The United Nations Convention against Corruption: overview of its contents and future action[1]

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Introduction

Barely two decades ago, corruption was only whispered about and largely accepted as inevitable, pretty much as an incurable disease and as "part of doing business." For international organizations, it was the "C" word, which could not be uttered or included in programmes and debates, as it was deemed politically too sensitive. At the time, there were quite a few "pundits" who were publishing articles about the positive economic effects of corruption, expounding the theory that money has no color or smell and all that matters is that it be reinvested in the economy.

The situation now is fundamentally different. Corruption is generally recognized as an impediment to development and as an ill that can be cured. It is also recognized as a scourge affecting all societies globally, regardless of state of development. Therefore, it is now commonly accepted that corruption is one of those phenomena which require all countries and all societies to work together to find solutions and help each other meet the enormous challenges it creates. The ultimate goal is, and must remain, to eradicate corruption. But we must be realistic.

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[1] The views expressed in this article are those of the author and do not necessarily reflect the views or position of the United Nations.

This goal is achievable, but will require a generational shift in attitude, mentality and institutional development, and will demand sustained and ever growing determination. Corruption has been with us since the dawn of history and our generation will not be able to wipe it from the face of the earth. We need to have aspirations, plan our work carefully and stay the course. We must ensure that future generations are better equipped than ours, so for them saying "no" to corruption would be the default response. Our efforts and sacrifices (and there are plenty of those around the world) are building blocks. Each one of us is laying a brick on our global edifice. The palace of integrity will require efforts as her culean as those that produced the monuments that our civilizations cherish.

We have come a long way. In a very short time, by any standard, we have laid solid foundations. We have made the transition from acceptability to constantly decreasing levels of tolerance. We have gone from timid exhortations and tentative diatribes to strong international legally binding instruments, which are shaping policy and spurring the establishment of new normative and institutional frameworks for domestic action. We have moved from resignation or cynicism to placing action against corruption at the top of the political agenda around the world.

Getting this far was not easy. It took incredible work by many dedicated and visionary people in public service (both national governments and international organizations) and the private sector (including civil society).

The United Nations focused increased attention on the prevention and control of corruption in 1989, after the failed attempt of the late 1970s under the rubric of transnational corporations. Under the umbrella of its Crime Prevention and Criminal Justice Programme, the UN began building common understanding and bringing countries together around the topic through the gradual development of political documents and practical tools. Meanwhile, regional or sectoral organizations started putting the issue on their agenda and developing international conventions. The result of these efforts were the Interamerican

Convention against Corruption (1996),[2] the OECD Convention on Bribery in International Commercial Transactions (1997),[3] the Council of Europe Conventions against Corruption (1998 and 1999)[4] and the African Union Convention against Corruption.[5]

The culmination of efforts against corruption was the successful negotiation in 2003 of the first global international legally binding instrument, the United Nations Convention against Corruption (UNCAC).Its negotiation and entry into force in record time were unprecedented and marked a turning point in both the appreciation of the importance of the issue and the determination of countries around the world to join forces and take meaningful action.

The new United Nations Convention against Corruption has enormous significance. It offers all countries a comprehensive set of standards, measures and rules that they can apply to strengthen their legal and regulatory regimes to prevent and control corruption.

Negotiating the Convention was not an easy undertaking. There were many complex issues and concerns from different quarters that the negotiators had to tackle. It was a formidable challenge to maintain the quality of the new Convention while making sure that all of these concerns were properly reflected in the final text. Very often compromise was not easy and all countries made concessions. But the result is a source of pride and was made possible by the flexibility, sensitivity, understanding, and above all strong political will that all countries displayed.

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[2] Inter-American Convention Against Corruption, 'OAS General Assembly resolution AG/res.1398 (XXVI-0/96) of 29 March 1996', annex.

[3]*OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions*, OECD document DAFFE/IME/BR(97)20.

[4] European Criminal Law Convention on Corruption, 1998, European Treaty Series #173, European Civil Law Convention on Corruption, 1999, European Treat Series #174.

[5] 'African Union Convention on Preventing and Combating Corruption', Maputo, Mozambique, 11 July 2000, available from the AU on-line at: https://www.au.int/web/en/treaties/african-union-convention-preventing-and-combating-corruption

Overview of the Convention

1. *General provision (Chapter 1, Art. 1-4)*

The first article of the Convention states that its purposes are the promotion and strengthening of measures to prevent and combat corruption more efficiently and effectively; the promotion, facilitation and support of international cooperation and technical assistance, including in asset recovery; and the promotion of integrity, accountability and public management of public affairs and public property.

The Convention then includes an article on the use of terms. In addition to such definitions as "property", "proceeds of crime" and "confiscation", the most significant innovation of the new Convention are the definitions of "public official", "foreign public official" and "official of a public international organization."

The Convention contains a broad and comprehensive definition of "public official" that includes any person holding a legislative, executive, administrative or judicial office and any person performing a public function, including for a public agency or public enterprise, or providing a public service. The definition retains the necessary link with national law, as it would be in the context of national law that the determination of who belongs in the categories contained in the definition would be made.

During the negotiation process significant debate revolved around whether there was a need for a definition of "corruption" and, should the answer to that question be affirmative, what the content of such a definition would be. In the end, negotiators decided that attempting to define in legal terms, i.e., in terms that would stand scrutiny in a wide array if legal systems around the world and would add value to the rest of the text of the Convention was neither feasible nor desirable. Corruption could easily be allowed to stand as a word describing conduct that that was broadly understood in a progressively more consistent manner throughout the world. While the term might still be understood in a broader or narrower fashion depending on national exigencies or traditions, attempting to crystallize in a short legal text re-

quiring high precision the core of the collective perception of the concept entailed a number of unnecessary risks. There was the risk of limiting the Convention to the current understanding, thus depriving the instrument from the dynamism necessary for it to remain relevant to national efforts and international cooperation in the future. There was also the risk of capturing in the definition only some aspects of the phenomenon, thus inhibiting broader action against corruption that countries might have already taken or might be contemplating. In deciding not to include a definition of "corruption" in the final text. the negotiators were inspired to a large extent by the similar approach taken by the United Nations Convention against Transnational Organized Crime,[6] which does not define "transnational organized crime" but, instead, contains a definition of "organized criminal group".

The Chapter contains an article on the scope of application, which states that for the purposes of implementing the Convention, it will not be necessary, except as otherwise provided in the Convention, for the offences set forth in it to result in damage or harm to state property. This provision has particular importance for international cooperation and asset recovery.

Finally, the chapter contains an article on protection of sovereignty, an issue which figures prominently in the concerns of Member States, especially in view of the jurisdictional provisions that are later found in the Convention. The article was inspired and follows the formulation of a similar article in the United Nations Convention against Transnational Organized Crime.

2. *Preventive measures (Chapter II, Art. 5-14)*

The Convention contains a compendium of preventive measures which goes far beyond those of previous instruments in both scope and detail, reflecting the importance of prevention and the wide range of specific measures which have been identified by experts in recent years. More specifically, the Convention contains provisions on poli-

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[6] GA/RES/55/25, annex.

cies and practices, preventive anti-corruption bodies; specific measures for the public sector, including measures to enhance transparency in the funding of candidatures for elected public office and the funding of political parties; comprehensive measures to ensure the existence of appropriate systems of procurement, based on transparency, competition and objective criteria in decision-making; measures related to the judiciary and prosecution services; measures to prevent corruption involving the private sector; participation of society; and measures to prevent money laundering. The chapter on prevention has been structured in a way that would establish the principle of what needs to be put in place, but allow for the flexibility necessary for implementation, in recognition of the different approaches that countries can take or their individual capacities.

The provisions on preventive measures are regarded as forming an integral part of the mechanisms that the Convention is asking States to put in place. It is the one side of the coin, the other being the criminalization of a variety of manifestations of corruption. It is important to note that the prevention chapter covers all those measures that the international community collectively considers necessary for the establishment of a comprehensive and efficient response to corruption at all levels.

3. *Criminalization and law enforcement (Chapter III, Art. 15-44)*

While the development of the Convention reflects the recognition that efforts to control corruption must go beyond the criminal law, criminal justice measures are still clearly a major element of the package. The Convention would oblige States Parties to establish as criminal offences bribery of national public officials; active bribery of foreign public officials; embezzlement, misappropriation or other diversion of property by a public official; money laundering; and obstruction of justice. Further, States Parties would establish the civil, administrative or criminal liability of legal persons.

In recognition of the fact that there may be other criminal offences which some countries may have already established in their domestic

law, or may find their establishment useful in fighting corruption, the Convention includes a number of provisions asking States Parties to consider establishing as criminal offences such forms of conduct as trading in influence, concealment, abuse of functions, illicit enrichment, or bribery in the private sector.

The final formulation of the criminalization chapter, with the inclusion of both "mandatory" and "discretional" offences, created a quandary for negotiators as to how to deal with international cooperation, more significantly certain principles such as dual criminality, which normally govern such forms of international cooperation as mutual legal assistance. The solution found, which is explained below under "international cooperation", is another innovative feature of the Convention, adding significantly to its value for the international community.

Other measures found in Chapter III are similar to those of the *Convention against Transnational Organized Crime*. These include the establishment of jurisdiction to prosecute (Art. 42), the seizing, freezing and confiscation of proceeds or other property (Art. 31), protection of witnesses, experts and victims and cooperating persons (Art. 32-33) and other matters relating to investigations and prosecutions (Art. 36-41).

Elements of the provisions dealing with money-laundering and the subject of the sharing or return of corruption proceeds are significantly expanded from earlier treaties (see Chapter V), reflecting the greater importance attached to the return of corruption proceeds, particularly in so-called "grand corruption" cases, in which very large amounts of money have been systematically looted by government insiders from State treasuries or assets and are pursued by subsequent governments.

4.*International cooperation (Chapter IV, Art. 43-49*

Chapter IV contains a series of measures which deal with international cooperation in general, but it should be noted that a number of additional and more specific cooperation provisions can also be found in Chapters dealing with other subject-matters, such as asset recovery (particularly Art. 54-56) and technical assistance (Art. 60-62).The core material in Chapter IV deals with the same basic areas of cooperation

as previous instruments, including the extradition of offenders, mutual legal assistance and less-formal forms of cooperation in the course of investigations and other law-enforcement activities.

A key issue in developing the international cooperation requirements arose with respect to the scope or range of offences to which they would apply. The broad range of corruption problems faced by many countries resulted in proposals to criminalize a wide range of conduct. This in turn confronted many countries with conduct they could not criminalize (as with the illicit enrichment offence discussed in the previous segment) and which were made optional as a result. Many delegations were willing to accept that others could not criminalize specific acts of corruption for constitutional or other fundamental reasons, but still wanted to ensure that countries which did not criminalize such conduct would be obliged to cooperate with other States which had done so. The result of this process was a compromise, in which dual criminality requirements were narrowed as much as possible within the fundamental legal requirements of the States which cannot criminalize some of the offences established by the Convention.

This is reflected in several different principles. Offenders may be extradited without dual criminality where this is permitted by the law of the requested State Party.[7] Mutual legal assistance may be refused in the absence of dual criminality, but only if the assistance requested involves some form of coercive action, such as arrest, search or seizure, and States Parties are encouraged to allow a wider scope of assistance without dual criminality where possible.[8] The underlying rule, applicable to all forms of cooperation, is that where dual-criminality is required, it must be based on the fact that the relevant States Parties have criminalized the conduct underlying an offence, and not whether the actual offence provisions coincide.[9] Various provisions dealing with civil recovery[10] are formulated so as to allow one State Party to seek

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[7] Art. 44, para.2.

[8] Art. 46, para.9.

[9] Art. 43, para.2.

[10] See, for example, Art. 34, 35 and 53.

civil recovery in another irrespective of criminalization, and States Parties are encouraged to assist one another in civil matters in the same way as is the case for criminal matters.[11]

5. *Asset recovery (Chapter V, Art. 51-59)*

As noted above, the development of a legal basis for cooperation in the return of assets derived from or associated in some way with corruption was a major concern and a key component of the mandate of the Ad Hoc Committee. To assist delegations, a technical workshop featuring expert presentations on asset recovery was held in conjunction with the second session of the Ad Hoc Committee,[12] and the subject-matter was discussed extensively during the proceedings of the Committee.

Generally, countries seeking assets sought to establish presumptions which would make clear their ownership of the assets and give priority for return over other means of disposal. Countries from which return was likely to be sought, on the other hand, had concerns about the incorporation of language which might have compromised basic human rights and procedural protections associated with criminal liability and the freezing, seizure, forfeiture and return of such assets. From a practical standpoint, there were also efforts to make the process of asset recovery as straightforward as possible, provided that basic safeguards were not compromised, as well as some concerns about the potential for overlap or inconsistencies with anti-money-laundering and related provisions elsewhere in the Convention and in other instruments.

The provisions of the Convention dealing with asset recovery begin with the statement that the return of assets is a "fundamental principle" of the Convention, with annotation in the *travaux preparatoires* to the effect that this does not have legal consequences for the more spe-

[11] Art. 43, paragraph 1 makes cooperation in criminal matters mandatory and calls upon States Parties to consider cooperation in civil and administrative matters.

[12] See A/AC.261/6/Add.1 and A/AC.261/7, Annex I.

cific provisions dealing with recovery.[13] The substantive provisions then set out a series of mechanisms, including both civil and criminal recovery procedures, whereby assets can be traced, frozen, seized, forfeited and returned. A further issue was the question of whether assets should be returned to requesting State Parties or directly to individual victims if these could be identified or were pursuing claims. The result was a series of provisions which favour return to the requesting State Party, depending on how closely the assets were linked to it in the first place. Thus, funds embezzled from the State are returned to it, even if subsequently laundered,[14] and proceeds of other offences covered by the Convention are to be returned to the requesting State Party if it establishes ownership or damages recognised by the requested State Party as a basis for return.[15] In other cases assets may be returned to the requesting State Party or a prior legitimate owner, or used in some way for compensating victims.[16] The chapter also provides mechanisms for direct recovery in civil or other proceedings (Art. 53) and a comprehensive framework for international cooperation (Art. 54-55) which incorporates the more general mutual legal assistance requirements, *mutatis mutandis*. Recognizing that recovering assets once transferred and concealed is an exceedingly costly, complex, and all-too-often unsuccessful process, the chapter also incorporates elements intended to prevent illicit transfers and generate records which can be used should illicit transfers eventually have to be traced, frozen, seized and confiscated (Art. 52). The identification of experts who can assist developing countries in this process is also included as a form of technical assistance (Art. 60, para.5).

6.*Technical assistance and information exchange (Chapter VI, Art. 60-62)*

The provisions for research, analysis, training, technical assistance and economic development and technical assistance are similar to

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[13] Art. 51 and A/58/422/Add.1, para.48
[14] Art. 57, sub para. 3(a).
[15] Art. 57, sub para. 3(b).
[16] Art. 57, sub para. 3(c).

those contained in the United Nations Convention against Transnational Organized Crime, modified to take account of the broader and more extensive nature of corruption and to exclude some areas of research or analysis seen as specific to organized crime. Generally, the forms of technical assistance under the Convention against Corruption will include established criminal justice elements such as investigations, punishments and the use of mutual legal assistance, but also institution-building and the development of strategic anti-corruption policies.[17] Also called for is work through international and regional organizations (many of who already have established anti-corruption programmes), research efforts, and the contribution of financial resources both directly to developing countries and countries with economies in transition and to the United Nations Office on Drugs and Crime,[18] which is expected to support pre-ratification assistance and to provide secretariat services to the Ad Hoc Committee and Conference of States Parties as the Convention proceeds through the ratification process and enters into force.[19]

7. *Mechanisms for implementation (Chapter VII, Art. 63-64)*

The Convention contains a robust mechanism for its implementation, in the form of a Conference of the States Parties, with comprehensive terms of reference already specified in the Convention and with a secretariat that would be charged to assist it in the performance of its functions. These provisions are inspired by the United Nations Convention against Transnational Organized Crime, but go considerably beyond that instrument, both in terms of scope and detail. The Secre-

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[17] Art. 60, para.1.

[18] Art. 60, paras.3-8.

[19] GA/RES/58/4, paras. 8 and 9 and Convention Art.64. UNODC is already designated as the secretariat for the Ad Hoc Committee pursuant to GA/RES/55/61, paras, 2 and 8 and GA/RES/56/261, paras. 6 and 13. By convention, the General Assembly calls on the Secretary General to provide the necessary resources and services, leaving to his discretion the designation of particular U.N. entities and staff to do so.

tary General is called upon to convene the first meeting of the Conference within one year of the entry of the Convention into force,[20] and the Ad Hoc Committee which produced the Convention is preserved and called upon to meet one final time to prepare draft rules of procedure for adoption by the Conference, "well before" its first meeting.[21] The bribery of officials of public international organizations is dealt with in the Convention only on a limited basis (Art. 16), and the General Assembly has also called upon the Conference of States Parties to further address criminalization and related issues once it is convened.[22]

8. *Final provisions (Chapter VIII, Art. 65-71)*

The final provisions are based on templates provided by the United Nations Office of Legal Affairs and are similar to those found in other United Nations. treaties. Key provisions include those which ensure that the Convention requirements are to be interpreted as minimum standards, which States Parties are free to exceed with measures which are "more strict or severe" than those set out in the specific provisions,[23] and the two articles governing signature and ratification and coming into force. The Convention is open for signature from 9 December 2003 to 9 December 2005, and to accession by States which have not signed any time after that. It will come into force on the 90th day following the deposit of the 30th instrument of ratification or accession with the Office of Legal Affairs Treaty Section at U.N. Headquarters in New York.[24]

The Road Ahead: The Implementation Review Mechanism

The importance of ensuring that the United Nations Convention

[20] Art. 63, para.2.

[21] GA/RES/58/4, para.5.

[22] GA/RES/58/4, para.6.

[23] Art. 65, para.2.

[24] Art. 67 (*signature, ratification, acceptance, approval and accession*) and 68 (*Entry into force*). For further information see the segment on procedural history and footnotes 11 and 12 (sources of assistance), above.

against Corruption would be an effective tool for combating corruption was at the centre of discussions throughout the negotiations on the terms of reference of a mechanism for reviewing the implementation of the Convention. It was considered essential that the Convention be an instrument that would add value to the efforts of Member States in preventing and fighting corruption, including by supporting countries through technical assistance, enhanced international cooperation and data collection.

Such discussions had already taken place at the early stages of negotiating the Convention. During the meetings of the Intergovernmental Open-ended Expert Group to Prepare Draft Terms of Reference for the Negotiation of an International Legal Instrument against Corruption, many delegations emphasized the importance of effective mechanisms for monitoring the implementation of a new convention. As can be discerned from the *Travaux Préparatoires of the Negotiations for the Elaboration of the United Nations Convention against Corruption*, the discussions on reviewing implementation eventually resulted in article 63 of the Convention, in particular paragraph 7: "Pursuant to paragraphs 4 to 6 of this article, the Conference of the States Parties shall establish, if it deems it necessary, any appropriate mechanism or body to assist in the effective implementation of the Convention".

From the outset, there was a special focus on establishing a mechanism that would assist States parties in fully implementing the Convention and would support their efforts in measuring progress towards that end. In preparation for the discussions on a mechanism and in a bid to support such a process, several comparisons to other corruption-related implementation review mechanisms were prepared, both by the Secretariat and by other organizations.

Following extensive deliberations during the first and second sessions of the Conference of the States Parties to the Convention, resolution 3/1 was adopted at its third session, in November 2009, annexed to which were the terms of reference of the Mechanism for the Review of Implementation of the Convention. In the same resolution the Conference decided that the Implementation Review Group would be estab-

lished to be in charge of the operation of the Mechanism and report to the Conference of the States Parties, which remains the supreme body with respect to the implementation of the Convention.

The Review Mechanism commenced its work in July 2010. Owing to the comprehensive nature of the Convention, which covers in four substantive chapters measures to prevent and criminalize corruption, as well as provisions on international cooperation and asset recovery, it was decided to establish two review cycles: the first review cycle covers chapters III (Criminalization and law enforcement) and IV (International cooperation), while the second will cover chapters II (Preventive measures) and V (Asset recovery).

The Review Mechanism created renewed momentum for the ratification of and accession to the Convention. While the ratification pace was high from 2003 to 2008, with 140 ratifications, a lull followed in 2009; but then the pace was reinvigorated by the Review Mechanism, when it became operational in 2010. Since then, another 38 States have ratified or acceded to the Convention, making a total of 178 States parties out of 193 Member States of the United Nations. This nearly universal participation in the Convention creates an enabling environment allowing for a comprehensive global picture of the state of efforts against corruption.

The peer review process is aimed at further enhancing the potential of the Convention by providing the means for countries to assess progress in implementation, identify challenges and develop action plans to strengthen its implementation domestically. The ability to fund the participation of least developed countries and developing countries in the review process has proved critical to its success, as it ensures that each State party has an equal opportunity to participate both as reviewer and country to be reviewed and to engage in discussions on an equal footing at the sessions of the Implementation Review Group, thus creating a sense of ownership and involvement.

The inclusive nature of the Review Mechanism has allowed countries that, because of resource constraints, do not always sit at the same table with other countries to participate actively in the peer reviews

and intergovernmental processes, thus enriching the discussions with their experience and providing an opportunity to learn from others.

In its resolution 3/1, the Conference decided on the use of a self-assessment checklist (now also referred to as the omnibus software) as the tool for gathering information for the reviews. National focal points and governmental experts are trained in the use of the self-assessment checklist, as well as on the substantive provisions of the Convention and the procedural aspects of the reviews. Since the launch of the Mechanism, UNODC has trained over 1,400 anti-corruption practitioners.

Of the growing number of States parties involved in the review process, many, in sharing their experiences as States under review and as reviewing States, have highlighted how useful it was to serve first as reviewers before undergoing their own review. It was an opportunity to gain understanding of and expertise on the provisions of the Convention, as well as to analyse another country's system in that light. The exercise enabled them to share lessons learned with the other reviewers and with their own colleagues at the national level.

As the same individuals often participate as reviewers in more than one country review, as well as in their own country review, their enhanced understanding of the Convention is often shared with other anti-corruption practitioners nationally, creating a powerful multiplier effect. The comprehensive self-assessment checklist and the training provide the basis for a better and deeper understanding of the provisions of the Convention.

By the end of its first cycle the Review Mechanism will have reached nearly all States Members of the United Nations. The outcomes of the reviews will constitute a knowledge base on anti-corruption measures in place in all regions. The analysis of the country reports will present a global assessment of the state of anti-corruption efforts and will provide a global benchmark for trends and progress.

At the time of writing this article, more than 166 States Parties had completed and submitted their self-assessment checklists for the first cycle of reviews (Chapters III and IV of the Convention).The excep-

tionally high response rate to the self-assessment checklist is proof of the value that States parties attribute to the Mechanism and to the implementation of the Convention. It is also proof of the fact that the professional, respectful and objective operation of the Mechanism has allayed initial hesitation or concerns that some countries may have harboured regarding the Mechanism. Instead, the abundance of ideas exchanged and information, advice and good practices shared among governmental experts has contributed to opening up the issue of corruption to a frank and constructive global dialogue across regions and legal systems.

The Review Mechanism has also proved to be an important forum for all States parties to engage on practical anti-corruption issues in a positive and constructive spirit, both as States parties under review and reviewing States parties. The transparent, efficient, non-intrusive, inclusive and impartial nature of the Mechanism, as well as its multilingualism, have emerged as assets of great value in this regard.

The substantive exchange of experiences and the establishment of informal channels of communication among States have been highlighted as key factors for international cooperation, including direct contacts between central authorities, law enforcement agencies and financial intelligence units. Most countries under review have reported that the dialogue between reviewing experts and focal points in the framework of the Review Mechanism facilitates such informal contacts.

The review exercise has enabled States parties to enhance internal inter-agency dialogue, cooperation and coordination through the establishment of dedicated steering committees and the holding of workshops for the validation of the information shared through the self-assessment checklists, country reports and executive summaries. Institutions involved in reviews have so far included, apart from the dedicated anti-corruption agencies, supreme audit institutions, public administration authorities, government departments, law enforcement, the judiciary, and parliaments and their committees. This inclusiveness of the process has facilitated and frequently set in motion an informed national policy dialogue about reform requirements.

In many instances, the country reports have been beneficial for efforts to institute domestic reforms and address implementation challenges at the national level in response to the outcomes of the reviews. In several cases, a broad national dialogue has taken place to fill the gaps identified during the review process and to establish action plans. In other cases, specific legislative, institutional and capacity-building activities have been undertaken to address the recommendations in the review report, with the support of UNODC and other technical assistance providers on an *ad hoc* basis.

Through the Review Mechanism and its process States parties have dedicated time and effort to reflecting on the interaction among national stakeholders. This has enabled a comprehensive analysis of deficiencies, gaps and bottlenecks, as well as the identification of good practices, and has in a number of countries led to the establishment of new channels of communication among the stakeholders, as well as the creation of specialized, dedicated anti-corruption bodies and services.

The self-assessment process has offered new opportunities for refining and enhancing national data collection in areas directly relevant to national policy development. Indeed, the self-assessment process makes use of existing national research, assessments and statistics, while at the same time seeking to identify how these can be improved and complemented. In cases where data were scattered, there was a clear opportunity to develop a more sustainable data-collection system, in particular with regard to the time and resources national authorities generally spend on the self-assessment. Some States parties have consequently built their continuous data collection on the initial data-collection team that was formed for the review process, while others (approximately a quarter of States parties to date) have indicated databases and tracking systems as a priority technical assistance need. Many States parties have also indicated that they will use the outcome of the review process as a yardstick against which they will continue to measure progress domestically.

UNODC has noted that States parties have found it very useful to receive ad hoc targeted technical assistance in the form of training or

advisory services throughout the Review Mechanism cycle, i.e. not only in response to the findings of the review but also during the initial preparatory stages, to help gain momentum. This has shown that there is an increase in trust and confidence in the Mechanism and has also encouraged State's parties under review to focus on what they consider to be the most pressing needs emerging from the review and to address at an early stage lacunae that might otherwise hamper the success of the review.

Priority actions may include the development of an action plan to meet the needs identified during the review; training courses on financial investigations; training courses on international cooperation to facilitate extradition and mutual legal assistance in cases of corruption; legal advice to ensure that offences criminalized in the Convention are incorporated into national legislation (some countries have requested comments on a draft bill that would address some of the shortcomings identified in current legislation); expert advice for the development of a case management system for the anti-corruption agency; and legal advice and training on the adoption and use of special investigative techniques. Requests have also been received regularly on ways to improve the detection of corruption cases, be it through the development of witness and whistle-blower protection programmes or through advisory services on how to structure systems of asset and income declaration.

Both the formal training sessions and the hands-on, in situ assistance have contributed to building the capacities of national authorities to assess their own legislative and institutional framework. As UNODC has sought to ensure that these processes are country-led, it is expected that the expertise will remain available beyond the formal review process and will allow States to develop their own capacity to monitor existing gaps, review progress and reassess compliance with the Convention on a regular basis.

In the margins of the in situ gap-analysis missions, UNODC has been able to advise on pressing matters such as asset recovery cases and on the structuring and operation of asset declaration and verifica-

tion systems, most of which are newly established. As a result, not only does the gap analysis serve as the basis for self-assessment reports and allow countries to make timely submissions, but countries have also been able to address some needs and gaps prior to the review, thanks to the advice they received during the gap analysis.

While many countries have already adopted anti-corruption legislation in line with the Convention, UNODC has continued to receive requests from States seeking to improve their domestic legislation to prevent and fight corruption, in particular on the basis of the challenges identified through the country reviews. To this end, UNODC has provided legislative assistance mostly to address corruption in a comprehensive manner, but support has also been provided on several pieces of legislation covering specific aspects such as asset declarations, money-laundering, bribery of foreign public officials, mutual legal assistance, access to information, witness protection and corporate liability. In several cases, examples and good practices from other States were shared with the authorities.

Along the same lines, UNODC has provided wide-ranging support to Member States to improve their capacity to prevent, detect, investigate and prosecute corruption. Assistance has been provided for the development of national anti-corruption strategies, for the establishment and strengthening of relevant institutional frameworks, structures, policies, processes and procedures and for the strengthening of the preventive, investigative and prosecutorial capacities of relevant institutions, through both national and regional activities.

The Review Mechanism allows States parties under review to identify and state their technical assistance needs and requests as part of a broader programme of reform. Donors, many of whom will have participated in the Mechanism, are thus able to view their possible entry points for support as part and parcel of a comprehensive programming and delivery effort that may take several years, thus often promoting a multi-year and multi-stakeholder engagement.

The chances for identifying strategic priorities and developing an effective prioritized national anti-corruption strategy increase substan-

tially on the basis of findings from a comprehensive review and a contextually relevant understanding of the corruption problem. The strategy benefits from having information from different stakeholder perspectives and from addressing anti-corruption efforts from the perspective of a whole government and beyond. A comprehensive and inclusive review process helps to ensure ownership of the review outcomes and of future reforms, and provides an important benchmark against which progress can be measured.

Another important dimension is the use of the body of knowledge and information generated through the Review Mechanism. It has been noted on several occasions that States parties, as well as their national and international counterparts, use the information gathered during the reviews as a basis to enhance their anti-corruption work. The wealth of information on laws, regulations, cases and statistics gathered through the Mechanism has been collated and made available online through the UNODC-managed Track portal.[25] The portal hosts several sub-pages, including that of the legal library.

The data is organized by Convention provision and is searchable by country, legal system, government structure and level of human development. On the basis of the information gathered through the reviews, the legal library is continuously being updated and validated. This has been useful for States parties in preparing for the reviews and has been extremely valuable for countries wishing to draw on examples from other countries.

From September 2011, when the TRACK portal was launched, until August 2016, it had more than 74,500 users, and statistics show that the average time spent per visit has remained steady over the years. Some 34 per cent of visitors have specifically visited the legal library. While the aforementioned training activities on the Review Mechanism and the Convention have important advocacy aspects, awareness and understanding of the importance of the Convention in anti-corruption efforts is also enhanced through the TRACK portal.

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[25] www.track.unodc.org/Pages/home.aspx

The Review Mechanism has helped to desensitize and depoliticize the issue of corruption at the national level, as it has allowed States parties to engage previously unlikely partners, such as civil society and non-governmental organizations, in one joint effort.

The Review Mechanism has led to the creation of several inter-agency initiatives to support the implementation of the Convention, including work with UNDP on the implementation of the UNODC / UNDP "going beyond the minimum" methodology; the "Partnership for anti-corruption knowledge" initiative; judicial integrity; programming through United Nations country teams); and work with the World Bank on the UNODC/World Bank StAR Initiative.

At its sixth session, held in November 2015 in St. Petersburg, the Conference of the States Parties to the Convention launched the second cycle of the Implementation Review Mechanism, which will cover chapters II on prevention and V on asset recovery. The second cycle became operational in June 2016 with the determination, through drawing of lots, of which States Parties will be under review in each of the next five years and the drawing of lots of the reviewers for the first 36 States parties, which will be reviewed from June 2016 until June 2017.

Concluding Remarks

While the Review Mechanism cannot resolve all issues related to the implementation of the Convention, it has proved to be an important entry point for many dimensions of the fight against corruption and above all has raised awareness and understanding of the Convention. The peer review aspect of the Mechanism has embodied the spirit of the United Nations Charter and the Convention against Corruption not only by opening a dialogue among States parties but also by desensitizing the issue of corruption in general, by demonstrating that no country is exempt from it.

With the entry into force of the UNCAC, with the number of parties to the Convention growing rapidly (178 as of August 2016) and with the smooth operation of the Conference of the States Parties and the

Implementation Review Mechanism, the anti-corruption landscape has definitely and unalterably changed for the better.

The adoption in September 2015 of the 2030 Sustainable Development Agenda[26] is another momentous milestone. Especially important is the inclusion of Goal 16, which states "Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels". The targets under this goal include promoting the rule of law at the national and international levels and ensure equal access to justice for all (target 16.3); by 2030, significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime (target 16.4); substantially reduce corruption and bribery in all their forms (target 16.5); and develop effective, accountable and transparent institutions at all levels (target 16.6).The achievement of these targets and Goal 16 will be made possible through the full and effective implementation of the Convention and operation of the Implementation Review Mechanism.

[26] General Assembly Resolution 70/1.