



UNODC

United Nations Office on Drugs and Crime



International Centre for Criminal Law Reform and
Criminal Justice Policy

Report of the Cross-Regional Workshop to Promote the Ratification and Reporting on Implementation of the United Nations Convention against Corruption

Toronto, Canada, 29 September - 1 October 2009

I. Introduction:

1. The Caribbean and Central American Region as well as the Pacific region face a range of similar challenges in acceding to and implementing the United Nations Convention against Corruption. To address these challenges, the United Nations Office on Drugs and Crime (UNODC) and the International Centre for Criminal Law Reform and Criminal Justice Policy (ICCLR) conducted a cross-regional Workshop to Promote the Ratification and Reporting on Implementation of the United Nations Convention against Corruption in Toronto from 29 September to 1 October 2009.

2. The Workshop aimed at uniting practitioners from both regions to share good anti-corruption policies and practices with an emphasis on asset recovery, in order to assess the status of implementation of the Convention and to promote its ratification/accession. Furthermore, it aimed at identifying implementation gaps, technical assistance needs to fill such gaps and elements of action plans to advance accession to and implementation of UNCAC.

II. Opening of the meeting

3. Mr. Paul Saint-Denis, Senior Counsel at the Department of Justice, Canada, opened the meeting on behalf of the Government of Canada. He pointed out that the Canadian Government was pleased to support the meeting and looked forward to its outcomes. Mr. Yvon Dandurand, Senior Associate at ICCLR, stated that the Centre was delighted to conduct the Workshop in cooperation with UNODC, one of the Institutes of the United Nations Crime Prevention and Criminal Justice Programme. Mr. Dimitri Vlassis, Chief of the Corruption and Economic Crime Section of UNODC, thanked the Governments of Australia and Canada for their generous contributions to the event. He informed participants that the Workshop was an effort to provide support to States as mandated by the Conference of States Parties to the Convention. Mr. Vlassis drew the attention to the fact that practitioners from certain regions which seemed to be faced by common challenges could benefit from exchanging their experiences. He emphasized that both regions had similar legal systems and traditions. To a large extent, States were of similar size, shared aspirations and approaches, and were confronted with a common challenge: a limited number of officials who could dedicate time to international conventions.

4. As such, by gathering practitioners from both regions, an opportunity to discuss similar issues and challenges would be provided.

5. Giovanni Gallo, Crime Prevention Expert at the Corruption and Economic Crime Section of UNODC, gave a brief overview of the ratification status of States represented at the Workshop. He pointed out that only 50 per cent of the countries represented were parties to the Convention. Therefore, participants could be grouped in three different categories in relation to the Convention. The first was composed of States that were yet to adhere to the Convention, the second category comprised States parties to the Convention that were still to take stock of their efforts to implement it, while the third category consisted of States that had ratified/acceded to the Convention and had also reported on their efforts to implement it.

6. A tour de table concluded the introductory session of the Workshop.

III. Legislative requirements emanating from the United Nations Convention against Corruption and good implementing practices

7. Taking into account that almost half of the countries represented at the Workshop had not yet ratified or acceded to the Convention, Mr. Vetere, former Director of the Division of Treaty Affairs of UNODC, opened the first substantive session of the Workshop by providing an overview of pre-ratification requirements. He provided information on the history of the Convention and stressed the similarities between UNCAC and the United Nations Convention against Transnational Organized Crime (UNTOC). Mr. Vetere explained that, due to the many common provisions and the similarities of the two Conventions, States that were already parties to UNTOC might find the implementation of UNCAC less daunting.

8. Mr. Touq, High Commissioner for Human Rights in Jordan, presented the chapter of the Convention on preventive measures. Emphasizing that UNCAC was the only convention with a full chapter dedicated to the prevention of corruption, Mr. Touq referred to prevention as the best way to combat corruption in the long run.

9. Subsequently, Mr. Touq informed the Workshop of the Corruption Prevention Initiative, launched at the second session of the Conference of the States Parties to UNCAC. At that session, the Conference had agreed to focus attention on preventing corruption. Following this call, a draft resolution on preventive measures would be presented to the Conference at its third session, to be held in Doha, Qatar, from 9 to 13 November 2009.¹

10. The delegation of Mexico presented good domestic practices to implement the chapter of the Convention on preventive measures. Mr. Hill Mayoral provided an account of Mexico's initiatives, emphasizing education programmes at universities and programmes for the private sector.

11. Mr. Vetere presented the chapter of the Convention on criminalization and law enforcement. He stressed that the Convention contained mandatory and non-mandatory provisions. However, the non-mandatory provisions were not merely optional, but contained an obligation to consider implementing the measures set forth therein. He stressed the importance of criminalizing the offences covered by the Convention, as preventive measures were insufficient if not complemented by an adequate criminal justice system.

12. Mr. Maiyegun, Director of Social Affairs at the African Union, commented that widening the range of predicate offences subject to anti-money-laundering laws was crucial, as the evidentiary requirements for money-laundering were generally lower.

13. Mr. Maiyegun presented the chapter of the Convention on international cooperation and indicated that such cooperation formed a crucial link between criminalization and asset recovery. He stressed that, even if the political will to cooperate was great, such issues as the absence of proper legislation, language barriers and bureaucracy could impede the effectiveness of international cooperation.

14. He emphasized that addressing issues such as whether central authorities for mutual legal assistance (MLA) should be involved in all MLA requests or should simply be kept abreast to ensure speedier processing were of utmost importance.

15. Mr. Maiyegun further explained that, as there were many specialized agencies, countries sometimes found it difficult to identify their foreign counterparts. Furthermore, he remarked the

¹ For further information on this initiative, please see document CAC/COSP/2009/12 (<http://www.unodc.org/documents/treaties/UNCAC/COSP/session3/V0986332e.pdf>).

importance of balancing prompt investigations and the satisfaction of evidentiary requirements necessary for successful prosecution.

16. The delegate of Guatemala, Mr. Montoya Garcia, complemented Mr. Maiyegun's presentation by explaining good implementing practices in international cooperation. He provided a brief overview of Guatemala's legal system and stated that his country had accepted UNCAC as legal basis for cooperation on extradition. To help investigate major transnational criminal cases, such as corruption cases, an international commission against impunity had been established.

17. Mr. Vlassis added that certain elements, such as criminal substantive and procedure legislation, were key to successful international cooperation. He stated that developed countries had a moral duty to provide assistance to developing countries in international cooperation proceedings. To ensure effective international cooperation, he emphasized that the ability of States to communicate with each other, knowledge of their counterparts' legal systems and mutual trust were crucial.

18. During the last session of the day, Mr. Tim Steele, Senior Legal Adviser of the Stolen Asset Recovery Initiative (StAR) and Mr. Hari Mulukutla, Anti-Corruption Adviser, presented asset-recovery related topics. Mr. Steele presented StAR and stressed that successful asset recovery also meant higher credibility of States.

19. Mr. Mulukutla presented an in-depth analysis of the self-assessment reports submitted to UNODC by Latin American and Caribbean countries, including policy recommendations to address implementation gaps. Commenting on Mr. Mulukutla's presentation, Mr. Vetere stated that such analyses were only feasible if States conducted self-assessments of the implementation of the Convention and submitted them to UNODC in its capacity as the Secretariat of the Conference of the States Parties.

20. The session was concluded by Costa Rica's presentation of good implementing practices with regards to asset recovery. The delegation of Costa Rica provided an overview of the legislative framework applicable to asset recovery and informed participants of the functions of its financial intelligence unit. Furthermore, a very recent case study, in which the investigations had been initiated by the financial intelligence unit ex officio, was presented.

21. The second day of the Workshop started with El Salvador's presentation of good implementing practices in criminalization and law enforcement. Mr. Magaña presented details of a corruption case, in which the alleged offender had been extradited and assets had been recovered. Relating to the specific details of the case, Mr. Magaña stressed that each case of corruption was different and that it was crucial to follow the correct processes in order not to be impeded or stopped by technicalities.

IV. Review of anti-corruption policies, laws and implementing practices

22. Mr. Gallo briefly introduced the UNCAC self-assessment checklist launched in 2007 and the Omnibus Survey Software to gather information on the implementation of UNCAC, UNTOC and its Protocols, which will be presented to the Conference of the States Parties at its third session. Mr. Gallo complemented his presentation by quoting resolution 1/2, deciding that a self-assessment checklist should be used to facilitate the provision of information on implementation of the Convention,² and resolution 2/1, requesting 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

² <http://www.unodc.org/unodc/en/treaties/CAC/CAC-COSP-session1-resolutions.html>

reviews.³ Upon request, Mr. Gallo also clarified that the Omnibus Survey Software was capable of producing preliminary gap analysis reports.

23. During its presentation of good implementing practices related to preventive measures, the Mexican delegation informed participants that Mexico had prepared short films to raise awareness of the risks posed by corruption. The delegation subsequently presented some of those short films to participants and stated that they had been aired by Mexican cinemas at no cost.

24. Fiji, Papua New Guinea, the Bahamas and Jamaica, all States parties to the Convention, presented their anti-corruption policies, laws and implementing practices. Ms. Chang, Acting Senior Legal Officer, Office of the Attorney General of Fiji, stated that traditionally, whistleblowing had been regarded as betrayal. However, a recent turn-around in public opinion had occurred as the Fiji Independent Commission Against Corruption (FICAC) had started to prosecute corruption cases. Out of the 7000 complaints FICAC received during the course of one year, 3 had lead to convictions.

25. General comments were made that, while there had been earlier calls to ratify UNCAC, the momentum in the Pacific region did not build up until 2009. Furthermore, participants highlighted the need to make best use of the resources provided by Australia and New Zealand, the two major donors in the region. Mr. Ivarature, Regional Governance Adviser of the Pacific Islands Forum Secretariat, informed participants that Palau wanted to conduct a gap analysis, and suggested the use of the Omnibus Survey Software to do so.

26. Ms. Sellick, Legal Policy Officer, Department of Justice and the Attorney General of Papua New Guinea, presented the anti-corruption practices in place in Papua New Guinea, such as a code of conduct for public officials, an annual walk against corruption by Transparency International and a business anti-corruption alliance sponsored by the United Kingdom. Ms. Sellick also informed participants that an anti-corruption strategy would be adopted on 9 December 2009, that the establishment of a new independent anti-corruption institution was being considered and that an action plan, including the private sector and NGOs, would be introduced.

27. Papua New Guinea was conducting a gap analysis to determine areas in which more efforts were needed. To date, the need to broaden the definition of public officials, to include new legislation covering foreign officials and the liability of legal persons had been identified.

28. Ms. Sellick also informed participants that Papua New Guinea would submit its self-assessment report to the Secretariat prior to the third session of the Conference of the States Parties.

29. Ms. Farrington-Austin, Legal Counsel of the Financial Intelligence Unit of the Bahamas, presented the Bahamas's implementing legislation and measures. In particular, she drew attention to the code of ethics for ministers and parliamentary secretaries and to the tasks of the FIU, which included providing information to foreign FIUs and the responsibility for seizure and confiscation of assets.

30. Furthermore, Ms. Farrington-Austin informed participants that the Bahamas would make every effort to conduct the self-assessment exercise.

31. Adding to this, Mr. Magaña, who had been in charge of completing El Salvador's self-assessment report, explained how he had organized the process and mentioned that the exercise had served as a platform for managing the Convention. The self-assessment process had helped to achieve consensus and build momentum in El Salvador, as it had included and brought together

³ <http://www.unodc.org/unodc/en/treaties/CAC/CAC-COSP-session2-resolutions.html>

the main anti-corruption actors. Mr. Magaña stated that this was a prerequisite to achieving commitment and continuity.

32. Mr. Harrison of the Office of the Director of Public Prosecutions of Jamaica provided a detailed account of Jamaica's implementing legislation and measures. He further stated that there was a need for a unit specialized in anti-corruption, as there was a severe backlog in cases. Jamaica submitted its self-assessment report during the Workshop, thereby featuring as reporting States party.

33. Subsequently, Barbados, Belize, Grenada, the Republic of the Marshall Islands, Saint Lucia, St. Kitts and Nevis, Saint Vincent and the Grenadines and the Solomon Islands, States that are not yet parties to the Convention, presented their challenges and difficulties in ratifying or acceding to the Convention.

34. Mr. Leacock, the Director of Public Prosecutions of Barbados, stated that his country had taken the decision to work on implementing legislation prior to ratifying the Convention. He explained that limited capacity and the need to implement resolutions of the Security Council first had postponed the ratification of the Convention. However, the fourth draft of the implementing legislation had been finalized, thereby bringing Barbados closer to ratification.

35. Ms. Tillett-Dominguez, Crown Counsel at the Attorney General's Ministry and the Ministry of Foreign Affairs in Belize, also highlighted the need to review legislation before ratifying the Convention, as the challenge laid in implementing the Convention rather than in acceding to it. However, Ms. Dominguez stated that, due to the information obtained at the Workshop, her delegation would recommend the ratification of UNCAC to the Government.

36. Ms. Steele, Foreign Service Officer II at the Ministry of Foreign Affairs of Grenada, pointed out that a needs assessment would have to be carried out once Grenada acceded to the Convention. As Grenada had ratified the Inter-American Convention against Corruption, a legislative framework covering corruption in public life was in place. However, training for the personnel of the financial intelligence unit, as well as for customs officers was required.

37. Mr. Joseph, Officer in Charge of the Financial Intelligence Unit of Grenada, subsequently provided an account of the Unit's functions and stated that legislation was kept up to date. Furthermore, he informed participants that no extradition requests were pending. In addition, a task force of law enforcement agencies held monthly meetings to cooperate and develop a Memorandum of Understanding to ensure closer cooperation.

38. Mr. Kijiner, Foreign Service Officer at the Ministry of Foreign Affairs of the Marshall Islands, pointed out that this was one of the first anti-corruption Workshops to be attended by a representative of the Marshall Islands. He provided an account of domestic legislation already compliant with the Convention and stated that, further to the Workshop, he would recommend ratification of the Convention to his Government.

39. Ms. Hughes, Parliamentary Counsel in St. Kitts and Nevis, highlighted that conflicting national legislation had to be amended to provide for repatriation of funds. She pointed out that capacities were limited, as the Office of the Director of Public Prosecutions had only 2 employees. However, she referred to the fact that the Convention would be high on the agenda in the near future. Ms. Hughes informed participants of challenges encountered in acceding to the Convention, such as the need for implementing legislation and training and coordination of all relevant stakeholders.

40. Mr. Pursglove, Legal Consultant in Saint Vincent and the Grenadines, stated that ratification of UNTOC had become a priority for his country. Furthermore, he stated that great resource for implementation were limited, particularly in relation to forensic accounting

capabilities. He added that, from his personal experience, using the self-assessment checklist had proven to be extremely useful even for States that were not parties to the Convention, as it provided assessors with a detailed overview of work to be done in implementing the Convention. When conducting the self-assessment, Saint Vincent and the Grenadines had expected to encounter many discrepancies between the Convention and the existing domestic legislation. However, as UNCAC and UNTOC had many common provisions, Mr. Pursglove recognized that these commonalities would facilitate the enactment of relevant UNCAC legislation. He urged UNODC to re-establish a presence in the Caribbean to encourage countries to give higher priority to anti-corruption matters.

41. Mr. Hoa'au of the United Nations, Treaties and Americas Branch in the Ministry of Foreign Affairs and External Trade of Solomon Islands reported on steps taken to ratify the Convention and on domestic implementing legislation already available. In particular, he referred to the establishment of an anti-corruption task force within the police force. Furthermore, Mr. Hoa'au informed participants that an Ombudsman Office was in place in the Solomon Islands.

42. As a general comment on the self-assessment process, Mr. Steele emphasized that, according to the resolutions of the Conference, the Secretariat was not producing any ranking of States. Furthermore, he added that, according to the draft terms of reference for the review mechanism, States to be reviewed would be selected by drawing lots. If a country had been drawn, it could then postpone the review twice.

V. Review and identification of technical assistance needs

43. On the last day of the Workshop, Mr. Gallo presented a cross-cutting analysis of technical assistance needs as reported through the self-assessment checklist.

44. Following the presentation, break-out sessions gathering the participants from each region were held to identify elements of action plans. Rapporteurs from each region then presented the conclusions in the plenary.

45. Mr. Magaña, rapporteur of the Caribbean and Central American break-out session, presented the points raised by the region in the break-out session. In particular, he emphasized the importance of taking stock of the available anti-corruption infrastructure before acceding to or ratifying the Convention to determine the scope of the remaining work. Furthermore, this stock-taking exercise, if conducted using the self-assessment checklist, had the additional benefit of satisfying the reporting obligation set forth in the Convention. He presented the region's call to avoid duplication of efforts and expressed the hope that the adoption of the comprehensive self-assessment checklist would help to address the issue.

46. The strengthening of informal networks of practitioners was encouraged to close any potential gaps in communication. Similarly, the region suggested making better use of existing regional networks such as the Caribbean Community and Common Market (CARICOM), the United Nations Latin American Institute for the Prevention of Crime and the Treatment of Offenders (ILANUD) and the Sistema de la Integración Centroamericana (SICA) to disseminate information on UNCAC and urged States and regional networks to reach out to technical assistance providers directly. Ms. Wysluch, representing the German Technical Cooperation (GTZ), strongly supported the suggestion and clarified that GTZ could only provide assistance upon requests.

47. The region also pointed out that maximizing existing resources to ensure their best use was necessary. With regards to capacity building and training, Mr. Carvajal Perez, representing ILANUD, suggested relying on the Judicial Training School in Costa Rica to train trainers, such as judges and prosecutors, on anti-corruption matters. Furthermore, the region suggested making best use of the OAS/MESISIC training portal also for anti-corruption matters. Ms. Tiraboschi,

representing SICA, reiterated the organization's willingness to work closely with UNODC on anti-corruption matters.

48. To facilitate experience-sharing within the region, Mexico offered to share its good practices in awareness raising campaigns, access to information and intra-governmental coordination.

49. Furthermore, the region suggested developing a standardized format for requesting technical assistance to meet the needs identified through the self-assessment checklist.

50. Ms. Sellick had been selected as a rapporteur and presented the conclusions of the Pacific region break-out session to the plenary. Similar to the Caribbean and Central American region, the representatives of the Pacific region also highlighted the importance of taking stock of all anti-corruption measures in place as a starting point. Furthermore, the Pacific region also emphasized that UNODC should be present in the region through an office to advance anti-corruption matters.

51. The region also reported need for capacity building and training, in particular for specialized training of law enforcement officers, prosecutors and judges. Furthermore, they conveyed the need for regional and national workshops focusing more directly on domestic legislation to increase awareness of UNCAC and anti-corruption matters.

52. To profit from good implementing practices in the region, sharing information between law enforcement agencies within the region was strongly encouraged. To address capacity limitations, IT support from UNODC was requested.

53. General suggestions were made that UNODC should disseminate presentation to be displayed at workshops beforehand to allow for better preparation. The inclusion of practical problem-solving sessions in future workshops was also requested. Furthermore, participants encouraged carrying out trainings on the use of the comprehensive self-assessment checklist, once it has been adopted.

54. Mr. Vlassis, in his capacity as Secretary of the Conference of the States Parties, provided an overview of activities undertaken from the second to the third session of the Conference of the States Parties. In particular, he emphasized the preparations for the third session, and briefed participants on progress made regarding the review mechanism and technical assistance.

55. Mr. Saint-Denis, Mr. Dandurand and Mr. Vlassis thanked participants for their attendance and important contributions to the Workshop and reiterated their readiness to provide further support and assistance.



Annex I

Elements of action plan to accede to and report on implementation of the UN Convention against Corruption Caribbean and Central America

- **Stock-taking of existing anti-corruption infrastructure:**

Prior to ratification/accession to the Convention, stock-taking of existing anti-corruption infrastructure is required to determine the scope of remaining work. If the stock-taking exercise is conducted using the designated UNCAC self-assessment tool, States would compile the information they need while satisfying the reporting obligation established by the Convention (article 63, para. 6).
- **Avoid duplication of efforts**

Taking into account the limitation of resources, duplication of efforts in assessing compliance with different corruption-related treaties has to be avoided. It is hoped that the comprehensive self-assessment checklist, that contains cross-references between UNCAC and such treaties, would help to address the issue. Training on the comprehensive self-assessment checklist is necessary to enable all States to benefit from its advantages.
- **Strengthening of informal networks of practitioners**

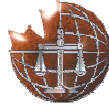
To close communication gaps and facilitate international cooperation, informal networks of practitioners need to be strengthened.
- **Make better use of existing regional networks**

Existing regional networks (CARICOM, ILANUD, SICA) should be used more frequently and efficiently to disseminate information on UNCAC and its related inter-governmental process (Conference of the States Parties, Working Groups). Regional networks should also reach out to technical assistance providers directly to ensure that regional needs for assistance are met.
- **Capacity building and training:**
 - ILANUD: rely on Judicial Training School in Costa Rica to train the trainers on anti-corruption matters (judges, prosecutors)
 - Make best use of OAS/ MESISIC training portal also for anti-corruption matters
- **Sharing experiences within the region**

To profit from regional good practices in implementing UNCAC, the exchange of experiences is crucial. To provide other States with the opportunity to learn from Mexico's experience, the country offered to share good practices in awareness raising campaigns, access to information, intra-governmental coordination. Further good practices to be shared are welcome at any time and will be disseminated by UNODC and the regional networks.

➤ **Standardized format for requesting technical assistance**

A standardized format for States to request technical assistance to meet the needs identified through the self-assessment checklist should be developed.



Annex II

Elements of action plan to accede to and report on implementation of the UN Convention against Corruption Pacific region

- **Stock-taking of existing anti-corruption infrastructure:**

Prior to ratification/accession to the Convention, stock-taking of existing anti-corruption infrastructure is required to determine the scope of remaining work. If the stock-taking exercise is conducted using the designated UNCAC self-assessment tool, States would compile the information they need while satisfying the reporting obligation established by the Convention (article 63, para. 6).
- **Awareness raising campaigns**

Regional and national campaigns to raise awareness of the costs of corruption and the anti-corruption measures of UNCAC should be conducted. Furthermore, relevant stakeholders should be informed of the content of UNCAC and its intergovernmental process (Conference of the States Parties, Working Groups).
- **Make better use of existing regional networks**

Existing regional networks (e.g. the Pacific Islands Forum Secretariat (PIFS)) should be used more frequently to disseminate information on UNCAC. Participants suggested including country needs related to international cooperation in criminal matters, including contact information for relevant focal points, on the PIFS's website. Regional networks should also reach out to technical assistance providers to ensure that regional needs for assistance are met. UNODC's presence in the region was also requested.
- **Capacity-building and training:**
 - Regional and national Workshops on international cooperation should be conducted
 - Workshops on anti-corruption should focus on domestic legislation, in particular on asset recovery matter
 - Training on the comprehensive self-assessment checklist is required
 - Specialized training for law enforcement officials, judges and prosecutors on anti-corruption matters, including asset recovery, is required
 - Legislative drafting courses, in particular focusing on freedom of information, whistle blowing and money-laundering
- **Sharing of information between law enforcement agencies within the region**

To enhance anti-corruption efforts in the region, the sharing of information between law enforcement agencies within the region is crucial.
- **Anti-corruption strategies**

States are faced with challenges in adopting and implementing anti-corruption measures in vulnerable sectors like forestry, fishery, health and education. To address these challenges, national anti-corruption strategies need to be adopted and implemented. In particular, the delegation of Fiji pointed out that there was no such strategy in place and stated that Fiji would need one.



Annex III

List of participants

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