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Work of the Centre for International Crime Prevention: technical cooperation

Statement submitted by Centro Nazionale di Prevenzione e Difesa Sociale,** a non-governmental organization in special consultative status with the Economic and Social Council

The Secretary-General has received the attached statement,** which is circulated in accordance with paragraphs 36 and 37 of Economic and Social Council resolution 1996/31 of 25 July 1996.

* E/CN.15/2000/1.

** The International Scientific and Professional Advisory Council wishes to be associated with the statement.

*** The statement has been reproduced in the form in which it was received.

For the biennium 1999-2000 the Centro Nazionale di Prevenzione e Difesa Sociale (CNPDS) and the International Scientific and Professional Advisory Council of the United Nations Crime Prevention and Criminal Justice Programme (ISPAC) decided to concentrate on the priority topics as adopted by the Plenary Session of its membership, the United Nations Center for International Crime Prevention (CICP), the United Nations Commission on Crime Prevention and Criminal Justice and by Economic and Social Council (ECOSOC), namely organized crime, corruption, traffic in human beings and terrorism.

In this framework a Symposium on *The United Nations Convention against Transnational Organized Crime* was held in Rome (26th-27th February 1999) at the Senate of Italy in co-operation with the United Nations Office for Drug Control and Crime Prevention (ODCCP). The Symposium aimed at promoting more effective national legislation and improved international co-operation in order to cope with organized crime and to harmonize States regulations. The Symposium brought together policy-makers from all over the world, thus fostering the exchange of knowledge and of experiences in view of the adoption of the draft UN Convention, including its provisions on the enforcement of effective programmes for the protection of witnesses, the seizure/confiscation of the proceeds of crime, the abolition of bank secrecy and increased international judicial co-operation. Three specific protocols will be added to the Convention which will introduce modern and effective control of illegal migrations, the illegal traffic of firearms and the traffic in women and children.

ISPAC and the United Nations Interregional Crime and Justice Research Institute (UNICRI) - pursuant to resolution 1999/20 of the Economic and Social Council that stressed the need for a global strategy against corruption - organized an International Conference on *“Responding to the Challenges of Corruption”* (Milan, Italy, 19th-20th November 1999). ISPAC and UNICRI agreed to submit the results of the Conference to the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Vienna, 10-17 April 2000) and to convene a Workshop on *Combating Corruption (10-11 April 2000)*.

The Milan Conference was attended by over 220 experts from different regions of the world, including policy-makers, administrators, academicians and researchers active in this field. They tackled the various aspects of the problem and suggested collaborative strategies. This meeting recommended the adoption of a resolution by the General Assembly, which would invite Member States to examine the adequacy of their domestic legal regimes in terms of preventing and controlling corruption and providing for forfeiture of the proceeds of corruption.

At the opening session, the Executive Director of the UN Office for Drug Control and Crime Prevention, Professor Pino Arlacchi, delivered a keynote address on **United Nations confronting Corruption**, in which he analysed the dynamics and impact of corruption on the economic and social growth of developing countries and of countries in transition (in Central and Eastern Europe). The Conference proceedings were divided into five major subject areas, covered by multinational, multidisciplinary panels: **Achievements and Difficulties Encountered. Political Level; Achievements and Difficulties Encountered. Judiciary Level; the Business World and Corruption; Corruption: the International Experience and Activities; Prevention: an Effective Tool to Reduce Corruption. “Best Practices”**. Corruption has been classified into three levels (“street,” “business” and “top” political and financial). It was noted that these different levels of corruption must be recognized as distinct, as to both the supply and the demand side of the activities.

Corruption involving the supply side focuses on the payment of bribes in return for specific services, preferential treatment or contracts. Corrupt practices occurring on the demand side include solicitation of bribes and/or extortion. The latter is typical of corruption involving political and financial powers.

During the first session it was noted that corruption is basically caused by the disappearance of the rule of law. The countries undergoing transition to a market economy are particularly susceptible to corruption. This is basically the result of a change in the needs of the civil society as it changes into a consumer society, in combination with imperfectly organised and enforced public and judicial administrations. The lack of an institutional framework to manage the process has resulted in significant corruption, amounting to a looting of the State budget. Moreover since corruption is a victimless crime, low risks of discovery and punishment do little to deter the prevalence of these factors.

Countries that are radically reforming their economic and political system, like Central and Eastern Europe during the 1990s, are confronted with corruption in the business sector and at the high political and financial levels. The new opportunities arising from the distribution of property due to privatisation of former State-owned properties increase the appeal of obtaining illegal advantages. The actors in this context are not only national or international business members, but also, in the case of high-level corruption, the national decision-makers within political and administrative offices.

Corruption in both the public and private sector, regardless of the level at which it occurs, can jeopardise free trade, distort competitiveness and undermine the stability upon which the free market system is based. Widespread corruption jeopardises the credibility of governments and their institutions.

In many countries, poverty and underdevelopment are accompanied by corruption. In countries with organized crime related to drug smuggling (like South America or South East Asia), corruption is perpetrated in the form of extortion, bribery, or illegal political campaign contributions, and it is often tied to a pervasive level of violence.

Developed countries are also susceptible of corruption as a result of *élite* groups establishing closed networks, through abuse of power, conflict of interest, extortion, nepotism, tribalism, fraud, and blurred distinctions between the private and the public interest.

In the debate which followed the speakers' presentations it was also acknowledged that the source of corruption often originates from outside. In the rapidly globalizing world corruption has no boundaries and nations cannot fight corruption alone. It is therefore necessary to fight corruption in the home country as well as in the host countries of bribery, through a multilateral approach.

The Conference proceedings focused - in the second Round-Table - on the judiciary level and related experiences (from Italy, Spain, Switzerland, Czech Republic, United States, Hong Kong). It was pointed out how judicial cooperation among States encountered several difficulties and inefficiencies due to the lack of political will on the part of the States where corruption is particularly endemic. In fact, the last few years have seen major efforts in elaborating tools, norms and standards - still not adopted by several States. (An example is the OECD Convention against Corruption not yet ratified by Italy). Shifts in burden of proof regarding confiscation of illicit enrichment, whistleblower and witness protection, abolition of bank secrecy, development and facilitation of data exchange, remain controversial issues.

In order to complete the analysis of these phenomena, the third session focused on the connections between the business world and corruption. Businesses may either be the perpetrator of corruption by offering bribes to public officials to secure contracts, or they may be the victim, being solicited for bribes by public officials or other businesses to obtain licences, contracts or “protection or assurances”. The difference, compared with public corruption, is the fact that in the private sector of business there is a “grey area” where corruption is less obvious.

Special attention was paid to the impact of corruption and bribery on the free market economy and competitiveness. A corrupt business environment tends to favour domestic companies familiar with the “local way of doing business”; while large multi-national corporations might be able to afford to lose contracts in order to avoid situations involving bribes. Smaller businesses, whose survival may depend on securing a particular contract, are less competitive because they have less resources to devote to corruption than big companies.

Binding rules of conduct, auditing and controlling are needed to establish transparency within the business world and in public administration. Furthermore, corruption within the private sector should be curbed, especially by rules of private law, to ensure that corrupt behaviour becomes commercially unattractive.

Corruption can be prevented by an adherence to best ethical practices in the organization, by the development of a comprehensive system of internal controls, by allocating resources to an independent internal audit department, and by a level of vigilance exercised by the board of directors or other governing body of the organization.

The second working day was opened by the Round-Table on the international experience and activities in the fight against corruption. The Speakers emphasized the role of international institutions and organizations in this area of concern. Since the mid 90s inter-governmental organizations and the multilateral money lenders have been developing international standards and policies against corruption. Several regional and global anti-corruption declarations, treaties, and other instruments have been adopted by the Council of Europe, the Commonwealth Secretariat, European Union, International Monetary Fund, INTERPOL, the Organization for Economic Co-operation and Development (OECD), the Organization of American States (OAS), the United Nations, the World Bank and other organizations. Especially the OECD’s Recommendation and Convention of 1997 have led to a rapid sequence of changes in national legislation in industrialised countries and economies in transition. Together with a new ICC policy and the crucial awareness-raising by organizations of civil society (especially Transparency International) a real and visible change is taking place in the way we deal with the age-old problem of corruption.

While such efforts are seen as positive, the importance of further co-ordination, sharing information, and mutual understanding among the multitude of national strategies and international anti-corruption agreements to enhance the effectiveness of the international fight against corruption were emphasized. Closer co-operation is needed between the judiciary and law enforcement officials to ensure that those who break the law do not gain from bribery and corruption.

All presentations noted that the work to be done on corruption is just one element amongst others in the framework of international law to create integrated systems for monitoring international economic transactions. Sanctions and law enforcement are not enough by themselves, rather, they have to be accompanied by a comprehensive,

multi-disciplinary approach where prevention measures should play a primary role. These may be less expensive than dealing with corrupt acts after they have been committed. For effective prevention of corruption - especially in States in transition - it is necessary to promote economic growth, in order to alleviate poverty. Democratic reforms and institutions engender a strong civil society with access to information, thus providing popular support for democracy. Codes of conduct and training in ethics must focus on various sectors and all levels within society to include local institutions in the public and private sectors, including public administration, political office, and corporations at the local, national and international levels. This is especially true in a globalised economy that clearly renders nationally organized law and law enforcement less effective. Attempts to secure ethical business behaviour as well as to control the flow of money are part of what might be called an overall structure of global governance.

The last session was devoted to the analysis of extant research and the effective tools developed so far to prevent corruption. Particular attention was devoted to the example of the Independent Commission against Corruption (ICAC) in Hong Kong, an anti-corruption “watchdog” body ensuring the transparency of transactions and accessibility to the fiscal data of all public transactions. There was a discussion of whether such an independent body, in the commercial field, should have exclusive jurisdiction over the problem, especially with relation to public administration in general.

Among the research discussed, Transparency International’s Corruption Perceptions Index (CPI) assumed a central place. The goal of CPI is to provide data on perceptions of corruption within countries because they improve the understanding of real levels of corruption. The Bribe Payers Propensity Index (BPI) (published this year for the first time) attempts to assess the degree of corruption practiced by nationals outside their own countries. The International Centre for Crime Prevention and Criminal Justice of the United Nations Office at Vienna produces the United Nations Survey of Crime Trends and Operations of Criminal Justice Systems. These surveys collect cross-national comparative data on the incidence of reported crime and the operations of criminal justice systems, based primarily on national statistical data derived from official national criminal statistics. The latest report covers the years 1990 - 1994. The experience of Bulgaria with its Corruption Monitoring System of Coalition 2000 (CMS) was also mentioned because its results have been used to elaborate the Anti-Corruption Action Plan in the first phase of the Coalition 2000 initiative. It has been created with a series of surveys on tolerance of different corrupt practices, which started in 1996. Subsequently CSD carried out a research project in the field of corruption behavior and attitudes. The design of the CMS includes a set of quantitative and qualitative surveys and media monitoring. Subsequently the CMS has been able to track the evolution of corruption behavior and attitudes and to focus public attention on the problems of corruption.

In conclusion, an effective anti-corruption strategy has to rely on awareness-raising and public education among civil society and the media, prevention and enforcement in the judicial, legislative, executive and private sectors and institution-building across all sectors. It should especially promote the co-ordination among economic and social policies and the development of civic political culture. In fact, a strong demand for good governance is increasing throughout the developing world, because corruption has debilitating effects upon society and proves so far to be one of the greatest obstacles to development.

At the end of the proceedings it was stressed that there are several aspects of the complex phenomena of bribery and corruption that need to be further explored, including the connection between organised crime and corruption, and the use of tax-havens for the purpose of laundering money.

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ISPAC Standing - Rapporteur
