



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

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## **Open-ended Intergovernmental Expert Meeting to enhance international cooperation under the United Nations Convention against Corruption**

### **Report of the sixth session of the Open-ended Intergovernmental Expert Meeting to enhance international cooperation under the United Nations Convention against Corruption, held in Vienna, from 6 to 7 November 2016**

#### **I. Introduction**

1. In resolution 4/2, entitled “Convening of open-ended intergovernmental expert meetings to enhance international cooperation”, adopted by the Conference of the States Parties to the United Nations Convention against Corruption at its fourth session, held in Marrakech, Morocco, from 24 to 28 October 2011, the Conference decided to convene open-ended intergovernmental expert meetings on international cooperation to advise and assist it with respect to extradition and mutual legal assistance.
2. In its resolution 5/1, the Conference directed the open-ended intergovernmental meeting of experts on international cooperation to continue studying the issue of the identification and analysis of existing obstacles to law enforcement cooperation in the detection of corruption offences in the framework of the Convention and to draw up recommendations on how those obstacles may be overcome.

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

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

3. The experts on enhancing international cooperation under the United Nations Convention against Corruption held their sixth meeting in Vienna, on 6 and 7 November 2017, during the seventh session of the Conference of the States Parties to the United Nations Convention against Corruption.
4. The meeting was chaired by the Vice-President of the Conference of the States Parties to the United Nations Convention against Corruption, Ambassador Abu Zafar (Bangladesh). The Chair delineated the framework for discussion and provided explanations regarding the elaboration of the provisional agenda and organization of work.



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

5. On 6 November 2017, the meeting of experts to enhance international cooperation under the United Nations Convention against Corruption adopted the following agenda:

1. Opening of the meeting.
2. Adoption of the agenda and organization of work.
3. Implementation of chapter IV of the United Nations Convention against Corruption: lessons learned, good practices and challenges.
4. Electronic tools and systems used by national authorities for the processing and tracking of requests for extradition and mutual legal assistance.
5. Civil and administrative proceedings relating to corruption.
6. Tools and services of the United Nations Office on Drugs and Crime to promote international cooperation.
7. Adoption of the report, including conclusions and recommendations.

## **C. Attendance**

6. The following States parties to the Convention were represented at the meeting: Algeria, Argentina, Armenia, Austria, Bahrain, Bangladesh, Brazil, Bulgaria, China, Colombia, Congo, Cook Islands, Cote D'Ivoire, Czechia, Dominican Republic, Ecuador, Egypt, France, Germany, Ghana, Guatemala, India, Japan, Lebanon, Lesotho, Maldives, Mali, Myanmar, Nepal, Pakistan, Panama, Philippines, Republic of Korea, Romania, Saudi Arabia, Sierra Leone, Singapore, Tunisia, Uganda, Ukraine, United Arab Republic, United States of America, Uruguay, Uzbekistan, Viet Nam.

7. The following intergovernmental organizations were represented by observers: INTERPOL, International Monetary Fund.

## **III. Implementation of chapter IV of the United Nations Convention against Corruption: lessons learned, good practices and challenges.**

8. In an effort to enhance the exchange of information and synergies between the Open-ended Intergovernmental Expert Meetings under the Convention and the Working Group on International Cooperation under the United Nations Convention against Transnational Organized Crime, the secretariat delivered an opening statement presenting the outcomes of the eighth meeting of the Working Group on International Cooperation and the tenth Working Group of Government Experts on Technical Assistance of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime, held in Vienna from 9 to 13 October 2017.

9. The Working Group on International Cooperation, in particular, considered good practices and challenges encountered in the area of transfer of criminal proceedings as a separate form of international cooperation in criminal matters; good practices for bilateral consultations between central authorities; and recent developments in obtaining electronic evidence.

10. The secretariat further introduced the most prevalent trends and findings in the implementation of chapter IV of the Convention, arising from the completed reviews of the first review cycle of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption, as well as challenges in the implementation of chapter IV of the Convention. It was noted that, throughout the

first review cycle, a significant amount of additional information had been collected, which was thoroughly analysed in the updated study entitled “State of implementation of the United Nations Convention against Corruption: Criminalization, Law Enforcement and International Cooperation”, which was prepared by the secretariat. It was also highlighted that the Implementation Review Mechanism had played a dynamic role by triggering domestic reform and encouraging more frequent exchanges between States parties in matters of extradition and mutual legal assistance.

11. Following this introduction, several States sought guidance from the secretariat on various issues of international cooperation, including the transposition of the Convention into domestic law, particularly in countries following a dualist approach to international law; the reluctance of practitioners to recognize the self-executing character of certain provisions of the Convention; the extradition of nationals with dual citizenship; and jurisdiction for offences committed outside the territory of the requested State. Furthermore, one State mentioned the recent trend to use more frequently international conventions for mutual legal assistance purposes.

#### **IV. Electronic tools and systems used by national authorities for the processing and tracking of requests for extradition and mutual legal assistance**

12. The secretariat provided an analytical summary of the responses received from States parties to note verbale CU 2017/80/DTA/CEB/CSS, dated 14 March 2017, which collected information on the use of software programmes for case management systems in the field of international cooperation. It was reported that as of 15 August 2017, the secretariat had received replies from 21 Member States. 15 of them indicated that they used software programmes for case management in the field of international cooperation. These replies had been analysed and summarized in a conference room paper (CAC/COSP/EG.1/2017/CRP.1).

13. It was noted that all of the States that used software programmes did so for all areas of international cooperation, including extradition and mutual legal assistance in criminal matters. However, with only one exception, these were stand-alone systems which did not form part of a more comprehensive case management system (e.g. for the criminal justice system as a whole). Likewise, almost all States indicated that the software solutions they used were custom-built applications. For this reason, most countries responded that they were not prepared to make them available to other States parties or thought that this would be impractical because of the amount of adaptation required. The functionalities of the systems varied greatly. While some were mere case registration systems, others were full-fledged case management systems which could also monitor deadlines, produce statistics and contain templates for the drafting of outgoing requests. All respondents agreed that the use of the software had greatly facilitated the reporting on international cooperation.

14. In the ensuing discussion, one delegate briefly mentioned the efforts of her own country to establish a software system for the efficient management of requests for international cooperation, which allowed to follow the entire life-cycle of such requests and provided insights into which offences were prosecuted most frequently. Another delegate underlined the importance of technical assistance in setting up case management systems and asked that such assistance be also directed towards countries that need assistance in processing mutual legal assistance requests. A further speaker referred to the work in this field undertaken by the International Criminal Police Organization (INTERPOL), which was currently developing an electronic tool for the drafting of mutual legal assistance requests (“e-MLAT”), and had been working on a tool for extradition requests (“e-Extradition”).

## **V. Civil and administrative proceedings relating to corruption**

15. The secretariat presented a summary of the information it had collected, pursuant to Conference resolution 6/4, on practical issues States Parties encounter when requesting and providing assistance in investigations of and proceedings in civil and administrative matters relating to corruption offences.

16. As of 7 August 2017, 37 States Parties had provided responses to the requests of the Secretariat for relevant information. Most States reported that they had limited experience in the use of civil and administrative measures in the context of international cooperation. The extent of information that had been provided on specific civil and administrative proceedings varied considerably. The types of assistance generally requested included collecting evidence and statements; obtaining bank records; precautionary measures; identification, tracing, freezing, seizure and confiscation of assets; communication of procedural acts; and recognition of judgments. States reported that prevalent challenges leading to refusals of requests in civil and administrative proceedings were caused by: (a) a lack of familiarity with the domestic civil and administrative proceedings of the requesting State; (b) non-acceptance of requests through channels other than those used for coordinating cooperation in criminal matters; and (c) a lack of open criminal cases against the suspects. Some States also suggested a number of measures aimed at facilitating cooperation in the use of civil and administrative proceedings against corruption.

17. It was emphasized that as more than half of States Parties had not provided responses to the Secretariat's requests, more information was needed to develop a better understanding in that area. It was further noted that some of the relevant information could probably be collected through the ongoing reviews of implementation.

18. In the ensuing discussion, several speakers noted that the use of international cooperation in civil and administrative proceedings relating to corruption offences has a potential to enhance effectiveness and efficiency. One speaker referred to article 46 of the Convention, emphasizing its focus on effective international cooperation in criminal matters.

19. A representative of the Regional Anti-Corruption Initiative (RAI), a regional initiative bringing together nine States (Albania, Bosnia and Herzegovina, Bulgaria, Croatia, the Former Yugoslav Republic of Macedonia, Montenegro, Republic of Moldova, Montenegro, Romania and Serbia) presented the Initiative's activities in the areas of corruption risk assessment and institutional integrity, whistleblower protection, public awareness, building integrity capacities in law enforcement and judiciary, money-laundering and recovery of crime related proceeds, public procurement, conflict of interest and asset disclosure. In particular, he presented a draft International Treaty on Exchange of Data for the Verification of Asset Declarations, aimed at enhancing international data exchange and access to information held by foreign authorities for the purpose of verification of asset declarations. The representative noted that the draft Treaty was based on the United Nations Convention against Corruption, in particular article 8 paragraph 5, article 43 paragraph 1 and article 48 paragraph 1(f). In response to the presentation, several speakers shared their national experiences with regard to asset declaration systems. Some speakers also noted the importance of the identification of beneficial owners of funds deposited into high-value accounts.

## **VI. Tools and services of the United Nations Office on Drugs and Crime to promote international cooperation**

20. The secretariat updated the meeting on the ongoing technical assistance projects to enhance international cooperation. These projects included the provision of capacity-building and advisory services at the regional and national levels, support of regional associations of anti-corruption authorities and networks of anti-corruption

agencies, as well as specific assistance to national institutions to strengthen their capacities to trace, seize, freeze, confiscate and return the proceeds of corruption offences.

21. The secretariat further informed the meeting on its work on the analysis of technical assistance needs in the area of international cooperation. The information collected was available in document CAC/COSP/2017/7. The three categories of technical assistance needs that were most commonly identified related to technical assistance in the form of capacity-building, followed by good practices and lessons learned and legislative assistance. Article 46 (Mutual legal assistance), article 44 (Extradition), article 50 (Special investigative techniques) and article 48 (Law enforcement cooperation) were not only the articles with the highest number of technical assistance needs identified for chapter IV, but were among the top ten articles of the Convention with the greatest overall number of needs identified. It was also noted that with the second review cycle underway, it had become clear that the full implementation by States parties of chapter III and IV remained crucially important for the implementation of the chapters under review in the second cycle due to the natural linkages with chapters II and V of the Convention.

22. The secretariat announced the finalization of the UNODC Mutual Legal Assistance Request Writer Tool, in its redeveloped version. The Tool had been expanded to include additional substantive features, such as guiding components for requesting assistance in a timely and structured manner. It was noted that the Secretariat was in the process of making the tool available to practitioners, including through online application to receive access to the tool. It was also noted that the tool could be translated into other language versions, both United Nations official languages and others, subject to availability of funds. In the margins of the meeting, the secretariat delivered a presentation focusing on the demonstration of the tool for interested participants.

23. ...

24. The secretariat also delivered a presentation on the salient points of discussion held at an informal Expert Group Meeting on “enhancing the effectiveness of central authorities to engage in international cooperation in criminal matters, especially MLA”, which took place in Vienna from 5 to 6 October 2017 and was organized by the UNODC Global Programme to Support Member States to Prevent and Combat Organized and Serious Crime, Organized Crime Branch, Division for Treaty Affairs. The meeting aimed at implementing resolution 8/1 of the Conference of the Parties to the Organized Crime Convention and brought together experts and practitioners from different countries to engage in an exchange of views and expertise on practical aspects of international cooperation.

25. The secretariat provided an update on the online directory of competent national authorities under the United Nations Convention against Corruption. The secretariat noted that, pursuant to a recommendation made by the experts that participated in the fifth session of this meeting, it created a new separate section on central authorities for extradition, including fields on requirements and procedures for granting extradition. The secretariat informed that, as of 20 October 2017, 110 States parties had provided information about their prevention authorities pursuant to article 6 paragraph 3 of the Convention, 129 States parties had provided information about their central authorities for mutual legal assistance pursuant to article 46 paragraph 13 of the Convention, 78 States parties had provided information about their asset recovery focal points in accordance with resolution 4/4 of the Conference, 19 States parties had provided information about their central authorities for extradition pursuant to the recommendation of the fifth meeting of experts, and 30 States parties had provided information about their focal points in the use of civil and administrative proceedings relating to corruption in accordance with resolution 6/4 of the Conference. The secretariat encouraged States parties to continue providing information on their competent national authorities, underlining the value of the directory in facilitating effective international cooperation.

26. The secretariat also informed that with a view to increasing the accessibility of the directory, as well as UNODC's other significant efforts in the area of international cooperation, UNODC had launched a new online resource hub on international cooperation that provides one-click access to a vast array of its publications, tools, databases, directories, networks, events and other useful resources and information.

27. In the ensuing discussion, [...]

## **VII. Conclusions and recommendations**

28. The meeting reiterated the importance of States parties providing to each other the greatest possible degree of assistance in the investigation and prosecution of corruption offences in the most flexible and effective way, including through endeavouring to simplify the relevant procedures where consistent with domestic law.

29. The experts reaffirmed the recommendations made at their third, fourth and fifth meetings (see CAC/COSP/EG.1/2014/3, CAC/COSP/EG.1/2015/3, CAC/COSP/EG.1/2016/2).

30. Furthermore, the meeting agreed on the following recommendations:

(a) States parties should continue their efforts to with regard to bridging the gap between different legal systems, particularly in the area of criminal procedure and evidence standards, based on the Convention as a legal basis, as well as by concluding detailed bilateral legal assistance treaties and arrangements;

(b) States parties should continue to exchange information on the use of new technologies for the purposes of extradition and mutual legal assistance and provide such information to the secretariat on a regular basis;

(c) The secretariat should continue its work on the provision of technical assistance in the area of international cooperation, specifically focusing on capacity building and gaps in domestic legislation of developing countries;

(d) The secretariat should continue its work on maintaining the online directory of competent national authorities;

(e) Where applicable and subject to the domestic legal system, States parties should endeavour to have the capacity to provide assistance in civil and administrative measures related to corruption;

(f) The open-ended intergovernmental expert meeting should continue its efforts to further enhance synergies between its work and the work conducted under the framework of the Working on International Cooperation under UNTOC, including by considering corresponding recommendation issued by the Working Group.

## **VIII. Adoption of the report**

31. On 7 November 2017, the meeting of experts adopted the report on its sixth session (CAC/COSP/EG.1/2017/L.1).

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