United Nations CAC/COSP/IRG/2019/3

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

Distr.: General
21 March 2019

Original: English

Implementation Review Group
Tenth session
Vienna, 27–29 May 2019
Item 2 of the provisional agenda*
Review of implementation of the United Nations Convention against Corruption

Set of non-binding recommendations and conclusions based on lessons learned regarding the implementation of chapters III and IV of the United Nations Convention against Corruption

Note by the Secretariat

Summary

In its resolution 6/1, the Conference of the States Parties to the United Nations Convention against Corruption requested the Implementation Review Group to analyse the information on successes, good practices, challenges, observations and technical assistance needs emanating from the country reviews of the first review cycle, considering the thematic implementation report prepared in accordance with the terms of reference, and to submit a set of non-binding recommendations and conclusions based on lessons learned regarding the implementation of chapters III and IV of the Convention to the Conference for its consideration and approval at its seventh session. In its decision 7/1, the Conference took note of the set of non-binding recommendations and conclusions, as reviewed by the Implementation Review Group at its resumed eighth session. The updated set of non-binding recommendations and conclusions was circulated in a conference room paper for the purposes of inviting additional comments from States parties and was brought to the attention of States parties for their further consideration through a note verbale. The set of non-binding recommendations and conclusions, as contained in the present document, is being brought to the attention of States parties for their further consideration. It takes into account the comments received from States parties.

* CAC/COSP/IRG/2019/1.

V.19-01440 (E) 210319 220319

I. Introduction

1. In paragraph 11 of its resolution 6/1, the Conference of the States Parties to the United Nations Convention against Corruption requested the Implementation Review Group to analyse the information on successes, good practices, challenges, observations and technical assistance needs emanating from the country reviews of the first review cycle, considering the thematic implementation report prepared in accordance with paragraph 35 of the terms of reference of the Mechanism for the Review of Implementation of the Convention, and to submit a set of non-binding recommendations and conclusions based on lessons learned regarding the implementation of chapters III and IV of the Convention to the Conference for its consideration and approval at its seventh session.

2. On the basis of that mandate, the Secretariat submitted the set of non-binding recommendations and conclusions, as contained in document CAC/COSP/2017/5, to the Conference for its consideration and approval at its seventh session. In its decision 7/1, the Conference took note of the set of non-binding recommendations and conclusions, as reviewed by the Implementation Review Group at its resumed eighth session.

3. The set of non-binding recommendations and conclusions, incorporating the comments received, was subsequently made available to the Group at its second resumed ninth session in document CAC/COSP/IRG/2018/9, where it was in principle approved for transmission to the Conference, on the understanding that the document would be further reviewed and amended, as necessary, in the light of newly completed country reviews and again be circulated to States parties for further comment and made available to the Group at its tenth session. At the second resumed ninth session, States parties were also encouraged to share their comments as soon as possible.

4. Accordingly, the updated set of non-binding recommendations and conclusions was circulated in a conference room paper (CAC/COSP/IRG/2019/CRP.3), for the purpose of inviting additional comments from States parties, and was brought to the attention of States parties for their further consideration through a note verbale, which was circulated to States parties on 7 January 2019.

5. The set of non-binding recommendations and conclusions, as contained in the present document, is based on 167 completed country reviews under the first review cycle, including 18 reviews that were completed since the previous version was approved in principle by the Group. The document reflects responses received to the aforementioned note verbale from the following States parties: Algeria, Bolivia (Plurinational State of), Brunei Darussalam, Chile, Czechia, Ecuador, Guatemala, Iran (Islamic Republic of), Mauritius, Mexico, Peru, Romania, Russian Federation, Slovakia, Switzerland, Trinidad and Tobago and United States of America. Also reflected in the present document are comments received in response to the secretariat's prior note verbale inviting comments (dated 29 June 2017), from the following States parties: Brunei Darussalam, China, Ecuador, Germany, Guatemala, Hungary, Israel, Myanmar, Pakistan, Panama, Paraguay, Poland, Romania, Russian Federation, Serbia, Switzerland and United States.

6. The set of non-binding recommendations and conclusions, as contained in the present document, is being brought to the attention of States parties for their further consideration. It takes into account the comments received from States parties.

7. Section II below provides a summary of the additional comments received from States parties with regard to the non-binding recommendations and conclusions, while section III presents a further updated set of the non-binding recommendations issued and good practices identified regarding the implementation of chapters III and IV of the Convention, reflecting comments from States parties proposing concrete amendments.

8. While the recommendations and conclusions take into account the levels of legal obligation of the relevant provisions of the Convention, it must be understood that the

measures described are non-binding in nature and provide a mere summary of the main observations, recommendations, conclusions and good practices identified in the country reviews under the first cycle. As such, the measures do not present additional obligations for States parties, but may provide useful information on common challenges and good practices in the implementation of chapters III and IV of the Convention.

II. Summary of comments received

9. Overall, both in the written submissions and during the deliberations at previous sessions of the Group, States parties welcomed the set of non-binding recommendations and conclusions, bearing in mind that it presented practical options for policymakers to consider when reviewing or adopting national anti-corruption measures in line with the Convention, consistent with the fundamental principles of their legal systems and taking into account national priorities.

10. In their responses, four States parties indicated that they had no further comments on the set of non-binding recommendations and conclusions, in view of the fact that the national legal system was already in line with the measures described in the document.

11. Similarly, another State party expressed support for the set of non-binding recommendations and conclusions and reported that the country was compliant with most of the non-binding recommendations proposed therein. The State highlighted that the creation of a national crime register, as described under the general and cross-cutting recommendations, would help to maintain statistical data on investigations, prosecutions and adjudications that would be helpful in research studies and for intelligence purposes. Such a register could be implemented in collaboration with all stakeholders, especially in the context of a legislative and institutional review. The State further noted that the current legislation did not adequately cover the bribery of foreign public officials, as described below in section III, table 1, regarding “Bribery offences and trading in influence (arts. 15, 16, 18 and 21)”. A review of the national legal framework was expected to address this issue. Furthermore, as regards non-material benefits and payments, the scope of the national framework should be expanded to include all types of favours, including sexual favours. Regarding specialized authorities, the national experience suggested the need for a specialized court or division to handle corruption and money-laundering cases promptly. Moreover, it was important to ensure that legislative barriers were removed to enable swift sharing of information and intelligence, and a review of the national legal framework was expected to address this issue. Finally, effectiveness in the fight against corruption and money-laundering could be enhanced by having all related functions under one roof, such as investigations, prosecutions, attachment, asset seizure and confiscation, asset recovery and procedures for mutual legal assistance. A review of the national legal framework was expected to address this issue.

12. Another State party also welcomed the set of non-binding recommendations and conclusions, as it considered that they promoted in an appropriate manner the observance of the spirit of chapters III and IV of the Convention. The non-binding recommendations and conclusions covered in a general manner the essential articles of chapters III and IV of the Convention and highlighted good practices that could be adopted by States parties to further implement the Convention. Likewise, the non-binding recommendations and conclusions were in accordance with most of the recommendations that had been issued in the country’s first cycle review. These observations had been generalized to make them more universally applicable to all States parties reviewed in the first cycle to date. The State party further suggested including observations regarding the protection of reporting persons (art. 33) and embezzlement of property in the private sector (art. 22) in the document, as these were articles regarding which the State party had itself received recommendations.

13. One State party reported on measures it had taken to implement the non-binding recommendations and conclusions. On the subject of bribery offences and trading in influence (arts. 15, 16, 18 and 21), a recent amendment to the penal code regarding corruption crimes had brought the legislation more into line with the Convention, by increasing punishments for most existing crimes, improving their description and creating new crimes. For example, in the description of active and passive domestic bribery, undue benefits were no longer restricted to economic benefits. This legal amendment unified the domestic bribery offences with those on the bribery of foreign public officials, which already included a broader range of benefits than purely economic ones. Furthermore, a new provision in the penal code provided for the punishment of public officials who, using their position, requested or accepted benefits of any nature to which they were not entitled, either for themselves or for other persons. This was known as "functional bribery", since the crime did not require compensation of the public official, as the mere receipt of a benefit to which the official was not entitled because of his or her position sufficed. Likewise, the offence of corruption between individuals, criminalized in the country's penal code, was not linked to benefits of an economic or any other nature. All these changes were made in accordance with the observations and good practices referred to in the set of non-binding recommendations and conclusions under the relevant articles. Regarding the protection of witnesses, experts and victims (art. 32), it was reported that the recommendation could indeed be implemented nationally. Both the Constitution and the domestic law assigned the prosecution the function of adopting measures to protect victims and witnesses, and a fund had been established to finance benefits granted to such persons. However, there was no regulation in the country that entitled witnesses, experts and victims to specific public services or benefits once criminal proceedings had concluded, and it was suggested that a further regulation on this could be useful, with a view to allowing victims and witnesses to re-establish their means of living after the proceedings had terminated. The grant of civil compensation to victims of crime would further complement the protections granted, to provide resources allowing victims to recommence their lives and to create an incentive for their cooperation in criminal proceedings. Regarding the framework for witness protection, including physical and evidentiary rules, some concrete security measures, such as concealment of identities, could be proposed. Furthermore, as to the possibility of establishing witness protection programmes, as well as agreements or arrangements for the relocation of witnesses to other States, it was suggested that the main focus should be on the possibility of establishing a law on witness protection for the most severe cases, bearing in mind the United Nations Office on Drugs and Crime (UNODC) model law on witness protection. Regarding specialized authorities (art. 36), the good practices identified were positively noted. The country had established specialized anti-corruption units in the attorney general's office, with prosecutors dedicated to anti-corruption endeavours in different parts of the country, and a specialized investigative unit in the police, both of which were tasked with complex investigations. However, taking into account the heavy workload and complexity of corruption cases, it would be necessary to have a prosecution unit exclusively dedicated to complex cases at the national level, comprising prosecutors, financial analysts, accountants and other professionals, since at present prosecutors and their teams were not exclusively dedicated to anti-corruption work. Finally, regarding cooperation with law enforcement authorities (art. 37), a new measure had been introduced in the penal code, which provided for a reduced penalty and mitigating circumstance for "effective cooperation" that led to clarifying investigated facts, the identification of perpetrators, preventing or stopping the commission or fulfilment of crimes, or facilitating the seizure of proceeds, equipment, instrumentalities or proceeds of crime. The tribunal in these cases could reduce the punishment by up to two degrees, on the basis of a person's provision of accurate, truthful and verifiable information that contributed to clarifying a punishable act, identifying those responsible or preventing the perpetration or fulfilment of crimes.

14. Another State party also reported on measures it had taken to implement the non-binding recommendations and conclusions. Regarding measures to strengthen the

collection and availability of statistical data on the implementation of anti-corruption measures across institutions, the attorney general's office had recently signed a multilateral agreement for strengthening criminal prosecution, which established inter-institutional electronic communications systems that guaranteed safe, agile processes and reduced costs, thereby strengthening the fight against corruption and reducing the time for completing cases. The prosecutor's office would continue strengthening its database for criminal profiling. Regarding the existence of specialized authorities, the State party reported that a unit in the anti-money-laundering division of the attorney general's office was specialized in handling cases of non-conviction-based forfeiture. Regarding the protection of witnesses, experts and victims (art. 32), the State party reported that a national witness protection programme had been established by the attorney-general's office to safeguard the security and integrity of persons. Regarding cooperation with law enforcement authorities (art. 37), the national judicial system allowed for plea bargaining, whereby a person involved in an investigation could testify, as long as he or she was not the leader of a criminal organization, as stipulated in the State party's law on organized crime. Accordingly, a modification of charges or reduction of penalties could be ordered. Regarding the active engagement of public authorities with the private sector (art. 39), it was noted that this recommendation was of the utmost importance, because agreements for the exchange of information at the national level had been signed only among State entities, without the involvement of the private sector. The State party indicated that, in 2018, a private sector initiative created a regional committee against corruption and that it was important to develop instruments for cooperation between the State and the private sector. Finally, regarding extradition and the recommendation to ensure that all offences established in accordance with the Convention are extraditable (art. 44), it was noted that the revision of laws to strengthen extradition was important. Strengthening the specialized unit on international affairs in the attorney general's office, which was in charge of carrying out international legal assistance processes, was also considered important.

15. One State party suggested, as an example of good practice in respect of consultations with requesting States before refusing extradition and mutual legal assistance requests (art. 44, para. 17 and art. 46, para. 26), the participation of the requesting authorities in the execution of requests by the competent authorities of the requested State, with the permission of the latter. Furthermore, regarding interruption or suspension mechanisms of the statute of limitations (art. 29), it was suggested that such measures could be taken, for example when an offender was protected by immunity.

16. In regard to the efficient use of technology and electronic databases to track, monitor and follow up on international cooperation requests, as highlighted in the general and cross-cutting observations under chapter IV of the Convention, one State party suggested that the use of such technological tools be contemplated in a memorandum of understanding, in order to ensure adequate safeguards to protect the information that is shared. The State party also suggested that the possibility of spontaneous information-sharing, as foreseen under article 46, paragraphs 4 and 5 of the Convention, be included in a memorandum of understanding.

17. Another State party reported on a series of measures taken by its main federal investigation oversight authority to strengthen the fight against corruption. These included permanent monitoring of the practical application of criminal and criminal procedure laws and the provision of information and methodological support to the investigative organs in the investigation of specific corruption crimes. In 2018, the federal authority continued strengthening the framework on investigative procedures for building and documenting cases involving the laundering and tracing of corruption proceeds. Particular attention was paid to ensuring the timely seizure of assets with a view to confiscation; to filing court applications for recovery and compensation orders; and to strengthening the legal regime at the stage of pretrial proceedings, while safeguarding the rights of citizens and accused persons. Priority attention was given to targeted measures in city and local administrations with higher corruption levels

(as revealed by examining reports filed by citizens, monitoring information published in mass media, and reacting as a matter of principle to all incidents of law violations by public officials), as well as to identifying and investigating high-ranking officials. This involved the coordinated efforts of law enforcement agencies, through coordination meetings and inter-agency working groups. An important preventive function was the dissemination of information and awareness-raising on anti-corruption efforts through mass media and other means, such as meetings at the regional level and interactions with the media and society. Furthermore, a specialization for investigators on corruption crimes had been introduced, which included regular skills development and training on current typologies of money-laundering, schemes of corruption crimes, and advanced methods of their identification and investigation. International platforms, resources and materials were utilized for this purpose, including those of UNODC, the International Criminal Police Organization (INTERPOL), Asia-Pacific Economic Cooperation, the Stolen Asset Recovery Initiative and the International Anti-Corruption Academy. The authority continued to cooperate internationally with the competent organs of other States in criminal investigations pertaining to corruption within the framework of mutual legal assistance. In this context, the authority's designation as a competent authority for direct communications with other competent authorities under international conventions on mutual legal assistance and cooperation in civil and criminal matters, among other things, had significantly reduced the time frames for receiving and responding to requests in criminal matters, including corruption. While the authority did not use specific software to systematize incoming and outgoing requests for mutual legal assistance, the registration, tracking and control of execution of such requests was done through automated electronic means, in order to organize the turnover of documents and allow for statistical record-keeping.

18. In commenting on the observation regarding trading in influence (art. 18), the State party reported that a comparative legal analysis of the legislation of different countries showed that many had chosen the path of including elements of trading in influence in different types of crimes, such as abuse of power or embezzlement. At the national level, an analysis of criminal court cases carried out in 2015 by the supreme court had shown that the lack of a special norm establishing criminal liability for trading in influence did not impede the application of separate articles of the criminal code for holding persons responsible for acts of trading in influence as foreseen under the Convention. Moreover, no recommendation had been issued in the country's first-cycle review to establish trading in influence as a separate offence. Accordingly, it was suggested that this recommendation could be amended to indicate possible ways of criminalizing trading in influence by establishing a separate offence and by strengthening the elements foreseen by article 18 of the Convention in the different corruption crimes contained in the national legislation.

19. One State party emphasized that the recommendations and conclusions were non-binding, voluntary, optional, non-intrusive, impartial and non-adversarial in nature and suggested that they should not go beyond the provisions of the Convention or impose undue burdens upon States parties, in order to avoid duplication of efforts. Accordingly, it was suggested that the recommendations should be phrased using optional language and avoiding verbs such as "ensuring", "adopting" and "establishing". The State party also emphasized that no reporting mechanism should be applied to the non-binding recommendations and conclusions. Furthermore, the State party suggested deleting the observation regarding national crime registers made under "General and cross-cutting recommendations". Although this issue had been raised in a number of reviews, the decision to establish such mechanisms was considered to be an issue that should be dealt with in accordance with legal and constitutional processes of the States parties, taking into account differences between judicial and legal systems. The importance of international cooperation in restoring and recovering assets illegally transferred outside the borders of State parties was also highlighted.

20. One State party suggested the inclusion of a recommendation to call upon States to cooperate in combating tax havens, including through their identification by means of a list that could be updated annually.

21. One State party made suggestions related to the overall functioning of the Implementation Review Mechanism. These will be taken into account in the ongoing deliberations on the assessment of the performance of the Mechanism.

III. Recommendations issued and good practices identified regarding the implementation of chapters III and IV of the Convention

The selection of articles in the tables below is based on a quantitative analysis of observations made and good practices identified regarding the implementation of chapter III (table 1) and chapter IV (table 2) of the Convention. The observations and good practices have in part been reformulated in order to make them more broadly applicable and capture the essence of a wider range of country-specific observations, without changing their overall content and meaning. Table 3 contains observations relating to the overall effectiveness of the Implementation Review Mechanism.

Table 1
Most prevalent observations and good practices regarding chapter III (Criminalization and law enforcement)

Articles of the Convention	*Observations*	*Good practices*
All articles: general and cross-cutting recommendations	Strengthen, where feasible and in line with national processes, the collection and availability of statistical data on the implementation of anti-corruption measures across institutions, in particular statistical data on investigations, prosecutions and adjudications, for example through the creation of a national crime register or other mechanisms, which could also be made accessible to other States parties. Ensure that all categories of persons set out in article 2 (a) of the Convention are covered as public officials in the legislation. Consider consolidating or simplifying the legal framework to criminalize corruption offences, and consider clarifying interpretative principles. Continue to devote adequate resources and attention to capacity-building for authorities responsible for combating corruption, guaranteeing the independence and autonomy of the agencies concerned, and conducting financial investigations, including by undertaking a comprehensive assessment of technical assistance needs, where necessary. Sufficient resources should be made available to address capacity constraints in the areas of investigation, prosecution, and adjudication of cases.	
Bribery offences and trading in influence (arts. 15, 16, 18 and 21)	More clearly delineate all elements of the articles of the Convention, to ensure in particular that all modalities of the commission of an offence (promise, offer, giving, solicitation, acceptance), as well as third-party beneficiaries and indirect acts, are covered, in accordance with the fundamental principles of the domestic law.	Wide scope of application of anti-bribery legislation to national and foreign public officials and officials of public international organizations, as well as to the private sector.

Articles of the Convention	*Observations*	*Good practices*
	Ensure that the subjects of the offence include all categories of persons listed in article 2 of the Convention (see also above).	
	With respect to the bribery offences (arts. 15 and 16), expand the objects of the offence, in particular as regards non-material benefits and payments or gratuities to expedite or facilitate an otherwise lawful administrative act or procedure.[a]	
	Where national legislation contains exceptions or defences concerning, e.g., immunities for spontaneous confessions, the attempted commission of the offence, and acts committed with lawful authority or reasonable justification, align such exceptions with the requirements of the Convention, consistent with article 30, paragraph 9, of the Convention.	
	With respect to bribery of foreign public officials and officials of public international organizations (art. 16), criminalize the active version and consider criminalizing the passive version of the offence and devote adequate attention to enforcement.	
	With respect to trading in influence (art. 18), a non-mandatory offence, consider adopting a specific offence, separate from bribery, covering all elements of article 18, in particular the abuse of real or supposed influence, and strengthening the elements foreseen by article 18 of the Convention in the different corruption crimes.	
	With respect to bribery in the private sector (art. 21), a non-mandatory offence, consider adopting a relevant offence that applies to any person who directs or works in any capacity for a private sector entity.	
Laundering of proceeds of crime (art. 23)	Include as predicate offences at least a comprehensive range of offences established in accordance with the Convention, whether committed within or outside the jurisdiction of the State party in question.	Comprehensive legal framework and “all crimes approach”, despite not being specified by the Convention; anti-money-laundering regulations in place and enforced.

Articles of the Convention	*Observations*	*Good practices*
	Ensure that all modalities of the commission of the offence in paragraph 1 are covered. Strengthen enforcement and address issues of overlapping mandates and challenges in coordination among the competent authorities responsible for money-laundering cases related to the proceeds of offences under the Convention.	
Statute of limitations (art. 29)	Establish a limitations period that gives adequate time for the completion of the full judicial process, including investigation, prosecution and adjudication, and establish a longer period or suspend its application where the offender has evaded the administration of justice.	Sufficiently long limitations period to allow for investigations and prosecutions of offences under the Convention; interruption or suspension mechanisms.
Prosecution, adjudication and sanctions (art. 30)	Ensure the efficiency and dissuasive effect of sanctions for offences under the Convention, including by considering a more coherent approach in the sanctioning of offences (e.g. the harmonization of penalties according to the gravity of offences and across different anti-corruption laws); also consider adopting sentencing principles and monitoring the imposition of punishment, including, where applicable, plea bargains and out-of-court settlements (art. 30, para. 1), bearing in mind the independence of the judiciary. Establish a greater balance between immunities or jurisdictional privileges accorded to public officials and the possibility of effectively investigating, prosecuting and adjudicating offences under the Convention; in particular review the procedures for lifting immunities to avoid potential delays, the loss of evidence and any unnecessary obstacles preventing investigative steps from being taken before immunities are lifted (art. 30, para. 2).	Innovative mechanisms to calculate fines and sentences (such as calculating fines based on the benefits obtained and intended), and the existence of guidelines or practice directives for prosecutors and judges providing instructions on the application of penalties, depending, inter alia, on the gravity of the offence, with due respect for the independence of the judiciary. Appropriate balance concerning criminal immunities for offences under the Convention and the successful investigation or prosecution of public officials.

Articles of the Convention	*Observations*	*Good practices*
	Consider adopting measures for the disqualification of persons convicted of offences under the Convention from holding public office for a period of time determined by domestic law (art. 30, para. 7).	
Freezing, seizure and confiscation (art. 31)	Take measures to enable confiscation of proceeds of crime derived from all offences under the Convention, including value-based confiscation. Expand the definition of proceeds of crime to ensure that all proceeds, property, equipment and instrumentalities as defined in the Convention are subject to the measures in article 31. Strengthen the capacity of competent authorities and adopt mechanisms to swiftly trace, seize and freeze property and ensure that interim measures leading to confiscation apply to all offences under the Convention. Strengthen the administration of frozen, seized and confiscated property, in particular in the case of complex assets, and consider the establishment of a dedicated asset management office.	Comprehensive legislation for the confiscation of proceeds of crime, including value-based and non-conviction-based confiscation, and effective application of the legal framework in practice. Institutional arrangements, including coordination and the exchange of information among authorities, leading to successful confiscation cases, and the existence of specialized authorities dedicated to the administration of seized and confiscated assets. Confiscation may be ordered even if the offender cannot be convicted; shifting evidentiary standards or presumptions facilitating confiscation.
Protection of witnesses, experts and victims (art. 32)	Strengthen the effective protection of witnesses, experts and victims, as well as their relatives or associates, as appropriate, in particular by adopting a legal and institutional framework on witness protection and by means of adequate enforcement and funding. The framework for such protection should offer all necessary forms of protection, including physical protection and evidentiary rules (such as concealment of identities) to permit witnesses and experts to give testimony in a manner that ensures their safety. Consider adopting a witness protection programme and entering into relocation agreements or arrangements with other States. Extend the scope of witness protection measures to all offences under the Convention.	

Articles of the Convention	*Observations*	*Good practices*
	Strengthen the participation of victims in criminal proceedings (art. 32, para. 5).	
Specialized authorities (art. 36)		The establishment, where feasible and consistent with national priorities, of a specialized anti-corruption authority, a specialized anti-corruption unit within the police force and the prosecution service, and/or a specialized anti-corruption court. Specific mandate and independence mechanisms, as well as adequate capacity and resources for the specialized authorities, including through practical training programmes. Operational measures to enhance effectiveness (e.g., information-sharing, inter-agency coordination and access to information, collection and use of relevant data, clear policy guidance, inter-agency task forces to address corruption in certain sectors) leading to increased investigations and prosecutions.
Cooperation with law enforcement authorities (art. 37)	Adopt measures to encourage the cooperation of offenders in investigations and prosecutions, including by offering the possibility of mitigated punishment, plea bargaining or immunity from prosecution, and ensure that such persons are subject to the protections in article 32 of the Convention; consider entering into relevant agreements or arrangements with other States parties.	
Cooperation between national authorities (art. 38)		Effective cooperation mechanisms among the investigating and prosecuting institutions and public authorities, including through the exchange of personnel and information, where feasible and consistent with national practices. Establishment of centralized bodies or mechanisms to facilitate coordination; inter-agency agreements and arrangements.

Articles of the Convention	*Observations*	*Good practices*
Cooperation between national authorities and the private sector (art. 39)		Active engagement of public authorities with the private sector, in particular through efficient information transfer mechanisms between investigative authorities and financial institutions, and through training of private sector entities on prevention measures and awareness-raising. Mechanisms to facilitate access to information by law enforcement authorities and to encourage the reporting of corruption. Establishment of bodies or mechanisms to facilitate cooperation, including integrity pacts and agreements or arrangements.

[a] See A/58/422/Add.1, paras. 24–25.

Table 2
Most prevalent observations and good practices regarding chapter IV (International cooperation)

Articles of the Convention	*Observations*	*Good practices*
All articles: general and cross-cutting recommendations	Consider the allocation of adequate resources to further strengthen the efficiency and capacity of international cooperation mechanisms.	Provision of training to practitioners, in particular law enforcement, prosecutors, judges and judicial officers, as well as public officials abroad, regarding applicable laws, procedures and time frames to be followed in international cooperation cases, including the determination of dual criminality. Active participation in international and regional networks, platforms and forums aimed at promoting international cooperation. Efficient use of technology and electronic databases to track, monitor and follow up on international cooperation requests.
Extradition (art. 44)	Ensure that all offences established in accordance with the Convention are extraditable, such as by: (a) Using the Convention as a legal basis for cooperation on extradition; (b) Revising the minimum penalty thresholds for extradition or the lists of extraditable offences in domestic legislation in case of the strict application of dual-criminality requirements; (c) Interpretation of the dual-criminality requirement, focused on the underlying conduct rather than the strict terminology of offences; (d) Reviewing or concluding bilateral or multilateral extradition agreements and arrangements to cover all offences under the Convention.	No minimum penalty requirements for extradition involving Convention offences. Interpretation of the dual criminality requirement in extradition cases, focusing on the underlying conduct and not the legal denomination of the offence; the dual criminality requirement may be waived on the basis of reciprocity. Expedition of extradition proceedings, consistent with treaty requirements and domestic law, through direct contacts between central and competent authorities and use of electronic or other communication channels and networks.

Articles of the Convention	*Observations*	*Good practices*
Extradition and mutual legal assistance (arts. 44 and 46)	Ensure the quality, efficiency and effectiveness of national frameworks on international cooperation, including by putting in place and rendering fully operational information systems that allow for managing requests for extradition and mutual legal assistance, with a view to facilitating the monitoring of such requests, assessing the effectiveness of the implementation of international cooperation arrangements and gathering comprehensive statistics. Make or update the requisite notifications to the United Nations as to: (a) Whether the State party takes the Convention as the legal basis for cooperation on extradition (art. 44, para. 6); (b) The designation of a central authority for mutual legal assistance (art. 46, para. 13); (c) The languages acceptable for mutual legal assistance requests (art. 46, para. 14).	Development or effective use of manuals, guidelines, checklists, dedicated communication platforms and mechanisms such as email boxes or model requests for extradition and mutual legal assistance, with a view to providing administrative and legal certainty for making, processing and executing requests. Use of the Convention either as a legal basis for extradition and mutual legal assistance or as a tool to facilitate extradition and mutual legal assistance. The designation of competent or central authorities for extradition and the identification of focal points for specialized areas of cooperation, such as money-laundering or asset recovery, and notification of whether the State party takes the Convention as the legal basis for cooperation on mutual legal assistance.
Grounds for refusing extradition (art. 44, para. 8)	Specify the conditions and grounds for refusing extradition more clearly in the national legislation.	
Procedure for extradition and mutual legal assistance (art. 44, para. 9 and art. 46, para. 24)	Ensure that extradition proceedings are carried out efficiently and, subject to domestic law, endeavour to simplify and streamline procedures and evidentiary requirements relating thereto. Similarly, execute mutual legal assistance requests efficiently.	
Consultations with requesting States parties (art. 44, para. 17 and art. 46, para. 26)	Engage in consultations with requesting States before refusing extradition and mutual legal assistance requests.	Consultations and communication with requesting States on a continuing basis, throughout the mutual legal assistance and extradition process, and involving central and competent authorities, as applicable, including the possibility of the requested authority accepting and reviewing requests before submission of a formal request.

Articles of the Convention	*Observations*	*Good practices*
Mutual legal assistance (art. 46)		Provision of mutual legal assistance in the absence of dual criminality, consistent with treaty requirements and domestic law. Application of requirements for the execution of mutual legal assistance requests (such as applying seals on translated documents, translation, etc.) in such a manner as to afford the widest measure of assistance.
Spontaneous sharing of information (art. 46, paras. 4 and 5)	Allow for or expand the practice of spontaneous transmission, i.e. without a prior request, of information that could assist in undertaking or successfully concluding investigations and criminal proceedings in other States parties or could result in formal mutual legal assistance requests being made by other States parties, including through the adoption of relevant laws or regulations, as appropriate.	
Non-coercive mutual legal assistance in the absence of dual criminality (art. 46, para. 9)	Ensure that mutual legal assistance that does not involve coercive action can be provided even in the absence of dual criminality, where consistent with the basic concepts of the legal system.	
Transfer of sentenced persons and transfer of criminal proceedings (arts. 45 and 47)	Establish a legal and procedural framework for the transfer of sentenced persons and the transfer of criminal proceedings, and consider entering into relevant bilateral or multilateral agreements.	
Law enforcement cooperation, joint investigations (arts. 48 and 49)	Take steps to enhance law enforcement cooperation, including where possible through the use of modern technology, and conclude agreements or arrangements to allow the competent authorities responsible for the investigation of corruption offences (including prosecutors and judicial authorities, if appropriate) to establish joint investigative teams with law enforcement agencies in other jurisdictions.	Specialized capacities for cross-border law enforcement cooperation, in particular through the organization of joint anti-corruption training workshops and capacity-building exchange programmes and participation in international anti-corruption law enforcement networks (art. 48). Active use of joint investigation teams in transnational corruption cases, where feasible and consistent with national priorities (art. 49).

Articles of the Convention	*Observations*	*Good practices*
Special investigative techniques (art. 50)	Take measures to allow competent authorities to use special investigative techniques, to regulate their use and to ensure the protection and admissibility in court of evidence derived therefrom.	Wide use and application of special investigative techniques in corruption cases both domestically and internationally, in accordance with the protection of fundamental rights.

Table 3
General observations and recommendations regarding the Implementation Review Mechanism

Articles of the Convention	*Observations*
General and cross-cutting recommendations	The Conference should continue to consider addressing unexpected challenges pertaining to the funding shortfall and delays in country reviews arising during future phases of the Implementation Review Mechanism. With a view to conserving resources and ensuring the timely completion of country reviews, the Conference should consider streamlining, in future phases of the Mechanism, the amount of information solicited from States parties, for example by focusing on updating information provided during the first review cycle or limiting the length of responses or supporting documents to the self-assessment checklist. The Conference should continue to work to improve the transparency and availability of information gathered during future phases of the Implementation Review Mechanism, building on the thematic reports produced by the secretariat, to provide more detailed information in areas such as individual country experiences and technical assistance needs.