

THE CURRENT ISSUES CONCERNING THE IMPLEMENTATION OF THE UNITED NATIONS CONVENTION AGAINST CORRUPTION: WHAT IS BEING DISCUSSED AT THE CONFERENCE OF THE STATES PARTIES?

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I. INTRODUCTION

The United Nations Convention against Corruption (UNCAC) was developed as a collective response of the international community to corruption and its effective implementation by States Parties is of key importance for rendering anti-corruption measures more efficient and robust, both in the context of domestic criminal justice and law enforcement systems and in the field of international cooperation.

The mechanism which was put in place in 2009 to review the implementation of the UNCAC has a central role to play in the response to corruption and can further promote mutual trust and collaboration among States Parties to the Convention. The identification of technical assistance needs and the coordination and joint work for the effective delivery of technical assistance to overcome legal, operational or other barriers to effective action against corruption are integral components of the mechanism and are pivotal to the successful and consistent implementation of the Convention.

This paper focuses on the procedural framework of the Implementation Review Group, a subsidiary body of the Conference of the States Parties to the UNCAC with a specific mandate to have an overview of the overall review process and the manner in which the mechanism for the review of implementation of the Convention functions. In addition, it includes an extensive summary of the preliminary findings and conclusions of substantive nature on the implementation of chapters III and IV of the Convention during the first and second years of the first cycle of the mechanism. It further includes information on the work of UNODC in the field of promotion and implementation of the UNCAC, especially through technical assistance covering all substantive aspects of the Convention.

II. THE IMPLEMENTATION REVIEW MECHANISM OF THE UNCAC: AN OVERVIEW OF ITS PROCEDURAL FRAMEWORK

At its third session in Doha in November 2009, the Conference of States Parties to the UNCAC adopted landmark resolution 3/1 on the review of the implementation of the Convention. In that resolution, the Conference recalled article 63 of the United Nations Convention against Corruption, especially paragraph 7, according to which the Conference should establish, if it deemed it necessary, any appropriate mechanism or body to assist in the effective implementation of the Convention.

In the same resolution — annexed to it — the Conference adopted the terms of reference of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption and the draft guidelines for governmental experts and the secretariat in the conduct of country reviews and the draft blueprint for country review reports, contained in the appendix to the annex, which were later finalized by the Implementation Review Group.

The established review mechanism aims at assisting countries to meet the objectives of the Convention through a peer review process. Under the mechanism, which has been fully operational since 2010, all States

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Parties are reviewed on the fulfillment of their obligations under the Convention. This further enhances the potential of the Convention, by providing the means for countries to assess how they perform in implementation, identify potential gaps in national anti-corruption laws and practices, and develop action plans to strengthen the implementation of the Convention domestically. There are two review cycles of five years each: The ongoing first cycle addresses the implementation of the Chapters III and IV of the Convention on criminalization and law enforcement and international cooperation in criminal matters respectively. The second cycle, starting in 2015, will then focus on Chapters II and V of the UNCAC on preventive measures and asset recovery respectively.

Reviews are based on responses to the self-assessment checklist submitted by countries under review. Each State Party is reviewed by two other States Parties in the context of a peer review process. Countries do not have to wait until they are up for review; neither do they have to limit themselves to the chapters on criminalization and law enforcement and international cooperation, which are under review during the current review cycle. The self-assessment checklist also covers the chapters on preventive measures and asset recovery. Some States Parties have started, on a voluntarily basis, a comprehensive assessment and gap analysis, in accordance with the Guidance note on UNCAC self-assessments "Going beyond the minimum", developed jointly by UNDP and UNODC, along with a number of other partners.

III. THE IMPLEMENTATION REVIEW MECHANISM AS THE MAIN INTERFACE FOR THE IDENTIFICATION OF TECHNICAL ASSISTANCE NEEDS AND THE DELIVERY OF TECHNICAL ASSISTANCE IN THE ANTI-CORRUPTION FIELD

An area that has been integrally linked to the review process is that of technical assistance. Already, the Convention in articles 60, 61 and 62 of chapter VI (Technical assistance and information exchange) emphasizes the crucial importance of technical assistance in order to ensure full implementation of UNCAC.

Pursuant to paragraph 11 of the terms of reference, one of the goals of the 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. Pursuant to paragraph 44 of the terms of reference, the Implementation Review Group is to consider technical assistance requirements in order to ensure effective implementation of the Convention.

Functioning in this capacity, the Implementation Review Mechanism is meant to become the main interface for identifying technical assistance needs and facilitating the delivery of technical assistance in the field of anti-corruption, with a great potential in measuring the impact of assistance provided.

Furthermore, the decision of the Conference to merge the functions of the Open-ended Intergovernmental Working Group on Technical Assistance into the work of the UNCAC Review Mechanism has set the stage for ensuring that needs identified through the reviews are brought to the attention of the Implementation Review Group and to potential technical assistance providers.

The key role of the Implementation Review Group can be clearly delineated within the concept of provision of technical assistance as "a three-step process" and is tightly linked to the first step of this process. This first step is an analysis of the requirements that need to be met to ensure compliance. Under the Implementation Review Mechanism, this involves a peer review of anti-corruption laws, regulations and measures in relation to the articles of the Convention, and their institutional functionality. The self-assessment checklist developed by the Secretariat provides a broad and consultative tool, based on a country-led process, to assess what is in place and to allow the country to determine whether its legislative and institutional frameworks are in compliance with the articles of the Convention. The second step involves the identification of priorities for adapting laws and administrative procedures to the requirements of the Convention, and thereafter putting them into effect. This involves both a legislative and a capacity-building component to ensure the compatibility of skills and mechanisms to achieve such results. The final step is to address the technical assistance needs identified by a given State Party to make the applicable legislative and institutional framework operational in the fight against corruption.

Various priority areas of global technical assistance have emerged from the country reviews of the first and second year of the ongoing review cycle. These include, among others, summaries of good practices and lessons learned; model legislation and model treaties, arrangements or agreements; on-site assistance by an anti-corruption or relevant expert; legislative drafting and legal advice; the development of an action plan for implementation; and other assistance in the form of capacity-building through networks and informal interactions.

Based on the preliminary analysis on technical assistance needs, and on the recommendations of the Implementation Review Group, it appears that meeting the technical assistance needs of States in connection with the implementation of chapters III and IV might be accomplished through a three-tiered approach: at the global level; at the regional level; and at the country level. Such an approach offers considerable opportunity to maximize impact, effectiveness and coherence in programming. This approach would be in line with the endorsement by the Conference of a country-led and country-based technical assistance strategy, while taking into full account global and regional trends that require a broader perspective.

IV. AN OVERVIEW OF THE BASIC FINDINGS OF COMPLETED REVIEWS

Based on the information regarding the implementation of chapters III (Criminalization and law enforcement) and IV (International cooperation) of the UNCAC by States Parties under review in the first and second years of the first cycle of the Review Mechanism, some preliminary conclusions and findings have been drawn which are grouped and presented below. These findings emerge from the review reports of nineteen States Parties that had been completed, or were close to completion, upon expiration of the second year of the ongoing review cycle.

A. Chapter III (Criminalization and Law Enforcement)

- All reviewed States Parties have adopted measures to criminalize both active and passive bribery of domestic public officials. Nonetheless, a number of common issues were observed concerning the implementation of these offences. In several States Parties, cases of a “promise” of an undue advantage were not explicitly covered or were indirectly covered under related concepts. Several States have additionally adopted a “conduct-based” approach whereby only the actual exchange was the subject of the offence, while an offer of bribery was not explicitly covered, although in some of these cases the offer could be prosecuted as an attempted crime or incomplete crime.
- In several cases, there were gaps as to third parties, such as the coverage of indirect bribery involving intermediaries or the accrual of benefits to third parties.
- In a few cases, the legislation contained specific exemptions or limitations, for example regarding bribery below certain threshold amounts, a defence of “reasonable excuse”, or immunity from prosecution for persons who reported the act of bribery.
- Regarding the “undue advantage” in bribery offences, it was noted in concrete cases that a “value-based” approach was followed, whereby bribery is punished only when it involves material advantages.
- A number of States Parties have not adopted specific measures to criminalize both active and passive bribery of foreign public officials and officials of public international organizations. Common challenges related to the inadequacy of normative measures and limited capacity.
- While all reviewed States Parties had established measures to criminalize the embezzlement of public funds, issues were encountered in some cases as to the scope of the property (movable v. immovable) which was the subject of the offence. In other cases, there were limitations or discrepancies concerning the accrual of benefits to third parties.
- Trading in influence has not been established as a criminal offence in several States Parties. Where relevant legislation was in place, there were certain deviations from the scope of the Convention (additional purpose of economic benefit; abuse of “supposed” influence not covered).
- Most States Parties have adopted measures to criminalize the abuse of functions by public officials, though a separate offence was not always explicitly recognized and there were some deviations in the description of the offence.

- Illicit enrichment has not been established as a criminal offence in the majority of States Parties, but legislation was pending in several cases. Objections to enacting relevant legislation commonly related to the constitutionality of such legislation. Where illicit enrichment has not been criminalized, a similar effect was achieved by way of asset and income declaration requirements.
- Less than half of the reviewed States Parties have adopted measures to fully criminalize bribery in the private sector. All States Parties have adopted measures to criminalize embezzlement in the private sector. However, in two cases the provision only indirectly covered various elements of such criminal conduct. In three cases, immovable assets were excluded from the scope of the national law.
- There was some variation among the reviewed States Parties with regard to the criminalization of money-laundering. While most States Parties have taken measures towards establishing money-laundering as a criminal offence, in several cases there were significant gaps in the implementing law, which covered only part of the conduct described in article 23 of the UNCAC.
- Several States Parties have adopted an “all crime approach” that did not restrict application of the money-laundering offence to specific predicate offences or categories of predicate offences, while others applied the law to “serious offences”, though the applicable thresholds differed. However, in several cases, issues were encountered with respect to the coverage of predicate offences committed outside the territory of the State Party.
- Obstruction of justice has been established as a criminal offence in most States Parties, with variations as to the scope of relevant domestic offences.
- Most States Parties have adopted measures to establish the liability of legal persons for offences covered by the Convention, though a general liability provision did not always exist and there was considerable variation concerning the type and scope of such liability. Common challenges related to the inadequacy of existing normative measures and specificities in national legal systems. Thus, a number of States Parties have established some form of criminal liability of legal persons for corruption offences, with certain exceptions or limitations in some cases. In some cases, the liability was limited to certain offences or conduct, such as money-laundering or bribery of national and foreign officials, with a further restriction that the offences in question must have been committed directly and immediately in the interest of the corporate body. Sanctions generally varied, ranging from administrative penalties, including blacklisting for certain violations, to monetary penalties and a combination of sanctions including confiscation and dissolution in two others.
- There was considerable variation among the reviewed States Parties with regard to the length and application of the statute of limitations for offences established under the Convention. Recommendations on extension of the statute were issued depending on the threshold prescribed in domestic laws, as well as the possibility of prolongation or suspension of the statute and its application in practice.

B. Chapter IV (International Cooperation)

1. Extradition

- All reviewed States Parties regulated extradition in their domestic legal systems, most of them in their Criminal Procedure Code or special laws on international cooperation. Not all States Parties, however, regulated extradition with the same level of detail. While some States relied heavily on treaties, others mentioned the importance that non-binding arrangements had in their extradition practice. Despite the fact that the majority of States Parties did not require a treaty as a basis for extradition, in practice they all relied to a greater or lesser extent on treaties (whether bilateral or regional).
- A significant difference among States Parties stemmed from their belonging to different legal systems: whereas the Constitution of some allowed for the direct application of duly ratified international treaties, other States Parties could only enforce treaties by enacting enabling legislation. Accordingly, most States Parties belonging to the first category did not need to adopt detailed implementing legislation by virtue of the fact that the extradition-related provisions of the Convention had become an integral part of their domestic legal system.
- The majority of States Parties considered as “extraditable offences” only those punished by deprivation of liberty for a period of at least one year or a more severe penalty. As a result, whenever Convention-based offences were punishable by a lesser penalty, extradition would not be possible. It was noted

that this situation might be addressed by increasing the applicable penalties to ensure that all conduct criminalized in accordance with the Convention become extraditable.

- Dual criminality appeared invariably as a standard condition for granting extradition. Only Member States of the European Union stated that the surrender of fugitives in execution of the European Arrest Warrant would not be subject to this requirement. The majority of States Parties set out the dual criminality principle explicitly in their domestic legislation. The dual criminality principle was usually interpreted in a flexible manner, in accordance with art. 43 para. 2 of the Convention which deems it fulfilled regardless of the terminology used to denominate the offence in question.
- Most reviewed States Parties had an exhaustive list of grounds for refusal in their legislation. Several States Parties reported that they could not extradite their own nationals unless this possibility was explicitly envisaged in applicable treaties. Most States Parties specified that any refusal to grant extradition based on these grounds would trigger a domestic prosecution, in accordance with article 44(11) of the Convention.
- Most States Parties confirmed that the Convention could be used as a basis for extradition. Overall, however, it emerged that the Convention was not widely utilised in practice for this purpose.
- As to the average duration of extradition proceedings, the information provided pointed to substantial differences among States Parties, ranging from two to three months to twelve to eighteen months. Individual countries also reported differences in their ability to extradite depending on the circumstances in which the request had been submitted.
- Lack of uniformity was also recorded in terms of the evidentiary threshold prescribed by domestic laws in order to grant extradition. While some States Parties did not require any evidence about the commission of the offence, others set a number of standards. These were expressed in terms of “probable cause” or “prima facie case”. Recommendations were made to the latter States Parties to introduce a lower burden of proof in extradition proceedings to make it easier for requesting States to formulate an extradition request with higher chances of it being granted. Half of the reviewed States Parties provided for a simplified extradition proceeding based on the sought person’s consent to be transferred.

2. Mutual Legal Assistance

- The extent and scope of regimes of mutual legal assistance in the States Parties under review varied significantly. Several States have adopted specific domestic legal provisions, either as distinct laws or forming part of broader pieces of legislation such as the Penal Code or the Criminal Procedure Code. Most of those States Parties have also concluded international treaties regulating international cooperation in criminal matters. A number of States Parties reported that, in the absence of comprehensive domestic legislation on the matter, mutual legal assistance was provided on the basis of multilateral and bilateral treaties. In some cases, it was noted that mutual legal assistance could be afforded even in the absence of treaties, based on principles such as reciprocity.
- Like in the case of extradition, mutual legal assistance frameworks were influenced by the nature of the legal system of each State. In States where the direct application of treaties was permitted, the self-executing provisions of the Convention would apply without the need for specific implementing legislation. In States where implementing legislation was required to enact international treaties, the provisions of the Convention would not be applicable without the adoption of enabling laws.
- The majority of States Parties were able to grant assistance in relation to offences for which legal persons may be held liable, but only a small number of States provided examples of actual cases where assistance had been provided in such a case.
- Spontaneous transmission of information to foreign authorities and the modalities thereof, envisaged in art. 46(4) and 46(5) of the Convention were not specifically regulated in the domestic legislation of the majority of States Parties under review. Several States Parties reported, however, that even if not foreseen, spontaneous transmission was possible to the extent that it was not explicitly prohibited, and noted that such transmission occurred frequently through informal channels of communication available to law enforcement authorities.
- In States where direct application of treaties was not permitted, legislation was required to ensure that mutual legal assistance provisions of the Convention were applied. In most States, requests for legal assistance could not be declined on the ground of bank secrecy, although in some cases access

to bank records had to be duly authorized by prosecuting or judicial authorities.

- The majority of States Parties provided that dual criminality was not a requirement for granting mutual legal assistance. In three cases, in the absence of dual criminality, assistance would not be rendered for coercive measures. In some States Parties the absence of dual criminality was an optional ground to refuse assistance.
- Almost all States Parties have designated central authorities to receive requests for mutual legal assistance. In most countries, the central authority was the Ministry of Justice.
- Several States Parties required that requests for mutual legal assistance be submitted through diplomatic channels. Most States Parties reported that, in urgent circumstances, requests addressed through INTERPOL were acceptable, even though in some cases subsequent submission through official channels was required.
- The majority of States Parties confirmed that they would endeavour to satisfy conditions or follow procedures stipulated by the requesting States, in particular regarding compliance with evidentiary requirements, insofar as such requirements were not in conflict with domestic legislation or constitutional principles.
- Most States Parties had legislation in place which did not provide for grounds for refusal other than those listed in the Convention. However, in some States domestic law contained grounds for refusal not envisaged in the Convention, such as the prejudice to an ongoing investigation in the requested country, the excessive burden imposed on domestic resources, and the political nature or the insufficient gravity of the offence.
- Most States Parties indicated that a mutual legal assistance request would not be refused on the sole ground that the offence also involved fiscal matters.
- The average time needed for a response to a mutual legal assistance request ranged from one to six months. However, several States stressed that the time required to execute requests would depend on the complexity of the matter; it was noted that, in some cases, the processing of the request could take over one year. On the other hand, some States Parties reported that where the requesting State indicated the need to address the matter urgently, the request would be responded to within a few days. It was generally accepted that requests submitted by States sharing the same legal, political or cultural background as the requested State were responded to more rapidly.

3. Law Enforcement Cooperation

- Channels of communication between competent anti-corruption authorities and services were reported to be more frequent at the regional level under the regulatory framework of regional international organizations, or within regional networks. In the context of regional cooperation, tools such as secure databases for the sharing of information among law enforcement authorities had been developed.
- Membership to INTERPOL was generally regarded as a condition to facilitate law enforcement cooperation at the broader international level. However, it was noted by reviewers that INTERPOL could not replace direct channels of communication between law enforcement authorities, agencies and services of other States; the scarcity of such channels beyond the regional context was a common feature among States Parties under review.
- The exchange of information appeared to be a common feature among Financial Intelligence Units (FIUs), mainly through conclusion of Memoranda of Understanding or membership to the Egmont Group.

4. Joint Investigations

- Only a few States Parties were parties to bilateral or multilateral agreements or arrangements allowing for the establishment of joint investigative bodies. Other States Parties reported that their legal systems and practice allowed requesting and conducting joint investigations on a case-by-case basis, and confirmed that they had done so on a number of occasions.

5. Special Investigative Techniques

- Special investigative techniques and their admissibility in court were regulated in the legislation of most of the States Parties under review. Most commonly used techniques included controlled deliveries,

interception of telephone communications and undercover operations.

- International agreements or arrangements for the conduct of special investigative techniques were reported to be concluded by a number of countries, usually involving counterparts in the same region or members of the same regional organization.
- In some States Parties, special investigative techniques can be used in the absence of relevant international agreements and on a case-by-case basis in seven States. Among those, there were States indicating that they would use such techniques only on the condition of reciprocity.

V. TECHNICAL ASSISTANCE IN SUPPORT OF THE PROMOTION AND IMPLEMENTATION OF THE UNCAC

A. Facilitation of Technical Assistance through the Database of Anti-Corruption Experts

In order to respond to the technical assistance needs identified by States Parties, a database of anti-corruption expertise for the delivery of technical assistance was created pursuant to resolution 3/4, entitled “Technical assistance to implement the United Nations Convention against Corruption”, in which the Conference of the States Parties encouraged States Parties and signatories to the Convention to continue to identify and communicate to the United Nations Office on Drugs and Crime the relevant information about anti-corruption experts, in particular those with experience in providing technical assistance to implement the Convention, so that the Office can include those experts in its database of anti-corruption expertise for the delivery of technical assistance, as recommended by the Open-ended Intergovernmental Working Group on Technical Assistance.

To date, 205 anti-corruption experts have been nominated by States Parties from the following geographic areas: 18 (Asia), 54 (Africa), 22 (North Africa and the Middle East), 36 (Latin America and the Caribbean), and 75 (Europe).

States Parties and signatories to the Convention can submit information regarding national anti-corruption experts via the UNODC website for inclusion in the database that allows States to add or modify relevant details of their experts’ information online. Only the Secretariat has access to all information provided through that mechanism; thus, confidentiality is ensured. The database provides an overview of the profiles of experts that enables their areas of expertise to be identified and categorized. The long-term sustainability of the database of anti-corruption experts will depend on the commitment of States Parties to providing accurate and updated information on available experts, thus allowing the database to remain a useful tool.

B. Delivery of Legislative and Capacity-Building Technical Assistance

UNODC has provided technical assistance to countries upon request, both through tailored legislative and capacity-building activities and through the development of tools that facilitate assistance delivery on the ground. The assistance provided relates to issues covered in Chapter III and Chapter IV of the Convention, currently under review, but also to the Chapters on preventive measures and asset recovery. The assistance was provided within the framework of the Thematic Programme on Action against Corruption and Economic Crime, based on the relevant elements of the UNODC Strategy for the period 2010-2011. This thematic programme also refers to the anti-corruption activities carried out within the framework of the respective regional programmes.

During 2010-2012, numerous technical assistance needs to counter corruption have been — and continue to be — addressed through the Global Programme, “Towards an Effective Global Regime against Corruption”, that enables UNODC to provide professional guidance, advice and expertise upon the request of States Parties to the Convention.

From July 2011 to March 2012, UNODC provided expertise and technical assistance in line with the Convention to Afghanistan, Bolivia, Brazil, Burundi, Cambodia, Cameroon, Chile, Colombia, the Commonwealth of Dominica, the Democratic Republic of the Congo, Ecuador, Egypt, Ethiopia, India, Indonesia, Iraq, Iran (Islamic Republic of), Kenya, Lao People’s Democratic Republic, Mali, Mauritania, Mexico, Moldova, Myanmar, Namibia, Nepal, Nicaragua, Nigeria, Panama, Peru, Philippines, Rwanda, Somalia, South Sudan, Thailand, Timor-Leste, the United Republic of Tanzania, Uzbekistan and Viet Nam. Technical assistance was also provided at the

regional level for the Middle East and North Africa; Eastern, Central and Southern Africa; and Latin America.

From July 2011 to March 2012 seven countries which had received pre-ratification assistance became State Parties to the Convention, namely the Cook Islands, Ireland, the Marshall Islands, Micronesia, Saint Lucia, the Solomon Islands and Vanuatu.

Since 2006, under the framework of the Anti-Corruption Mentors Programme, advisers had been placed in Bolivia, Cape Verde, Jordan, Kenya, Tajikistan, Thailand and Southern Sudan. They had provided a broad range of policy and technical advice and day-to-day support for the implementation of the Convention, such as conducting gap assessments, establishing anti-corruption institutions and policies, providing training in investigation and prosecution of corruption, offering legislative guidance and advising on asset recovery strategies.

The Mentors Programme was re-launched in summer 2011 through the placement of an adviser in the Democratic Republic of the Congo and the additional placement of advisers with regional responsibilities in Bangkok (South-East Asia), Kenya (East Africa) and Panama (Central America). This network of Anti-Corruption Mentors has been providing rapidly deployable, professional expertise at both the country and regional levels to facilitate delivery of on-site guidance and advice to States Parties requesting assistance in strengthening legislation and institutions in furtherance of the implementation of the Convention against Corruption and has participated in numerous anti-corruption events, training workshops and conferences promoted by other technical assistance providers.

Comprehensive on-the-ground capacity-building programmes, which usually also include activities related to preventive measures and asset recovery, were carried out in a number of countries, such as Afghanistan, Brazil, Bolivia, Egypt, Indonesia, Iraq, Mexico, Nicaragua and Nigeria.

C. Development of Knowledge Tools Facilitating Assistance Delivery on the Ground

On 1 September 2011, UNODC launched the anti-corruption portal TRACK (Tools and Resources for Anti-Corruption Knowledge, <http://www.track.unodc.org>) as a tool for fostering information-sharing and providing an accessible anti-corruption resource. TRACK is a web-based platform containing the UNCAC Legal Library, an electronic repository of legislation, jurisprudence, anti-corruption strategies and institutional data from 178 States. Administered by UNODC and supported by the StAR Initiative and its partner organizations, the Legal Library collects this legal information and disseminates it, indexed and searchable according to each UNCAC provision, and thus provides a detailed analytical breakdown of how States have implemented the Convention. The TRACK portal is also a search engine that enables States, the anti-corruption community, the general public and the private sector to access the anti-corruption knowledge generated by UNODC and its partner organizations, including case studies, best practices and policy analyses, in one central location. Recognizing the challenges inherent in cross-border communication among practitioners, TRACK also provides a community of practice for registered members of anti-corruption authorities, central authorities for mutual legal assistance and asset recovery focal points.

In 2011, UNODC published the Resource Guide on Strengthening Judicial Integrity and Capacity. The purpose of the guide is to support and inform those who are tasked with reforming and strengthening the justice systems of their countries, as well as development partners, international organizations and other providers of technical assistance who provide support to this process. Work on this guide began following ECOSOC Resolution 2006/23, which endorsed the Bangalore Principles on Judicial Conduct and requested the United Nations Office on Drugs and Crime to develop a technical guide on approaches to the provision of technical assistance aimed at strengthening judicial integrity and capacity. The guide draws together ideas, recommendations and strategies developed by contemporary experts on judicial and legal reform, and includes reference to successful measures taken in a range of countries to address particular challenges in strengthening the justice system. Ultimately, the guide aims to provide practical information on how to build and maintain an independent, impartial, transparent, effective, efficient and service-oriented justice system that enjoys the confidence of the public and lives up to the expectations contained in relevant international legal instruments, standards and norms.

D. Technical Assistance in the Field of Asset Recovery

The joint UNODC-World Bank Stolen Asset Recovery (StAR) Initiative continues to develop practical

tools and policy studies on asset recovery, including through supporting the development of TRACK (also see paragraph 34). With regard to policy studies issued in 2011, “Barriers to Asset Recovery” analyses key barriers that impede the recovery of stolen assets; “Illicit Enrichment” examines the legal and policy issues relating to illicit enrichment; and “The puppet masters: how the corrupt use legal structures to hide stolen assets and what to do about it” describes how legal structures are used to conceal ownership and control of assets. Two publications have been developed in cooperation with the OECD: “Tracking Anti-Corruption and Asset Recovery Commitments” examines the implementation of the commitments set out in the Accra Agenda for Action by 30 donor countries; and “The Identification and Quantification of Proceeds of Bribery” shows how financial gains from bribery can be calculated and confiscated. A study on the impact of settlements on international cooperation in asset recovery is currently under preparation.

The Asset Recovery Focal Point Database, established by the StAR Initiative in partnership with INTERPOL, contained at the date of reporting focal points from 102 countries. The second meeting of the focal points in Lyon from 11 to 13 July 2011 was attended by 113 participants from 55 countries.

Within the framework of the StAR Initiative, technical assistance in the various stages of asset recovery proceedings has been provided at the request of States. The aim of such assistance is to help States to collect and analyse information that will facilitate progress in asset recovery efforts and inform the decision-making of national authorities and to assist in making international cooperation, in particular mutual legal assistance, more effective. Examples of such assistance include the sponsoring of meetings and workshops that bring together relevant parties at the national, regional and international levels and the provision of advisory services to support the preparation of analytical reports, legal research, assistance with audits and financial analysis or to support the preparation and analysis of mutual legal assistance requests or other forms of international cooperation.

The requests to which StAR has responded related to mutual legal assistance in ongoing cases; support to the work of countries as an honest broker, in cooperation with financial centres; and the development and launch of asset recovery programmes. The nature of the assistance offered varies and is fully tailored to the specific needs of the requesting State: in some cases, assistance is geared towards policy dialogue and facilitation of contacts between national authorities and financial centres, while in others, it is focused on capacity-building activities and the provision of advisory services to support specific asset recovery cases. Obviously, the type of assistance provided in the context of a specific asset recovery case may differ from that envisaged at the gap analysis stage.

A number of asset recovery training courses have been conducted jointly with the StAR Initiative, including regional events in the Pacific Islands, the Middle East and North Africa, South and Central America, Southern and Eastern Europe, East and Southern Africa and in South and East Asia. Training has been delivered at two levels: introductory workshops aimed at raising awareness about asset recovery and more advanced training courses to address the technical aspects of asset recovery. The introductory workshops have generally been held at a regional level in order to allow practitioners to share experiences and establish contacts, including contacts in regional financial centres, and are designed for higher-level decision makers who do not need extensive training on hands-on asset recovery techniques and procedures. In addition, specialized training on specific topics or to specific groups has been provided.

UNODC is developing a digest of asset recovery cases, a compilation and analysis of cases related to the recovery of proceeds of corruption, building on the experience acquired when preparing the *Digest of Terrorist Cases* and following the same methodology. In response to the notes verbales issued by the Secretariat on 30 June 2009 and 22 January 2010 (CU 2009/87 and CU 2010/5), States Parties and signatories to the Convention have submitted ten cases with an adequate level of detail that were used for the preparation of the digest of asset recovery cases. This material was treated in a manner that respected confidentiality restrictions requested by the States. The analysis contained in the digest also drew on cases from the Asset Recovery Watch database developed by the StAR Initiative.

An expert group meeting, bringing together experts from all geographic regions and representatives of the StAR Initiative, was held on 2 and 3 April 2012 in Vienna. The meeting discussed a draft outline of the digest prepared by UNODC. Participants in the meeting made suggestions on the structure and content of the digest and provided additional information on recent asset recovery cases. A draft of the digest is

expected to be presented at the sixth meeting of the Working Group and disseminated to Member States for comments.

UNODC is presently upgrading the Mutual Legal Assistance Request Writer Tool in furtherance of the mandate given by the Open-Ended Intergovernmental Working Group on Asset Recovery that at its second meeting recommended to expand the tool to include ways of appropriately formulating requests for asset recovery. This user-friendly computer-based tool provides support to national practitioners in the preparation, transmission and reception of effective requests and useful responses and strongly contributes to streamlining the process of requesting mutual legal assistance.

A number of existing knowledge products intended to assist asset recovery practitioners are designed to support the implementation of other provisions of the Convention, in particular the study on illicit enrichment, the Asset Recovery Handbook and the Good Practices Guide to Income and Asset Declarations which can be useful in supporting the prosecution of cases of corruption and assisting financial institutions in identifying politically exposed persons. Also, the Asset Recovery Handbook includes a chapter dedicated to tracing assets that emphasizes the importance of securing stolen assets as quickly as possible.

E. Technical Assistance in the Field of Prevention of Corruption

One of the key outcomes of the fourth session of the Conference is the adoption of resolution 4/3 entitled "Marrakech declaration on the prevention of corruption". In this resolution, the Conference, while recognizing that the implementation of the Convention is the responsibility of States Parties, reiterated that the promotion of a culture of integrity, transparency and accountability is a responsibility to be shared by all stakeholders, including civil society and the private sector. The resolution requested the Secretariat, among others, to continue to provide technical assistance for the implementation of Chapter II of the Convention.

UNODC is currently implementing an initiative entitled "Promoting the UNCAC as a framework to mainstream anti-corruption safeguards related to the organization of major public events". This initiative focuses on special situations, such as the organization of major sports events, major cultural events and high-level political summits, which may enhance the risk of corruption, due to the fact that large amounts of funds and resources are involved and complex logistical arrangements need to be made within very tight timeframes. The purpose of this project is to identify good practices, based on the UNCAC, for preventing corruption in connection with major public events, for dissemination and use among relevant stakeholders, both in the public and the private sectors.

As recommended by the Conference of the States Parties to the United Nations Convention against Corruption in its resolutions 3/2 and 4/3 as well as by the Open-ended Intergovernmental Working Group on Prevention at its first session, UNODC has continued its efforts to collect information on good practices for promoting responsible and professional reporting on corruption for journalists. The Initiative on Promoting Responsible and Professional Reporting on Corruption on the basis of the United Nations Convention against Corruption aims to develop a substantive tool on good practices in this regard, for dissemination and use among relevant stakeholders, in particular public officials and media representatives.

UNODC has a leading role in the Anti-Corruption Academic Initiative (ACAD), a collaborative academic project which aims to produce a comprehensive anti-corruption academic curriculum composed of a menu of individual academic modules, syllabi, case studies, educational tools and reference materials that may be integrated by universities and other academic institutions into their existing academic programmes. A second meeting of the ACAD expert group was held in Marrakech in October 2011 and a draft outline of the proposed curriculum to be produced under the Initiative was agreed upon.

Following this meeting, UNODC led a consultation process under which the views of academic experts presently not involved in the Initiative were sought on the draft curriculum produced. These consultations also acted as an opportunity to broaden the base of experts involved in the project. Responses received in relation to the consultation were positive, with a number of those consulted expressing a strong interest in contributing to the project going forward.

UNODC hosted a third meeting of the Initiative in Vienna from 7 to 8 June 2012. At this meeting, experts resolved to produce a finalized curriculum outline, with annotations and supporting reading materials by

September this year. This curriculum outline, in addition to sample courses, will be made available on the UNODC TRACK website. Contributing experts outlined the individual modules and units that they have already produced within the framework of the Initiative and those they will be contributing in the future.

As a part of its Outreach and Communication Programme, UNODC is developing a one-semester academic learning course on the Convention against Corruption and its implications for both the public and private sectors. It is intended that this course will be embedded in curricula of business, law and public administration schools. The course will be completed in late 2012 following which UNODC will promote the course to a wide range of academic institutions for incorporation into their existing academic programmes. By producing the learning course, UNODC seeks to support learning institutions which have increasingly come to realize that they also have a role to play in preparing the next generation of public and business leaders for the challenge of making right and ethical decisions. An outline of the proposed course was presented at the third meeting of the ACAD expert group and the course will be made available as a resource under ACAD.

F. Evidence-based Assessments of Corruption Patterns and Modalities

After having reviewed existing methodologies, UNODC developed and improved methods to assess modalities of corruption and vulnerabilities, focusing on methodologies providing quantitative and experience-based assessments. The surveys have served as a useful basis for the development of better anti-corruption policies and the elaboration of tailored anti-corruption technical assistance activities and programmes. In 2011, UNODC completed a programme of surveys on corruption in the western Balkans, covering Albania, Bosnia and Herzegovina, Croatia, Montenegro, Serbia and the former Yugoslav Republic of Macedonia: As a result, a regional report and country reports were finalized and published during the year. In Afghanistan and Iraq, UNODC has developed programmes of surveys on corruption jointly with UNDP and in close collaboration with national authorities. Surveys fieldwork has been completed in both countries and analytical reports will be published during 2012. Finally, within the framework of a study on crime victims in Africa, UNODC is offering an analysis of the experience of bribery by the population, thus providing first-hand data on experiences involving corruption in 10 African countries.

G. Assistance to Prevent Corruption in the Private Sector

In 2011, UNODC launched three anti-corruption projects with the support of the Siemens Integrity Initiative, which focus on the relevance of the Convention for the private sector with activities being implemented on the global level, as well as in Mexico and India.

The project on Public-Private Partnership for Probity in Public Procurement aims to reduce vulnerabilities to corruption in public procurement systems while bridging gaps between public procurement administrations and the private sector. Relevant government anti-corruption and public procurement institutions have been identified and initial expert group meetings have been held to review current public procurement legislation, regulations and their practical application in Mexico and India. Initial contact has been made with relevant private sector entities to ensure their participation and inputs in the project. Plans for the development of a baseline study to identify both public and private sector challenges and best practices concerning public procurement are underway.

The project on Incentives for Corporate Integrity and Cooperation in Accordance with UNCAC aims to create systems of legal incentives for companies, hence encouraging business to report internal incidents of corruption. Experts from Mexico and India have been identified and some initial meetings convened to review existing legislation, policies and practices in relation to article 26 of the UNCAC on liability of legal persons, 32 on witness protection, 37 on cooperation with law enforcement authorities and 39 on cooperation between national authorities and the private sector. Initial contact has been made with relevant private sector entities to ensure their participation and inputs in the project. Plans for the development of a baseline study to identify both public and private sector challenges and best practices concerning legal incentives are underway.

UNODC has continued to participate actively in the work of the United Nations Global Compact Working Group on the Tenth Principle/Global Compact Working Group on Anti-Corruption, focusing on the private sector's commitment to fighting corruption. The UN Global Compact, in cooperation with UNODC, was one of the organizers of a "High-Level Forum on UNCAC and Global Competition", held in the margins of the

Fourth session of the COSP/UNCAC, offering an opportunity for dialogue between Governments and private sector representatives on how to use UNCAC to promote a level playing field for global competition and to strengthen private sector participation in its implementation. Additionally, UNODC co-hosted together with the United Nations Global Compact Office, the Food and Agriculture Organization, the United Nations Children's Fund, and the United Nations Industrial Development Organization, the United Nations System Private Sector Focal Points Meeting 2012 on "Accelerating UN-Business Partnerships" in Vienna.

A new initiative, the Integrity Initial Public Offering (IPO), was officially launched during the 21st session of the Commission on Crime Prevention and Criminal Justice, which took place in Vienna from 23 to 27 April 2012. The IPO offers businesses the chance to help developing countries tackle corruption and strengthen their ability to fight it. Under the IPO, companies and investors can contribute financially to supporting developing countries in their efforts to develop anti-corruption legislation and institutions and to promote integrity, giving the private sector the possibility to show their commitment to tackling corruption and become integrity leaders.

Over the years, a number of regional and international initiatives, standards and principles have been developed to provide guidance for companies on how to fight corruption in their business operations by upholding enhanced integrity standards. UNODC is striving to enable the private sector to adopt anti-corruption policies that are aligned with UNCAC and put in place checks and balances needed to strengthen transparency and accountability. In this regard, UNODC is actively engaged in a multi-stakeholder project, undertaken together with the OECD and the World Bank, and others, aiming at the development of a practical handbook for businesses, that will bring together guidelines and related material on private sector anti-corruption compliance.

H. Coordination and Cooperation in the Delivery of Technical Assistance

In order to avoid duplication of efforts and to mutually reinforce the results of technical assistance projects and programmes, UNODC is partnering with many United Nations entities (including UNDP, the Department for Peacekeeping Operations, the UNGC, the United Nations Commission on International Trade Law, the United Nations Industrial Development Organization, the United Nations Children's Fund, the United Nations Department for Economic and Social Affairs, etc.), as well as other international organizations (the World Bank, the Organization for Economic Cooperation and Development/Development Assistance Committee Network on Governance). In addition, UNODC engages with several regional initiatives (e.g., the Asian Development Bank and the Organization for Economic Cooperation and Development Anti-Corruption Initiative), and regional mechanisms against corruption (e.g. the Group of States against Corruption, established by the Council of Europe) in order to join efforts to strengthen coordination in technical assistance among various stakeholders.

In furtherance of a Memorandum of Understanding, signed on 15 December 2008, UNODC and the United Nations Development Programme (UNDP) have been working closely together with regard to the delivery of technical assistance in the area of governance and anti-corruption in support of national anti-corruption efforts. UNDP and UNODC together with the UN System Staff College (UNSSC) are currently developing an inter-agency training package on the integration of anti-corruption programming into the national level United Nations Development Assistance Framework (UNDAF). The objective of the training package is to enable United Nations staff to address anti-corruption aspects and the contribution anti-corruption efforts can make to national development processes in the dialogue with partner countries, and to apply anti-corruption programming approaches and principles (e.g. inclusion of anti-corruption in analytical work, country analysis and different sectors, assessment of entry points for anti-corruption initiatives, inclusion in UNDAF strategy and monitoring framework). A training package is currently being developed for the initial Training of Trainers (ToT) and will establish a roster of resource persons. Collaboration with further United Nations agencies during this process is planned.

UNODC has also been actively involved in the establishment of, and is partnering with, international and regional anti-corruption academies. The International Anti-Corruption Academy (IACA) was established following a joint initiative by UNODC, Austria, the European Anti-Fraud Office (OLAF) and other stakeholders, and became an independent international organization on 8 March 2011. Through "The Public-Private Partnerships for Probity in Public Procurement" project, UNODC will cooperate with the International Anti-Corruption Academy to develop a module on integrity in public procurement which

will be embedded into the academic courses taught at the Academy. The module will aim to address good practices and common challenges in ensuring legislation, policies and practices are in place to promote transparency, integrity and accountability in public procurement systems. In May 2012, representatives of UNODC participated in a panel discussion and delivered a key note address at a training for private sector officials from Eastern Europe and Central Asia, entitled “Overcoming the Challenge of Corruption in Today’s Environment: Lessons for the Private Sector”.

UNODC is also assisting the Government of Panama in the establishment of a regional anti-corruption academy for Central America and the Caribbean and has supported the development of the training curriculum.

VI. EPILOGUE

The first two years of operation of the ongoing review cycle of the UNCAC Review of Implementation Mechanism have provided a series of very useful indications as to the ways and means that the UNCAC requirements are transposed into the domestic legal systems of States Parties. A more detailed analysis of the implementation challenges encountered by the national authorities in those States leads to the conformation of the fact that there is a pressing need to ensure timely and efficient delivery of technical assistance as a result of the country reviews conducted within the institutional framework of the mechanism. In its capacity as the guardian of the implementation of the UNCAC and Secretariat of the Conference of the States Parties to the Convention, UNODC has devoted resources and continues its mandated efforts to support the mechanism and further the implementation of the UNCAC, including through the provision of focused assistance to States Parties, which are tailor-made to their specific anti-corruption needs and priorities. In doing so, UNODC is guided by the Conference and its Implementation Review Group, particularly with regard to the most appropriate modalities for the maximization of existing resources and the effective implementation of the UNCAC, as well as the coordination and synergies with other technical assistance providers which are active in the anti-corruption field.