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Agenda item 5. Corruption: threats and trends in the twenty-first century

Proceedings

1. At its 1st to 4th meetings, on 18 to 20 April 2005, Committee II held a general discussion on agenda item 5, entitled "Corruption: threats and trends in the twenty-first century". For its consideration of that item, the Committee had before it the following documents:

(a) Working paper prepared by the Secretariat entitled "Corruption: threats and trends in the twenty-first century" (A/CONF.203/6);

(b) Discussion guide (A/CONF.203/PM.1 and Corr.1);

(c) Reports of the regional preparatory meetings for the Eleventh Congress (A/CONF.203/RPM.1/1, A/CONF.203/RPM.2/1, A/CONF.203/RPM.3/1 and Corr.1 and A/CONF.203/RPM.4/1).

2. At the 1st meeting, on 18 April, the Chairman of Committee II made an introductory statement. A representative of the Secretariat gave a presentation. Statements were made by the representatives of Thailand, Sweden, Turkey, Finland, Algeria, Norway, Nigeria, Cameroon and France.

3. At its 2nd meeting, on 19 April, Committee II heard statements by the representatives of Nigeria, the Philippines, China, Indonesia, El Salvador, Canada, Benin, Egypt, Austria, Burkina Faso, the Republic of Korea, Switzerland, South Africa and Cameroon.

4. At the 3rd meeting, on 19 April, statements were made by the representatives of the Islamic Republic of Iran, the Netherlands, Australia, Brazil, Chile, Botswana, Kuwait, Mongolia, Germany, Qatar, the United Arab Emirates and Latvia. Statements were also made by the observers for Prison Fellowship International and Penal Reform International. The observer for the Interpol Group of Experts on Corruption also made a statement.



5. At the 4th meeting, on 20 April, statements were made by the representatives of Argentina, Oman, Ukraine, the United States of America, Mexico, Morocco and Azerbaijan. Statements were also made by the observers for the Interreligious and International Federation for World Peace and the World Society of Victimology.

General discussion

6. Opening the discussion on agenda item 5, the Chairman of Committee II emphasized the major challenges posed by corruption, its negative impact on national economies, democracy, political stability and maintenance of the rule of law, as well as its facilitating nature for the commission of other crimes, including money-laundering, organized crime and terrorism. In this connection, he acknowledged that the entry into force of the United Nations Convention against Transnational Organized Crime and the adoption of the United Nations Convention against Corruption represented major achievements, as well as promising responses to the threats associated with corruption.

7. In his introductory statement, the representative of the Secretariat emphasized that, while the United Nations Convention against Corruption had been moving towards its entry into force at a faster rate than the Organized Crime Convention, the instruments of ratification deposited with the Secretary-General revealed a lack of balance between developing and developed countries, as no developed countries had ratified the Convention against Corruption. That might have a negative impact on the effectiveness of the Conference of the States Parties to the United Nations Convention against Corruption, the implementation mechanism of the Convention that would be established within a year after its entry into force. He stressed that the proper functioning of that body for giving practical effect to the provisions of the Convention against Corruption would require an optimum equilibrium between participating States. Therefore, he urged all Member States to take the steps necessary to ensure the speedy ratification of the Convention.

8. The representative of the Secretariat also provided a brief overview of threats and trends in corruption, referring to political corruption, to corruption within the judicial sector and to the role of the private sector in the fight against corruption. Moreover, he elaborated on the linkages between corruption and conflict, stressing the importance of adopting specific anti-corruption measures as part of overall efforts to re-establish the rule of law in post-conflict reconstruction. Referring to the innovative provisions on asset recovery in the Convention against Corruption, he emphasized the need to complement that legal framework with technical assistance geared towards enhancing the capacity of national criminal justice systems to successfully deal with the recovery of proceeds of corruption.

9. Delegates agreed that effective national and international anti-corruption strategies required strong political leadership, sustained public vigilance and a multidisciplinary and carefully structured approach, consisting of both preventive and law enforcement measures. They shared their countries' experiences in formulating measures and strategies to counter corruption, including the enactment of relevant legislation to criminalize corruption-related practices and the establishment of specialized independent authorities to tackle corruption and ensure coherence of relevant policies, as well as coordination of national or local agencies involved in related issues. Convinced that prevention was better than repression, other representatives reported on specific preventive measures, such as the adoption

of codes of conduct for the public and private sectors, the provision of professional ethics training for civil servants working in particularly sensitive areas, the disclosure of assets and the promotion of transparency in the management of all public affairs, as well as raising public awareness about the risks and negative effects of corruption and encouraging the reporting of incidents of corruption by, for example, establishing anti-corruption hotlines.

10. Several representatives noted the immense damage to their national economies and development efforts caused by the massive looting of State assets. Representatives of developing and developed countries alike stressed that one landmark achievement of the Convention against Corruption was that it was the first international legal instrument to include a comprehensive chapter on asset recovery as a fundamental principle of the Convention, emphasizing the promising added value of the Convention as a major boost to the unrewarded efforts of developing countries to return illicitly acquired assets. It was emphasized that it was the responsibility of all States to ensure the sound implementation of the Convention, including the provisions on asset recovery. In this connection, several delegates welcomed the recent initiative launched by the Executive Director of the United Nations Office on Drugs and Crime (UNODC) in order to assist Member States in building capacities to prevent the looting and laundering of assets, investigate and prosecute relevant cases, formulate mutual legal assistance requests and cooperate at the international level to ensure the speedy recovery of assets. It was further argued by some representatives that the provisions on asset recovery should be applied not only to assets diverted through corruption-related practices, but also to proceeds of other crimes, in particular those committed by organized criminal groups.

11. Several delegates mentioned the need to actively involve other stakeholders in the fight against corruption and to build strategic partnerships with, among others, civil society, the private sector, non-governmental organizations, the media and educational institutions. Moreover, several delegates were in favour of encouraging the involvement of women in designing, implementing and monitoring anti-corruption strategies. With particular respect to the involvement of businesses in the fight against corruption, it was further argued that any awareness-raising effort should bear in mind the influence of shareholders on the conduct of companies, especially those doing business in the developing world.

12. Several representatives voiced their concern about the considerable repercussions of corruption on national criminal justice systems, including the judiciary, prosecution services and law enforcement agencies. In this context, specific reference was made to the Global Standards to Combat Corruption in Police Forces/Services of the International Criminal Police Organization (Interpol) and its library of best practices on investigative techniques in relation to corruption. It was stressed that corruption-related practices also occurred within penitentiary systems and that such practices, which ranged from extortion and sexual abuse of inmates to the sale of illicit drugs in prisons, thus jeopardized fundamental human rights of prisoners and their chances of being rehabilitated and reintegrated into society.

13. Representatives underlined the considerable work that UNODC had carried out prior to the adoption of the Convention against Corruption, including the development of the International Code of Conduct for Public Officials and the United Nations Declaration against Corruption and Bribery in International

Commercial Transactions, as well as the provision of technical assistance to Member States through its Global Programme against Corruption.

14. Some representatives, including those of developed countries, reported that the process for the ratification in their respective national legal systems was well on its way. In view of the forthcoming entry into force of the Convention against Corruption, it was noted by several representatives that, in order to ensure effective implementation of its provisions at the national level, there was a need for the Conference of the States Parties to establish a strong monitoring and evaluation machinery, which should be streamlined, taking into account already existing review mechanisms of other international and regional instruments against corruption. Several delegates reported on their positive experiences with existing monitoring mechanisms, as they provided an objective evaluation of national efforts to combat corruption and an opportunity to make further improvements on existing institutional and legal frameworks.

15. Delegates pledged their readiness to cooperate fully in the fight against corruption on all fronts and at all levels, bilaterally as well as regionally and globally.

16. All representatives emphasized the acute need to enhance and strengthen international cooperation mechanisms for combating corruption, in particular by promoting extradition and mutual legal assistance. They underscored the importance of updating and streamlining existing treaty framework and relevant domestic legislation in line with the provisions of the Convention against Corruption and the Organized Crime Convention.

17. Many representatives pointed out that the requirements set out in the Convention against Corruption could not be fully met without appropriate technical assistance. There was agreement that the United Nations Office on Drugs and Crime should be supported in its efforts to carry out technical cooperation projects and activities with a view to building national capacities. Moreover, some participants emphasized the need for improved inter-agency coordination in the provision of technical assistance, making reference to the ongoing work of the International Group for Anti-Corruption Coordination.

Conclusions and recommendations

18. Summarizing the discussion, the Chairman stated that, in order to tackle the scourge of corruption in an efficient manner, more concerted action was required to build effective responses at the global level, including the possible development of a global plan of action against corruption. He recalled that, although the Organized Crime Convention had regulated public sector corruption, Member States felt that there was a need for a much more comprehensive instrument to deal with the multifaceted problem of corruption in an equally multidisciplinary and comprehensive manner. In view of that, the adoption of the Convention against Corruption was a milestone in the efforts of the international community to establish an international legal framework against corruption. That instrument, particularly its provisions on asset recovery, constituted a decisive step towards enhancing international cooperation in that area. The Chairman also underscored the importance of providing technical cooperation to assist Member States in putting in place appropriate regulatory regimes and establishing independent anti-corruption

bodies, as well as in promoting the necessary administrative reforms to ensure accountability in both the public and private sectors and to create a culture of good governance, which were effective deterrents to corruption-related practices.

19. There was unanimous agreement that corruption often had devastating consequences for sustainable development and democratic governance, as well as for the free and fair flow of international trade and investment. Moreover, all participants regarded the fight against corruption as an integral and indispensable component of the United Nations initiatives aimed at the achievement of the Millennium Development Goals.

20. Participants called upon all States to strive towards the speedy ratification and effective implementation of the Convention against Corruption. They accorded high priority to the need to establish appropriate and efficient legal and administrative mechanisms and methods for facilitating the return of proceeds of corruption to their countries of origin.

21. Participants also emphasized the need to enhance technical assistance provided to Member States in drafting appropriate legislation and building the capacity of national institutions to give practical effect to the provisions of the Convention against Corruption. They called upon UNODC to continue supporting relevant projects and activities, including those involving the preparation of a legislative guide for facilitating the development of relevant implementing laws, the dissemination of good practices in countering corruption and the expansion of the Global Programme against Corruption.
