

SUBSTANTIVE TOPICS OF INTEREST IN THE IMPLEMENTATION OF THE UNITED NATIONS CONVENTION AGAINST CORRUPTION, INCLUDING THE ROLE OF UNODC AND THE CONFERENCE OF THE STATES PARTIES AND ITS WORKING GROUPS

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I. A GENERAL OVERVIEW OF THE WORK OF UNODC IN THE ANTI-CORRUPTION FIELD

The United Nations Convention against Corruption (UNCAC) provides a comprehensive and multi-disciplinary framework for the prevention of, and fight against, corruption at the national level, as well as for effective regional and international cooperation. The Conference of the States Parties to UNCAC aims to improve the capacity of, and cooperation between, States parties to achieve the objectives of the Convention and promote and review its implementation. The Convention itself, as well as resolutions by the Conference, the General Assembly and the Economic and Social Council have mandated UNODC to support Member States in the ratification and implementation of the provisions of the Convention, in particular in strengthening their legal, institutional, and operational capacities to implement the provisions of UNCAC at the domestic level, and to cooperate internationally towards the establishment of a functional universal legal regime against corruption.

UNODC, through its Thematic Programme on Action against Corruption and Economic Crime, acts as a catalyst and a resource to help States ratify and effectively implement the provisions of the Convention. A primary goal of the anti-corruption work done by UNODC is to provide States with practical assistance to build the technical capacity needed to ensure compliance with the requirements of the Convention. In 2010-2011, in the framework of the project entitled "Towards an effective global regime against corruption", UNODC provided technical assistance in line with UNCAC to almost 50 countries (including assessments of domestic legal frameworks, legislative drafting, advice on institutional frameworks, capacity-building of anti-corruption bodies and criminal justice institutions), including through a large joint UNODC/UNDP project in Iraq.

In addition, assistance is regularly provided for the ratification/accession to UNCAC. In 2010-2011, ten additional countries ratified/acceded to UNCAC - Bahrain, Botswana, the Democratic Republic of Congo, Estonia, Liechtenstein, Iceland, India, Nepal, Thailand and Vanuatu. This brings the total to 154 States parties, as of 17 October 2011.

As a comprehensive framework for concerted action at the national and international levels to prevent and combat corruption, the Convention can be used as a benchmark for the design, implementation and evaluation of technical assistance programmes and projects geared towards enhancing the capacity of Member States to deal effectively with the challenges posed by corruption. Bearing this in mind, UNODC has been developing a series of technical assistance services to meet the growing demands of Member States in this field. An indicative list of such services includes, *inter alia*, the following:

- Provision of advice and expertise to support the development of a wide range of policies and programmes to ensure the effective implementation of the UNCAC provisions on the prevention of corruption, including national anti-corruption strategies and action plans, codes of conduct, asset declaration systems, conflict of interest policies and human resource management systems based on principles of efficiency, transparency and objective criteria;²

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² See Chapter II of the UNCAC.

- Provision of advice and expertise to support the development of domestic legislation aiming at ensuring full compliance with the provisions of UNCAC. In addition to legal advisory services, the development of such tools as legislative guides, model legislation and electronic libraries is another pillar of legal assistance provided by UNODC;
- Provision of specialized expertise and assistance to countries on the Convention's innovative provisions on asset recovery;³
- Provision of advice and expertise to support States parties in setting up and strengthening the institutional framework required by UNCAC in the areas of investigation, prosecution and international cooperation to combat corruption, including asset recovery;
- Assistance in building training capacities and programmes, through the development of training curricula, training manuals, training of trainers and the design of cost-effective methods and tools for the conduct of training, including computer-based training, to ensure that countries can build a body of highly skilled anti-corruption practitioners;
- Provision of assistance to States parties in enhancing the integrity, accountability and oversight of their criminal justice and security institutions with a view to enhancing their capacities to effectively carry out their mandate, implement the provisions of UNCAC and reduce their vulnerability to corrupt practices;
- Facilitating the exchange of good practices in the various fields covered by the Convention through the support of international and regional associations of anti-corruption authorities as well as the organization or regional and sub-regional workshops, meetings, and training events;
- Conduct of corruption risk assessments and strengthening of national capacities to carry out these assessments, in order to acquire a profound knowledge and understanding of the challenges posed by corruption (scope, nature, causes and contributing factors) as well as of the weaknesses of the laws, institutions, and policies in any given country;⁴
- Provision of support to Governments in raising awareness about the negative impact of corruption through targeted information campaigns and effective work with the media;⁵
- Supporting elements of civil society in strengthening the demand for good governance through the International Anti-Corruption Day campaign, including raising awareness about the negative impact of corruption in daily life and encouraging a more active stand against corruption;
- Building and strengthening partnerships between the public and the private sector against corruption, and promoting, in this regard, the business community's engagement in the prevention of corruption by, *inter alia*, developing initiatives to promote and implement public procurement reform and identifying elements of optimal self-regulation in the private sector.⁶

In addition, UNODC facilitates the Anti-Corruption Mentor Programme, which placed mentors in Bolivia, Cape Verde, Jordan, Kenya, Tajikistan, Thailand and Southern Sudan during a first phase that ended in 2010. The anti-corruption mentors provide a broad range of policy and technical advice and day-to-day support for the implementation of the Convention against Corruption, such as conducting gap assessments, assisting in establishing anti-corruption institutions and policies, providing training in investigation and prosecution of corruption offences, providing legislative assistance and advising on asset recovery strategies. They further prepare project proposals and raise funds for further activities. Recently, four advisers have been deployed to new target areas: one adviser to the Democratic Republic of Congo, to provide assistance at the country level, and three at the regional level – in Nairobi for East Africa, Bangkok for East Asia and in Panama to cover Central America and the Caribbean. As needs continue to emerge, UNODC will seek to place additional regional anti-corruption advisers elsewhere, provided that necessary extra-budgetary funds become available.

³ See Chapter V of the UNCAC.

⁴ The cornerstone of this work is the assistance to Member States in using the software-based comprehensive self-assessment checklist developed to assist States parties in reporting on their implementation of UNCAC and in identifying challenges in implementation and technical assistance needs. This also includes the support to the UNCAC Review of Implementation Mechanism, based on the self-assessments submitted by reviewed countries and on a peer review, which will identify technical assistance needs and ensure that the gaps identified will be filled by prioritizing the delivery of technical assistance as an integral part of the mechanism.

⁵ See <http://www.unodc.org/yournocounts>.

⁶ See <http://www.unodc.org/unodc/en/corruption/private-sector.html>.

II. THE CONFERENCE OF THE STATES PARTIES TO THE UNCAC AND ITS WORKING GROUPS

A. Role and Mandate

Pursuant to article 63 of the Convention, the Conference of the States Parties to the UNCAC was established to improve the capacity of and cooperation between States parties to achieve the objectives set forth in the Convention and to promote and review its implementation.

The Conference of the States Parties to the UNCAC is tasked with supporting States Parties and signatories in their implementation of the Convention, and provides policy guidance to UNODC for the development and execution of anti-corruption related activities. It has held three sessions to date (the last one in November 2009) and established working groups to assist it in its work in the fields of review of implementation, asset recovery, technical assistance and prevention. The next session was held 24 to 28 October 2011 in Marrakech.

The Conference has adopted far-reaching resolutions at each of its sessions and has mandated UNODC to implement them, including through the development of technical assistance projects. The Conference at its third session adopted landmark Resolution 3/1 on the review of the implementation of the Convention. In that Resolution, the Conference established a review mechanism aimed at assisting countries to meet the objectives of the Convention through a peer review process. In its capacity as the guardian of the UNCAC and Secretariat of the Conference of the States Parties to the Convention, UNODC is mandated to support the newly established mechanism for the review of implementation of the Convention and assist the Conference in identifying technical assistance priorities and developing appropriate responses to corruption. A more analytical overview of the mechanism is presented in a separate paper.

B. Working Group on Prevention

At its third session, the Conference of the States Parties to the UNCAC decided to establish an interim open-ended intergovernmental working group to advise and assist it in the implementation of its mandate on the prevention of corruption. The Conference also decided that the working group should perform the following functions:

- Assist the Conference in developing and accumulating knowledge in the area of prevention of corruption;
- Facilitate the exchange of information and experience among States on preventive measures and practices;
- Facilitate the collection, dissemination and promotion of best practices in corruption prevention;
- Assist the Conference in encouraging cooperation among all stakeholders and sectors of society in order to prevent corruption.⁷

At its most recent meeting, held from 22 to 24 August 2011, the Working Group noted with appreciation that many States parties had shared information on their initiatives and good practices on the key topics, namely: awareness-raising policies and practices with special reference to articles 5, 7, 12 and 13 of the Convention; and the public sector and prevention of corruption; codes of conduct (article 8 of the Convention) and public reporting (article 10 of the Convention). The Working Group requested States parties to continue to share with the secretariat updated information on initiatives and good practices related to Chapter II of the Convention.

The Working Group further recommended that, at its future sessions, it should continue to focus on a manageable number of specific substantive topics relevant to the implementation of the articles in Chapter II of the Convention, and reiterated that the availability of adequate expertise on the topics being addressed would benefit the discussions. At its future meetings, the Working Group may consider focusing its attention on the following topics:

- Implementation of article 12 of the Convention, including the use of public-private partnerships;
- Conflicts of interest, reporting acts of corruption and asset declarations, particularly in the context of articles 7-9 of the Convention.

⁷ See <http://www.unodc.org/unodc/en/treaties/CAC/working-group4.html>.

The Working Group considered that its future meetings should follow a multi-year workplan for the period up to 2015, when the second cycle of the Mechanism for the Review of Implementation of the Convention should begin, and recommended that the Conference should discuss the matter at its next session. In advance of each meeting of the Working Group, States parties should be invited to share their experiences of implementing the provisions under consideration, preferably by using the self-assessment checklist and including, where possible, successes, challenges, technical assistance needs, and lessons learned in implementation. Also in advance of each meeting, the secretariat should prepare background papers for the topics under discussion, based on the input from States parties, in particular if they relate to initiatives and good practices. The background papers should synthesize the different approaches taken by States parties in their different contexts, presenting the broad options and typologies of approach used and drawing attention to any common issues arising or lessons identified by States parties. Panel discussions could also be held during the meetings of the Working Group, involving experts from countries that have provided written responses on the priority themes in question.

Finally, the Working Group reaffirmed that States parties should continue to strengthen awareness-raising and education throughout all sectors in society, and that special attention be devoted to work with young people and children as part of a strategy to prevent corruption.

C. Working Group on Asset Recovery

At its first session, the Conference of the States Parties to the UNCAC adopted resolution 1/4, in which it decided to establish an interim open-ended intergovernmental working group to advise and assist the Conference in implementing its mandate on the return of proceeds of corruption.⁸

Reaffirming that Chapter V of the Convention presented a unique framework for asset recovery, the working group has devoted part of its discussions to challenges to the asset recovery process in practice. It has paid particular attention to a series of practical problems and obstacles hampering assistance and efficient cooperation in this field, including those related to divergences in legal systems. In addition, the working group placed emphasis on ways to address the lack of capacity of prosecutors, investigators and financial intelligence units to deal with asset recovery cases. It found that the exchange of information between investigative and prosecutorial authorities of requesting and requested States was often hindered by a deficit in trust between institutions at the national and international levels. Another challenge noted was the excessive length of proceedings.

The working group has further discussed positive examples, good practices and areas for action in the field of asset recovery. It has been stressed throughout its work that States should strive to have the most comprehensive legal frameworks in place and take all necessary steps to enable practitioners to make the best possible use of the legal tools in place. Moreover, particular attention was devoted to the need to develop a common understanding of standards for procedural and evidentiary requirements in requesting and requested States and to make use of modern information technology in evidentiary procedures and for the fast-tracking of information processing.

The working group has further discussed technical assistance approaches to supporting asset recovery such as capacity-building and training, gap analyses, the drafting of new laws where necessary, the facilitation of the mutual legal assistance process, knowledge dissemination and the provision of practical tools such as case management systems. In this vein, it was noted that urgent and concerted action was necessary to build or strengthen trust among cooperating States and to promote informal channels of communication through, inter alia, the establishment of a network of focal points. Those focal points would be designated officials with technical expertise in international cooperation and be in a position to assist their counterparts in effectively managing requests. Further, the establishment of regional networks similar to the Camden Asset Recovery Inter-Agency Network (CARIN) was encouraged.

The working group has noted with appreciation the work of the StAR initiative in developing practical guides and practitioners' tools and the work of UNODC in establishing a knowledge management consortium and a legal library on anti-corruption issues. It further discussed the importance of adopting

⁸ See <http://www.unodc.org/unodc/en/treaties/CAC/working-group2.html>.

an operational, practical and analytical approach to developing knowledge products and of ensuring broad consultations with experts from States from all regions and representing all legal systems. Moreover, it underlined the importance of coordinating efforts between existing initiatives in order to maximize the use of expertise and resources, and forge further partnerships for asset recovery and technical assistance.

III. SUBSTANTIVE TOPICS OF RECENT INTEREST IN THE PROMOTION AND IMPLEMENTATION OF THE CONVENTION

A. Development of Anti-Corruption Educational Curriculum

Corruption is a complex phenomenon that affects societies around the globe by undermining democratic institutions, slowing economic development and perverting the rule of law. One effective way to prevent it is by educating future generations of leaders about the problem and the tools and mechanisms available to confront it. Promoting a culture of integrity and zero tolerance for corruption throughout society and across professions is an important element in the fight against corruption. By bringing anti-corruption education to universities and other academic institutions, a significant contribution of lasting effect can be made to combat it. Article 13 of the Convention requires States parties to take measures to promote the active participation of individuals and groups in the prevention of, and the fight against, corruption, including through public education programmes, including school and university curricula.

Upon invitation from Northeastern University and UNODC, a small group of approximately 30 experts in the field of anti-corruption and higher education gathered to initiate a consultative process for the development of an academic programme on anti-corruption for university students. As a first step, the group set itself the goal to develop a rough concept for further elaboration, defining the educational objectives, target audience, scope and structure of a programme designed to educate future leaders and professionals about corruption and mechanisms to combat it.

The backbone of the initiative is a comprehensive set of academic educational materials organized in modular form in a so-called 'menu of courses' (course topics). This structure is not intended to be a full-fledged curriculum per se, but rather a flexible compilation of teaching modules on different aspects of corruption, which can be taught separately or in sequence, and thus incorporated into existing curricula or syllabi as needed and as scope and teaching plans permit. The thematic outline or 'menu' would then be annotated with a detailed bibliography and ideally complemented by case studies and a teaching manual, taking into account the variety of legal systems and education models and traditions that exist in order to ensure utmost adaptability to teaching styles across the globe.

Finally, regarding delivery modalities, the material would be made available as an open source tool online, accessible free of charge and open to amendments and further elaboration by teachers who use the material in order to keep it a living document. Pilot testing for the curricula is scheduled to begin in Spring 2012 with the completion and roll-out of the final tools scheduled to take place in Autumn 2012.

B. Work with the Private Sector

The private sector and corporate community has a key role to play in enhancing integrity, accountability and transparency. The rapid development of rules of corporate governance around the world is prompting companies to focus on anti-corruption measures as part of their mechanisms to protect their reputations and interests of their shareholders. Internal checks and balances are increasingly being extended to a range of ethics and integrity issues. Article 12 of the Convention requires States parties to take measures to prevent corruption in the private sector, including through enhanced accounting and auditing standards. It also provides a menu of suggested measure to achieve these goals, including by promoting cooperation between the private sector and law enforcement agencies, promoting standards and procedures designed to safeguard the integrity of private entities (including codes of conduct and business integrity standards), promoting transparency among private entities, preventing conflicts of interest, and ensuring effective internal audit systems.

In the period 2010-2011, the United Nations Global Compact and UNODC together developed an e-learning tool for the private sector to enhance understanding of principle 10 of the Global Compact (anti-corruption), which states: "Business should work against corruption in any form, including bribery and

extortion,”⁹ and its underlying legal instrument, the Convention against Corruption, as it applies to actors operating in the business community. The e-learning tool consists of six short interactive learning modules developed for anyone who acts on behalf of a company. They are based on real-life scenarios designed to provide guidance on how to deal with potential risks of corruption that people working in business may face in their daily work. Issues covered include: (a) receiving gifts and hospitality; (b) gifts and hospitality towards others; (c) facilitation payments and corruption; (d) the use of intermediaries and lobbyists; (e) corruption and social investments; and (f) insider information. Each module lasts about five minutes, providing a quick and effective way of learning. The e-learning tool is publicly accessible and free of charge.¹⁰

In the first half of 2011, UNODC, with the support of the Siemens Integrity Initiative, launched three anti-corruption projects aimed at promoting the private sector’s engagement in anti-corruption efforts. UNODC is one of the first recipients of financing for anti-corruption projects through the Siemens Integrity Initiative. The US\$100 million Initiative, which is part of the World Bank-Siemens AG comprehensive settlement agreed in 2009, will finance three UNODC projects over three years to work towards the following three crucial areas: reducing vulnerabilities in public procurement systems; creating legal incentives in line with the Convention against Corruption to encourage corporate integrity and cooperation; and educating current and future business and public leaders about the true costs of corruption and how compliance with the Convention can help to protect both the public good and business interests. This \$3 million donation from Siemens to support anti-corruption programmes of UNODC is a minuscule amount in terms of the corporate bottom line, but it will have far-reaching ripple effects in combating corruption.

One of those technical assistance projects, entitled “Public-Private Partnership for Probity in Public Procurement”, is to reduce vulnerabilities to corruption in public procurement systems and to bridge knowledge and communication gaps between public procurement administrations and the private sector. The project will promote States’ implementation of article 9 of the Convention and support private actors’ efforts to comply with principle 10 of the United Nations Global Compact.

The second project with the Siemens Integrity Initiative, entitled “Incentives to Corporate Integrity and Cooperation in Accordance with the United Nations Convention against Corruption”, is intended to foster cooperation between the private sector and government authorities, especially law enforcement authorities. It aims to create systems of legal incentives for companies, thus encouraging business to report internal instances of corruption. This project aims to promote States’ implementation of articles 26 (Liability of legal persons), 32 (Protection of witnesses, experts and victims), 37 (Cooperation with law enforcement authorities) and 39 (Cooperation between national authorities and the private sector) of the Convention against Corruption and to facilitate private actors’ compliance with the Tenth Principle of the UN Global Compact. These first two projects are being piloted in India and Mexico and also encompass the compilation and dissemination of good practices and lessons learned.

The third project, entitled “Outreach and Communication Programme”, seeks to enhance companies’ knowledge of how the UNCAC can make a difference in their daily work both internally and in their interaction with public counterparts, and to encourage the business community to turn their anti-corruption commitments into action by bringing their integrity programmes in line with the universal principles of the Convention. The project also seeks to support learning institutions which have come to realize that they do have a role to play in preparing the next generation of public and business leaders to the challenge of making right and ethical decisions. This will be achieved by: (a) creating and disseminating a structured outreach and communication program that combines a global perspective with local contexts, reaching out to private companies, particularly the UN Global Compact business participants; and (b) developing a comprehensive academic learning course on the UNCAC and its implication for public administrators and private operators to be embedded in curricula of business, law and public administration schools.

⁹ There are ten principles in total, one of which relates to corruption. The full list can be found at <http://www.unglobalcompact.org/AboutTheGC/TheTenPrinciples/index.html>.

¹⁰ This tool can be found at <http://thefightagainstcorruption.unodc.org> or <http://thefightagainstcorruption.unglobalcompact.org>.

C. Judicial Integrity and Capacity

The establishment of an independent and effective justice system that safeguards human rights, facilitates access to all and provides transparent and objective recourse is a core value held the world over. The centrality of a strong justice mechanism lies in its essential contribution to fostering economic stability and growth, and to enabling all manner of disputes to be resolved within a structured and orderly framework. As a result, judicial and legal reform is consistently a priority on the agendas of countries regardless of their state of development. Yet the complex and multifaceted nature of achieving the ends of justice has challenged efforts to identify a coherent set of issues warranting the time and attention of reformers, and slowed the subsequent formulation of specific prescriptions and guidelines on what can be done to improve the quality of justice delivery across the system.

Article 11 of the Convention requires each State party, in accordance with the fundamental principles of its legal system and without prejudice to judicial independence, to take measures to strengthen integrity and prevent opportunities for corruption among members of the judiciary. In addition, article 13 extends states that similar measures may be introduced and applied within the prosecution services where such entity operates in a posture of independence similar to that of the judicial service.

In 2011, UNODC completed a Resource Guide on Strengthening Judicial Integrity and Capacity, with the purpose to support and inform those who are tasked with reforming and strengthening the justice systems of their countries, as well as development partners, international organizations and other providers of technical assistance who provide support to this process. Work on this guide began following the United Nations Economic and Social Council Resolution 23/2006, which endorsed the Bangalore Principles on Judicial Conduct and requested UNODC to convene an open-ended intergovernmental expert group, in cooperation with the Judicial Group on Strengthening Judicial Integrity and other international and regional judicial forums, to develop a technical guide on approaches to the provision of technical assistance aimed at strengthening judicial integrity and capacity.

Thereafter, UNODC convened an Intergovernmental Expert Group Meeting on 1-2 March 2007 in Vienna, Austria, to provide guidance concerning the content of the guide. Participants recommended that the guide should address the following core themes: a) judicial recruitment, selection and evaluation; b) judicial ethics and discipline; c) assessment and evaluation of court performance; d) case management; e) consistency, coherence and equality in judicial decision-making; f) access to justice; g) function and management of court personnel; h) judicial resources and remuneration; and i) the promotion of public trust in the judiciary. They proposed that, in developing the guide, UNODC should collect and draw from existing best practices in strengthening judicial integrity and capacity. Participants were also of the opinion that the guide should not exclusively address the needs of the providers of technical assistance, but should rather present information that would benefit all stakeholders in the justice system, in particular judges and other justice-sector officials in managerial positions.

Following these recommendations, the mandate for the development of the guide was further specified in ECOSOC Res. 22/2007, which requested UNODC to continue its work to develop a guide on strengthening judicial integrity and capacity, leading to the final product. UNODC, in cooperation with the American Bar Association Rule of Law Initiative and the Research Institute on Judicial Systems (IRSIG-CNR), prepared a first draft of the guide. This draft was further enriched and improved upon by a group of experts on justice sector reform who gathered on 8-10 November 2009 in Bologna, Italy, at the offices of the IRSIG-CNR.

The guide draws together ideas, recommendations and strategies developed by contemporary experts on judicial and legal reform, and includes reference to successful measures taken in a range of countries to address particular challenges in strengthening the justice system. Applied researchers and seasoned practitioners have contributed to a large and growing literature addressing judicial reform efforts. Similarly, there are many valuable experiences and good practices from countries operating within a variety of legal contexts that are worthy of consideration across borders. As a result, the guide brings together a comprehensive set of topics for discussion and strategic thinking in a single volume.

At the same time, the guide does not seek to cover every aspect related to the reform and strengthening of a country's justice system, nor does it intend to replace the vast array of complementary literature,

research and reports that already exist, including those addressing specialized issues such as juvenile justice, pre-trial detention and human rights. To cover every issue that arises in the transformation of a justice system would be an impossible task. Rather, the guide intends to contribute to the existing literature by providing a guide to target the core areas identified by the expert group as priorities in justice sector reform, and offer recommendations, core ideas and case studies for consideration in the development and implementation of national justice sector actions plans, strategies and reform programmes.

While the guide seeks to provide a holistic approach to judicial reform, it allows readers to select what parts of a larger agenda are most relevant to them and, at the same time, to see how similar aims have been achieved in other jurisdictions. In so doing, the guide aspires to avoid a doctrinaire or monolithic approach to justice sector reform based on a single “best” model. Instead, the goal is to contribute to the literature on justice sector reform a targeted and economic focus on the administration of justice from a systemic standpoint, rather than a focus on the quality of legal decisions themselves. An administration of justice led primarily by the courts affects all participants in the legal process, including members of the public and policy makers, through the application of various practices and procedures. These applications touch on a broad set of issues ranging from judicial recruitment and selection practices, to the timeliness of decisions, to the openness and transparency of the process, to the accessibility of these systems for those seeking justice and the protection of their rights. Ultimately, the guide aims to provide practical information on how to build and maintain an independent, impartial, transparent, effective, efficient and service-oriented justice system that enjoys the confidence of the public and lives up to the expectations contained in relevant international legal instruments, standards and norms.

In addition, UNODC has provided technical assistance to the justice sectors in several countries to help strengthen integrity mechanisms. In Indonesia, assistance was provided to the Supreme Court and other institutions in strengthening judicial integrity, capacity and professionalism; supporting the Corruption Eradication Commission and other institutions for the implementation of the anti-corruption strategy; and providing 15 grass-root NGOs with small grants to support their anti-corruption campaign. Assistance was also provided to strengthen the capacity of law enforcement and criminal justice officials to investigate, prosecute and adjudicate illegal logging and corruption cases linked to them, and UNODC worked with civil society organizations to support “barefoot investigators” who look for and expose forest crimes in their local communities.

In Nigeria, UNODC’s largest anti-corruption project to date was completed that provided support to strengthen the operational capacity of the Economic and Financial Crimes Commission (EFCC) and assisted the Nigerian judiciary in strengthening integrity and capacity of the justice system at the Federal level and within ten Nigerian States. In another ongoing project, assistance is being provided to the Nigerian private sector in the development of principles for the ethical conduct of business as well as the conduct of corruption risk assessments in the private-public sector interface. A new project assisting the Bayelsa State Government (in the Niger Delta region) was launched aiming to strengthen the integrity, transparency and accountability of its public finance management systems and its judiciary.

D. Protection of Whistle-blowers, Reporting Persons and Cooperating Offenders

In order for provisions of the Convention to be effective, they need to be supported by measures and mechanisms that strengthen key phases of corruption cases, particularly the detection, prosecution and punishment of perpetrators and asset recovery. As part of these measures, and in order to enhance detection of corruption, articles 32, 33 and 37 of the Convention mandate States parties to adopt or consider adopting measures relating to cooperating offenders, witnesses and reporting persons. These measures include providing effective witness protection from potential retaliation or intimidation, safeguarding persons reporting corruption in good faith and on reasonable grounds from any unjustified treatment, and encouraging cooperating offenders to supply useful information to investigatory authorities to recover proceeds of crime in exchange for potential mitigation of punishment.¹¹

¹¹ Article 32 addresses the protection of witnesses, experts and victims. Article 33 addresses the protection of reporting persons, requiring States parties to “consider incorporating . . . appropriate measures to provide protection against any unjustified treatment for any person who reports in good faith and on reasonable grounds to the competence authorities any facts concerning offences established in accordance” with the Convention. Article 37 addresses cases where individuals who have participated in the commission of a corruption-related offense agree to cooperate with law enforcement authorities.

Because of the recent attention directed by States parties to the challenges of protecting whistleblowers, reporting persons and cooperating offenders, UNODC has developed a concept note to provide technical assistance at the global, regional and country levels that would create tools and resource materials, including good practices, for practitioners, particularly law enforcement, investigators, prosecutors and judges involved in corruption cases. The tools, resource materials and training workshops would be approached from the standpoint of the practical implementation of the Convention, within the context of internationally recognized good practices and operational realization of articles 32, 33 and 37 of the Convention.

As corruption is often a sophisticated criminal activity, States parties do not always have the means to continually monitor compliance with anti-corruption laws, nor do they possess the inside information to spot corruption at very early stages. Thus, successful detection and prosecution of corruption in many cases requires the cooperation of reporting persons, witnesses or cooperating offenders who come forward with information about suspicions of wrongdoing or proceeds of crime.

In terms of reporting persons, in particular – commonly called “whistle-blowers” – there is no universally accepted definition of the term “whistle-blower” in international anti-corruption instruments.¹² Nevertheless, it is generally agreed that the term encompasses individuals who in good faith report suspected acts of corruption. In essence, whistle-blowers are acting in the public interest by reporting acts of corruption and criminality. Corrupt activities are generally conducted in secret, so these are persons who reveal crimes that might otherwise go unnoticed. Thus, in many cases, whistle-blowers are employees and other actors within particular sectors with first-hand knowledge of processes and the work of the institution or enterprise concerned. They have the potential and are best placed to uncover misconduct by providing information, through either internal or external reporting mechanisms, to supervisors, regulatory authorities and agencies, as well as law enforcement bodies.

Whistle-blowers and reporting persons are particularly at risk of suffering negative consequences as a result of their actions to report corruption. These can range from social or workplace stigma to overt retaliation, such as failure to promote/retain, dismissal, or forced transfer, and can, in some cases, escalate to physical or material harm to themselves or their families. Such retaliation can result in witnesses and reporting persons becoming uncooperative with investigators, and the potential for such retaliation has a chilling effect on those who may report corruption in the future. Therefore, whistle-blower protection laws and policies support the rule of law and the observance of institutional values, social goals and public policies by providing reliable means of redress for retaliation.

Protection of witnesses is important in the context of many types of criminal investigations, and in particular, in investigations of corruption in both the public and private sectors. The ability of a witness to give testimony in a judicial setting or to cooperate with law enforcement investigations without fear of intimidation or reprisal is essential to maintaining the rule of law. As such investigations become more serious and complex, it is essential that witnesses, as the cornerstones for successful investigation and prosecution, have trust in criminal justice systems. Witnesses – whether whistle-blowers or others who possess evidence related to corruption – therefore need to have the confidence to come forward to assist law enforcement and prosecutorial authorities. They require assurance that they will receive support and protection from intimidation and harm that may be inflicted upon them in attempts to discourage or punish them for cooperating.

Another important tool in the investigation and prosecution of corruption cases is the use of cooperating witnesses (also called “cooperating offenders”), who may operate as confidential informants or undercover operatives with some connection and criminal culpability relative to the corruption activity. In general, what distinguishes cooperating offenders from other types of witnesses is their criminal culpability, and agreement with the Government – in exchange for information and/or testimony – to reduced charges, more favourable sentencing terms, deferred prosecution or other benefit. Because such cooperating offenders

¹² Guidance regarding various conceptualizations of the term “whistle-blower” can be found in the following instruments: African Union Convention on Preventing and Combating Corruption Article 5; Council of Europe Criminal Law Convention, Article 22; Council of Europe Civil Law Convention on Corruption, Article 9; Inter-American Convention Against Corruption Article III; Southern African Development Community Protocol Against Corruption Article 4.

often obtain relevant information and evidence through criminal associations and possible undercover operations supervised by law enforcement, they require protection measures similar to witnesses and whistle-blowers, and in some cases even greater. In addition, working with cooperating offenders involves a higher degree of coordination between law enforcement and prosecutors to ensure the integrity of the investigation and operation within the applicable legal context.

Considering the importance of information provided by reporting persons, witnesses and cooperating offenders, and the potential repercussions and safety risks they face, the Convention mandates and encourages States parties to take appropriate measures in accordance with the domestic legal system to adopt laws and policies necessary to protect and encourage witnesses, reporting persons, whistle-blowers and cooperating offenders who draw attention to corrupt activity or identify proceeds of crime. In practice, however, various gaps in domestic legal systems fail to protect such persons and allow retaliation to take place with little or no redress. For example, while laws may provide protection for employees who report corruption by their employers, they may not always cover non-workplace retaliation, such as may occur after the reporting person no longer has an employment relationship with the agency or entity in question. There is thus a range of retaliatory acts left uncovered that may dissuade persons from reporting corruption or cooperating with investigators. Inadequate protection, rigid procedural rules, unclear policies and inadequate institutional capacity may further contribute to dissuading a reasonable person from coming forward with key information.

E. Confiscation of Proceeds and Asset Recovery

In what has been recognized as a major breakthrough compared to existing international instruments against corruption, the UNCAC contains a comprehensive treatment of asset recovery in Chapter V. Beginning with the introductory article, which states that the return of assets pursuant to that chapter is a “fundamental principle” and that States parties shall afford one another the widest measure of cooperation and assistance in that regard (article 51), the Convention sets forth substantive provisions to address specific measures and mechanisms for cooperation with a view to facilitating the repatriation of assets derived from offences covered by the UNCAC to their country of origin.

Chapter V also provides mechanisms for direct recovery of property (article 53) and a comprehensive framework for international cooperation (articles 54-55), which incorporates, *mutatis mutandis*, the more general mutual legal assistance requirements of article 46 and sets forth procedures for international cooperation in confiscation matters. These are important powers, as criminals frequently seek to hide proceeds, instrumentalities and evidence of crime in more than one jurisdiction, in order to thwart efforts to locate and seize them.¹³

¹³ Article 55, paragraph 1, in particular, mandates a State party to provide assistance “to the greatest extent possible” in accordance with domestic law, when receiving a request from another State party having jurisdiction over an offence established in accordance with the UNCAC for confiscation of proceeds of crime, property, equipment or other instrumentalities, either by recognizing and enforcing a foreign confiscation order, or by bringing an application for a domestic order before the competent authorities on the basis of information provided by the other State party.

Under article 54, paragraph 1(c), of the UNCAC, States parties, in order to provide mutual legal assistance pursuant to article 55 with respect to property acquired through or involved in the commission of an offence established in accordance with the Convention, must, in accordance with their domestic law, consider taking such measures as may be necessary to allow confiscation of such property without a criminal conviction in cases in which the offender cannot be prosecuted by reason of death, flight or absence or in other appropriate cases.

While confiscation without a criminal conviction (“NCB confiscation”) should never be a substitute for criminal prosecution, in many instances, such confiscation may be the only way to recover the proceeds of corruption and to exact some measure of justice. Countries that do not have the ability to confiscate without a conviction are challenged because they lack one of the important tools available to recover stolen assets. NCB confiscation is valuable because the influence of corrupt officials and other practical realities may prevent criminal investigations entirely, or delay them until after the official has died or absconded. Alternatively, the corrupt official may have immunity from prosecution. Because an NCB confiscation regime is not dependent on a criminal conviction, it can proceed regardless of death, flight, or any immunity the corrupt official might enjoy. Although an increasing number of jurisdictions are adopting legislation which permits confiscation without a conviction, international cooperation in NCB confiscation cases remains quite challenging for a number of reasons. First, it is a growing area of law that is not yet universal; therefore not all jurisdictions have adopted legislation permitting NCB confiscation or enforcement of foreign NCB orders or both. Secondly, even where NCB confiscation exists, the systems vary significantly. Some jurisdictions conduct NCB confiscation as a separate proceeding in civil courts (also known as civil confiscation) with a lower standard of proof than in criminal cases (balance of probabilities); others use NCB confiscation in criminal courts and

With regard to the return and disposition of assets, Chapter V of the Convention incorporates a series of provisions that favour return to the requesting State party, depending on how closely the assets are linked to it in the first place. Thus, the Convention imposes the obligation for States parties to adopt such legislative and other measures that would enable their competent authorities, when acting on a request made by another State party, to return confiscated property, taking into account the rights of bona fide third parties and in accordance with the fundamental principles of their domestic law (article 57, paragraph 2). In particular, the Convention requires States parties that receive a relevant request in the case of embezzlement of public funds or of laundering of embezzled public funds to return the confiscated property to the requesting State on the condition of a final judgement in the latter State (although this condition can be waived) (article 57, paragraph 3(a)). In the case of any other offences covered by the Convention, two additional conditions for the return are recognized alternatively, i.e. that the requesting State reasonably establishes its prior ownership of such confiscated property or that the requested State recognizes damage to the requesting State as a basis for returning the confiscated property (article 57, paragraph 3(b)). In all other cases, the requested State shall give priority consideration to returning confiscated property to the requesting State, returning such property to its prior legitimate owners or compensating the victims (article 57, paragraph 3(c)).

In the framework of the joint UNODC/World Bank Stolen Asset Recovery (StAR) Initiative, practical tools and policy studies on asset recovery have been developed (Asset Recovery Handbook; Best practices guide on income and asset declarations; A Good Practice Guide for Non-conviction-based Asset Forfeiture). A number of basic and advanced training courses have also been conducted. In 2011, the StAR/INTERPOL Asset Recovery Focal Points Platform was launched and further developed. Assistance was provided to the League of Arab States for a regional workshop on asset recovery in June 2011.

As of October 2011, 27 States had submitted formal requests for technical assistance to the StAR Initiative. Another three States had submitted requests for further assistance to follow up on previous support provided. Of these, six requests relate to assets frozen; five to mutual legal assistance on ongoing cases; two to the work of countries as honest brokers in cooperation with financial centres; and four to the development and launching of asset recovery programmes. In addition, UNODC has provided assistance to one State relating to mutual legal assistance at the request of that State. The nature of the assistance offered varies and is fully tailored to the specific needs of the requesting State.

A number of asset recovery training courses have been conducted jointly with StAR as well, including regional events in the Pacific Islands, the Middle East and North Africa, South and Central America, South and Eastern Europe, East and Southern Africa and in South and East Asia. Training has been delivered on two levels: introductory workshops aimed at raising awareness about asset recovery; and more advanced training courses to address the technical aspects of asset recovery. The introductory workshops have generally been held at a regional level, to allow practitioners to share experiences and develop contacts, including contacts in regional financial centres. Those events are designed for higher-level decision-makers who do not require extensive training on hands-on asset recovery techniques and procedures. In addition, specialized training on specific topics or to specific groups has been provided. A pilot course is also being undertaken with the East African Association of Anti-Corruption Agencies to develop a pool of trainers, who would be able to transfer skills on asset recovery to counterparts in the region, as and when they are going to use those skills.

StAR has also helped push asset recovery to the top of the international agenda and to bring international organizations together around a common agenda. Key events attended by StAR/UNODC staff members included: Group of Twenty (G-20) Finance Ministers and Central Bank Governors Anti-Corruption Working Group; Financial Action Task Force/Egmont meetings; and OECD Working Group on Bribery. Asset recovery now figures prominently in commitments by the G20 and is an integral part of the G20 Anti-Corruption Strategy. In addition, and in cooperation with the Swiss Government, StAR also arranged “No Safe Havens: A Global Forum on Stolen Asset Recovery and Development” (8-9 June 2010) with 120 high-

require the higher criminal standard of proof. Some jurisdictions will only pursue NCB confiscation after criminal proceedings were abandoned or unsuccessful, while others pursue NCB confiscation in proceedings parallel to the related criminal proceedings.

level participants, including 98 Cabinet Ministers from around the world, representatives of the financial and private sectors, civil society organizations and international and bilateral development agencies.

UNODC recently completed its project on Action against Economic Fraud and Identity-related Crime. The objective of the project was to develop new tools to assist Member States in strengthening their legal, institutional and operational capacities in order to combat economic fraud and identity-related crime at the domestic level, and to effectively engage in international cooperation against these crimes. Experience and knowledge accumulated in the past years strongly showed the growing needs of Member States for assistance aimed at upgrading domestic capabilities to both prevent and combat economic fraud and identity-related crime. It was paramount that the important research and policy groundwork accomplished by UNODC so far be sustained and followed-up to achieve in-depth and tailored national capacity-building support. This project was a first step to contribute to the priorities identified in relevant strategies and policies on identity-related crime.

In the framework of the project, a Handbook on Identity-related crime was finalized, which compiles a variety of tools, including: a manual to assist Member States in developing and drafting new identity offences and in reviewing and modernizing related existing offences, together with a compendium of examples of relevant legislation on identity-related crime (and fraudulent practices linked to it) to be made available for use by Member States; an inventory of best practices on public-private partnerships to prevent economic fraud and identity-related crime; and a training manual for use by investigators and prosecutors and with emphasis on international cooperation aspects of the fight against identity-related crime.

F. International Cooperation

Corruption is no longer an issue confined within national boundaries, but a transnational phenomenon that affects different jurisdictions, thus rendering international cooperation essential.

The UNCAC incorporates detailed and extensive provisions on international cooperation, covering all its forms, including extradition (article 44), mutual legal assistance (article 46), transfer of sentenced persons (article 45), transfer of criminal proceedings (article 47), law enforcement cooperation (article 48), joint investigations (article 49) and cooperation for using special investigative techniques (article 50). These provisions are generally based on the precedent of the United Nations Convention on Transnational Organized Crime (UNTOC), and sometimes going beyond it,¹⁴ thereby providing a much more comprehensive legal framework.

In the framework of Corruption Knowledge Management and Legal Library Project, UNODC developed an anti-corruption portal entitled TRACK (Tools and Resources for Anti-Corruption Knowledge), a web-based platform, in cooperation with the World Bank, Microsoft and other TRACK partner institutions. The TRACK website has three main components: a Legal Library related to UNCAC which contains legislation and jurisprudence relevant to the Convention from over 175 States, systematized in accordance with the requirements of the Convention; an anti-corruption learning platform where analytical materials and tools generated by TRACK partner organizations can be searched and accessed; and a collaborative space for registered partner institutions and anti-corruption practitioners, where registered users can upload and exchange information. A non-exclusive list of TRACK partner institutions includes the African Development Bank; the Asian Development Bank; the Basel Institute of Governance / International Center for Asset Recovery; the International Association of Anti-Corruption Authorities (IAACA); Microsoft Corporation; the Organization for Economic Cooperation and Development; the U4 Anti-Corruption Resource Centre; UNDP; the United Nations Global Compact; the United Nations Interregional Crime Research Institute (UNICRI) and the UNODC/World Bank Stolen Asset Recovery Initiative (StAR).

CEB has provided guidance and expertise on substantive issues towards the establishment of the International Anti Corruption Academy (IACA), in partnership with the Government of Austria, with the support of the European Anti-Fraud Office. In particular, UNODC assisted IACA in finalizing the legal document for its establishment as an international organization; participated in the steering committee

¹⁴ It should be noted that one of the innovations of the UNCAC is that it foresees the provision of mutual legal assistance even in the absence of dual criminality, where this is consistent with the basic concepts of the domestic legal systems and such assistance involves non-coercive measures (article 46, paragraph 9(b)).

meetings; invited IACA to participate in a side event at the third session of the Conference of the States Parties to UNCAC; assisted in setting up the website for the Academy and contributed to the Inaugural Conference which took place in September 2010. The Academy currently offers its training and research activities, and its full programme, including academic degree courses, will commence in late 2011. IACA became officially an independent international organisation on 8 of March 2011.

Following the recent establishment of the Academy, the Government of Panama expressed interest in the establishment of a Regional Anti-Corruption Academy for Central America and the Caribbean, in Panama City, and it requested technical assistance from UNODC in order to develop a training curriculum, train anti-corruption officials, provide expertise, support the formal and informal networks and promote awareness activities in the region, which would include support to the improvement and strengthening of anti-corruption policies of Central America and the Caribbean States. The Academy will offer specialized courses in the training of prosecutors, judges, police officers and others responsible to prevent, detect and fight corruption in the public sector.

G. Mutual Legal Assistance

The increasingly international mobility of offenders and the use of advanced technology and international banking for the commission of offences make it more necessary than ever for law enforcement and judicial authorities to collaborate and assist each other in an effective manner in investigations, prosecutions and judicial proceedings related to such offences.

In order to achieve that goal, States have enacted laws to enable them to provide assistance to foreign jurisdictions and increasingly have resorted to treaties or agreements on mutual legal assistance in criminal matters. Such treaties or agreements usually list the kind of assistance to be provided, the requirements that need to be met for affording assistance, the obligations of the cooperating States, the rights of alleged offenders and the procedures to be followed for submitting and executing the relevant requests.

The UNCAC generally seeks ways to facilitate and enhance mutual legal assistance, encouraging States parties to engage in the conclusion of further agreements or arrangements in order to improve the efficiency of mutual legal assistance. In any case, article 46, paragraph 1, requires States parties to afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by the Convention.

In the absence of an applicable mutual legal assistance treaty, paragraphs 9-29 of article 46 apply in relation to requests made in accordance with the UNCAC. If a treaty is in force between the States parties concerned, the rules of the treaty will apply instead, unless the States parties agree to apply paragraphs 9-29. In any case, States parties are encouraged to apply those paragraphs if they facilitate cooperation. In some jurisdictions, this may require legislation to give full effect to the provisions.

From a practical point of view, it is also important for States parties to ensure the proper execution of a mutual legal assistance request made under article 46 of the UNCAC. Since the procedural laws of State parties differ considerably, the requesting State party may require special procedures (such as notarized affidavits) that are not recognized under the law of the requested State party. Traditionally, the almost immutable principle has been that the requested State party will give primacy to its own procedural law. That principle has led to difficulties, in particular when the requesting and the requested States parties represent different legal traditions.

According to article 46, paragraph 17, of the UNCAC, a request should be executed in accordance with the domestic law of the requested State party. However, the article also provides that, to the extent not contrary to the domestic law of the requested State party and where possible, the request should be executed in accordance with the procedures specified in the request.

Article 46, paragraph 8, specifically provides that States parties cannot refuse mutual legal assistance on the ground of bank secrecy. It is significant that this paragraph is not included among the paragraphs that only apply in the absence of a mutual legal assistance treaty. Instead, States parties are obliged to ensure that no such ground for refusal may be invoked under their legal regime.

In March 2011, UNODC requested States parties to the UNCAC that had not done so to designate central authorities responsible for requests for mutual legal assistance. As of 15 June 2011, 91 States parties had notified UNODC of their designated central authorities. UNODC has also compiled a database of asset recovery focal points designated by Member States. In March 2011, UNODC invited Member States to submit information on their designated asset recovery focal points in order to expand the database. As at 15 June 2011, forty Member States had notified UNODC of their designated focal points.

The focal point initiative was established by the StAR Initiative in partnership with the International Criminal Police Organization (INTERPOL) in January 2009. Its objective is to support investigations through informal assistance (i.e. prior to the submission of formal requests for mutual legal assistance) for the purpose of recovering the proceeds of corruption and economic crime. It achieves that function through a secure database containing the names of asset recovery focal points in participating countries who are available 24 hours a day, seven days a week. A communications platform to enable focal points to communicate on a secure basis is currently being developed. At present, 84 countries are participating in the initiative. A first meeting of the members of the network of focal points was held on 13 and 14 December 2010 in Vienna. A second meeting was held in Lyon from 11 to 13 July 2011.

CEB has also pursued efforts to expand the Mutual Legal Assistance Request Writer Tool, a user-friendly computer-based tool that helps States to prepare, transmit and receive requests for mutual legal assistance. An expanded version of the tool will offer additional features and possibilities, and is expected to be finalized before the end of 2011.

H. Joint Investigations

Article 49 of the UNCAC encourages States parties to enter into agreements or arrangements to conduct joint investigations, prosecutions and proceedings in more than one State, where a number of States parties may have jurisdiction over the offences involved.

Practical experience has shown that joint investigations raise issues related to the legal standing and powers of officials operating in another jurisdiction, the admissibility of evidence in a State party obtained in that jurisdiction by an official from another State party, the giving of evidence in court by officials from another jurisdiction, and the sharing of information between State parties before and during an investigation.

In planning joint investigations, and identifying issues to be addressed prior to undertaking any work, consideration may need to be given to the following factors:

- the criteria for deciding on a joint investigation, with priority being given to a strong and clearly defined case of serious transnational corruption;¹⁵
- the criteria for choosing the location of a joint investigation (near the border, near the main suspects, etc.);
- the use of a coordination body to steer the investigation if several jurisdictions are involved;
- the designation of a lead investigator to direct and monitor the investigation;
- agreements on the collective aims and outcomes of joint operation, the intended contribution of each participating agency, as well as the relationship between each participating agency and other agencies from the same State party;
- addressing cultural differences between jurisdictions;
- assessing the pre-conditions of the investigation as the host State party should be responsible for organizing the infrastructure of the team;
- the liability of officers from a foreign agency who work under the auspices of a joint investigation;
- the level of control exerted by judges or investigators;
- financing and resourcing of joint investigations; and
- identifying the legal rules, regulations and procedures to determine emergent legal and practical matters.¹⁶

¹⁵ The challenge, in this context, is to ensure that joint investigations are handled in a proportionate manner and with due respect to the suspect's human rights.

¹⁶ Such matters may include: the pooling, storage and sharing of information; confidentiality of operational activities; the integrity and admissibility of evidence; disclosure issues (a particular concern in common law jurisdictions); implications of the use of covert operations; appropriate charges and the issue of retention of traffic data for law enforcement purposes.

I. Special Investigative Techniques

Article 50 of the UNCAC requires States parties to take measures to allow for the appropriate use of special investigative techniques for the investigation of corruption. It first advocates in paragraph 1 the use of controlled delivery and, where appropriate, electronic or other forms of surveillance and undercover operations on the understanding that such techniques may be an effective weapon in hands of law enforcement authorities to combat sophisticated criminal activities related to corruption. However, the deployment of such techniques must always be done to the extent permitted by the basic principles of domestic legal systems and in accordance with the conditions prescribed by domestic laws. Paragraph 1 also obliges States parties to take measures allowing for the admissibility in court of evidence derived from such techniques.

Paragraph 2 accords priority to the existence of the appropriate legal framework that authorizes the use of special investigative techniques and therefore encourages States parties to conclude bilateral or multilateral agreements or arrangements to foster cooperation in this field, with due respect for concerns of national sovereignty.

Paragraph 3 provides a pragmatic approach in that it offers the legal basis for the use of special investigative techniques on a case-by-case basis where relevant agreements or arrangements do not exist.

Paragraph 4 clarifies the methods of controlled delivery that may be applied at the international level and may include methods such as intercepting and allowing goods or funds to continue intact or be removed or replaced in whole or in part. The method to be used may depend on the circumstances of the particular case and may also be affected by national laws on evidence and its admissibility.

In general, the deployment of special investigative techniques requires the competent investigative authorities to seriously consider the legal and policy implications of their use, and a careful assessment of the appropriate and proportionate checks and balances to ensure protection of human rights.

IV. EPILOGUE

The UNCAC, as a powerful manifestation of the collective political will of the international community to put in place a framework and a target of aspiration in the fight against corruption, attaches great importance to the adoption and implementation of measures geared towards rendering criminal justice responses to corruption more efficient, both at the domestic and international levels.

Legislators of States parties need to establish an adequate and comprehensive legal framework to give practical effect to the relevant provisions of the UNCAC. However, the main challenge for States parties is to improve the capacities of criminal justice institutions to effectively combat corruption domestically, cooperate internationally in the investigation, prosecution, and adjudication of corruption-related offences, and further enhance asset recovery mechanisms to identify, seize and return the proceeds of crime.

In this regard, UNODC will continue to provide, upon request, specialized substantive and technical expertise to competent authorities and officials of Member States with specific emphasis on international cooperation and criminalization. The establishment of the Implementation Review Mechanism of the UNCAC provides the opportunity for collecting, systematizing and assessing valuable information on how technical assistance needs in the abovementioned fields can be identified and on possible ways and means to meet those needs in the context of reviewing the implementation of the Convention.