

CAC/COSP 2 Resolutions and Decisions

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At its second session, held in Nusa Dua, Indonesia, from 28 January to 1 February 2008, the Conference of the States Parties to the United Nations Convention against Corruption adopted the following resolutions and decisions:

Resolution 2/1

Review of implementation

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

Recalling article 63, paragraph 1, of the United Nations Convention against Corruption, which established the Conference of the States Parties to the United Nations Convention against Corruption to, inter alia, promote and review the implementation of the Convention,

Recalling also article 63, paragraph 7, of the Convention, according to which the Conference is to establish, if it deems it necessary, any appropriate mechanism or body to assist in the effective implementation of the Convention,

Bearing in mind that the review of implementation of the Convention is an ongoing and gradual process,

Recalling its resolution 1/2, in which it decided that a self-assessment checklist should be used as a tool to facilitate the gathering of information on the implementation of the Convention,

Welcoming the subsequent development of the self-assessment checklist, its effective use to compile initial information on the implementation of several articles of the Convention and the two reports of the Secretariat analysing the information collected,

Noting the activities undertaken pursuant to its resolution 1/1 to collect and analyse information on several possible methods to review the implementation of the Convention,

Convinced that effective and efficient review of the implementation of the Convention in accordance with article 63 is of paramount importance and urgent,

Recalling its resolution 1/1, in which it agreed on the necessity of establishing an appropriate and effective mechanism to assist it in the review of the implementation of the Convention, and established an open-ended intergovernmental expert working group to make recommendations to the Conference at its second session on the appropriate mechanisms or bodies for reviewing the implementation of the Convention and on the terms of reference of such mechanisms or bodies,

1. *Takes note with appreciation* of the work of the Open-ended Intergovernmental Working Group on Review of the Implementation of the United Nations Convention against Corruption at its meeting held in Vienna from 29 to 31 August 2007 and the report on that meeting,

2. *Reaffirms* that any such mechanism established to assist the Conference of the States Parties to the United Nations Convention against Corruption in the effective implementation of the United Nations Convention against Corruption should:

- (a) Be transparent, efficient, non-intrusive, inclusive and impartial;
- (b) Not produce any form of ranking;
- (c) Provide opportunities to share good practices and challenges;
- (d) Complement existing international and regional review mechanisms in order that the Conference may, as appropriate, cooperate with them and avoid duplication of effort;

3. *Decides* that any such mechanism should also reflect, inter alia, the following principles:

- (a) Its objective should be to assist States parties in the effective implementation of the Convention;
- (b) It should take into account a balanced geographical approach;
- (c) It should be non-adversarial and non-punitive and should promote universal adherence to the Convention;
- (d) It should base its work on clear, established guidelines for the compilation, production and dissemination of information, including addressing issues of confidentiality and submission of the outcome to the Conference, which is the competent body to take action on such outcome;
- (e) It should identify, at the earliest stage possible, difficulties encountered by parties in the fulfilment of their obligations under the Convention and good practices adopted in efforts by States parties to implement the Convention;
- (f) It should be of a technical nature and promote constructive collaboration, inter alia, in preventive measures, asset recovery and international cooperation;

4. *Decides also* that the Working Group shall prepare terms of reference for a review mechanism for consideration, action and possible adoption by the Conference at its third session;

5. *Decides further* that the Working Group shall hold at least two meetings prior to the third session of the Conference in order to perform its mandated tasks;

6. *Requests* the United Nations Office on Drugs and Crime, in the interim and subject to the availability of voluntary contributions, to continue to assist parties, upon request, in their efforts to collect and provide information requested by the self-assessment checklist, and to analyse and report on the information collected to the Conference at its third session, and urges States parties and signatory States that have not yet done so to complete the checklist and submit it to the United Nations Office on Drugs and Crime;

7. *Requests* the Secretariat to explore the option of modifying the self-assessment checklist to create a comprehensive information-gathering tool that might serve as a useful starting point for collecting implementation information in any future reviews;

8. *Also requests* the Secretariat to assist the Working Group by submitting to it background information, including terms of reference of existing review mechanisms and information on the activities undertaken pursuant to Conference resolution 1/1 to collect and analyse information on possible methods for reviewing implementation;

9. *Calls upon* States parties and signatory States to submit proposals to the Working Group for the terms of reference of the mechanism sufficiently in advance of the meetings of the Working Group for its consideration;

10. *Requests* the Secretariat to assist, within existing resources, the Working Group in the performance of its functions, including by providing interpretation services.

Resolution 2/2

Appeal to States parties and invitation to signatories to the United Nations Convention against Corruption to continue to adapt their legislation and regulations

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

Recalling its resolution 1/3, entitled "Appeal to States parties and invitation to signatories to the United Nations Convention against Corruption to adapt their legislation and regulations", *Bearing in mind* General Assembly resolution 62/202 of 19 December 2007, entitled "Preventing and combating corrupt practices and transfer of assets of illicit origin and returning such assets, in particular to the countries of origin, consistent with the United Nations Convention against Corruption", in which the Assembly encouraged all Governments to penalize corruption in all its forms,

Recognizing that adaptation of the domestic legal systems of the States parties to the United Nations Convention against Corruption is essential to the implementation of the Convention,

Taking note with appreciation of the analytical report of the Secretariat on the self-assessment of the implementation of the Convention, including the self-assessment of technical assistance needs for its implementation,

Welcoming the efforts of States parties and signatories to the Convention that have enacted laws and taken other positive measures to prevent and combat corruption in all its forms,

Acknowledging that some States parties have expressed technical assistance needs with a view to adopting measures fully consistent with the Convention in order, inter alia, to criminalize bribery of national public officials, bribery of foreign public officials and officials of public international organizations, embezzlement, misappropriation or other diversion of property by a public official, laundering of proceeds of crime and obstruction of justice,

1. *Requests* those States parties to the United Nations Convention against Corruption that have not yet done so to adapt their legislation and regulations, pursuant to article 65 of the Convention, in

order to comply with the obligation to establish as criminal offences the acts covered by the Convention in articles 15, 16 (paragraph 1), 17, 23 and 25;

2. *Stresses* the importance of all the provisions of the Convention, and requests States parties to continue to adapt their legislation and regulations in order to implement the Convention;
3. *Invites* the States signatories to the Convention to adapt their legislation and regulations in accordance with paragraph 1 above, and encourages them to ratify the Convention as early as possible;
4. *Requests* all States that have not yet done so to provide, through the self-assessment checklist, information on their programmes, plans and practices and on their legislative and administrative measures to implement the Convention, inter alia, chapter III of the Convention, pursuant to article 63, paragraphs 5 and 6;
5. *Invites* States and the Secretariat to assist, within existing resources, States requesting technical assistance with a view to enabling them to adopt measures fully consistent with the provisions of the Convention, including in the areas of criminalization and law enforcement.

Resolution 2/3

Asset recovery

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

Bearing in mind that the return of assets is one of the main objectives and also a fundamental principle of the United Nations Convention against Corruption and that States parties to the Convention are obligated to afford one another the widest measures of cooperation and assistance in that regard,

Recalling its resolution 1/4, in which it established an interim open-ended intergovernmental working group to advise and assist it in the implementation of its mandate on the return of proceeds of corruption,

1. *Welcomes* the report on the meeting of the Open-ended Intergovernmental Working Group on Asset Recovery held in Vienna on 27 and 28 August 2007;
2. *Decides* that the Working Group shall continue its work, according to its mandate as set out in Conference resolution 1/4, to advise and assist the Conference in the implementation of its mandate on the return of proceeds of corruption, including the consideration of any further proposals, should the Working Group deem it appropriate;
3. *Decides also* that the Working Group shall continue its deliberations on the conclusions and recommendations contained in the report on its meeting with a view to identifying ways and means of translating those conclusions and recommendations into concrete action;
4. *Decides further* that the Working Group shall hold at least two meetings prior to the third session of the Conference in order to perform its mandated task, within existing resources;

5. *Decides further* that the Working Group shall explore means of building confidence, facilitate the exchange of information and ideas on the expeditious return of assets among States and encourage cooperation between requesting and requested States;
6. *Requests* the Working Group to continue its deliberations with a view to further developing cumulative knowledge in the area of asset recovery, especially with regard to the implementation of chapter V, entitled "Asset recovery", of the United Nations Convention against Corruption;
7. *Requests* the United Nations Office on Drugs and Crime and invites, as appropriate, other organizations to continue to support States in strengthening their capacities in all areas relevant to the successful recovery of assets, taking into account the conclusions and recommendations contained in the report of the meeting of the Working Group;
8. *Decides* that the Working Group shall submit reports on all its intersessional activities to the Conference at its third session;
9. *Requests* the Secretariat to assist, within existing resources, the Working Group in the performance of its functions, including by providing interpretation services.

Resolution 2/4

Strengthening coordination and enhancing technical assistance for the implementation of the United Nations Convention against Corruption

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

Recalling its resolution 1/5, entitled "Technical assistance", and its resolution 1/6, entitled "International cooperation workshop on technical assistance for the implementation of the United Nations Convention against Corruption",

Taking note of the report on the International Cooperation Workshop on Technical Assistance for the Implementation of the United Nations Convention against Corruption, held in Montevideo from 30 May to 1 June 2007, and the report on the meeting of the Open-ended Intergovernmental Working Group on Technical Assistance held in Vienna on 1 and 2 October 2007,

Recognizing that technical assistance is an essential element in the effective and speedy implementation of the United Nations Convention against Corruption, having regard to the deliberations of the Workshop and the conclusions of the Working Group,

Reaffirming that a clear request for technical assistance in order to implement the Convention remains a prerequisite,

Recalling that it is useful for recipient States to be able to define their needs clearly in order to facilitate the provision and coordination of technical assistance,

Emphasizing the fact that, given the multiplicity of cooperation programmes and agencies, the coordination of technical assistance must be an ongoing concern and absolute priority,

Emphasizing also the fact that the primary purpose of such coordination must be to optimize the use of resources and the impact of technical assistance by avoiding duplication to the extent possible,

I. Donor Coordination

1. *Requests* national, regional and international anti-corruption donors to continue their coordination efforts, as agreed in the Paris Declaration on Aid Effectiveness, adopted at the High-level Forum on Joint Progress towards Enhanced Aid Effectiveness, held in Paris from 28 February to 2 March 2005, both in host countries and at the international level, including in forums such as the International Group for Anti-Corruption Coordination and the Network on Governance of the Development Assistance Committee of the Organization for Economic Cooperation and Development, so that they can share their approaches on how to implement the needs identified by recipient States and to define guidelines and policies based on their best practices and comparative advantages, with a view to enhancing the effectiveness of technical assistance and regular information exchange, and, to that end, encourages all donors to establish effective coordination between departments and agencies at the national level in the donor's country;

2. *Calls upon* donors to consider developing their capacity to assess the results of their anti-corruption cooperation by strengthening, in particular, their standards on transparency in the implementation of such activities;

3. *Calls upon* the international community to continue to develop tools and training programmes that can be applied through technical assistance efforts;

4. *Invites* providers of technical assistance to emphasize coordination efforts in host countries, including consultation with the relevant national authorities of the host country, to ensure that technical assistance activities meet identified needs;

5. *Urges* donors to enhance their technical assistance by giving high priority to using the provisions of the United Nations Convention against Corruption in the formulation of their general development policies and other relevant policies on anti-corruption assistance;

II. Identification Of Technical Assistance Needs

6. *Recognizes* that many development programmes may help States in need of technical assistance to implement the provisions of the Convention, reaffirms that the delivery of development assistance should not be linked to the implementation of the Convention and reaffirms also that the delivery of technical assistance should be based on the needs and priorities identified by the requesting States and should respect the national sovereignty of States;

7. *Invites* States receiving technical assistance in the framework of the Convention to develop, if they have not already done so, a multi-year national framework of their needs for technical assistance to prevent and combat corruption, making that framework known to the donor

community, which can use it as the basis for the implementation of cooperation activities, pursuing a coordinated approach through specific allocation of tasks among donors;

8. *Urges* States to designate a focal point in order to avoid duplication and to facilitate contacts with the donor community;

III. Open-Ended Intergovernmental Working Group On Technical Assistance

9. *Decides* that the Open-ended Intergovernmental Working Group on Technical Assistance shall continue its work to advise and assist the Conference in the implementation of its mandate on technical assistance, and reaffirms that the Working Group shall meet during the third session of the Conference and, as appropriate and within existing resources, shall hold at least two intersessional meetings prior to the third session of the Conference;

10. *Decides also* that the Working Group shall submit reports on its activities to the Conference;

11. *Requests* the Secretariat to assist the Working Group in the performance of its functions.

Resolution 2/5

Consideration of the issue of bribery of officials of public international organizations

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

Recalling General Assembly resolution 58/4 of 31 October 2003, in which the Assembly requested that the Conference address the criminalization of bribery of officials of public international organizations, including the United Nations, and related issues, taking into account questions of privileges and immunities, as well as of jurisdiction and the role of international organizations, by, inter alia, making recommendations regarding appropriate action in that regard,

Recalling also article 16 of the United Nations Convention against Corruption, in paragraph 1 of which States parties are obliged to adopt legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the active bribery of officials of public international organizations, and in paragraph 2 of which States parties are requested to consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the solicitation or acceptance, directly or indirectly, of an undue advantage by an official of a public international organization,

Recalling further its resolution 1/7, entitled "Consideration of bribery of officials of public international organizations",

Taking note with appreciation of the efforts made by the United Nations Office on Drugs and Crime to implement Conference resolution 1/7, in particular the establishment of an open-ended dialogue, and expressing appreciation to the Member States and international organizations that participated in the dialogue,

Welcoming the note by the Secretariat on the question of bribery of officials of public international organizations, which included information on efforts to address the concerns of the General Assembly expressed in its resolution 58/4 of 31 October 2003,

Taking note of the document prepared by the Secretariat on the implementation of Conference resolution 1/7, in which it was noted that additional work would be required,

Noting that participants in the open-ended dialogue established pursuant to Conference resolution 1/7 agreed that the Convention did not affect the system established by the Convention on the Privileges and Immunities of the United Nations and the specialized agencies,

1. *Recalls* paragraph 2 of its resolution 1/7, in which it encouraged States parties that had not already done so to criminalize, when appropriate and consistent with their principles of jurisdiction, the offences set forth in article 16 of the United Nations Convention against Corruption,
2. *Invites* the Secretariat to continue the dialogue initiated with relevant public international organizations in order to gather concrete information concerning the manner in which they ensure prevention of corruption and manage corruption cases that may involve their agents, and to present to the Conference at its third session a report on the efforts undertaken to align the financial and other public integrity rules of public international organizations to the principles set forth in the Convention;
3. *Recommends* that an open-ended workshop of practitioners and experts, including representatives of the Office of Internal Oversight Services and the Office of Legal Affairs of the Secretariat and the oversight offices of other international organizations and members of the judiciary and law enforcement officers who have had to deal with corruption cases involving officials of public international organizations, should be held before the end of 2008, with the main purpose of the workshop being to exchange best practices and to address the technical issues highlighted in the note by the Secretariat on the implementation of Conference resolution 1/7, in particular cooperation between public international organizations and States parties, exchange of information on ongoing investigations and jurisdiction, and with the outcome of the workshop possibly leading to, inter alia, the setting up of a network capable of allowing further exchanges between participants;
4. *Requests* the Secretariat to facilitate, in consultation with Member States and subject to the availability of extrabudgetary resources, the organization of the workshop;
5. *Also requests* the Secretariat to coordinate its work as relevant with the Ad Hoc Committee on criminal accountability of United Nations officials and experts on mission, established by General Assembly resolution 61/29 of 4 December 2006.

Decision 2/1

Venue for the third session of the Conference of the States Parties to the United Nations Convention against Corruption

The Conference of the States Parties to the United Nations Convention against Corruption, recalling General Assembly resolution 47/202 A of 22 December 1992, on the pattern of conferences, taking into consideration rule 3, paragraph 2, and rule 6 of its rules of procedure and welcoming the offer by the Government of Qatar to act as host to the third session of the Conference, decided that its third session would be held in Qatar in 2009.