of UNCAC)**

41. Article 11 of the Convention prescribes measures to strengthen integrity and prevent opportunities for corruption in the administration of justice and investigation services, without prejudice to their independence.

42. The new system of administration of justice at the United Nations became operational in July 2009.<sup>10</sup> Most participating CEB members reported to have measures to strengthen integrity both in the system of administration of justice and in investigation services. The staff involved in investigations was reported to be subject to internal guidelines and disciplinary measures in cases of non-compliance. A number of participating CEB members reported that they had endorsed the Uniform Principles and Guidelines for Investigations adopted by the Conference of International Investigators. Others highlighted that the general code of conduct and staff rules applied to the staff involved in investigations.

#### **G. Conditions for the private sector to enter into contractual arrangements (article 12 of UNCAC)**

43. International institutions should demand private sector entities that wish to enter into contractual arrangements with them to comply with a set of minimum standards for the prevention of corruption in the private sector. Such standards may include post-employment restrictions and measures to ensure the integrity of books and accounts.

44. Although explicit policies had not been established, participating CEB members reported on a range of measures taken to ascertain the integrity of private sector entities with which they entered into business, which were commonly addressed in general conditions of contract. Two organizations reported to have adopted a Supplier Code that contained provisions with regard to bribery and corruption which suppliers were expected to comply with. Some organizations further contended that they required private entities to abide by higher anti-

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<sup>10</sup> A/RES/63/253.

corruption standards for specific procurement contracts, and one participating CEB member reported that all suppliers were obliged to sign a statement of integrity before being awarded a contract.

45. A number of participating CEB members reported on post-employment restrictions.

Box 6

**Example: Disclosure of conflict of interest of the supplier: UN Secretariat and UNDP**

*United Nations Supplier Code of Conduct, UNDP Supplier Code of Conduct* (the relevant text of both Codes is identical):

“Conflict of Interest: UN suppliers are expected to disclose to the UN any situation that may appear as a conflict of interest, and disclose to the UN if any UN official or professional under contract with the UN may have an interest of any kind in the supplier’s business or any kind of economic ties with the supplier.”

Box 7

**Example: Prohibition of employment of personnel of the other party to a procurement contract (ITU)**

ITU General Conditions of Contract provide that neither ITU nor a contractor shall, during a period of one year following the date of submission of the final product of the contractor either employ or consider employment of any member of the personnel of the other party.

46. Five participating CEB members reported to reserve a right to audit in their general procurement terms. This included the right to require from the other party of a procurement contract to maintain all documents related to the contract for a certain period of time, to ensure their availability and to deliver any relevant documents in the case of any allegation of fraud or corruption in the procurement relation.

Box 8

**Example: Right to audit and access to information of the procurement contract partner (IFAD)**

*IFAD (Headquarter) — General Terms and Conditions for the Procurement of Services*

**“29. Right to Audit**

The Contractor agrees that IFAD’s auditors, investigators and other agents appointed by IFAD (whether internal or external), shall be allowed access to examine all or any records which the Contractor may hold relation to IFAD under this Contract. The Contractor shall:

- (a) maintain all documents and records related to this Contract for 3 years after completion of the work contemplated in the relevant Contract;
- (b) provide the delivery of any document necessary for the investigation of allegations of fraud or corruption; and

(c) ensure the availability of employees or agents of the Contractor with knowledge of this Contract to respond questions from IFAD staff or any properly designated auditor, investigator, agent or consultant acting on IFAD's behalf relating to the review or audit of the documents.

If the Contactor fails to comply with IFAD's request, or otherwise obstructs IFAD's review of the matter, IFAD, in its sole discretion, may take appropriate action against the Contractor."

47. Other reported activities included the development of a specific Private Sector Strategy and adherence to the 10th Principle of the United Nations Global Compact.

Box 9

**Example: Contractual demand to private sector entities to comply with a set of minimum standards for the prevention of corruption (FAO)**

*Standard clause introduced in project documents and procurement contracts of the FAO:*

"[Name of contractor] shall apply safeguards, including disciplinary or other appropriate measures, against corrupt and illegal practices and shall ensure that no offer, gift, payment or benefit of any kind, which or could be construed as an illegal or corrupt practice, can be accepted, either directly or indirectly, as an inducement or reward for the award or execution of procurement contracts. [Name of contractor] shall immediately report to [Name of institution] any allegation of corrupt practices, and shall report on the progress of measures taken by [Name of contractor] to investigate and address the allegation."

## H. Participation of society (article 13 of UNCAC)

48. Article 13 of UNCAC refers to the promotion of active participation of individuals and groups outside the public sector in the fight against corruption through, inter alia, transparency of decision-making, access to information, public information activities, and the promotion of the freedom to seek, receive, publish and disseminate information concerning corruption.

49. None of the participating CEB members contended that it would not allow for, or not consider, reports of external individuals or entities on alleged incidents of fraud or corruption with a relation to the organization. About two thirds of the institutions reported to provide for a publicly accessible whistle-blower hotline. Half of the institutions published their anti-fraud and corruption policies or similar documents concisely describing the report procedure. No information was submitted on past or ongoing public information campaigns, nor on further participation of civil society in the fight against corruption in international organizations.

## 3. Chapter 3: Offences and enforcement

### A. Offences and sanctions

50. Articles 15 to 25 of the Convention establish forms of behaviour which States parties are obliged to criminalize. Similarly, such forms of behaviour ought to be



reflected in the staff rules and regulations as internal violations liable to internal sanctions and disciplinary measures. All participating CEB members stated that their relevant staff rules, regulations and codes of conduct incorporated those forms of behaviour, although some organizations reported that they were only covered in general terms, such as failure to meet the highest standards of integrity. All participating CEB members further held that in disciplinary procedures appropriate sanctions were imposed, taking into account the gravity of the offence.

51. The Convention, in its article 30, paragraph 6, states that procedures for removal, suspension or reassignment by appropriate authorities of staff accused of an offence under the Convention shall be considered, bearing in mind the principle of the presumption of innocence. All participating CEB members reported to have provisions in place that allowed for the suspension of staff with or without pay, as appropriate for the individual case.

Box 10

**Example: Suspension from duty of a staff member during pending investigation (UNRWA)**

*UNRWA Staff Rule 110.4:*

“If a charge of misconduct is made against a staff member and the Commissioner-General so decides, the staff member may be suspended from duty pending investigation. Such suspension shall be with pay unless, in exceptional circumstances, the Commissioner-General decides that suspension without pay is appropriate. The suspension shall be without prejudice to the rights of the staff member.”

52. Only one participating CEB member commented on procedures for the disqualification of staff members convicted of offences of corruption from holding public office in any (other) international organization, stating that there was no such provision in force. However, it was reported to be general practice among international institutions to require personal references during the recruitment procedure.

**B. Protection of witnesses, experts, victims and whistle-blowers (articles 32 and 33 of UNCAC)**

53. The Convention calls for appropriate measures to provide effective protection from potential retaliation or intimidation for witnesses, experts and victims who give testimony on corruption offences. Such measures may include provisions for non-disclosure or limitations on the disclosure of information on the identity, and evidentiary rules that permit testimony to be given through the use of communications technology. Further, article 33 addresses measures against unjustified treatment of persons who, in good faith and on reasonable grounds, report to the competent authorities any fact concerning offences established in accordance with the Convention.

54. Almost all participating CEB members reported to have adopted at least general provisions to protect staff members who, in good faith, reported a breach of the institution’s rules, against reprisals or retaliation. Separate and elaborate whistle-blower policies were identified, or reported to exist, for ten institutions.

Two institutions reported to be in the course of adopting a whistle-blower policy, and two others held that its adoption could be considered. While confidentiality was regularly granted, the degree of protection and the underlying rules of procedure varied significantly among institutions.

Box 11

**Example: Protection of whistle-blowers against retaliation: IMO**

*Guidelines for the Investigation of Serious Misconduct*

“3.10.: No action may be taken in retaliation against a staff member or other person for making a complaint or providing information to IOS. Disciplinary proceedings will be initiated and disciplinary action will be taken in respect of any staff member who is proven to have retaliated against a staff member or other person who has submitted a report to IOS or otherwise co-operated with IOS. In the case of a staff member, retaliation usually involves selected actions designed to thwart career prospects, including but not limited to non-renewal of appointment. In relation to outside complainants, retaliation usually relates to actions or threats of not awarding future contracts with the Organization or assessing work performed as sub-standard with consequent refusal to pay.”

Box 12

**Example: (Interim) protection of whistle-blowers: UNIDO**

*Director-General’s Bulletin UNIDO/DGB/(M).116 of 1 March 2010 — Protection against retaliation for reporting misconduct or cooperating with audits or investigations*

**“Interim protective measures**

Pending completion of the preliminary review of the complaint under paragraph 22 above and/or the investigation under paragraph 27 above, the Ethics Office may, in its judgment, or based on the prima facie evidence or findings of the preliminary review, recommend that the Director-General take, within the provisions of the Staff Rules appropriate interim measures to safeguard the interests of the parties. Such measures may include but are not limited to, temporary withholding of the implementation of the action reported as retaliatory and, with the consent of the party concerned, temporary reassignment of that party within or outside the party’s office, function or project (in the case of project personnel) for which the whistleblower is qualified, or placement of that party on special leave with full pay.”

### C. Consequences of corruption (article 34 of UNCAC)

55. UNCAC provides for the consideration of corruption as a relevant factor in legal proceedings to annul or rescind a contract, withdraw a concession or similar instruments, such as project documents, agreements and grants. It appears that only a few participating CEB members have such provisions in their procurement terms and regulations.

#### 4. Chapters 4 and 5: International cooperation and asset recovery

56. The application, by extension, of the provisions of the Convention regulating international cooperation to international institutions suggests that such institutions shall encourage cooperation within and between international organizations, their staff and internal bodies and services in charge of investigating cases of corruption and administering justice. Such cooperation should include the possibility of providing, at the institution's own initiative, information on the possible commission of offences to investigators of another institution.

57. Participating CEB members highlighted their full commitment to enhance cooperation in this regard. Several institutions stated that agreements on cooperation, on a case-by-case basis, had already been established in the past. Two institutions highlighted their participation in relevant information-sharing platforms. With a view to enhancing cooperation in the future, one institution proposed that a general framework for cooperation between international organizations and their internal bodies and services would be of advantage.

Box 13

**Example: Cooperation between international organizations and with Member States (FAO)**

A number of participating CEB members are active members of the Conference of International Investigators of United Nations Organizations and Multilateral Financial Institutions.

The Office of the Inspector General of FAO meets periodically with its counterparts in Rome to share information and discuss issues involving the different agencies.

58. Inspired by the provisions of the Convention on mutual legal assistance, international organizations would be encouraged to establish rules to allow them to cooperate fully with Member States in investigations of cases of corruption (article 46 of UNCAC). The Convention further encourages the conclusion of agreements to allow for joint investigations on a case-by-case basis (article 49).

59. Many responses to the checklist referred to the existing obligation to cooperate under the Convention on Privileges and Immunities of the United Nations of 1946, notably under its sections 20 and 21, and agreements between the international institution and the host country on international cooperation. They further referred to the practice of institutions to refer cases of corruption that constitute a breach of a national law of a Member State to the national courts of that Member State. Some organizations concluded host country agreements or special Memorandums of Understanding on international cooperation. One participating CEB member reported that it had concluded agreements on specific anti-corruption investigative efforts with five States and international organizations. On the other hand, a number of participating CEB members reported that while no specific rules existed, cooperation was granted on a case-by-case basis. In this sense, one participating CEB member stressed the discretionary character of the decision to cooperate and raised its concern on the usefulness of establishing general rules on that matter.

60. With regard to agreements on joint investigations, the majority of the participating CEB members stated that such agreements had already been concluded on a case-by-case basis, or that relationship agreements contained provisions on

cooperation in matters of mutual interest. One organization stated that no modalities were in place to allow for joint investigations.

61. These findings may be complemented by the conclusions and recommendations of the open-ended workshop of practitioners and experts on international cooperation between public international organizations and States held on 28 and 29 January upon request by the Conference (resolution 2/5). Participants concluded that international organizations might consider adopting a public, written policy on cooperation with both States parties and other international organizations, and that, consistent with their domestic legal systems, States parties might consider whether the “central authority” for mutual legal assistance requests (article 46, paragraph 13 of the Convention) should also be designated to process requests for cooperation from international organizations.<sup>11</sup>

62. Chapter V of the Convention addresses measures for asset recovery. CEB members were asked to describe their rules, if any, governing the recovery of funds or other properties that have been wrongfully appropriated or embezzled from other international institutions or Member States. Although provisions allowing for the recovery of wrongfully appropriated or embezzled assets from staff members were generally in place, it appeared that corresponding measures with regard to States and other international institutions were not in place. In the absence of any special measures, decisions to engage in asset recovery proceedings were taken on a case-by-case basis.

## **5. Additional question: Status of international organizations, privileges and immunities**

63. In line with article 105 of the Charter of the United Nations and sections 20 and 21 of the Convention on the Privileges and Immunities of the United Nations of 1946, institutions were also asked to comment on the question of privileges and immunities, on issues of waivers of privileges and immunities in corruption cases as well as on conditions and requirements for such waivers. Participating CEB members unanimously stated that the executive head of the institution had the sole authority to waive privileges and immunities on a case-by-case basis, on the balance of interest. One institution contended that draft guidelines regarding the application of the relevant principles enshrined in the Convention on Privileges and Immunities of the United Nations of 1946 were under preparation.

Box 14

### **Example: Procedure to waive privileges and immunities (UN-HABITAT)**

<p>The decision to waive privileges and immunities is taken by the Secretary General on advice of the Office of Legal Affairs, after careful consideration of each case, taking into account the appropriate balance between privileges and immunities and the need to investigate and prosecute staff members involved in offences; bearing in mind that privileges and immunities are granted in the interest of the organization and not the staff member.</p>
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<sup>11</sup> The full report of the workshop is contained in document CAC/COSP/2009/10.

### III. Conclusions and recommendations

64. Since the launch of the institutional integrity initiative in April 2007, the majority of CEB members have actively participated in it by replying to the checklist or attending the meetings held in Vienna (September 2007 and January 2009) and Nusa Dua, Indonesia (January 2008). Participating CEB members repeatedly expressed their commitment to the initiative and their belief that the principles of UNCAC could serve as a model for aligning the internal rules and regulations of international organizations. They stressed, however, that any further steps towards the alignment of rules and regulations with the principles embodied in the Convention depended on the full commitment of all CEB members. States parties generally supported the initiative and reiterated that they were to use their voices in the international organizations in which they participate.

65. The consultation exercise outlined in the present paper showed that in a number of areas covered by the principles of the Convention, participating CEB members had similar measures in place. All participating CEB members designed and implemented anti-corruption policies. All participating institutions reported that they would adopt whistle-blower protection policies in the next two years while, at the time of writing the present report, such policies were either already part of their integrity system or on their agenda. Further areas of convergence included codes of conduct, general procedures on privileges and immunities, regulations on gifts and gratuities, the restriction of and the requirement to disclose outside occupation, and mandatory financial disclosure for senior staff members and staff members considered to be especially vulnerable to corruption.

66. In some other areas, the consultation exercise revealed that participating CEB members applied rules and regulations which greatly differed from each other. Such areas included the integrity regime governing individual contractors and consultants, the policies on transparency and access to information and minimum standards for private sector entities that wish to enter into contractual arrangements with them. In these areas, the principles embodied in UNCAC may be a useful basis for further discussion. Further consultations may address organizations' policies and measures on mechanisms to cooperate with States and other international organizations in criminal and disciplinary proceedings.

67. A number of international organizations and their subsidiary bodies are revising and strengthening their existing internal integrity rules, or adopting new policies. In the context of the institutional integrity initiative, proposals have been made on how the principles enshrined in the Convention could be used to align and strengthen such policies. These suggestions include the development of a joint integrity protocol among CEB members, a system-wide code of conduct or a general framework for cooperation among international organizations, their internal bodies and services and States. The Working Group may wish to discuss the ways in which States parties can use their influence in the international organizations in which they participate, to support such organizations' efforts to strengthen their internal integrity rules by making full use of the principles enshrined in the Convention. The Working Group may also wish to provide guidance to the Secretariat on steps to be taken to support States parties in their efforts to support the institutional integrity initiative.