United Nations CAC/COSP/2019/7

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

Distr.: General
17 September 2019

Original: English

Eighth session
Abu Dhabi, 16–20 December 2019
Item 6 of the provisional agenda*
International cooperation

Progress on the activities of the open-ended intergovernmental expert meeting to enhance international cooperation under the United Nations Convention against Corruption

Note by the Secretariat

I. Introduction

1. In its resolution 4/2, entitled "Convening of open-ended intergovernmental expert meetings to enhance international cooperation", the Conference of the States Parties to the United Nations Convention against Corruption decided to convene open-ended intergovernmental expert meetings on international cooperation to advise and assist it with respect to extradition and mutual legal assistance, and to convene one such meeting during its fifth session and, prior to that, within existing resources, at least one intersessional meeting.

2. In the same resolution, the Conference also decided that the expert meetings should perform the following functions: (a) assist it in developing cumulative knowledge in the area of international cooperation; (b) assist it in encouraging cooperation among relevant existing bilateral, regional and multilateral initiatives and contribute to the implementation of the related provisions of the United Nations Convention against Corruption under the guidance of the Conference; (c) facilitate the exchange of experiences among States by identifying challenges and disseminating information on good practices to be followed in order to strengthen capacities at the national level; (d) build confidence and encourage cooperation between requesting and requested States by bringing together relevant competent authorities, anti-corruption bodies and practitioners involved in mutual legal assistance and extradition; and (e) assist the Conference in identifying the capacity-building needs of States.

3. At its fifth to seventh sessions, the Conference decided to continue to convene the expert meetings. The first to eighth expert meetings were held annually from 2012 to 2019.

4. The present note has been prepared to inform the Conference of the status of implementation of its recommendations relating to international cooperation and

* CAC/COSP/2019/1.

those of the expert meeting. Its purpose is to assist the Conference in its deliberations and in determining guidance for future activities of the expert meeting.

5. In its resolution 7/1, the Conference called upon States parties that used electronic tools and systems for processing and tracking international requests for assistance to continue to share with the Secretariat, for further dissemination, information on such tools and systems.

6. In addition, in its resolution 7/1, the Conference welcomed the recommendations of the sixth open-ended intergovernmental expert meeting to enhance international cooperation under the Convention and decided, inter alia, that the meeting should continue its work by exchanging information on best practices and challenges on:

(a) Common reasons for refusals and delays in mutual legal assistance requests related to corruption offences under the Convention, with a view to proposing innovative solutions;

(b) International cooperation in civil and administrative proceedings related to cases of corruption and possible measures to protect the confidentiality of the information provided in the context of assistance in criminal, civil and administrative measures.

7. In the same resolution, the Conference requested the Secretariat to continue, within existing resources, to collect statistics or other relevant information on the use of the Convention as a legal basis for mutual legal assistance, unless a bilateral and regional arrangement applied, and, where appropriate and consistent with domestic legal systems, in relation to civil and administrative proceedings and asset recovery, and to make the information available to the Conference.

8. The sixth open-ended intergovernmental expert meeting to enhance international cooperation under the United Nations Convention against Corruption, held in Vienna on 6 and 7 November 2017, recommended that the Secretariat should continue its work on the analysis of practical challenges arising in the work of central authorities responsible for requests under the Convention against Corruption, with a view to strengthening their effectiveness and efficiency.

9. The sixth expert meeting also recommended that the Secretariat explore the feasibility of developing a practical guide containing considerations relating to how requests for mutual legal assistance of a *de minimis* nature should be handled.

10. The seventh open-ended intergovernmental expert meeting to enhance international cooperation under the United Nations Convention against Corruption, held in Vienna on 8 June 2018, recommended that the Secretariat should continue its analytical work by seeking information from States parties, in particular in relation to the reasons for refusal of requests for mutual legal assistance based on the Convention and related procedural timelines, in order to develop a road map to address related issues in the future.

11. In addition, the seventh expert meeting encouraged States parties to continue to provide to the Secretariat information on challenges and good practices in international cooperation and other topics outlined in the resolutions of the Conference and the recommendations of the expert meetings, with a view to the Secretariat continuing its analytical work with regard to challenges in international cooperation based on the Convention.

12. The present document has been prepared pursuant to the mandates contained in Conference resolution 7/1 and the recommendations of the sixth and seventh expert meetings. The recommendations emanating from the eighth expert meeting, held on 31 May 2019, will be addressed in the progress report for the ninth expert meeting.

13. The present document also contains information on technical assistance and other activities of the Secretariat in the field of international cooperation under the Convention.

14. In order to facilitate the implementation of the above-mentioned mandates, the Secretariat sent to States parties two notes verbales, on 9 February 2018 and 17 December 2018, seeking information on the issues identified above.

15. As at 13 March 2019, 13 States parties had responded to the note verbale dated 9 February 2018 and 24 States parties had responded to the note verbale dated 17 December 2018.

16. The extent of the information provided in the responses varied: a few States parties provided comprehensive responses while others provided specific information. All responses containing substantive information are summarized below. The Secretariat will continue to analyse the information received from States parties and will make it available to future expert meetings.

II. Electronic tools and systems for processing and tracking international requests for assistance

17. The present section contains a summary of the responses received from States parties in response to the request contained in the note verbale dated 17 December 2018 for information on the use of electronic tools and systems for processing and tracking international requests for assistance.

18. A summary of the responses received from States parties to the note verbale dated 9 February 2018 requesting information on this topic is provided in the note by the Secretariat, entitled “Progress in implementing the mandates of the open-ended intergovernmental expert meeting to enhance international cooperation under the United Nations Convention against Corruption” (CAC/COSP/EG.1/2018/2), prepared for the seventh expert meeting.

Algeria

19. In Algeria, there was no electronic system or mechanism in place to track international judicial cooperation requests, including ones related to corruption. Nonetheless, incoming and outgoing requests for international judicial cooperation were subject to follow-up by the Office of International Criminal Judicial Cooperation within the Ministry of Justice.

Austria

20. In Austria, the operational unit of the Federal Bureau of Anti-Corruption regularly used the Secure Information Exchange Network Application of the European Union Agency for Law Enforcement Cooperation (Europol). That platform enabled the user-friendly exchange of operational and strategic crime-related information among European Union member States, as well as third parties with which Europol had cooperation agreements.

Bolivia (Plurinational State of)

21. The Plurinational State of Bolivia did not use any specific software programme to manage international cooperation requests. Internally, the Ministry of Justice and Institutional Transparency had established an information system for transparency, prevention and the fight against corruption (SITPRECO), an open system that was self-explanatory regarding the use, registration and updating of corruption-related information. The system allowed for cross-referencing information with several public entities and companies. Work was under way to implement new submodules, such as judicial proceedings and the recovery of State assets and debts, for which similar systems could be implemented in public entities for incoming and outgoing requests for international cooperation on anti-corruption.

22. The judicial branch of the Plurinational State of Bolivia had established an integrated judicial registry system (SIREJ), which allowed online access to judicial

records in criminal and civil cases. Furthermore, the Public Prosecutor's Office had implemented an integrated criminal case management system (i4P), which recorded procedural actions. The system was easy to operate and self-explanatory. It allowed for the processing of scanned documents and electronic files and facilitated the submission of reports on the handling of cases registered in SIREJ, i4P and SITPRECO.

Colombia

23. In Colombia, the Attorney General's Office and the Comptroller General's Office used special software systems in the field of international cooperation. The system used by the Comptroller General's Office, called SIGEDOC, did not support functionalities for drafting requests or for creating statistical records. Since the implementation of SIGEDOC, monitoring timely follow-up to requests had improved and reporting on activities on international cooperation had been facilitated. The systems used by the Attorney General's Office, called ORFEO and SIPRAIN, respectively, made it possible to create electronic files, generate statistics and monitor the status of requests. The program was not specific to international cooperation matters but used consolidated information of the International Affairs Directorate of the Attorney General's Office.

Egypt

24. In Egypt, information exchange between the financial intelligence unit and its counterparts was ensured through the Egmont Secure Web and a secure email network connecting members of the financial intelligence units, which was electronically encrypted and was accessible to only members of the units. With regard to future projects, the financial intelligence unit sought to link its goAML electronic system for receiving and analysing notifications to the Egmont Secure Web and, to that end, was cooperating with the United Nations Office on Drugs and Crime (UNODC). It was reported that the integration would save time and effort by eliminating the need to manually transfer data from the goAML system to the Egmont Secure Web, and vice versa.

El Salvador

25. The Ministry of Foreign Affairs of El Salvador, through the General Directorate of Legal Affairs, used an electronic system called Diligencias de Cooperación Jurídica Internacional, which recorded requests for all types of international legal cooperation. The system identified each case by means of a number, and a register was created manually from the date on which a request for legal assistance was entered. This feature allowed for adequate tracking of requests. Outgoing requests were processed in steps according to the progress made in the investigation of cases, when the Attorney General's Office, through the Supreme Court, sent corresponding documents or findings, thus guaranteeing the expeditious execution of requests.

Guatemala

26. Guatemala responded that it did not use any electronic tools or systems for processing and tracking requests for international cooperation.

Iraq

27. The Commission of Integrity of Iraq used general programmes such as Microsoft Windows and Excel for processing and tracking requests for mutual legal assistance. The guidebook on mutual legal assistance to recover criminal proceeds in Iraq provided for the use of electronic means in correspondence.

Italy

28. In Italy, the Department of Judicial Affairs of the Ministry of Justice managed all areas of international cooperation through a single web-based document

management software system called Calliope. That custom-made software was integrated with a certified email system and therefore could not be made available to other States. The system allowed for the automatic acquisition of incoming documents and annexes and for the registration of hard-copy documents, giving each document a different official registration number. After the official registration, the system delivered each incoming document to the person in charge of the proceedings. Over 90 per cent of outgoing documents were sent automatically using both certified and regular email systems. There were no specific system requirements. The system used commercially available software. Although the software was user-friendly and self-explanatory, magistrates and civil servants in the Department were trained on its use. While Calliope did not allow for the drafting of outgoing requests, it was possible to scan incoming documents and acquire electronic files, providing a paperless work environment. The system was equipped with monitoring and reporting functions for incoming and outgoing documents, which allowed the tracking of workflows and deadlines. For some proceedings, average reply times were periodically checked, and the system could give a timely view of proceedings, offering users all necessary information to enhance the quality of responses.

29. In 2018, the Department completed the development of a new, custom-made piece of software called Watson, based on the Calliope database. The new software supported the creation of statistical reports about international cooperation proceedings, distinguished by country, crime category, legal basis and type of activity.

Kenya

30. Kenya did not use any electronic tools or systems for processing and tracking requests for international cooperation. Technical assistance was needed to develop an electronic system to process and track requests.

Kuwait

31. Regarding the management of requests for mutual legal assistance, Kuwait followed rules and procedures in accordance with the Convention and bilateral cooperation agreements. In this regard, the use of tools and systems was limited to communication and coordination among national authorities, which were relevant to the process of receiving, executing and tracking requests in accordance with the Convention. Kuwait was working towards adopting e-government systems, which would ensure the use of electronic systems and tools for processing and tracking requests, as well as the implementation of the country's obligations under the Mechanism for the Review of Implementation of the United Nations Convention against Corruption in a cooperative and effective manner.

Mongolia

32. In accordance with the criminal procedure law and guidelines for the supervision of investigation proceedings approved in a Prosecutor General's decree in 2017, electronic systems were used for registering requests for international cooperation.

North Macedonia

33. The Ministry of the Interior of North Macedonia used a software programme called LURIS for the management of requests for international cooperation. The system allowed for the recording of all activities during the life cycle of requests. The software, a contribution from the Government of the Netherlands, facilitated reporting on international cooperation. LURIS was used at the Ministry of Justice as a separate, independent system, and its linkage with the Public Prosecutor's Office was being considered.

Pakistan

34. Pakistan made use of off-the-shelf software for processing and managing international cooperation requests.

Portugal

35. A software programme called ProGest was applicable to all areas of competence of the central authority of Portugal, both as requesting State and as requested State. The programme, which was custom-made using mostly open-source tools, could be made available to other States parties. Using the software, scanned copies of documents could be obtained, registered and distributed, responsible legal and administrative persons could be appointed and internal information and draft communications could be produced. Incoming requests were scanned, so that it was possible to work entirely on electronic (paperless) files. The system created statistics on incoming and outgoing requests and included a function to keep track of deadlines. Although the software was largely self-explanatory, several training sessions had been provided to users. While ProGest did not allow for the drafting of outgoing requests, other competent judicial authorities (i.e., the courts and prosecution services) used another programme, called Citius, which supported the drafting of requests. Although the two systems had not yet been linked, their integration to create a comprehensive case management system was under study. The use of the ProGest software had yielded improvements in the quality and timeliness of responses and the reporting on international cooperation, even though the system had only been installed about one year earlier. However, the final part of each cooperation case – the transmission – still had to be done on paper owing to the absence of a secure transmission mechanism.

Russian Federation

36. The competent authorities of the Russian Federation reported that they did not have any specialized software in the area of international cooperation and that they used general document and information management systems.

Tajikistan

37. In Tajikistan, the Prosecutor General's Office, as the competent authority in international cooperation in criminal matters, used an electronic document registration and record system that also covered requests for mutual legal assistance and extradition. The system registered incoming and outgoing requests and tracked their status in real time.

Thailand

38. In Thailand, the International Affairs Department of the Office of the Attorney General used commercially available software to manage incoming and outgoing requests.

Ukraine

39. Ukraine reported that the Ministry of Justice, which was responsible for international cooperation in criminal matters, kept records through a generic electronic journal of requests. Requests were classified by type of cooperation, the existence of international agreements and the offences involved. Technical assistance was required to introduce a unified electronic system at the Ministry of Justice, which would allow for the prompt execution of requests by the competent authorities, including reminders of deadlines and automatic downloads of documents.

United States of America

40. For more than 20 years, the central authority for mutual legal assistance in the United States of America, the Office of International Affairs of the Department of Justice, had operated software and hardware case management systems that permitted

tracking of incoming and outgoing requests from domestic and foreign prosecutors and following of the life cycle of requests for extradition and mutual legal assistance. The Office of International Affairs had created specialized teams to expedite the execution of requests by seeking court orders for the production of business and computer records and had coordinated with law enforcement agencies to provide other assistance. The Office of International Affairs had also augmented staff to assist federal prosecutors on extradition. Furthermore, the Office of International Affairs had implemented more streamlined processes for the review and execution of requests, reducing processing times and ensuring that communications with foreign partners were regular and responsive. Similar software systems operated in the Department of State for the internal management of extradition records. The United States Government also relied on extradition records maintained by the Department of Justice, which gave an overview of incoming requests, relevant crimes and next steps.

III. Common reasons for refusals and delays in mutual legal assistance requests related to corruption offences under the Convention, with a view to proposing innovative solutions

41. The present section contains a summary of the responses received from States parties in response to the request in the note verbale dated 17 December 2018 for information on best practices and challenges on common reasons for refusals and delays in mutual legal assistance requests related to corruption offences under the Convention, with a view to proposing innovative solutions. Information provided in the responses also addresses the recommendation of the seventh expert meeting, held in June 2018, that the Secretariat should continue its analytical work by seeking information from States parties, in particular in relation to the reasons for refusal of mutual legal assistance requests based on the Convention and related procedural timelines, in order to develop a road map for addressing related issues in the future.

42. A summary of the responses received from States parties to the note verbale dated 9 February 2018 requesting information on this topic is provided in the note by the Secretariat prepared for the seventh expert meeting (CAC/COSP/EG.1/2018/2).

43. Algeria indicated that there were difficulties in corruption matters with outgoing requests for banking information, the freezing of bank accounts and the seizure of property or financial assets. Countries rejected or delayed the execution of requests in order to avoid seizure and confiscation procedures without providing reasons. Some countries returned requests for minor defects, such as incomplete information that was not available to requesting authorities but could be obtained by the requested authorities. Additional reasons included unnecessary formalities that were not recognized by the Convention or international agreements. To avoid or limit such difficulties, the Algerian judicial authorities sought to execute incoming and outgoing requests, whenever possible, on the basis of the Convention, in addition to bilateral agreements. They also sought to meet any requested conditions that did not conflict with domestic law and were not provided for in bilateral agreements, such as signing and stamping all pages of judicial cooperation requests. Among the reported good practices was the acceptance of urgent requests through informal channels and starting their execution before official requests were received through formal channels.

44. The Plurinational State of Bolivia referred to delays and challenges in its outgoing requests, which could be addressed through better communication. Accordingly, it was suggested that requesting States be kept informed about the grounds for refusal or delay. Regarding incoming requests, the Plurinational State of Bolivia reported on its legal framework protecting the confidentiality of information.

45. China reported that common reasons for refusals of and delays in requests for mutual legal assistance related to corruption offences could be divided into substantive and procedural reasons. Substantive reasons included the following: the

requesting States were not States parties to the Convention; the criminal conduct did not meet the requirement of dual criminality or was related to military or political offences; and the provision of assistance would have an impact on the sovereignty, security or public interests of the requested States. An example of a procedural reason was when documents did not satisfy the formal requirements and further evidentiary documents were required. China thus suggested holding advance consultations with requested States, with a view to understanding the applicable laws and legal requirements.

46. Egypt reported that in the event that the requesting State was not a party to or had not signed mutual legal assistance agreements, requests for judicial assistance would be carried out on the basis of reciprocity or international comity.

47. El Salvador reported that the main reasons for delays in responding to requests for mutual legal assistance were the incompleteness of requests, lack of authentication of documents, submission to the wrong authority and the volume of requests. In addition, the domestic framework required the participation of the Supreme Court, the Ministry of Justice and Public Security and, subsequently, the Ministry of Foreign Affairs, which could affect the statute of limitations. Asset recovery cases were subject to substantial delays, as they were processed through central bodies for precautionary measures and for confiscation purposes. It was suggested that bilateral or international agreements be signed to facilitate the imposition of precautionary measures for confiscation purposes.

48. Guatemala reported the indirect submission of requests to the judiciary as a common reason for delays, owing to the fact that requests were transmitted to the Ministry of Foreign Affairs and the Attorney General and had to be transferred to the judiciary. The lack of direct transmission channels was a source of delay.

49. Iraq indicated that the most important reasons for rejecting mutual legal assistance requests were differences in legal systems and laws between States; not recognizing the Convention as a legal basis for mutual legal assistance; the tendency for States not to have concluded bilateral mutual legal assistance and asset recovery agreements; obstacles arising when requests were not formulated in a recognized language and had to be translated; and banking secrecy.

50. Kuwait indicated that its competent authorities were keen to respond to mutual legal assistance requests as soon as possible, as long as such requests met the rules and procedures provided for in the Convention and bilateral cooperation agreements. The only reason for refusals or delays would be the failure of requests to meet the necessary conditions or content requirements of the Convention.

51. Mongolia reported that the absence of dual criminality and lack of international cooperation agreements were common reasons for refusals of mutual legal assistance.

52. Pakistan listed complex domestic legal frameworks and communication through diplomatic channels as common grounds for refusals of and delays in mutual legal assistance. To avoid unnecessary delays, it was suggested that central authorities communicate directly with one another and that a dedicated unit be created in the secretariat of UNODC to facilitate the execution of requests under the Convention.

53. Portugal reported that there were no known cases in which assistance had been refused. Often very long delays resulted in a no-answer situation. In some specific cases, assistance could not be provided, allegedly for reasons of amnesty or immunity.

54. The Russian Federation reported that reasons for delays in responding to mutual legal assistance requests related to the incompleteness of requests, insufficient supporting materials and a lack of clarity of submitted information. Examples included insufficient information to conclude that assets subject to a freezing order were proceeds of crimes and insufficient information to locate assets. Outgoing requests were delayed or denied owing to differences in legislation and the absence of dual criminality. The execution of requests was also delayed because of the lack of an official in the requested State to process the request or because of the citizenship

of suspects in the requested State. Furthermore, even when a request was submitted on time, delays in executing requests led to the expiration of applicable statutes of limitation and subsequent refusals on that ground. Requests were also denied because some States required that the owners of assets subject to freezing orders be notified and provided an opportunity to appeal such orders and that interested parties be afforded the right to appeal decisions on mutual legal assistance. In addition, requests were denied when suspects with assets located in one European Union member State had refugee status in another European Union member State or when suspects no longer owned the assets in question.

55. Saudi Arabia reported that reasons for refusal or delay in implementing mutual legal assistance requests included: the absence of sufficient detail to locate accused persons, which led to delays; limited channels of direct communication with requesting States; incomplete data, absence of required attachments or unclear contents of requests, especially photocopies; and the need for additional time to execute requests requiring multiple procedures. To avoid these obstacles, it was suggested that States: ensure accuracy, objectivity and completeness when recording defendants' data and information; provide contact information of the requesting party through various channels, especially email and telephone numbers; formulate specific and direct requests; increase the number of bilateral agreements between countries; and make efforts to reduce requirements and complexities in internal regulations that were not recognized in international agreements.

56. Tajikistan reported that the absence of dual criminality and the possession by suspects of refugee status or citizenship in the requested States were common reasons why its outgoing requests for mutual legal assistance were denied.

57. Thailand reported that common reasons for refusals and delays included: the submission of requests through the wrong channels; the submission of requests related to civil matters to the central authority, which could not honour such requests; incomplete information; requests not being sent by the central authorities of requesting States; and missing translations. However, in general, the central authority in Thailand did not refuse requests and allowed requesting States to provide additional information or submit requests through the proper channels. To avoid delays, it was suggested that requesting States could consult with the central authority, if possible, before submitting requests, could consider submitting draft requests in advance and could consider contacting the relevant authorities informally to expedite the execution of requests.

58. The United States reported that many factors determined whether and how quickly it could respond to requests for assistance. For instance, a factually substantiated request for financial records was usually addressed in a few months. Requests for electronic evidence were also common but could take longer to execute if the results of the production order were voluminous and in a foreign language. Electronic evidence had to be reviewed by law enforcement authorities to ensure that the evidence produced complied with the parameters of the court order granting the search and seizure and that irrelevant materials were not transmitted. Notably, many requests involving seizure, restraint and confiscation took much longer to complete, as the United States had to identify and gather evidence of the assets and observe due process requirements under domestic law. When a challenge to the execution of a restraint or confiscation request was made, resolution of the matter could take time, given United States legal requirements of due process, privacy and other constitutional and legal protections in the course of international cooperation.

IV. International cooperation in civil and administrative proceedings related to cases of corruption and possible measures to protect the confidentiality of the information provided in the context of assistance in criminal, civil and administrative measures

59. Information on international cooperation in civil and administrative proceedings related to cases of corruption and possible measures to protect the confidentiality of the information provided in the context of assistance in criminal, civil and administrative measures is provided in an addendum to the present document (CAC/COSP/2019/7/Add.1).

V. Use of the Convention as a legal basis for mutual legal assistance, unless a bilateral and regional arrangement applies, and, where appropriate and consistent with domestic legal systems, in relation to civil and administrative proceedings and asset recovery

60. The present section contains a summary of the responses received from States parties in response to the request in the note verbale dated 17 December 2018 for information, including statistics and cases, on the use of the Convention as a legal basis for mutual legal assistance and, where appropriate and consistent with domestic legal systems, in relation to civil and administrative proceedings.

61. A summary of the responses received from States parties to the note verbale dated 9 February 2018, requesting information on this topic, is provided in the note by the Secretariat prepared for the seventh expert meeting (CAC/COSP/EG.1/2018/2).

62. Algeria, Bolivia (Plurinational State of), China, Iraq, Italy, Kuwait, North Macedonia, Pakistan, Romania, the Russian Federation, Saudi Arabia, Ukraine and the United States reported that the Convention could be used as a legal basis for mutual legal assistance.

63. Algeria reported that in 2016, its authorities had sent to foreign judicial authorities 10 requests for international judicial cooperation, of which 4 were based on the Convention against Corruption, 1 was based on the United Nations Convention against Transnational Organized Crime and 5 were based on bilateral judicial cooperation agreements.

64. China reported that since 2013, there had been 13 cases in which requesting States had used the Convention against Corruption as a legal basis for submitting requests for mutual legal assistance (2 in 2013, 1 in 2014, 2 in 2015, 3 in 2016, 3 in 2017 and 2 in 2018); and there had been 6 cases in which China had used the Convention as a basis for submitting to foreign States requests for mutual legal assistance (1 in 2013, 1 in 2014, 3 in 2017 and 1 in 2018).

65. Egypt reported that the Public Prosecution had executed mutual legal assistance requests from different countries that were based on the Convention or bilateral agreements concluded between Egypt and another State.

66. Iraq indicated that the Convention was the legal basis for mutual legal assistance requests, in accordance with national legislation.

67. Italy reported that in 2018 there had been 19 new proceedings based on the Convention, 10 of which were letters rogatory issued by Italian judicial authorities and 9 of which were letters rogatory issued by foreign judicial authorities.

68. Kenya stated that it had made 25 mutual legal assistance requests in the previous three years and had received 2 mutual legal assistance requests based on the Convention within the same period.

69. Kuwait indicated that the Convention could be used as a legal basis, including in civil and administrative procedures, consistent with the national legislation.

70. North Macedonia reported that, in the International Legal Assistance Department of the Ministry of Justice, since the launching of its electronic case management system in January 2018, one case had been dealt with using the Convention as a legal basis for mutual legal assistance.

71. Pakistan indicated that, since its ratification of the Convention, the National Accountability Bureau had received 74 incoming mutual legal assistance requests and provided information in response to 31 requests through direct application of the Convention.

72. Portugal reported that the main prosecution service for the investigation of corruption had made requests in one case in 2014, in five cases in 2015, in six cases in 2016, in three cases in 2017 and in two cases in 2018. Additionally, the authorities highlighted a case addressed to Portugal, based on the Convention, that was extracted from a civil proceeding, which raised difficulties in the identification of the competent national authority to process its execution.

73. Romania reported that, according to the National Anti-Corruption Directorate, in 2018 it had formulated 11 mutual legal assistance requests and had received 4 mutual legal assistance requests based on the Convention.

74. Saudi Arabia indicated that it was committed to applying the provisions of the Convention directly in the absence of a treaty on mutual legal assistance, in accordance with national legal and procedural requirements. Priority was given to executing requests on the basis of multilateral agreements, and then in accordance with the principle of reciprocity.

75. Thailand reported that it did not use the Convention as a legal basis but required bilateral or multilateral treaties to provide mutual legal assistance in criminal matters. In the absence of such treaties, reciprocity was required.

76. Ukraine reported that the Ministry of Justice had received two mutual legal assistance requests based on the Convention, in 2014 and 2017. In practice, there had been no examples of the use of the Convention as a legal basis for international cooperation in civil or administrative proceedings.

77. The United States reported that since 2004 there had been more than 1,400 incoming and outgoing requests for extradition and mutual legal assistance in corruption-related matters. Overall, there had been at least 177 requests for mutual legal assistance and at least 28 extradition requests citing the Convention as a legal basis. Of those 177 requests, 97 were incoming and 80 were outgoing. Furthermore, since the Convention had entered into force, the United States had used the Convention more than 200 times as a basis for cooperation with more than 70 different States.

VI. Challenges and good practices in international cooperation and other topics outlined in the Conference resolutions and the recommendations of the expert meetings

78. The present section contains a summary of the information received from States parties in response to the request in the note verbale dated 17 December 2018 on practical challenges arising in the work of their central authorities responsible for requests under the Convention against Corruption.

79. A summary of the responses received from States parties to the note verbale dated 9 February 2018, requesting information on practical challenges arising in the

work of central authorities responsible for requests under the Convention against Corruption, is provided in the note by the Secretariat prepared for the seventh expert meeting (CAC/COSP/EG.1/2018/2).

80. The information received from States on challenges and good practices in international cooperation echoed to some extent the information provided with regard to the common reasons for refusals and delays in mutual legal assistance requests summarized in section III above.

81. Algeria reported on practical challenges in handling international cooperation requests. Among the difficulties faced by the Algerian central authority (the Ministry of Justice) were: delayed responses to outgoing requests; incomplete information provided in foreign requests, which prevented the identification of the national judicial authority that could respond to the requests; and difficulties in tracking international cooperation requests with foreign judicial authorities owing to the absence of information on liaison contact points. With regard to good practices in this area, Algeria's response is summarized in section III above.

82. The Plurinational State of Bolivia reported on challenges in international cooperation arising when central authorities had to communicate to requesting States grounds for refusal, including grounds recognized under the Convention or domestic law. Lack of compliance with international instruments and insufficient detail about the location where requests should be executed presented further challenges. Outgoing requests were frequently denied without providing adequate reasons for refusal. Another obstacle was lack of communication regarding the status of requests, which affected the possibility of resolving issues and facilitating assistance.

83. China reported both challenges and good practices in international cooperation. Challenges in the area of extradition related to differences in legal systems pertaining to matters such as conviction, punishment, statutes of limitation and terms of reference of competent national authorities. Furthermore, some States could not use the Convention as a legal basis for extradition and were not proactive in concluding extradition treaties with other States to implement the Convention. The ineffective application of the Convention presented a further challenge because in practice States using the Convention as a legal basis for extradition could not fully make use of its provisions. Thus, the visibility of the Convention needed to be enhanced through awareness-raising training. In the area of mutual legal assistance, challenges related to the different information requirements of States, which led to time-consuming and inefficient processes, as well as confidentiality requirements that hindered the provision of comprehensive information by requested States. Accordingly, China suggested strengthening communication and coordination on international cooperation and expediting the process, including by developing templates on extradition and mutual legal assistance. Regarding good practices in international cooperation, China reported that these included the establishment of diverse channels and platforms for international cooperation, such as concluding treaties on extradition and mutual legal assistance; the establishment of inter-agency coordination mechanisms; and the maintenance of close communication with relevant States through bilateral consultation mechanisms.

84. Colombia referred to the lack of central authorities' contact details as a common challenge and highlighted the need for updated international cooperation tools, such as the directory of competent national authorities. In addition, the length of procedures for obtaining responses from requested States hindered investigations conducted in requesting States. Regarding good practices, Colombia highlighted the support of diplomatic representations in facilitating follow-up to international cooperation requests.

85. Egypt reported that the process of recovering assets through international cooperation had encountered some obstacles, such as requiring requesting States to identify the location of assets and proving the link between the assets and the offence. Furthermore, some States did not disclose the amount of assets belonging to persons

accused of corruption offences that had been administratively frozen or information concerning persons under investigation for acts of corruption.

86. El Salvador noted that domestic procedures for processing international cooperation requests needed to be streamlined. In some cases, the Supreme Court of Justice required a constitutionality assessment in order to determine if a request was in conformity with the national legal framework. The Ministry of Justice and Public Security acted as an intermediary between the Supreme Court of Justice and the Ministry of Foreign Affairs, which affected the expeditious treatment of requests.

87. Guatemala referred to practical challenges arising from the need to address requests through several ministries before being considered by the judiciary, although this requirement was also considered an important guarantee of due process. Guatemala highlighted the need to respect the domestic legal framework and the need for cooperation among national authorities tasked with the execution of requests.

88. Iraq indicated that challenges in international cooperation included: weak cooperation in tracking corruption-related funds; insufficient information provided by States regarding the financial and commercial activity of accused persons; refusals by States to conclude bilateral agreements; the introduction of unrelated issues, sometimes political in nature, in negotiations regarding asset recovery; and the absence of guidance by some States on the legal requirements for mutual legal assistance.

89. Italy reported that in some cases regarding service of summonses, foreign requests were received too close to the date of the hearing, thus affecting the ability to execute the request.

90. Kenya listed as main challenges: differences in legal systems; central authorities' lack of investigative capacities, specialized skills and resources; lack of electronic tools to process and manage requests; the use of diplomatic channels and bureaucratic systems, which led to delays; and incomplete factual and legal information in mutual legal assistance requests. Further challenges of the central authorities included insufficient mandates to execute requests; delays in servicing incoming requests; destruction of evidence; and the slowness of the process of preserving assets located in other jurisdictions.

91. In addition, Kenya reported that good practices in international cooperation included: the establishment and designation of a single central authority to facilitate international cooperation in mutual legal assistance and extradition, for which Kenya had designated the Office of the Attorney General; adequate resources of central authorities, including specialized and well-trained legal experts; the ability of central authorities to communicate, transmit and receive requests directly among each other; measures to maintain the confidentiality of requests; and the empowerment of central authorities to execute or coordinate the execution of requests. It was suggested that central authorities should ensure that international cooperation requests from domestic authorities complied with the terms of applicable laws, treaties and conventions before transmitting such requests. Central authorities should not inhibit other forms of cooperation. Informal consultations prior to the submission of requests were encouraged so as to avoid unnecessary delays and obtain guidance in drafting requests. Other good practices included bilateral agreements on direct cooperation in criminal investigations and civil recovery procedures; regional arrangements to enhance international cooperation and asset recovery capabilities; inter-institutional cooperation and joint training sessions; and the introduction of measures to improve transparency, communication and information-sharing among central and competent authorities.

92. Kuwait reported that a primary challenge was the failure to fulfil required conditions and provisions of the Convention regarding the format and content of requests, which led to delays or refusals. Therefore, the competent authorities highlighted the need for a guidance paper on international cooperation under the framework of the Convention, which could include general and practical models and

guiding principles that States could consult when receiving and responding to requests relevant to the Convention. Regarding the methods and practices of national authorities, Kuwait reported that its central authority examined incoming mutual legal assistance requests to ensure that they complied with the necessary conditions, information and data requirements, and then referred the requests to the competent national authorities (usually the public prosecution) for implementation as soon as possible, taking into consideration domestic principles, laws and procedures. The Ministry of Justice was the central authority for mutual legal assistance requests in accordance with the Convention. Pursuant to national law, upon receipt of a corruption-related request, the central authority was required to notify the General Anti-Corruption Authority to take the necessary action, in coordination with other authorities and in implementation of the Convention.

93. Mongolia reported that challenges related to a lack of agreements with so-called tax havens and countries to which criminal assets were transferred. Furthermore, under the criminal procedure law, seizure was possible only after the court had established a person's guilt, which often led to difficulties in recovering stolen assets from foreign countries that required proof of a valid court judgment.

94. Pakistan listed as main challenges differences in legal systems; difficulties in obtaining information in response to requests from safe havens for illicit flows; a reluctance to provide information because of data privacy concerns; the absence of dual criminality; insufficient criminalization of predicate offences to money-laundering; and refusal or inability to provide assistance where requests contained minor deficiencies. Moreover, the use of diplomatic channels was considered a source of delay, in addition to the absence of international cooperation agreements that could expedite information-sharing. In addition, Pakistan referred to the lack of direct interaction among central authorities, the lack of practical guidelines to clarify national legal requirements and delays in receiving inputs from national authorities to respond to requests. Accordingly, it was suggested that central authorities communicate directly with one another.

95. The competent authorities of Portugal underscored the significance of previous contacts between issuing and executing authorities in minimizing delays in the execution of international cooperation requests. Additionally, Portugal reported that its central authority did not have competence in concrete cases. According to domestic law, the role of the central authority was to transmit requests, and it was up to the judicial authorities, including the prosecution services, to issue or execute requests. Practical challenges could be diminished through the creation of solid practitioner networks, as well as rigorous training in the use of available instruments.

96. The Russian Federation reported that differences in legal systems presented a challenge for the operations of central authorities and highlighted incomplete requests, in both form and substance, as a challenge. The average time to execute foreign requests for mutual legal assistance was 3–6 months and depended on the distance between the federal capital city and the territory where the request was to be executed, the volume of information requested and the completeness of requests. According to figures from the Prosecutor General's Office, in 2018, 61 foreign requests pertaining to corruption cases had been processed, 55 of which were executed; and 66 requests had been sent to other States, 48 of which were executed.

97. The Russian Federation also reported that the domestic legislation regulating the procedure for sending requests to trace and freeze assets of criminal origin and for subsequent cooperation to return such assets was in need of improvement. Cooperation with certain offshore jurisdictions also posed a challenge and the existing multilateral treaties did not sufficiently address this matter. It was therefore suggested that concluding bilateral treaties with offshore jurisdictions on the tracing, freezing, seizure and confiscation of assets constituting proceeds of crime and sharing of such confiscated assets would increase the effectiveness of international cooperation.

98. Saudi Arabia established a specialized department for international cooperation in the Ministry of the Interior responsible for extradition and mutual legal assistance.

In recognition of the importance of integrated work with the international community, the country's central authority for mutual legal assistance, the Standing Committee for Legal Assistance Requests, comprised different governmental bodies that could be called upon when specific competence or experience was required. Practical challenges in international cooperation included conditions in the legislation of some States that were not recognized in international cooperation agreements and prevented or delayed the execution of requests, challenges related to bank secrecy and inaccurate translations of requests. In addition, some requests were sent to the Ministry of Justice rather than the central authority and had to be forwarded accordingly. To address these issues, it was suggested that qualified translators be used and that the competent central authority be verified before sending requests. As a member of the Group of 20, Saudi Arabia had provided practical information in the form of a guide to enable requesting States to seek judicial assistance on asset recovery and specific steps that foreign judicial authorities should follow.

99. Thailand referred to the small number of requests received under the Convention. As a result, the authorities responsible for the execution of requests might not be familiar with the Convention and the necessary procedures to execute requests. Thailand also referred to the challenges in responding to requests for assistance in civil or administrative matters.

100. Ukraine reported that in practice there had been no difficulties in processing requests on the basis of the Convention. Issues in the execution of requests, such as incomplete information, were usually resolved through direct communication with foreign authorities. To ensure full and prompt execution, it was preferred that requests and supporting documents be translated before submission.

101. The United States suggested that countries establish clearly identified central authorities to facilitate international cooperation in criminal matters through mutual legal assistance, in order to concentrate experience and resources, reduce bureaucracy and overlapping authority and ensure the visibility of and accountability for incoming and outgoing requests. Where countries participated in regional information-sharing platforms, it was considered a good practice to name national central authorities as contact points. Central authorities needed to be adequately resourced and staffed with specialized legal experts and experienced practitioners. In order to rapidly seek and provide assistance, build trust, clarify complex legal issues, overcome legal barriers to cooperation and discuss the status of pending requests, direct communication between central authorities, including by email and telephone, was essential. For more complicated requests, a good practice was to consider sending draft requests in advance so that receiving central authorities could begin reviewing them. The use of diplomatic channels where central authorities could not transmit and receive requests directly could delay or prevent effective investigations and the collection of evidence. Central authorities should ensure that requests were kept confidential, to the degree possible, to protect the integrity of investigations and prosecutions. In addition, central authorities should be empowered by their Governments to execute requests directly, within their competence, or to coordinate the execution of requests with other competent entities. Another good practice was to review incoming and outgoing requests to ensure their quality and compliance with domestic laws and treaties before transmission. Finally, central authorities should discern when mutual legal assistance was more appropriate than other forms of cooperation and should facilitate assistance without inhibiting informal cooperation.

VII. Considerations relating to how requests for mutual legal assistance of a *de minimis* nature should be handled

102. A summary of the responses received from States parties to the request in the note verbale dated 9 February 2018 for information on considerations relating to how requests for mutual legal assistance of a *de minimis* nature should be handled was provided in the note by the Secretariat prepared for the seventh expert meeting

(CAC/COSP/EG.1/2018/2). No new responses have been received from States parties.

VIII. Online directory of competent national authorities

103. The seventh expert meeting encouraged States parties to regularly update the information contained in the directory of competent national authorities and recommended that States parties that had not yet done so should consider supplying information for inclusion in the directory of competent national authorities (available at www.unodc.org/compauth_uncac/en/index.html).

104. Further to that recommendation, the Secretariat received some information and continued to update the online directory.

105. As of September 2019, the directory contained information on the following:

(a) Central authorities for mutual legal assistance in 129 States parties;

(b) Prevention authorities in 117 States parties;

(c) Asset recovery focal points in 81 States parties;

(d) Central authorities on extradition in 24 States parties;

(e) Focal points for international cooperation in the use of civil and administrative proceedings in 32 States parties.

106. The secretariat has finalized the data migration of the online directory of competent national authorities under the Convention to the directory of competent national authorities in the Sharing Electronic Resources and Laws on Crime (SHERLOC) portal. States parties can now enjoy a single outlet of information through SHERLOC regarding various types of competent national authorities. Furthermore, the secretariat continues to enhance information-sharing between the Tools and Resources for Anti-Corruption Knowledge (TRACK) system and the SHERLOC system.

IX. Technical assistance and other activities relevant to international cooperation under the United Nations Convention against Corruption

107. UNODC continued to provide tailored capacity-building and advisory services at the global, regional and national levels and to participate in meetings and conferences aimed at coordinating international cooperation among States parties.

108. Several global and regional programmes, in particular the global programme to prevent and combat corruption through effective implementation of the United Nations Convention against Corruption in support of Sustainable Development Goal 16, enabled UNODC to provide professional guidance, advice and expertise at the request of States parties. UNODC field-based anti-corruption advisers played an important role in providing rapidly deployable professional expertise for the on-site delivery of guidance. UNODC deployed advisers with regional responsibilities for Central America and the Caribbean, the Pacific, South-East Asia, South Asia, West and Central Africa and East Africa, as well as a senior global adviser based in Vienna. The advisers worked under the guidance of experts based at UNODC headquarters. The close cooperation with other technical assistance providers continued to be of benefit to this work.

109. UNODC continued to work with States parties in South-East Asia and East Africa to implement the priority recommendations identified in the Implementation Review Mechanism through regional platforms established to fast-track the implementation of the Convention. An additional platform was created in South America and Mexico in May 2019 and a further platform is being created in Southern

Africa. All the platforms consider international cooperation as one of the priority areas where assistance is needed to accelerate the implementation of the Convention.

110. UNODC organized several workshops at the regional or subregional level. The participants considered, among other things, the capacities of the relevant States, opportunities for peer learning, and regional and legal factors that could have an impact on international cooperation. For example, a training session on corruption investigations and regional cooperation among countries in the Greater Mekong area (Cambodia, the Lao People's Democratic Republic, Myanmar, Thailand and Viet Nam) was held in Hanoi in March 2018. The training was aimed at enhancing international cooperation in corruption cases among anti-corruption agencies, prosecutors' offices and financial intelligence units in the Greater Mekong area.

111. UNODC organized a regional workshop on international cooperation in financial investigations of corruption and money-laundering offences for law enforcement agencies, prosecutors and financial intelligence units in South Asia and delivered a training programme on financial investigations and mutual legal assistance for experts from South Asia and South-East Asia in Singapore in May 2018.

112. UNODC also delivered three workshops for anti-corruption and law enforcement agencies on international cooperation in criminal matters and financial investigations in corruption and money-laundering cases. The first workshop, held in Colombo in August 2018, brought together law enforcement agencies from Sri Lanka and Maldives to foster bilateral cooperation. The second workshop, held in Bangkok in September 2018, brought together law enforcement agencies from Bangladesh, Myanmar, Nepal and Thailand. The third workshop, held in New Delhi in November 2018, was aimed at enhancing the operational skills and effectiveness of law enforcement agencies in South Asian countries and fostering cooperation in investigations, prosecutions and court proceedings in complex corruption cases. In addition, five national workshops were held – in Bangladesh, Bhutan, Maldives, Nepal and Timor-Leste – to enhance the capacity of anti-corruption and law enforcement agencies in the investigation and prosecution of complex corruption cases involving financial transactions.

113. In December 2018, UNODC provided legislative advice to the Attorney-General's Office of Ghana in relation to that country's extradition bill, taking into account recommendations stemming from the Implementation Review Mechanism.

114. UNODC, in collaboration with the Stolen Asset Recovery initiative, delivered a three-day workshop in Addis Ababa in February 2019 concerning financial investigations and international cooperation. The workshop was aimed at improving the capacity of practitioners within the Federal Police and the Attorney General's Office.

115. UNODC facilitated negotiations between Italy and Mali on bilateral treaties related to mutual legal assistance, extradition and the transfer of sentenced persons, and, in July 2019, facilitated meetings in Rome on the establishment of communication channels between Italian and Malian judicial authorities.

116. In addition, UNODC participated in meetings and conferences on coordinating international cooperation, including meetings of the Group of 20 Anti-Corruption Working Group.

117. UNODC continued to develop and disseminate guides, handbooks and other tools. Over 25 publications were made available online and regularly reprinted and distributed. A handbook on international cooperation for the investigation of corruption cases in South-East Asia was produced and launched at a regional event on international cooperation held in Bangkok in March 2019. The handbook provides information on regulations and procedures for mutual legal assistance requests in South-East Asian countries. Using as a basis its work with numerous countries, UNODC plans to develop a handbook on investigating and prosecuting corruption offences, which will refer to, among other things, aspects of international cooperation.

118. Previously reported information on this topic was made available in the note by the Secretariat prepared for the seventh expert meeting (CAC/COSP/EG.1/2018/2).

X. Conclusions and recommendations

119. While the Secretariat continues to collect additional information from States parties pursuant to the mandates contained in Conference resolution 7/1 and the recommendations of the expert meeting, at the time of the preparation of the present document, the majority of States parties had not yet provided the information requested.

120. The Conference may wish to encourage States parties to continue to provide to the Secretariat information on challenges and good practices in international cooperation and other topics outlined in the resolutions of the Conference and the recommendations of the expert meetings, including information on legal requirements for international cooperation, reasons for refusal of international cooperation requests based on the Convention, as well as statistical information and examples relevant to international cooperation in transnational corruption cases, with a view to the Secretariat continuing its analytical work with regard to the implementation of chapter IV of the Convention (International cooperation).

121. The Conference may wish to encourage States parties to continue their efforts to proactively cooperate in matters related to international cooperation under the Convention and to proactively share information with each other on transnational corruption cases.

122. The Conference may wish to encourage States parties to continue to promote formal and informal channels of cooperation and to establish efficient and effective communication channels, including by actively participating in practitioners' networks.

123. The Conference may wish to encourage States parties to consider ways to enhance direct communication between central and other competent authorities in charge of international cooperation, including by ensuring that the contact information and requirements relating to incoming requests for mutual legal assistance are made available and regularly updated and that the information contained in the directory of competent national authorities is kept up to date.

124. The Conference may wish to encourage States parties to simplify relevant procedures, in accordance with their domestic law, and to take appropriate steps to ensure that dual criminality is not an obstacle to mutual legal assistance in cases where the underlying conduct is not criminalized in both the requesting and the requested States parties.

125. The Conference may wish to consider requesting the Secretariat to continue its efforts to enhance expert participation in the open-ended intergovernmental expert meetings to enhance international cooperation and to continue organizing expert panel discussions on matters pertaining to the mandates of the expert meeting.

126. The Conference may wish to consider requesting the Secretariat to continue its efforts to ensure synergies between the work of the open-ended intergovernmental expert meetings to enhance international cooperation under the United Nations Convention against Corruption and the work of the Working Group on International Cooperation established by the Conference of the Parties to the United Nations Convention against Transnational Organized Crime.

127. The Conference may also wish to provide further guidance to the Secretariat on whether certain issues highlighted in the present document, as well as other topics related to international cooperation, deserve additional consideration.