



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

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## Second session

Nusa Dua, Indonesia, 28 January-1 February 2008

Item 4 of the provisional agenda\*

### Technical assistance

## Report on the meeting of the Open-ended Intergovernmental Working Group on Technical Assistance held in Vienna on 1 and 2 October 2007

### I. Introduction

1. In its resolution 1/5, the Conference of the States Parties to the United Nations Convention against Corruption decided to establish an interim open-ended intergovernmental working group, in accordance with article 63, paragraph 4, of the United Nations Convention against Corruption (General Assembly resolution 58/4, annex) and rule 2, paragraph 2, of the rules of procedure of the Conference, to advise and assist the Conference in the implementation of its mandate on technical assistance.

2. In the same resolution, the Conference also decided that the working group should perform the following functions:

(a) Review the needs for technical assistance in order to assist the Conference on the basis of the information provided by States to the Conference;

(b) Provide guidance on priorities, based on programmes approved by the Conference and its directives;

(c) Consider information gathered through the self-assessment checklist approved by the Conference;

(d) Consider information, as appropriate and readily available and in the areas covered by the Convention, on technical assistance activities of the Secretariat and States, including successful practices, and on projects and priorities of States, other entities of the United Nations system and international organizations;

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\* CAC/COSP/2008/1.



(e) Promote the coordination of technical assistance in order to avoid duplication.

3. Also in the same resolution, the Conference decided that the working group should meet during the sessions of the Conference and as appropriate and, utilizing existing resources, should hold at least one intersessional meeting; and also decided that the working group should submit reports on its activities to the Conference.

4. In its resolution 1/2, entitled "Information-gathering mechanism on the implementation of the United Nations Convention against Corruption", the Conference decided that a self-assessment checklist should be used as a tool to facilitate the provision of information on implementation of the Convention prior to the second session of the Conference; and urged States parties and invited signatories to complete and return the checklist to the Secretariat within the deadline identified by the Secretariat.

5. In the same resolution, the Conference requested the Secretariat, within existing resources, to collate and analyse the information provided by States parties and signatories through the self-assessment checklist or other means and to share that information and analysis with the relevant open-ended intergovernmental working groups established by the Conference.

6. Also in the same resolution, the Conference agreed that that resolution was not intended to prejudge the work of any open-ended working group created by the Conference or to form the exclusive basis for information to be considered by any such group in the performance of its functions.

## **II. Organization of the meeting**

### **A. Opening of the meeting**

7. The Open-ended Intergovernmental Working Group on Technical Assistance held a meeting in Vienna on 1 and 2 October 2007.

8. In opening the meeting, Valéry Turcey, Chairman of the Working Group, highlighted the relevance of technical assistance to the implementation of the Convention.

9. In her opening remarks, the Director of the Division for Treaty Affairs of the United Nations Office on Drugs and Crime (UNODC) commended Portugal for depositing its instrument of ratification, thus bringing the number of parties to the Convention to 100. She recalled the linkages that existed between the provision of technical assistance and the implementation of the Convention and stressed the diversity of technical assistance requirements emerging at different stages of the ratification and implementation processes. The Director pointed out that assessing needs and determining priorities required the provision of accurate information by States and that the identification of priorities relevant to all States rested exclusively on the quality and quantity of information provided. In that regard, she commended the States that had submitted their self-assessment reports on the implementation of the Convention and urged those States which had not yet done so to fulfil that obligation without further delay. To ensure that technical assistance would be targeted and that its impact would be measurable, the Director invited the Working

Group to look to the two-pronged approach taken by the Conference at its first session, which consisted of short- and medium-term activities on the one hand and long-term activities on the other. She invited the Working Group to discuss how technical assistance should be delivered and which follow-up and monitoring mechanisms would be adequate. The Director concluded by emphasizing the need for increased resources and better coordination of technical assistance activities in support of the implementation of the Convention, urging Member States to regard such efforts as an investment rather than as a cost.

10. The Secretary of the Conference and all participants in the Working Group extended their congratulations to Portugal and the other 99 States that had ratified the Convention, highlighting that that was a tangible manifestation of the high priority accorded to the fight against corruption. He also acknowledged the 37 States that had submitted completed self-assessment checklists, noting that 28 had done so through the newly designed computer-based application. He particularly praised the three least developed countries that had submitted their reports through the new software without seeking assistance from the Secretariat. The Secretary informed those present that, to assist with the submission or finalization of self-assessment reports, a “one-stop shop” had been set up. He concluded by stressing that, for decisions of the Conference to be broad and consensus-based, the provision of information was of crucial importance. He indicated that the Secretariat would commence the qualitative and quantitative analysis of the self-assessment reports soon after the closing of the Working Group.

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

11. On 1 October, the Working Group adopted the following agenda:
  1. Organizational matters:
    - (a) Opening of the meeting;
    - (b) Adoption of the agenda and organization of work.
  2. Implementation of the mandate on technical assistance of the Conference of the States Parties to the United Nations Convention against Corruption:
    - (a) Review of needs for technical assistance;
    - (b) Guidance on priorities for technical assistance;
    - (c) Coordination on technical assistance activities;
    - (d) Mobilization of resources.
  3. Adoption of recommendations.
  4. Adoption of the report.

## **C. Attendance**

12. The following States parties to the Convention were represented at the meeting of the Working Group: Algeria, Angola, Argentina, Australia, Austria, Azerbaijan,

Belarus, Bolivia, Brazil, Burkina Faso, Canada, China, Colombia, Costa Rica, Croatia, Cuba, Dominican Republic, Ecuador, Egypt, El Salvador, Finland, France, Indonesia, Jordan, Kuwait, Latvia, Libyan Arab Jamahiriya, Lithuania, Mexico, Morocco, Namibia, Netherlands, Nigeria, Norway, Pakistan, Peru, Philippines, Poland, Portugal, Romania, Russian Federation, Slovakia, South Africa, Togo, Turkey, United States of America, Uruguay and Zimbabwe.

13. The following States signatories to the Convention were represented by observers: Afghanistan, Belgium, Ethiopia, Germany, Greece, India, Iran (Islamic Republic of), Italy, Japan, Republic of Korea, Saudi Arabia, Switzerland, Thailand, Tunisia and Ukraine.

14. The European Community, a regional economic integration organization that is a signatory to the Convention, was represented at the meeting.

15. The following States were represented by observers: Chad, Lebanon and Slovenia.

16. The following Secretariat units, United Nations bodies, funds and programmes, institutes of the United Nations Crime Prevention and Criminal Justice Programme network, specialized agencies and other organizations of the United Nations system were represented by observers: Office of Internal Oversight Services, United Nations Development Programme, United Nations Interregional Crime and Justice Research Institute, Basel Institute on Governance and International Monetary Fund.

17. The following intergovernmental organizations were represented by observers: Asian-African Legal Consultative Organization and International Association of Anti-Corruption Authorities.

### **III. Implementation of the mandate on technical assistance of the Conference of the States Parties to the United Nations Convention against Corruption**

#### **A. Review of needs for technical assistance**

18. Speakers stressed the crucial role of technical assistance in promoting the implementation of the Convention. It was recognized that the comprehensive and multidisciplinary nature of the Convention warranted the adoption of as wide and diversified a notion of technical assistance as possible. Speakers also highlighted the correlation between the collection of information for the review of implementation and the identification of needs for technical assistance.

19. In reviewing technical assistance needs, the meeting drew on the preliminary analysis of the self-assessment reports received by the Secretariat. It was acknowledged that such information, while providing a good basis for discussion, had to be further refined, especially with regard to the specification of thematic areas where there were technical assistance needs. Speakers noted that 75 per cent of the respondents that had assessed themselves as not being fully in compliance with the Convention had indicated their technical assistance needs. The high demand for legal advisory services was also noted. It was clarified that such

assistance would predominantly translate into advice on drafting or revising legislation. In connection with requests for model legislation, it was pointed out that that type of assistance would not cover the entire Convention but would focus on specific chapters or articles, in accordance with the needs specified by requesting States. It was noted that the technical assistance delivered for the implementation of the Convention could fall under any one of the following categories: advisory services, capacity-building or the provision of hardware and other equipment.

20. A proposal was made that recipient States, when requesting technical assistance from the Secretariat, should provide information on forms of technical assistance currently being received.

21. Recognizing that needs might differ from one State to the next, speakers stressed that technical assistance must be tailored to requirements identified by the potential recipients and must take into account the range of services realistically available. One speaker pointed out that the delivery of technical assistance should not be made subject to conditions and that the fundamental principles governing technical assistance should be mutual benefit, respect for diversity and effectiveness. In that respect, it was acknowledged that, although some States might be better resourced and therefore at a more advanced stage than others in implementing the Convention, technical assistance was not exclusively relevant only to developing countries or countries with economies in transition.

22. Speakers stressed that, for a better identification of technical assistance needs, States needed to acquire a full understanding of the provisions of the Convention for their incorporation into national systems, using for that purpose the *Legislative Guide for the Implementation of the United Nations Convention against Corruption*.<sup>1</sup>

23. One of the focal points of the discussion was the desirability of regarding the self-assessment checklist as the sole source of such information. Speakers concurred that, while it was an excellent initial information-gathering tool that had enabled some States to identify their requirements, other information provided by States had to be taken into account. That would enable needs assessments to be more comprehensive

24. Speakers provided an account of their national processes to conform to the Convention and of recent developments in their legislative and institutional frameworks. Others, while re-emphasizing the need for completing the self-assessment checklist as an initial means of identifying technical assistance needs, expressed the hope that the self-assessment process would be expanded to cover the entire Convention.

## **B. Guidance on priorities for technical assistance**

25. There was broad consensus that technical-assistance priorities at the country level should be established by the requesting State. Several speakers highlighted that priorities needed to be established not only to provide technical assistance for the implementation of the Convention, but also to ensure that the principles of the

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<sup>1</sup> United Nations publication, Sales No. E.06.IV.16.

Convention were mainstreamed into anti-corruption plans and the strategies of bilateral and multilateral donors. Some speakers opposed the establishment of a general list of priorities. Several speakers stated that, rather than a list of priorities, there should be established fields of convergence or areas of attention. Some speakers expressed concern about identifying long-term priorities, as they could not take sufficiently into account political dynamics and the imponderability of resource planning. One speaker suggested using a five-year horizon for programme planning, whereas another suggested focusing on the short- and medium-term requirements, based on the two-pronged approach of the Conference.

26. The Working Group reconfirmed that its debate was not about setting priorities among the different chapters of the Convention. Several speakers referred to the fact that the Conference at its first session had already identified four priority areas: prevention; criminalization and law enforcement; international cooperation; and asset recovery. Those priority areas had been reflected in the provisions selected for the self-assessment checklist. Several speakers highlighted the fact that the chapters of the Convention were equally important and complex. However, some speakers pointed out that priorities could be established either by type of technical assistance or by substantive issue.

27. Some speakers felt that the number of requests drawn from the 37 responses to the self-assessment checklist provided good guidance for the establishment of priorities. One speaker suggested that logical priorities between the provisions of the Convention should be identified, as he considered the implementation of some provisions to be a prerequisite to the full implementation of others; however, a number of other speakers preferred a holistic approach to the Convention, one that took all chapters into account. One speaker suggested grouping States by their priorities and organizing technical assistance accordingly, with a view to synchronizing those positions in the long term. Several speakers highlighted that it was essential not only to analyse the needs for technical assistance but also to ensure that sufficient resources were made available and that resources were matched to needs in the best possible way.

28. A number of speakers pointed out that the implementation of mandatory provisions should be considered a priority inasmuch as, by ratifying the Convention, States parties had already demonstrated their will to assign special weight to the implementation of those provisions. Further, some speakers pointed out that legislation on the implementation of the provisions of the Convention, in particular the mandatory provisions, was the basis of all implementation efforts. Technical assistance for legislation should therefore be considered as a first level. That structure should be followed keeping in mind that legislation alone was not sufficient for the implementation of the Convention and that it was considered one part of a broader anti-corruption policy. One speaker recalled that, depending on their legal systems, some States did not necessarily implement the Convention by legislative action but incorporated the provisions of the Convention directly into national law.

29. Many speakers expressed support for establishing a matrix of needs and services that would be updated periodically rather than a list of priorities. The matrix could provide information on the current initiatives and activities of multilateral organizations and of States under bilateral arrangements. It could serve

as a point of discussion for the Conference at its second session and provide the necessary knowledge base for further discussion on priorities and on coordination.

### **C. Coordination on technical assistance activities**

30. There was wide recognition of the need to coordinate needs assessments and gap analyses conducted by multilateral and bilateral institutions with a view to maximizing the impact of technical assistance. In that context, the observer for the United Nations Development Programme (UNDP) provided a brief account of anti-corruption activities carried out by UNDP. The Secretary reported on coordination efforts undertaken by UNODC and referred to a forthcoming agreement with UNDP and to the recent launch, in partnership with the World Bank, of the Stolen Asset Recovery Initiative (StAR). He also mentioned the participation of UNODC in the Network on Governance (GOVNET) of the Development Assistance Committee of the Organization for Economic Cooperation and Development, which brought together the world's major providers of development assistance. Despite those positive developments, it was recognized that a number of constraints hindered effective coordination of technical assistance in the area of anti-corruption work. It was therefore hoped that a call for better coordination would be made by Member States to the governing bodies of the various multilateral agencies active in the area.

31. The results of the International Cooperation Workshop on Technical Assistance for the Implementation of the United Nations Convention against Corruption, held in Montevideo from 30 May to 1 June 2007, were welcomed as a valuable contribution to the deliberations of the Working Group and of the Conference. The need to continue and advance the dialogue begun at that workshop was emphasized.

32. More specifically, the Working Group felt that the presence and continued involvement of bilateral and multilateral donor agencies were essential for the Conference to perform its tasks.

33. It was widely recognized that the need for improved coordination was common to both donor and recipient States, which had distinct but complementary roles to play. Various forms of coordination were mentioned, including South-South coordination and coordination between State and non-State actors. Speakers stressed that there was significant room for improvement of coordination of anti-corruption efforts at the national, regional and international level. In that regard, the Working Group shared the view that efforts should be redoubled to enable existing mechanisms, such as the International Group for Anti Corruption Coordination and the U4 group,<sup>2</sup> to realize their potential. The same applied to in-country coordination mechanisms, which required an uninterrupted flow of complete and accurate information. In that connection, it was proposed that each State establish a focal point to be responsible for collecting and sharing information on anti-corruption technical assistance received or delivered.

34. The Working Group welcomed the offer by the Netherlands to prepare, in cooperation with other members of the GOVNET Anti-corruption Task Team, a

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<sup>2</sup> U4 is a grouping of bilateral development agencies established to strengthen their efforts against corruption (<http://www.u4.no>). The partner agencies are from Canada, Germany, the Netherlands, Norway, Sweden and the United Kingdom of Great Britain and Northern Ireland.

paper outlining current forms of assistance and coordination mechanisms, including coordination mechanisms among donors.

#### **D. Mobilization of resources**

35. Several speakers stressed that the fight against corruption was a means to the end of alleviating poverty and promoting sustainable development, thus contributing to the attainment of the Millennium Development Goals.

36. Speakers recognized the need for States parties to regard resources used to support the implementation of the Convention as an investment rather than a cost.

37. One speaker emphasized the need to engage such stakeholders as the business sector, which had thus far contributed in only a limited way, to ensure successful mobilization of resources, using the Convention as the framework for funding projects to prevent and combat corruption.

### **IV. Conclusions and recommendations**

38. The Working Group reiterated that technical assistance was an integral part of the Convention and recognized that a core priority should be to ensure that sufficient technical assistance resources were available to provide assistance to States upon request.

39. In that context, the Working Group supported the idea that, given the nature of the Convention as a legally binding instrument, the first core area for technical assistance needed to be the provision of such assistance to States requesting it in order to become parties to the Convention and to promote the implementation of the Convention, in particular its mandatory provisions.

40. The Working Group regarded the streamlining of the Convention into ongoing and planned technical assistance programmes as a vital component of its work. There was agreement that specific needs and priorities for technical assistance could only be identified by the State requesting assistance.

41. The Working Group recognized that priorities for technical assistance could be established at various levels and using different methodologies, in particular through the self-assessment checklist.

42. The Working Group took note of the initial analysis of technical assistance needs prepared by the Secretariat based on responses to the self-assessment checklist and recognized that the analysis needed to be broadened and presented to the Conference at its second session. In that regard, the Working Group felt that, with respect to the demand side of technical assistance, a reasonably comprehensive picture could be produced for the Conference; however, information also needed to be gathered on the supply side of technical assistance.

43. The Working Group recommended that the provisions of the Convention should be fully mainstreamed into the anti-corruption work of States that is funded or to be funded by bilateral and multilateral donor agencies or other providers of technical assistance. It also recommended that the Secretariat should share the analytical reports on needs – prepared on the basis of the responses to the



self-assessment checklist – with bilateral and multilateral donors with a view to ensuring that the technical assistance provided or received was used for purposes of better coordination.

44. The Working Group requested the Secretariat to establish, for use by practitioners, an electronic repository of national anti-corruption measures and of legislation implementing the relevant provisions of the Convention. The repository could include information furnished by international organizations, as well as by States.

45. The Working Group suggested that the Secretariat organize a round table during the second session of the Conference to bring together representatives of States and of bilateral and multilateral donor agencies to discuss ongoing and planned technical assistance programmes and improve coordination in line with the requirements for implementation of the Convention.

46. The Working Group recommended that the Secretariat should begin work on the development of a comprehensive software-based information-gathering tool for consideration and approval by the Conference.

## **V. Adoption of the report**

47. On 2 October, the Working Group adopted the report on its meeting (CAC/COSP/WG.3/2007/L.1 and Add.1).

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