
VISITING EXPERTS' PAPERS

THE UNITED NATIONS CONVENTION AGAINST CORRUPTION: ITS RELEVANCE AND CHALLENGES IN ITS IMPLEMENTATION

*Giovanni Gallo**



I. THE UNITED NATIONS CONVENTION AGAINST CORRUPTION AND ITS RELEVANCE TO CRIMINAL JUSTICE AUTHORITIES

A. Overview of the United Nations Convention against Corruption, Genesis and Structure

1. Genesis of the United Nations Convention against Corruption

In its resolution 55/61 of 4 December 2000, the General Assembly recognized that an effective international legal instrument against corruption, independent of the United Nations Convention against Transnational Organized Crime,¹ was desirable and decided to establish an ad hoc committee for the negotiation of such an instrument in Vienna, at the headquarters of the Centre for International Crime Prevention of the Office for Drug Control and Crime Prevention.²

In its resolution 56/260 of 31 January 2002, the General Assembly decided that the Ad Hoc Committee for the Negotiation of a Convention against Corruption should negotiate a broad and effective convention, which, subject to the final determination of its title, should be referred to as the “United Nations Convention against Corruption”. The text of the Convention was negotiated during seven sessions of the Ad Hoc Committee, held between 21 January 2002 and 1 October 2003.

The Convention approved by the Ad Hoc Committee was adopted by the General Assembly by resolution 58/4 of 31 October 2003. The General Assembly, in its resolution 57/169 of 18 December 2002, accepted the offer of the Government of Mexico to host a high-level political signing conference in Merida for the purpose of signing the United Nations Convention against Corruption.³ In accordance with article 68 (1) of resolution 58/4, the United Nations Convention against Corruption entered into force on 14 December 2005, nineteen days after the deposit of the thirtieth instrument of ratification, acceptance, approval or accession.

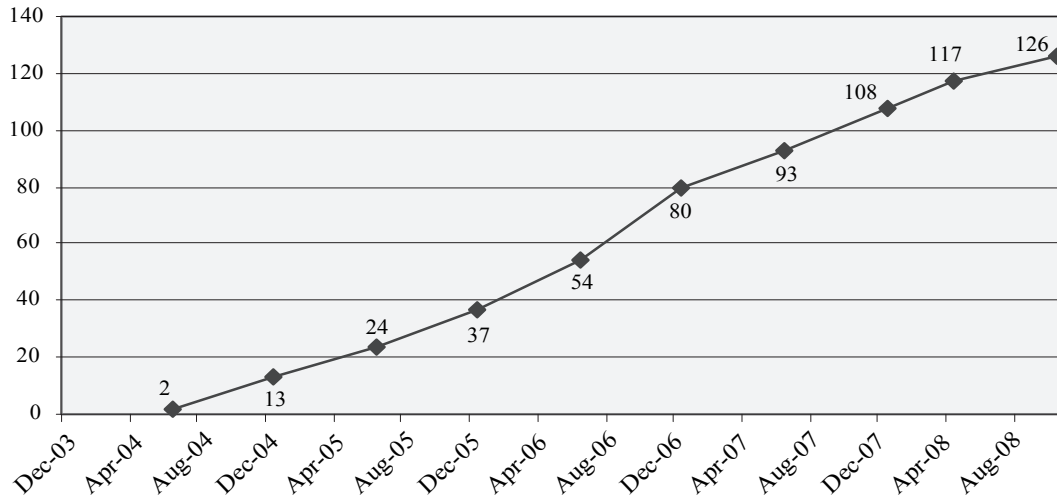
In resolution 58/4, the General Assembly also decided that the Ad Hoc Committee for the Negotiation of a Convention against Corruption would complete its tasks by holding a meeting well before the convening of the first session of the Conference of the States Parties to the Convention in order to prepare the draft text of the rules of procedure of the Conference of the States Parties and of other rules described in article 63 of the Convention, which would be submitted to the Conference of the States Parties at its first session for consideration and possible adoption. In accordance with article 63 (2) of the Convention, the first session of the Conference of the States Parties convened in Jordan from 10 to 14 December 2006, not later than one year following the entry into force of the Convention.

* Crime Prevention Expert, Corruption and Economic Crime Section, Division for Treaty Affairs, UNODC.

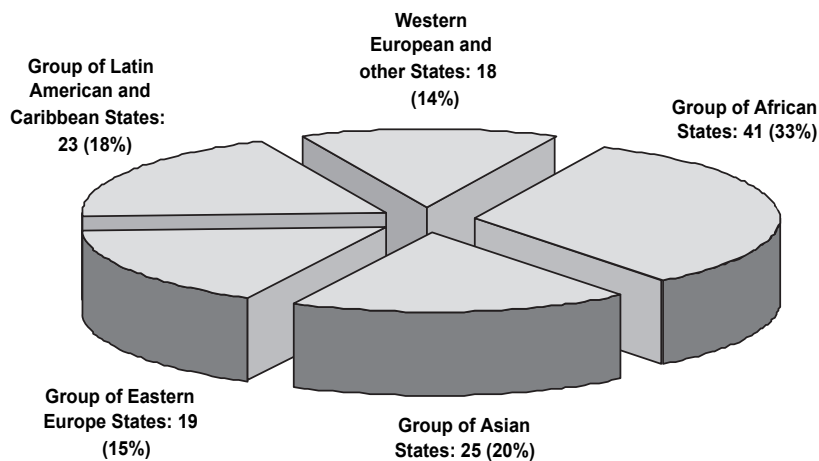
¹ Adopted by General Assembly resolution 55/25, annex I, of 15 November 2000.

² In October 2002, the United Nations Office for Drug Control and Crime Prevention was restructured and renamed the United Nations Office on Drugs and Crime (UNODC).

³ In accordance with General Assembly resolution 57/169, the United Nations Convention against Corruption was opened for signature at the High-level Political Signing Conference in Merida, Mexico, from 9 to 11 December 2003.



As at 10 October 2008, the Convention has 140 signatory States and 126 States Parties. The graphics above and below offer an overview of the Convention’s pace of adherence and of the regional distribution of its States Parties.



2. The Structure of the United Nations Convention against Corruption

The United Nations Convention against Corruption consists of 71 articles divided into eight chapters. The provisions of the Convention do not have the same level of obligation. In general, provisions can be grouped into the following three categories:

- (i) Mandatory provisions, which consist of obligations to legislate (either absolutely or where specified conditions have been met);
- (ii) Measures that States Parties must consider applying or endeavour to adopt; and
- (iii) Measures that are optional.

Whenever the phrase “each State Party shall adopt” is used, the reference is to a mandatory provision. Otherwise, if the language used is “shall consider adopting” or “shall endeavour to”, it means that States are urged to consider adopting a certain measure and to make a genuine effort to see whether it would be compatible with their legal system. For entirely optional provisions, the Convention employs the term “may adopt”.

Several articles of the Convention contain safeguard clauses that operate as filters regarding the obligations of States Parties in case of conflicting constitutional or fundamental rules, by providing that States must adopt certain measures “subject to [their] constitution and the fundamental principles of [their]

legal system” (for example, article 20), “to the extent not contrary to the domestic law of the requested State Party” (for example article 46 (17), “to the extent that such a requirement is consistent with the fundamental principles of their domestic law and with the nature of judicial and other proceedings” (for example, article 31 (8)) or “to the extent permitted by the basic principles of its domestic legal system . . .” (for example, article 50 (1)).

The eight chapters of the Convention are:

(i) General Provisions (Chapter I, Articles 1 to 4)

The purpose of this chapter is to define terms employed throughout the text of the Convention, state the scope of application and reiterate the principle of protection of sovereignty of State parties.

(ii) Preventive Measures (Chapter II, Articles 5 to 14)

Under chapter II, the Convention requires States Parties to introduce effective policies aimed at the prevention of corruption. The chapter calls for the introduction of a variety of measures concerning both the public and the private sector. Such measures range from institutional arrangements, such as the establishment of a specific anti-corruption body, to codes of conduct and policies promoting good governance, the rule of law, transparency and accountability. Significantly, the Convention underscores the important role of the wider society, such as nongovernmental organizations and community initiatives, by inviting each State party to actively encourage their involvement and general awareness of the problem of corruption.

(iii) Criminalization and Law Enforcement (Chapter III, Articles 15 to 42)

Under this chapter, the Convention requires States Parties to introduce criminal and other offences in order to cover a wide range of acts of corruption, to the extent these are not already defined as such under domestic law. The criminalization of some acts is mandatory under the Convention, which also requires that States Parties consider the establishment of additional offences. An innovation of the United Nations Convention against Corruption is that it addresses not only basic forms of corruption, such as bribery and the embezzlement of public funds, but also acts carried out in support of corruption, such as obstruction of justice, trading in influence and the concealment or laundering of the proceeds of corruption. Furthermore, chapter III also deals with corruption in the private sector. Criminalization of corrupt practices needs to be supported by measures and mechanisms that enable the actors of the criminal justice system to effectively fight corruption through detection, prosecution, punishment and reparation. In this respect, chapter III of the Convention provides for a series of procedural measures that support criminalization. These provisions are related to the prosecution of corruption offences and enforcement of national anti-corruption laws, such as:

- (a) Evidentiary standards, statutes of limitation and rules for adjudicating corruption offences (articles 28-30);
- (b) Co-operation between national law enforcement authorities, specialized anti-corruption agencies and the private sector (articles 37-39);
- (c) Use of special investigative techniques (article 50);
- (d) Protection of witnesses, victims and whistleblowers (articles 32 and 33);
- (e) Allowing the freezing, seizure and confiscation of proceeds and instrumentalities of corruption (article 31);
- (f) Overcoming obstacles that may arise out of the application of bank secrecy laws (article 40); and
- (g) Addressing the consequences of acts of corruption (article 34), including through compensating for damages caused by corruption (art. 35).

(iv) International Co-operation (Chapter IV, Articles 43 to 50)

This chapter emphasizes that every aspect of anti-corruption efforts (prevention, investigation, prosecution of offenders, seizure and return of misappropriated assets) necessitates international co-operation. The Convention requires specific forms of international co-operation, such as mutual legal assistance in the collection and transfer of evidence, extradition, joint investigations and the tracing, freezing, seizing and confiscating of proceeds of corruption. In contrast to previous treaties, the Convention also provides for mutual legal assistance in the absence of dual criminality, when such assistance does not involve coercive measures. Furthermore, the Convention puts a premium on exploring all possible ways

to foster co-operation: “In matters of international co-operation, whenever dual criminality is considered a requirement, it shall be deemed fulfilled irrespective of whether the laws of the requested State party place the offence within the same category of offence or denominate the offence by the same terminology as the requesting State party, if the conduct underlying the offence for which assistance is sought is a criminal offence under the laws of both States parties” (article 43, (2)).

(v) Asset Recovery (Chapter V, Articles 51 to 59)

This chapter underscores that a most significant innovation and a “fundamental principle of the Convention” (art. 51) is the return of assets. Chapter V specifies how co-operation and assistance will be rendered, how proceeds of corruption are to be returned to a requesting State and how the interests of other victims or legitimate owners are to be considered.

(vi) Technical Assistance and Information Sharing, Mechanisms for Implementation and Final Provisions (Chapter VI, VII and VIII, Articles from 60 to 71)

These Chapters of the Convention provide for training, research and information-sharing measures and contain technical provisions, such as for signature and ratification.

B. Provisions of the United Nations Convention against Corruption relevant to Criminal Justice

Authorities

1. Overview of Provisions most Relevant to Criminal Justice Authorities

The United Nations Convention against Corruption contains a number of provisions that are relevant to the actors of domestic criminal justice systems. The majority of such provisions are contained in chapter III, Criminalization and law enforcement, and chapter IV, International co-operation, of the Convention. Whilst a detailed analysis of such provisions is not compatible with the nature of the present paper, below is a non exhaustive overview of the most significant ones.

(i) Provisions relevant to Criminal Justice Authorities under Chapter III of the Convention

States Parties must ensure that the knowledge, intent or purpose element of offences established in accordance with the Convention can be established through inference from objective factual circumstances (article 28).

States Parties must establish long statutes of limitation for offences established in accordance with the Convention and suspend them or establish longer ones for alleged offenders evading the administration of justice (article 29).

In accordance with article 30, States Parties must:

- (a) Ensure that offences covered by the Convention are subject to adequate sanctions taking the gravity of each offence into account (paragraph 1);
- (b) Maintain a balance between immunities provided to their public officials and their ability to effectively investigate and prosecute offences established under the Convention (paragraph 2);
- (c) Ensure that pre-trial and pre-appeal release conditions take into account the need for the defendants’ presence at criminal proceedings, consistent with domestic law and the rights of the defence (paragraph 4); and
- (d) Take into account the gravity of the offences when considering early release or parole of convicted persons (paragraph 5).

Article 30 also mandates that States Parties consider or endeavour:

- (a) To ensure that any discretionary legal powers relating to the prosecution of offences established in accordance with the Convention maximize the effectiveness of law enforcement in respect of those offences and act as a deterrent (paragraph 3);
- (b) To establish procedures through which a public official accused of such offence may be removed, suspended or reassigned (paragraph 6);
- (c) To establish procedures for the disqualification of a person convicted of an offence established in accordance with the Convention from public office, and office in an enterprise owned in whole or in part by the State (paragraph 7); and

- (d) To promote the reintegration of persons convicted of offences established in accordance with the Convention into society (paragraph 10).

In accordance with article 31, States Parties must, to the greatest extent possible under their domestic system, have the necessary legal framework to enable:

- (a) The confiscation of proceeds of crime derived from offences established in accordance with the Convention or property the value of which corresponds to that of such proceeds (paragraph 1 (a));
- (b) The confiscation of property, equipment or other instrumentalities used in or destined for use in offences established in accordance with the Convention (paragraph 1 (b));
- (c) The identification, tracing and freezing or seizure of the proceeds and instrumentalities of crime covered by the Convention, for the purpose of eventual confiscation (paragraph 2);
- (d) The administration of frozen, seized or confiscated property (paragraph 3);
- (e) The application of confiscation powers to transformed or converted property and proceeds intermingled with legitimately obtained property (to the value of the proceeds in question) and to benefits or income derived from the proceeds (paragraphs. 4-6); and
- (f) The empowerment of courts or other competent authorities to order that bank, financial or commercial records be made available or seized. Bank secrecy shall not be a legitimate reason for failure to comply (paragraph 7).

In accordance with article 32, and bearing in mind that some victims may also be witnesses (article 32 (4)), States Parties are required:

- (a) To provide effective protection for witnesses, within available means (paragraph 1). This may include physical protection, domestic or foreign relocation, special arrangements for giving evidence;
- (b) To consider entering into foreign relocation agreements (paragraph 3); and
- (c) To provide opportunities for victims to present views and concerns at an appropriate stage of criminal proceedings, subject to domestic law (paragraph 5).

Article 33 requires States Parties to consider providing measures to protect persons who report offences established in accordance with the Convention to competent authorities.

Article 34 requires States Parties to address the consequences of corruption. In this context, States may wish to consider annulling or rescinding a contract, withdrawing a concession or similar instrument, or taking other remedial action.

Article 35 requires that States Parties ensure that entities or individuals who have suffered damages as a result of corruption have the right to initiate legal proceedings to obtain damages from those responsible.

Article 36 requires States Parties, in accordance with the fundamental principles of their legal system:

- (a) To ensure they have a body or persons specializing in combating corruption through law enforcement;
- (b) To grant the body or persons the necessary independence to carry out its or their functions effectively without undue influence; and
- (c) To provide sufficient training and resources to such body or persons.

Under article 37, States Parties must:

- (a) Take appropriate measures to encourage persons who participate or who have participated in offences established in accordance with the Convention to supply information for investigative and evidentiary purposes and to provide concrete assistance towards depriving offenders of the proceeds of crime and recovering such proceeds (paragraph 1);
- (b) To consider allowing mitigating punishment of an accused person who provides substantial co-operation in the investigation or prosecution of offences established in accordance with the Convention (paragraph 2);
- (c) To consider providing for the possibility of granting immunity from prosecution to a person who provides substantial co-operation (paragraph 3); and

(d) To provide to such persons the same protection as provided to witnesses (paragraph 4)

Article 38 requires that States Parties take measures to encourage co-operation between their public authorities and law enforcement. Such co-operation may include:

- (a) Informing law enforcement authorities when there are reasonable grounds to believe that offences established in accordance with articles 15 (Bribery of national public officials), 21 (Bribery in the private sector) and 23 (Laundering of proceeds of crime) have been committed; or
- (b) Providing such authorities all necessary information, upon request.

Article 39 requires States Parties:

- (a) To take measures consistent with their laws encouraging co-operation between their private sector authorities (financial institutions, in particular) and law enforcement authorities regarding the commission of offences established in accordance with the Convention (paragraph 1); and
- (b) To consider encouraging their nationals and habitual residents to report the commission of such offences to their law enforcement authorities (paragraph 2).

Article 40 requires States Parties to ensure that, in cases of domestic criminal investigations of offences established in accordance with the Convention, their legal system has appropriate mechanisms to overcome obstacles arising out of bank secrecy laws.

In accordance with article 41, States Parties may allow the consideration of an alleged offender's convictions in another State in their own criminal proceedings.

(ii) Provisions relevant to Criminal Justice Authorities under Chapter IV of the Convention

Article 43, paragraph 1, requires that States Parties co-operate in criminal matters in accordance with all articles in chapter IV of the Convention, that is, extradition, mutual legal assistance, the transfer of criminal proceedings and law enforcement, including joint investigations and special investigative techniques. Article 43, paragraph 2, requires that, whenever dual criminality is necessary for international co-operation, States Parties must deem this requirement fulfilled if the conduct underlying the offence for which assistance is sought is a criminal offence under the laws of both States Parties. The Convention makes it clear that neither does the underlying conduct of the criminal offence need to be defined in the same terms in both States Parties, nor does it have to be placed within the same category of offence.

In accordance with article 44, States Parties must ensure that offences established in accordance with the Convention are deemed extraditable offences, provided dual criminality is fulfilled (paragraph 1). If their domestic law allows it, States Parties may grant extradition for corruption offences even without dual criminality (paragraph 2). If States Parties use the Convention as a basis for extradition, they will not consider corruption offences as political offences (paragraph 4). States Parties that require a treaty basis for extradition:

- (a) May consider the Convention as the legal basis for extradition to another State Party regarding corruption offences (paragraph 5);
- (b) Must notify the Secretary-General of the United Nations on whether they will permit the Convention to be used as a basis for extradition to other States Parties (paragraph 6 (a)); and
- (c) Must seek to conclude treaties on extradition with other States Parties, if they do not use the Convention as the legal basis for extradition (paragraph 6 (b)).

States Parties with a general statutory extradition scheme must ensure that the corruption offences are deemed extraditable (paragraph 7). A State Party must endeavour to expedite extradition procedures and simplify evidentiary requirements relating to corruption offences (paragraph 9). A State Party that denies an extradition request on the ground that the person is its national must submit the case for domestic prosecution (*aut dedere aut judicare*⁴). In doing so, the State Party concerned shall ensure that the decision

⁴ See General Assembly A/CN.4/571, Preliminary report on the obligation to extradite or prosecute ("*aut dedere aut judicare*").

to prosecute and any subsequent proceedings are conducted with the same diligence as a domestic offence of a grave nature and shall co-operate with the requesting State Party to ensure the efficiency of the prosecution (paragraph 11). States Parties can discharge their obligation to submit a case for prosecution pursuant to article 44 (11), by temporary surrender (paragraph 12). If States Parties deny extradition for enforcement of a sentence on grounds of nationality, they must consider enforcing the sentence imposed under the domestic law of the requesting State (paragraph 13). States Parties must ensure fair treatment for persons facing extradition proceedings pursuant to article 44, including enjoyment of all rights and guarantees provided by their domestic law (paragraph 14). States Parties may not refuse extradition on the ground that the offence also involves fiscal matters (paragraph 16). Prior to refusing extradition, a requested State Party must, where appropriate, consult with the requesting State Party to provide it with the opportunity to present information and views on the matter (paragraph 17).

Article 46 requires States Parties:

- (a) To ensure the widest measure of mutual legal assistance for the purposes listed in article 46, paragraph 3, in investigations, prosecutions, judicial proceedings and asset confiscation and recovery in relation to corruption offences (paragraph 1);
- (b) To provide for mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to offences for which a legal entity may be held liable under article 26 (paragraph 2);
- (c) To ensure that mutual legal assistance is not refused on the ground of bank secrecy (paragraph 8).
- (d) To offer assistance in the absence of dual criminality through non-coercive measures (paragraph 9, (b));
- (e) To apply paragraphs 9 to 29 of article 46 to govern the modalities of mutual legal assistance in the absence of a mutual legal assistance treaty with another State party (paragraphs 7 and 9-29);
- (f) To notify the Secretary-General of the United Nations of their central authority designated for the purpose of article 46, as well as of the language(s) acceptable to them in this regard (paragraphs 13 and 14); and
- (g) To consider entering into bilateral or multilateral agreements or arrangements to give effect to or enhance the provisions of article 46 (paragraph 30).

States Parties may provide information on criminal matters to other States Parties without prior request, where they believe that this can assist in inquiries, criminal proceedings or the formulation of a formal request from that State Party (paragraphs 4 and 5). States Parties are also invited to consider the provision of a wider scope of legal assistance in the absence of dual criminality (paragraph 9 (c)).

In accordance with article 47, States Parties must consider the transfer to one another of criminal proceedings when this would be in the interest of the proper administration of justice relative to corruption offences, especially those involving several jurisdictions.

Under article 48, States Parties must, consistent with their respective domestic legal and administrative systems, adopt effective measures for the purposes of effective investigation with respect to the offences established in accordance with the Convention, including:

- (a) Enhancing and, where necessary, establishing channels of communication between their respective law enforcement agencies;
- (b) Co-operating with other States parties in their inquiries concerning the identity, whereabouts and activities of specific persons, and the movement of proceeds or property derived from the commission of offences and of property, equipment and other instrumentalities used or intended for use in the commission of offences;
- (c) Providing, when appropriate, items and substances for analytical or investigative purposes;
- (d) Considering bilateral or multilateral agreements or arrangements to give effect to or enhance the provisions of article 48; and
- (e) Endeavouring to co-operate in order to respond to corruption-related offences committed through the use of modern technology.

Under article 49, a State Party must consider bilateral or multilateral agreements or arrangements

regarding the establishment of joint investigative bodies, while ensuring that the sovereignty of the State Party in whose territory such investigation is to take place is fully respected.

Under article 50, a State Party must:

- (a) Establish controlled delivery as an investigative technique available at the domestic and international level, if permitted by the basic principles of its domestic legal system;
- (b) Have the legal ability to provide on a case-by-case basis international co-operation with respect to controlled deliveries, where not contrary to the basic principles of its domestic legal system; and
- (c) Where appropriate, establish electronic surveillance and undercover operations as investigative techniques available at the domestic and international level.

II. THE ROLE OF THE UNITED NATIONS OFFICE ON DRUGS AND CRIME IN PROMOTING THE RATIFICATION AND IMPLEMENTATION OF THE UNITED NATIONS CONVENTION AGAINST CORRUPTION

A. The Mandate of the United Nations Office on Drugs and Crime

In its resolution 58/4 of 31 October 2003, the General Assembly, while adopting the United Nations Convention against Corruption, requested the Secretary-General to provide the United Nations Office on Drugs and Crime (hereinafter, UNODC) with the resources necessary to enable it to promote in an effective manner the rapid entry into force of the Convention. Furthermore, in accordance with article 60 (8) of the Convention, States Parties shall consider making voluntary contributions to the United Nations Office on Drugs and Crime for the purpose of fostering programmes and projects in developing countries with a view to implement the Convention.

In its resolution 2005/18 of 22 July 2005, entitled “Action against corruption: assistance to States in capacity-building with a view to facilitating the entry into force and subsequent implementation of the United Nations Convention against Corruption”, the Economic and Social Council requested the Secretary-General to provide the United Nations Office on Drugs and Crime with the resources necessary to enable it to promote, in an effective manner, the implementation of the United Nations Convention against Corruption through, *inter alia*, the provision of assistance to developing countries and countries with economies in transition for building capacity in the areas covered by the Convention.

Subsequently, in its resolution 60/175 of 16 December 2005, entitled “Strengthening the United Nations Crime Prevention and Criminal Justice Programme, in particular its technical co-operation capacity”, the General Assembly reaffirmed the role of the United Nations Office on Drugs and Crime in providing to Member States, upon request and as a matter of high priority, technical co-operation, advisory services and other forms of assistance in the field of crime prevention and criminal justice, including in the area of prevention and control of corruption.

Furthermore, the General Assembly, in its resolution 60/207 of 22 December 2005, entitled “Preventing and combating corrupt practices and transfer of assets of illicit origin and returning such assets, in particular to the countries of origin, consistent with the United Nations Convention against Corruption”, encouraged the United Nations Office on Drugs and Crime to give high priority to technical co-operation, upon request, to, *inter alia*, promote and facilitate the ratification and implementation of the Convention and provide technical assistance to support national efforts in preventing and combating corrupt practices.

Most recently, in its resolution 2006/24 of 27 July 2006, entitled “International co-operation in the fight against corruption”, the Economic and Social Council requested the United Nations Office on Drugs and Crime to continue to assist States, upon request, with sustainable capacity-building focused on the promotion of the implementation of the Convention. The Council further invited relevant entities of the United Nations system and international financial institutions and regional and national funding agencies to increase their support to and interaction with the United Nations Office on Drugs and Crime in order to benefit from synergies and avoid duplication of efforts and to ensure that, as appropriate, activities aimed at preventing and combating corruption are considered in their sustainable development agenda and that the expertise of UNODC is fully utilized.

B. UNODC Activities to promote the Ratification and Implementation of the Convention

In the course of 2005 and 2006, the United Nations Office on Drugs and Crime conducted seven high-level regional seminars to promote the ratification and implementation of the United Nations Convention against Corruption. The seminars gathered policy-makers and practitioners from more than 130 Member States and provided a platform for sharing of experience, good practices and innovative initiatives. During such seminars, the following emerged as priority issues: (a) criminalization of the corruption offences, in particular the mandatory ones; (b) promotion of mechanisms for international co-operation, especially in the field of extradition and mutual legal assistance; and (c) development of a methodology for assessing progress in the implementation of the Convention. In addition, the seminars also highlighted a number of issues specifically related to corruption:

- (i) the need to develop and strengthen mechanisms for asset recovery;
- (ii) the importance of developing national anti-corruption strategies;
- (iii) the establishment of anti-corruption bodies with adequate political, functional and budgetary independence; and
- (iv) the central role of civil society and the media in raising public awareness on corruption.

In line with the priority issues that emerged from the aforementioned seminars, the United Nations Office on Drugs and Crime developed a strategy of interventions articulated as follows:

1. Support for States in Accession to, Ratification and Implementation of the Convention

This set of activities includes: knowledge-building and awareness-raising for leaders and policy-makers on the importance of becoming parties to the Convention, and assistance in the identification of ratification or accession requirements and in developing national action plans for ratification or accession to and implementation of the Convention.

2. Collection and Analysis of Data on Corruption

Research on and analysis of corruption patterns and trends complement and reinforce the technical assistance repertoire. Research allows for a base-line set of data to more effectively direct technical assistance and provide means to measure its impact. Furthermore, a solid knowledge base on the multi-faceted nature of corruption and its criminal dimension provides a better understanding of its root-causes, its links to other criminal activities and its adverse impact on development, hence supporting policy analysis and evidence-based decision-making. To this end, such tools as the Criminal Justice Assessment Toolkit,⁵ the Crime and Corruption Business Survey⁶ and standard survey instruments to assess justice sector capacity and integrity were produced.

3. Legislative Assistance and Legal Advisory Services to implement the UNCAC

The UNODC's assistance focuses on the criminalization of corruption offences, and the development of model legislation, model treaties and other relevant reference and training materials

This area of UNODC's work includes:

- (i) legislative assistance and advisory services to requesting States to review legislative and regulatory frameworks, identify gaps and recommend action to comply with the requirements of the Convention;
- (ii) assistance in the development or adjustment of domestic legislation for the criminalization of corruption offences established in accordance with the Convention, in particular the five mandatory ones;⁷ and
- (iii) dissemination of the Legislative Guide for the Implementation of the United Nations Convention against Corruption⁸ and the *Travaux Préparatoires* of the Convention⁹ to lawmakers. In addition, the development of a new generation of tools, guides, handbooks and model legislation is being considered. In this context, work is being conducted to develop an on-line library containing relevant

⁵ Criminal Justice Assessment Toolkit, <http://www.unodc.org/unodc/en/justice-and-prison-reform/Criminal-Justice-Toolkit.html>

⁶ Crime and Corruption Business Surveys (CCBS). <http://www.unodc.org/unodc/en/data-and-analysis/Crime-and-Corruption-Business-Surveys.html>

⁷ Articles 15, 16 (1), 17, 23 and 25.

⁸ http://www.unodc.org/pdf/corruption/CoC_LegislativeGuide.pdf

⁹ To be published by UNODC in the near future.

national legislation, policies, tools and other relevant documentation. Similarly, consideration is being given to the development of a Model Law on Asset Recovery.

4. Support in Strategic Planning, including the Development of Anti-Corruption Policies

In this area, technical assistance rendered by UNODC, includes advisory services and technical input to design, implement and monitor anti-corruption action plans at national and local levels as well as sector-specific policies for the prevention and control of corruption. To support policies aimed at enhancing transparency, accountability and governance and prevent opportunities for corruption in the public and private sectors, assistance is being rendered to review and develop:

- (i) codes of conduct for public officials;
- (ii) public complaints mechanisms;
- (iii) asset declaration systems;
- (iv) merit-based human resource management frameworks;
- (v) whistleblower protection measures and systems;
- (vi) effective management of public resources and transparent public procurement;
- (vii) access to information; and
- (viii) public education and awareness raising. To this end, the Technical Guide for the Implementation of the Convention and for policy makers and practitioners is being developed and may prove a useful tool.

5. Promotion of International Co-operation in Criminal Matters, in particular, Extradition and Mutual Legal Assistance

In this area, technical assistance activities conducted by UNODC include:

- (i) knowledge- and capacity-building for practitioners in international co-operation, with particular attention to extradition and mutual legal assistance; and
- (ii) the establishment of a directory of central authorities responsible for processing requests for mutual legal assistance.

The delivery of technical assistance in this field may be greatly facilitated by the use and further development of information technology solutions. The Mutual Legal Assistance Request Writer Tool,¹⁰ for instance, has proven so effective that a similar application is being developed in the area of extradition. An on-line directory of central authorities responsible for mutual legal assistance can help promote virtual networking, open channels of direct communication and facilitate exchange of experience, expertise and successful practices. These and other innovative solutions, such as computer-based training programmes on freezing, seizure and confiscation of criminal assets, asset recovery, law enforcement co-operation and special investigative techniques are also being considered.

6. Building Knowledge and Legal Capacities for Asset Recovery

As noted above, the chapter on asset recovery (Chapter V) is the most innovative and complex of the Convention. Besides the difficulty posed by different legal systems and normative gaps, the successful implementation of this chapter rests largely on the full understanding of its yet unexplored potential. Consolidating the knowledge base is therefore a prerequisite to the establishment of effective international co-operation mechanisms, in particular in the areas of direct recovery and mutual legal assistance for the purpose of confiscation. Furthermore, the nature of this chapter lends itself to an illustrative distinction between short- and mid-term activities necessary to implement the Convention and long-term ones. UNODC has articulated its strategy along these lines. In particular, in the short run, building knowledge and legal capacities for asset recovery is essential. Activities to this end include:

- (i) intensive promotion of awareness and understanding of asset recovery and its mechanisms among relevant stakeholders; and
- (ii) building legal capacities to enable countries to successfully recover stolen assets.

¹⁰ The Mutual Legal Assistance Request Writer Tool helps practitioners to generate effective requests and receive more useful responses. It gives access to relevant multilateral, bilateral and regional treaties and agreements and national laws and includes a case management tracking system for incoming and outgoing mutual legal assistance requests. <http://www.unodc.org/mla/>

7. Support to enable States to comply with their Legal Reporting Obligations

The under-reporting problem experienced during the first two reporting cycles of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime and Protocols Thereto has demonstrated that States may have insufficient capacity to fulfil reporting obligations emanating from international treaties. To address the issue, UNODC has developed a strategy which would serve a dual purpose:

- (i) the enhancement of countries' reporting capacities in order to achieve greater compliance with the Convention and;
- (ii) a better identification, through timely, complete and accurate information, of technical assistance needs. To achieve these objectives, UNODC is providing ad hoc assistance to requesting countries through training workshops and seminars and has launched voluntary programmes to test information-gathering and review of implementation mechanisms. Also in this area, the expansion of innovative solutions, such as a computer-based self-assessment checklist,¹¹ have been considered.

8. Institution- and Capacity-building: Establishing/Strengthening Specialized Institutions prescribed by the Convention

Following the development of comprehensive preventive policies, the Convention requires States to ensure the existence of adequate bodies to implement them. Technical assistance in this area, which is also benefiting from mentors *in situ* offering on-the-job support, includes activities aimed at ensuring that anti-corruption bodies and units, financial intelligence units and central authorities responsible for mutual legal assistance be, as appropriate, operationally and politically independent, adequately staffed, trained and resourced. To this end, UNODC is giving consideration to an on-line repository with various models and approaches adopted by other countries as well as a network of both government and independent experts, readily available to provide policy advice and assistance. Also in this area, computer-based training tools, such as those on anti-money laundering and financial investigations, are proving useful.

9. Strengthening Integrity and Capacity of the Criminal Justice System

This area of work has two main aspects. Its first dimension relates to the need to enhance transparency and integrity within the justice system and reduce its vulnerability to corruption. To this end, UNODC is carrying out or considering the following activities, the effectiveness of which is being enhanced through mentors *in situ*:

- (i) advisory services to design or review human resources policies, terms of reference and codes of conduct for the judiciary;
- (ii) training on ethics and integrity standards; and
- (iii) support for national policies and measures aimed at establishing an environment conducive to the effective and independent performance of judicial functions.

The second dimension of this area relates to the need to increase the overall capacity of the criminal justice system as well as its specific ability to detect, investigate, prosecute and adjudicate corruption cases. This objective is being achieved through:

- (i) training for law enforcement on specialized investigative techniques and cross-border co-operation to detect and investigate cases of corruption; and
- (ii) training for prosecutors and judges on the Convention and on the application of domestic legislation to ensure efficient and effective adjudication of cases of corruption. Activities in this area are drawing on the Legislative Guide for the Implementation of the United Nations Convention against Corruption, the Bangalore Principles of Judicial Conduct,¹² the Commentary on the Bangalore Principles and the Training Manual on Judicial Ethics and the United Nations Handbook on Practical

¹¹ The self-assessment checklist is an innovative survey software that was launched on 15 June 2007 to facilitate the recognition of implementation efforts, the identification of implementation gaps and technical assistance needs. As of October 2008, 73 Member States have submitted self-assessment reports. Out of these, 65 are parties to UNCAC, which results in a response rate of 52%. <http://www.unodc.org/unodc/en/treaties/CAC/index.html#selfassessment>

¹² See ECOSOC Resolution 2006/23. See also Commentary on the Bangalore Principles on Judicial Conduct, UNODC, September 2007. http://www.unodc.org/documents/corruption/publications_unodc_commentary-e.pdf

Anti-Corruption Measures for Prosecutor and Investigators.¹³ To contribute to the objectives of this area, UNODC is developing a computer-based training tool on judicial ethics. Assistance in this field must receive appropriate attention as a matter of urgency, as it will require significant investment sustained over longer periods of time. The matter is directly linked with the need to consolidate and expand the realization and acceptance of the importance of the criminal justice system as a pillar of the rule of law and thus as a key developmental issue.

10. Development of Mechanisms for Asset Recovery

Following and, to a certain extent, in parallel with the establishment of the necessary knowledge-base and legal capacities, UNODC is devoting efforts to framework and institution-building. To this end, the following activities are being carried out or considered:

- (i) provision of specialized assistance to bring national legal frameworks in line with the requirements of the Convention;
- (ii) assistance to set up legislative and regulatory frameworks for the detection, seizure, freezing and confiscation of assets domestically and internationally;
- (iii) support for the adoption of preventive measures to detect suspicious transactions and the transfer of proceeds of crime;
- (iv) support for the adoption of measures for direct recovery of property and through international co-operation for confiscation, including provisions for the return of such assets;
- (v) support for a broad review of institutional arrangements in order to provide law enforcement and prosecutors with necessary investigative powers and competent judicial and central authorities with the power to process direct requests for asset recovery; and
- (vi) assistance in the creation or strengthening of specialized units, including financial intelligence units, in charge of asset recovery and international co-operation. Also in this field, innovative solutions are being explored and their expansion should be considered. The GoAML application¹⁴ developed by UNODC, for instance, is an integrated database and intelligence analysis system intended for use by financial intelligence units allowing for the collection, rule-based analysis, risk scoring, profiling and rapid dissemination of information to law enforcement agencies.

To further facilitate the development of mechanism for asset recovery, UNODC and the World Bank officially launched the Stolen Asset Recovery Initiative (hereinafter, referred to as StAR Initiative) on 17 September 2007. Work under that joint initiative includes activities to promote the implementation of the Convention, assistance to developing countries in building capacity for mutual legal assistance and partnerships to share information and expertise. To further shape the work programme of the Initiative, a number of consultation missions to identify possible pilot countries and determine their needs and political commitment have been planned and undertaken. An appropriate joint funding vehicle was established to provide assistance to States for asset recovery cases in various areas of anti-corruption policy. Other activities include the development of training tools, a library of good practices and a Web-based list of focal points.

To oversee the work of the Initiative, the two organizations created a joint StAR Secretariat housed in the offices of the World Bank in Washington, D.C., and that includes World Bank and UNODC staff. The secretariat co-ordinates all activities that fall under the StAR Initiative work programme; it acts as a central point of contact for States seeking or receiving support and for donors providing voluntary contributions, and administers funds related to the StAR Initiative. To strengthen the collective effort, the Initiative benefits from the advice and guidance of the "Friends of StAR", a small group composed of influential, experienced individuals from developed and developing countries. The group has an advocacy role in promoting the implementation of the asset recovery provisions of the Convention and co-operation between States on asset recovery.

¹³ <http://www.unodc.org/pdf/crime/corruption/Handbook.pdf>

¹⁴ GoAML is available from: http://www.imolin.org/imolin/goAML_Launch.html

III. THE CONFERENCE OF THE STATES PARTIES AND ITS INTERGOVERNMENTAL WORKING GROUPS

A. The Functions of the Conference

In accordance with article 63 of the United Nations Convention against Corruption, a Conference of the States Parties to the Convention is established to improve the capacity of and co-operation between States Parties to achieve the objectives set forth in this Convention and to promote and review its implementation. The key functions of the Conference include:

- (i) Facilitating the exchange of information among States Parties on patterns and trends in corruption and on successful practices for preventing and combating it and for the return of proceeds of crime;
- (ii) Co-operating with relevant international and regional organizations and mechanisms and non-governmental organizations;
- (iii) Making appropriate use of relevant information produced by other international and regional mechanisms for combating and preventing corruption in order to avoid unnecessary duplication of work;
- (iv) Reviewing periodically the implementation of this Convention by its States Parties;
- (v) Making recommendations to improve this Convention and its implementation; and
- (vi) Taking note of the technical assistance requirements of States Parties with regard to the implementation of this Convention and recommending any action it may deem necessary in that respect.

To discharge its functions, articles 63 (5) of the Convention states that the Conference of the States Parties shall acquire the necessary knowledge of the measures taken by States Parties in implementing this Convention and the difficulties encountered by them in doing so through information provided by them and through such supplemental review mechanisms as may be established by the Conference of the States Parties.

To this end, article 63 (6) prescribes that each State Party shall provide the Conference of the States Parties with information on its programmes, plans and practices, as well as on legislative and administrative measures to implement this Convention, as required by the Conference of the States Parties. Furthermore, the Conference of the States Parties shall examine the most effective way of receiving and acting upon information, including, *inter alia*, information received from States Parties and from competent international organizations. Inputs received from relevant non-governmental organizations duly accredited in accordance with procedures to be decided upon by the Conference of the States Parties may also be considered.

In accordance with article 63 (7), the Conference has the prerogative to establish, if it deems it necessary, any appropriate mechanism or body to assist in the effective implementation of the Convention.

To date, the Conference of the States Parties has held two sessions. The first session took place in Jordan from 10 to 14 December 2006, while the second session was held in Nusa Dua, Indonesia, from 28 January to 1 February 2008. In both sessions, the Conference adopted crucial recommendations in the fields: of gathering information on States' efforts to implement the Convention; review of implementation; technical assistance and asset recovery.

B. The Intergovernmental Working Groups Established by the Conference

1. The Intergovernmental Working Group on the Review of Implementation of the Convention

In its resolution 1/1,¹⁵ the Conference of the States Parties to the United Nations Convention against Corruption, recalling article 63 of the United Nations Convention against Corruption, agreed that it was necessary to establish an appropriate and effective mechanism to assist in the review of the implementation of the Convention and decided to establish an open-ended Intergovernmental Expert Working Group to make recommendations to the Conference on the terms of reference of such a mechanism.

In furtherance to the aforementioned resolution, the Working Group on Review of Implementation of the Convention convened in Vienna, Austria, from 29 to 31 August 2007. The report¹⁶ of the Working Group was

¹⁵ Conference of the States Parties to the United Nations Convention against Corruption, First Session, Jordan, 10-14 December 2006, Resolution 1/1.

¹⁶ CAC/COSP/2008/3.

presented to the Conference at its second session. The latter, by resolution 2/1,¹⁷

- (i) took note with appreciation of the work of the Open-ended Intergovernmental Working Group on Review of the Implementation;
- (ii) stated that effective and efficient review of the implementation of the Convention in accordance with article 63 is of paramount importance and urgent;
- (iii) requested the Working Group to prepare terms of reference for a review mechanism for consideration, action and possible adoption by the Conference at its third session;
- (iv) decided that the Working Group should hold at least two meetings prior to the third session of the Conference in order to perform its mandated tasks; and
- (v) called upon States Parties and signatory States to submit proposals to the Working Group for the terms of reference of the mechanism sufficiently in advance of the meetings of the Working Group for its consideration.

Pursuant to resolution 2/1 of the Conference, the Working Group met again in Vienna from 22 to 24 September 2008. The meeting was informed by 33 proposals submitted by States parties and signatories on the parameters of the review mechanism. During the course of the meeting, the Working Group initiated the consolidation of such 33 proposals, with a view to systematizing them while eliminating duplications. UNODC was requested to carry out the remainder of the consolidation work and to present its outcome to the next meeting of the Working Group, due to take place in Vienna from 15 to 17 December 2008, for further discussion.

2. The Intergovernmental Working Group on Asset Recovery

In its resolution 1/4,¹⁸ the Conference established the Open-ended Intergovernmental Working Group on Asset Recovery. The mandate of the Working Group is: to assist the Conference in developing cumulative knowledge; encourage co-operation among relevant existing bilateral and multilateral initiatives; facilitate the exchange of information among States by identifying and disseminating good practices; help build confidence and encourage co-operation between requesting and requested States; facilitate the exchange of ideas among States on the expeditious return of assets; and assist the Conference in identifying the capacity-building needs, including long-term needs, of States Parties in the prevention and detection of the transfer of proceeds of corruption and income or benefits derived from such proceeds and in asset recovery.

Pursuant to that resolution, the Working Group held its first meeting in Vienna, on 27 and 28 August 2007, and its report was presented to the Conference of the States Parties at its second session.¹⁹ In that context, by resolution 2/3,²⁰ the Conference decided that the Working Group should continue its work, according to its mandate as set out in Conference resolution 1/4, to advise and assist the Conference in the implementation of its mandate on the return of proceeds of corruption, and should continue its deliberations on the conclusions and recommendations contained in the report on its first meeting, with a view to identifying ways and means of translating those conclusions and recommendations into concrete action. The Conference further decided that the Working Group should explore means of building confidence, facilitate the exchange of information and ideas on the expeditious return of assets among States and encourage co-operation between requesting and requested States. Finally, the Conference requested the Working Group to continue its deliberations with a view to further developing cumulative knowledge in the area of asset recovery, especially with regard to the implementation of chapter V, entitled "Asset recovery", of the Convention against Corruption.

Subsequent to the second session of the Conference, the Working Group on Asset Recovery held its second meeting in Vienna from 25 to 26 September 2008. The Working Group discussed challenges in carrying out successful asset recovery and possible solutions, as well as the implementation of recommendations it had agreed on at its first meeting. It confirmed its commitment to supporting the

¹⁷ Conference of the States Parties to the United Nations Convention against Corruption, Second Session, Nusa Dua, 28 January-1 February 2008, Resolution 2/1 .

¹⁸ Conference of the States Parties to the United Nations Convention against Corruption, First Session, Jordan, 10-14 December 2006, Resolution 1/4.

¹⁹ CAC/COSP/2008/4.

²⁰ Conference of the States Parties to the United Nations Convention against Corruption, Second Session, Nusa Dua, 28 January-1 February 2008, Resolution 2/3 .

UNODC's activities in co-ordinating existing knowledge in this field as well as studying trends and creating new tools, such as practical guides, an electronic legal library. Furthermore, the Working Group stressed the importance of technical assistance, particularly in implementing the UNCAC chapter on asset recovery, and agreed that setting up a network of contact points, and more generally creating opportunities for exchange and dialogue concerning asset recovery, would greatly enhance successful practice in this field.

3. The Intergovernmental Working Group on Technical Assistance

In its resolution 1/5,²¹ 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, to advise and assist the Conference in the implementation of its mandate on technical assistance. In the same resolution, the Conference also decided that the working group should perform the following functions:

- (i) Review the needs for technical assistance in order to assist the Conference on the basis of the information provided by States to the Conference;
- (ii) Provide guidance on priorities, based on programmes approved by the Conference and its directives;
- (iii) Consider information gathered through the self-assessment checklist approved by the Conference;
- (iv) 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; and
- (v) Promote the co-ordination of technical assistance in order to avoid duplication.

In furtherance of the aforementioned resolutions, the first meeting of the Working Group on Technical Assistance was held in Vienna from 1 to 2 October 2007. The report of the Working Group was presented to the Conference at its second session.²² The latter, in its resolution 2/4,²³ took note of the report on the meeting of the Open-ended Intergovernmental Working Group on Technical Assistance held in Vienna on 1 and 2 October 2007, and decided that the Working Group should continue its work to advise and assist the Conference in the implementation of its mandate on technical assistance, reaffirming that the Working Group should meet during the third session of the Conference and, as appropriate and within existing resources, shall hold at least two intersessional meetings prior to the third session of the Conference. The first of such intersessional meeting is scheduled to take place in Vienna from 18 to 19 December 2008.

IV. STATES PARTIES' LEGAL AND PRACTICAL CHALLENGES IN IMPLEMENTING THE UNITED NATIONS CONVENTION AGAINST CORRUPTION

A. Methodology to Identify Legal and Practical Challenges

In its resolution 1/2,²⁴ the Conference: (a) recognized the importance of gathering information on the implementation of the Convention; (b) decided that a self-assessment checklist should be used as a tool to facilitate the provision of information on implementation of the Convention; (c) requested the Secretariat to finalize the self-assessment checklist no later than two months after the conclusion of its first session, in consultation with and reflecting input from States Parties and signatories; (d) requested the Secretariat to distribute the self-assessment checklist to States Parties and signatories as soon as possible to begin the process of information-gathering, urging States Parties, and inviting signatories, to complete and return the checklist to the Secretariat within the deadline identified by it; and (e) requested the Secretariat to collate and analyse the information provided by States Parties and signatories through the self-assessment and to share that information and analysis with the Conference at its second session.

Between February and April 2007, the Secretariat began the development of a basic survey software package, which incorporated the self-assessment checklist. For each provision to be reviewed, the software

²¹ Conference of the States Parties to the United Nations Convention against Corruption, First Session, Jordan, 10-14 December 2006, Resolution 1/5.

²² CAC/COSP/2008/5.

²³ Conference of the States Parties to the United Nations Convention against Corruption, Second Session, Nusa Dua, 28 January-1 February 2008, Resolution 2/4.

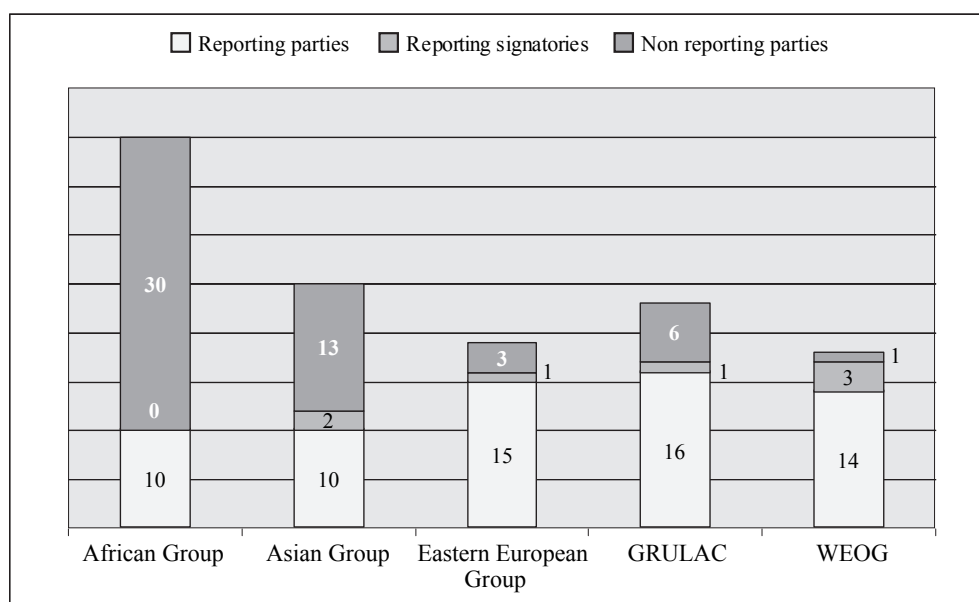
²⁴ Conference of the States Parties to the United Nations Convention against Corruption, First Session, Jordan, 10-14 December 2006, Resolution 1/2.

package offered clickable links to relevant reference material and to a summary of the main requirements against which compliance could be assessed. The development of such an innovative information-gathering tool was driven by the need: (a) to alleviate the long-lamented questionnaire fatigue, thus facilitating national authorities' fulfilment of the reporting obligation; and (b) to facilitate the Secretariat's analysis of information, thanks to the ability of the software to generate a variety of statistical data.

From 9 to 11 March 2007, an independent group of experts met in Vancouver, Canada, to review and validate the above approach. On 15 June 2007, the Secretariat distributed a CD-ROM containing the software to States Parties and signatories. On 30 June 2007, a computer-based application was made available for downloading from the United Nations Office on Drugs and Crime website.²⁵ The structure of the computer-based self-assessment checklist is such to enable the collection on information on the status of implementation of 15 selected articles of the Convention in the following thematic areas: (a) prevention;²⁶ (b) criminalization and law enforcement;²⁷ (c) international co-operation;²⁸ and (d) asset recovery.²⁹

For each selected provision, information was elicited by asking States whether they had adopted the measures required by the Convention. The available answers were (a) yes; (b) yes, in part; and (c) no. In case of full implementation ("yes"), and in order to simplify the reporting exercise, States were requested to cite, but not to provide copies of, relevant legislative information. Although optional, some 50 per cent of the reporting States excerpted or annexed copies of their legislation. An analysis of such legislation has been conducted by UNODC to the extent possible.³⁰ To substantiate reported implementation ("yes"), States were requested to provide examples of successful application of the measures cited or quoted. The optional nature of this question resulted in almost 50 per cent of the reporting States providing such examples. In case of partial compliance or non-compliance ("yes, in part" or "no"), States were requested to identify the type of technical assistance that, if available, would facilitate the adoption of the measures prescribed by the Convention.

As of 10 October 2008, 72 self-assessment reports had been received by the Secretariat, from 65 out of 126 States parties and seven signatories. The graphic below depicts the reporting status, and offers of an overview of reporting States Parties, reporting signatories and non-reporting States parties sorted by region.



²⁵ <http://www.unodc.org/unodc/en/treaties/CAC/index.html#selfassessment>

²⁶ Articles 5, 6, and 9.

²⁷ Articles 15, 16, 17, 23 and 25.

²⁸ Articles 44 and 46.

²⁹ Articles 52, 53, 54, 55 and 57.

³⁰ CAC/COSP/2008/2 and CAC/COSP/2008/2 Add.1.

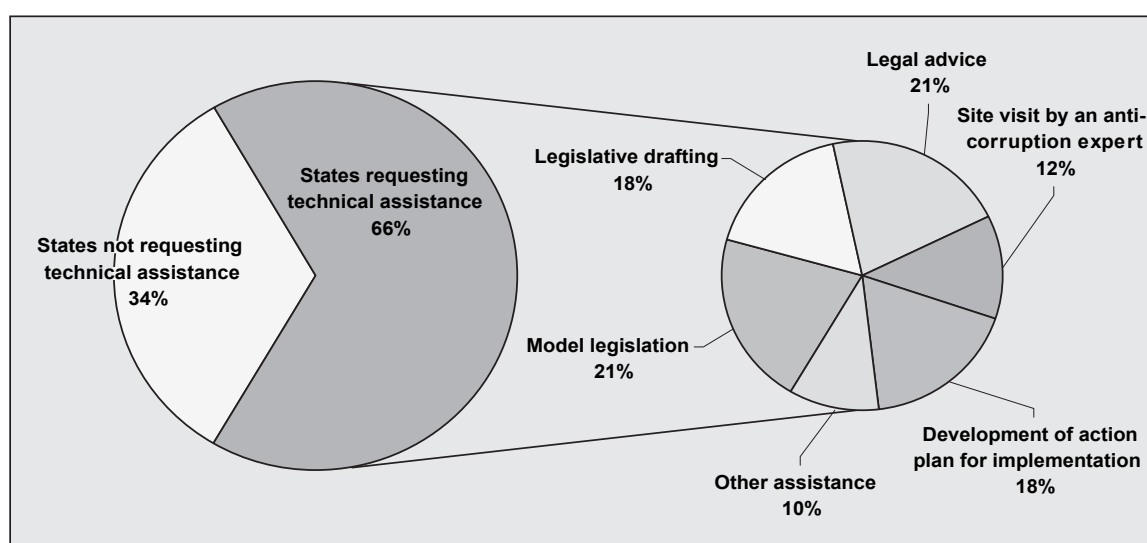
B. Identification of Legal and Practical Challenges

The above-mentioned information-gathering methodology enabled the attainment of the findings reported below:

- (i) In reporting on preventive measures (chapter II), the large majority of the reporting parties stated that anti-corruption policies (art. 5) and bodies (art. 6) had been established. The compliance rate in relation to the implementation of measures for public procurement and management of public funds (art. 9) is lower (56 per cent), with 4 per cent of the reporting parties providing no information.
- (ii) In reporting on criminalization and law enforcement (chapter III), measures providing for the criminalization of bribery of national public officials (art. 15) and embezzlement of public funds (art. 17) enjoy the highest rate of compliance (over 80 per cent for both articles). Similarly, three out of four reporting parties have criminalized obstruction of justice (art. 25). In contrast, the compliance rate for the provisions providing for the criminalization of money-laundering (art. 23) is the second lowest of the entire report, while provisions providing for the criminalization of bribery of foreign public officials (art. 16) are the least frequently implemented (49 per cent non-compliance rate).
- (iii) For international co-operation (chapter IV), since the review of implementation of measures adopted to implement chapter IV was limited to the fulfilment of notification obligations, no meaningful conclusions can be drawn.
- (iv) Lastly, for asset recovery (chapter V), out of the four chapters of the Convention under review, the compliance rate of chapter V is the lowest (less than 50 per cent), with the highest percentage of parties unable to provide any information.

Likewise, the same information-gathering methodology enabled the identification of legal and practical challenges reported below:

- (i) Of the States that reported partial compliance with chapter II (Preventive measures), 83 per cent requested technical assistance. The development of an action plan for implementation was the type of assistance most frequently requested (21 per cent), followed by requests for site visits by anti-corruption experts (15 per cent) and legal advice (13 per cent).
- (ii) Of the States that reported partial or non-compliance with chapter III (Criminalization and law enforcement), 79 per cent requested technical assistance. The provision of model legislation was the form of technical assistance most frequently requested (17 per cent), followed by the provision of legal advice (14 per cent), assistance in legislative drafting (12 per cent) and requests for on-site visits by anti-corruption experts (12 per cent).
- (iii) Of the States that reported partial or non-compliance with chapter V (Asset recovery), 83 per cent requested technical assistance. The provision of legal advice (19 per cent), model legislation (18 per cent) and support in legislative drafting (17 per cent) were the forms of assistance most frequently requested.



The overall analysis of technical assistance needs, depicted in figure above, shows that legal advice and model legislation (21 per cent each) are the forms of technical assistance most needed to implement the 15 articles of the Convention covered by the first round of review of implementation. This is followed by assistance in legislative drafting and in the formulation of action plans for implementation (18 per cent each). Site visits by anti-corruption experts (12 per cent), followed by other country-specific forms of assistance (10 per cent), are the least requested.