

United Nations

CRIME PREVENTION AND CRIMINAL JUSTICE DIVISION

United Nations action against

CORRUPTION

and

BRIBERY

September 1997

CONTENTS

Aspects of corruption: its roots and consequences p. 3

Corruption and typology of illicit activities associated with it p. 6

United Nations action against corruption and bribery p. 10

Activities of the Crime Prevention
and Criminal Justice Division: Technical Cooperation p. 19

Conclusion P. 22

Annex 1

General Assembly - Resolution 51/59 *Action against corruption and International Code of Conduct for Public Officials*

Annex 2

General Assembly - Resolution 51/191 *United Nations Declaration against Corruption and Bribery in International Commercial Transactions*

Annex 3

Economic and Social Council - Commission on Crime Prevention and Criminal Justice - Sixth session - *Promotion and maintenance of the rule of law and good governance. Action against corruption and bribery* - Vienna, 28 April - 9 May 1997

Annex 4

Commission on Crime Prevention and Criminal Justice - Sixth session - draft resolution IV *International cooperation against corruption and bribery in international commercial transactions*

Aspects of corruption: its roots and consequences

Several questions arise in connection with the increased interest in action against corruption at both the national and international levels. In such interest due to the higher occurrence of corrupt practices, higher detection rates or lower levels of (public, official and business) tolerance? The available evidence suggests that the answer may lie in a combination of these explanations. If each of them is examined separately, it will be easier to understand not only the eruption of scandals, but also the explosion of anti-corruption sentiments and how the two can be mutually reinforcing.

There are good reasons to believe that in a world of relative turmoil produced by radical changes in the post-cold-war era, there are new opportunities and incentives to engage in corrupt practices. Although characteristics of particular people can be found that make them more prone to misconduct than others, the problem of corruption is a problem of systems and institutions rather than one of individuals. The structural roots of corruption may be examined under four interrelated categories.

First, there may be monopolistic or oligopolistic situations, in which one or a handful of companies control a given market. The State may wish to engage private companies to perform specific tasks or public works or provide services. To the extent that only a very small number of companies can practically carry out the work, the ground is fertile for corrupt practices (such as overcharging, providing low-quality work or delivering the work late). Such a condition obtains, for example, in the field of defence projects. Indeed, with regard to defence projects, oligopolistic conditions may be desired: no one wishes to see the proliferation of certain types of weaponry or technology that affect both national and international security. In this field, then, it is warranted to devote special attention to transactions and to have special bodies overseeing them. In other cases, oligopolies may be created by rules requiring specific conditions that companies must meet for eligibility, or may be introduced by rules dictating preferential treatment for some companies (for example, domestic versus foreign). Analytically, the same type of situation arises when a party or regime monopolizes power and decision-making for very long periods.

Secondly, very wide discretionary powers in the hands of individuals or organizations can generate temptations and motives for corrupt practices. Whenever there are few or no mechanisms of checks and balances, people will have plenty of opportunities to take undue advantage of their power. Examples of this corrupt-inducing situation are found in authoritarian regimes where powers are concentrated in the hands of very few persons. Another example is the power conferred to people with extremely specialized skills and knowledge. By definition, there are not too many of them, and therefore their powers are to a large extent unchecked. Again, the defence industry may be a concrete illustration of this situation. Additional examples of such a risk can be found in the field of physics, medicine, etc.

Thirdly, lack of transparency reduces the ability to control those in positions of authority. The lack of transparency may be caused by factors ranging from the banking secrecy to dictatorial regimes disallowing the questioning of authority. The same problem arises as a result of rare and specialized skills and knowledge. If a given public work or special warship entails such complex and incomprehensible details that only a few individuals can understand the whole

project, transparency is effectively lacking. Whenever regulations of a particular sector are unclear, ambiguous and technically complicated, reporters, the public and lay persons may be completely unable to exercise effective control. The regulation of agricultural subsidies, price supports and loan guarantees in many countries provides a good example of the problem.

Finally, the genesis of corruption may be analysed through the concept of asymmetries. Asymmetries are discrepancies or disjunctions that occur at the legal, administrative, cultural, economic or political level. Although they are either domestic or international, the latter are more consequential in a global community. Asymmetries are conducive to corruption both directly and indirectly through the creation of illegal markets that operate best with the collusion of authorities. Examples of problematic legal asymmetries can be found in banking and tax regimes of different countries. This asymmetry invites many individuals and corporations to seek the most convenient jurisdiction to engage in certain transactions, even if that constitutes a violation of domestic laws. It also provides a shield against the discovery of corrupt practices. Another example is the differential treatment of bribes paid to foreign officials. It is a serious crime in some countries, but a tax-deductible business expense in others. This makes it easy for people to rationalize their corrupt practices as technical violations. Administrative asymmetries fuel the payment of speed money as well as clientelage and patronage systems. When some administrations function better and faster than others, bottlenecks and frustrations will certainly generate motives and rationalizations for illicit payments to "get the job done" or avoid the unnecessary costs of delays. Economic and political asymmetries can produce systematic frustrations in large parts of the population. They underlie and fuel capital flight, as well as the smuggling of aliens into countries where a better future appears possible. In another way, such asymmetries foster attitudes justifying corruption as functional to local economies and as a way of redistributing wealth.

The globalization and liberalization processes of the 1990s have increased the number and types of such asymmetries, or they have generated more awareness of their existence. Therefore, the criminogenic effect can be expected to be higher during the 1990s than before. Law enforcement asymmetries are also increased, at least temporarily, as borders are being redefined or renegotiated in different parts of the world. Lofty expectations in former centrally planned economies are frustrated by disappointment and disillusionment. The wave of privatization processes offer considerable opportunities for misconduct and corruption. Technological advances have made the contact between different countries easier and faster, and this increases the possibility of clashes of traditions or lifestyles, as well as the feelings of relative deprivation. All these reasons suggest that the problem of corruption may indeed be greater now than before.

The momentum of democratization and economic liberalization processes fosters attitudes strongly opposed to discrimination and market distortions caused by corruption. Higher awareness and lower tolerance of the problem, combined with expected increases in the incidence of corruption, account for the intensity of debates and the large number of initiatives against this scourge. Large numbers of people have come to realize the real extent of its negative consequences. All the more so in developing countries, where it has hampered national, social, economic and political progress. Where corruption involves the transfer of funds outside the country, it seriously undermines economic development. This in turn leads to political instability as well as poor roads, schools, medical services, lower education standards and the

non-completion of projects. The way funds are allocated is distorted and inefficient; competent and honest citizens feel frustrated, and the general population's level of distrust rises. As a consequence, much foreign aid disappears, productive capacity is weakened, administrative efficiency is reduced and the legitimacy of political order is undermined.

The same effects, if somewhat less acute, can be found in industrialized countries. Individuals who wish to conduct their affairs fairly and honestly are demoralized and lose faith in the rule of law. Corruption breeds distrust of public institutions, undermines ethical principles by rewarding those willing and able to pay bribes, and perpetuates inequality. Economic competition is distorted and public funds are squandered. As institutional and market reforms may lose credibility in the eyes of the public, processes of democratization (which should eventually reduce inequalities and improve transparency and accountability) risk losing momentum.

Because of the substantial amounts involved in corrupt practices every year, the international financial system is also affected. The risk includes what has been termed competitive deregulation, whereby jurisdictions seeking to attract these proceeds relax their regulations and enhance secret provisions. Money-laundering becomes an even more lucrative business with a potential corruptive effect, in turn leading to increased dependency of financial systems on such funds. International conflicts and tensions are another risk, as States attempt to repatriate some of the funds, institute extraterritorial investigations that may injure national pride or raise issues related to sovereignty, while others may be compelled to exert increased pressures on some States to amend their legislation and provide mutual assistance in corruption cases.

The global risks are even higher when links between corruption and organized crime become clearer. Several recent examples have highlighted how the illicit relationships between organized criminal groups and public officials have the potential to cause serious damage to the socio-economic structure of States⁽¹⁾. It is essential to note that serious and profitable illicit activities - whether related to ancient sculpture, nuclear material, drugs, illegal aliens or prostitution - invariably rely at some point in time on the support of corrupt public officials. Corruption is a necessary condition for organized criminals to operate. The risk is that, because of the immense power that some groups command, organized criminals may come to acquire such great power that they would completely undermine and destroy institutions, with dire consequences for democracy and the rule of law.

Corruption and typology of illicit activities associated with it

Over the years, considerable debate has been carried out in both academic and international forum on the definition of corruption. On the basis of the report of the Italian Minister of Justice at the 19th Conference of European Ministers of Justice (organized by the Council of Europe at Valletta, Malta, from 14 to 15 June 1994), the Multidisciplinary Group on Corruption (GMC, the French acronym) of the Council of Europe established the following provisional working definition of corruption: "Corruption as dealt with by the Council of Europe's GMC is bribery and any other behaviour in relation to persons entrusted with responsibilities in the public or private sector which violates their duties that follow from their status as public official, private employee, independent agent or other relationship of that kind and is aimed at obtaining undue advantages of any kind for themselves or for others". In other words, corruption could be said to constitute the combined effect of monopoly of power plus discretion in decision-making in the absence of accountability. This means that officials will have the opportunity to collect corrupt benefits as a function of their degree of monopoly over a service or activity, their discretion in deciding who should get how much, and the degree to which their activities are accountable. Accountability then becomes one of the key issues of international discourse, as well as the ultimate goal of international cooperation.

Large scale corruption may be transnational. Even when a large scale fraud is perpetrated entirely within one country, the necessity to transfer funds overseas introduces an international element. The danger posed by corruption are magnified and exacerbated by its reciprocal relationship with organized transnational crime. In a world that is constantly changing and becoming more interdependent, the long-term consequences of that relationship merit attention and action. Organized criminal groups have demonstrated their preference towards "systemic" corruption designed to ensure the preservation of a congenial and low-risk home base or a comfortable environment in host countries. Such a method of operation may be characterized by widespread use of bribery and favours to ensure the malleability of key positions and agencies; political funding to ensure that politicians elected to office will be indebted to the criminal organizations; carefully targeted "payoffs" to law enforcement personnel to provide intelligence; and the provision of financial incentives to members of the judiciary to ensure that the penalties for criminal activities are either not imposed or are modest. Indeed, systemic corruption is one of the ways in which criminal organizations develop a symbiotic relationship with the State.

A growing awareness that corruption is a serious problem has galvanized support for an international and coordinated fight against it. In spite of this awareness, corruption remains a highly complex phenomenon. Conceptually, it is generally agreed that at the core of the problem lies some form of abuse of power. A generic conceptualization could be the abuse of public office for direct or indirect personal gain. Indirect personal gain would include benefits that someone secures improperly for his or her organization (for example, a company, a political party or a non-profit organization). Given the need for a common understanding of what is at stake and what kind of practices are to be eradicated, it is worthwhile to list several specific questionable or illegal acts that are criminalized in various States. The list is, of course, not exhaustive. This empirical approach towards corrupt practices would avoid culture-bound conceptions, thereby enhancing consensus-building and allowing anti-corruption efforts to gain further momentum.

All the offences dealt with below are frequently differentiated depending on whether the offender is a low-level or high-level official. Distinctions are also made on the basis of the gravity

of the offence and the amounts involved. Systemic, large-scale and high-level corrupt practices are more severely punished. Nevertheless, all types and all levels of corruption need to be equally addressed and at the same time, since, the cumulative effect of petty corruption can be just as significant in monetary terms. In addition, it serves to maintain a culture that facilitates corruption, constantly frustrating and demoralizing the public.

Bribery

The penal laws of most countries include the offence of bribery, where private parties offer or promise money or advantages to officials in order to influence their decisions. Variations exist as to the attempt, promise, giving, solicitation or acceptance of a bribe (active and passive bribery). The crime of extortion generally consists in the demand of a benefit by an official. One of the main sources of recent global initiatives springs from the concern that public officials in many countries accept illicit payments or other advantages in order to extend contracts or offer business deals to particular corporations. The criminalization of the direct or indirect offer or actual giving of anything of value to a foreign official in order to assist a company in its international business has become a model that may guide national lawmakers and multinational efforts. This offence is not a new concept, and involves little more than the extension of domestic bribery laws to cover bribery committed in a foreign country. The logic remains the same: no one should be required or allowed to exercise improper influence on the decision of officials in any jurisdiction. Another way in which such practices are dealt with is by resorting to unfair trade or anti-trust regulations. A company or individual that obtains a contract because of illicit payments has gained an unfair advantage over other competitors. Rules governing competition in domestic or international markets address this problem.

Some States equally criminalize and penalize the offeror and the recipient of bribes or other illegal payments. In some States the offence and the penalty are different, depending on whether public officials are or are not involved. In other States, such distinctions have no legal consequences. Also, laws cover the role of intermediaries, if the benefit was provided to a public servant through a nominee or agent.

Fraud

An alternative way of dealing with corrupt payments, especially in transactions between the private and public sector, is through the crime of fraud (as is the case in the United Kingdom of Great Britain and Northern Ireland). When corrupt intentions cannot be proved easily or at all, it may still be possible to demonstrate beyond reasonable doubt that the overpricing of a project is due to the effort of a company to recuperate the cost of bribes. The same applies to cases of providing work of inferior quality than that specified in the contract, charging for goods or services never delivered, altering the specifications or the timing of completion etc.

Other illicit payments

Observers have often referred to "speed money", amounts paid to officials in order to expedite a decision-making or other process. In such cases, officials receive illicit benefits to do what they are supposed to do anyway. In certain cases, advantages are conferred or promised in order to cut the red tape. Although some might rationalize this practice by thinking that it is valuable and in the best interests of their community, such payments are commonly outlawed.

Another act worthy of consideration is the payment of money to politicians to influence not only their vote in parliament or committees of which they are members, but also for asking particular questions or raising issues. In democratic societies, such practices may be regarded as undermining the principle of one person, one vote, and of equality and fairness - those who do not have the means to influence the political process in this way will not be sufficiently listened to and their interests may not be adequately represented. An offence that may be used to prosecute many of the above-mentioned practices is that of trading in influence, which is currently being considered by the Council of Europe working group on criminal law.

Buying and delivering of votes

A related type of misconduct, also undermining democratic principles, is the direct or indirect purchase of votes. Those able and willing to pay voters to vote for them gain an unfair advantage over those who follow the rules and do not wish to or cannot resort to similar practices. This offence may be committed not only through direct payments, but also through "clientelism" and patronage, whereby favours and jobs may be offered only to those who voted for the official in power.

Votes may be delivered in the sense of accepting favours or other advantages from a public official or representative of a party to ensure that people over whom the deliverer has control in a geographical location, company or other organization will vote for the corrupt candidate.

Illicit political contributions

Some States disallow contributions to political parties or candidates, while others criminalize them when they exceed a certain amount or violate disclosure rules. Sometimes the contributions are outlawed only when they are made by certain categories of persons (for example, by foreigners). If the intention of the contributor is to exert undue influence on a political party or candidate, the offence of bribery can be used in the absence of specific laws regarding such contributions.

Abuse of power and breach of trust

A host of malpractices can be considered as examples of exploitation of a public office and abuse of power or breach of trust. They range from favouritism and illegal discrimination to abusing sensitive or confidential information. Extortionate demands may be made for favourable treatment or for simply not discriminating against a private person. Demands may include payments, gifts or sexual intimacy.

Abuses of power may take place in the process of liberalization of economies as State-owned companies are privatized. Opportunities exist in this process for officials to undervalue the price of a company, so that it is sold very cheaply to private interests. The value of the company and, consequently, the price of its shares may go significantly higher within a short period of time. Officials can then be rewarded in a variety of ways. Officials who have special knowledge about pending or not publicly announced decisions may commit insider trading, by engaging in commercial or business activity in an unauthorized and improper fashion on the basis of non-public information. For instance, they may buy the stock of companies that they know will be awarded a contract by the Government (the price of the stock is likely to go up when a big order is publicly announced, and corrupt officials can then sell the shares at a substantial profit). This trading, again, may occur through relatives, nominees or shell corporations. Inside knowledge may be abused by disclosing to a company representative the secret details of a competitor's bid for a public construction work. The company thus obtains the order by being able to prepare its own proposal with the advantage thus given. In this case, unfair competition laws may apply. The corrupt official may be given something of value in exchange. Some observers have noted the case of deferred bribery, a type of misconduct that is not easy to criminalize but worth considering because of its harmful effects. This type of bribery occurs when the official is simply given a very well-paid position in a company that he favoured while in office shortly after he retires from public service. Because the elements of bribery in such cases are hard to prove, some States have introduced, or are considering the introduction of, laws prohibiting officials from working for companies that they regulated, or which were involved in transactions with the officials' department while these officials were in office. Other States opt for a waiting period during which former officials cannot accept employment from entities in such cases as mentioned above - two or more years. Disallowing the use of "revolving doors" can help strengthen public perceptions of the integrity of their government and officials.

Officials with powers of control over revenue departments or social agencies have the opportunity to interfere improperly with the work of those bodies. They may orchestrate persecutions of political opponents, organizations or companies for ideological or profit-motivated reasons. They may direct the selective prosecution of certain offenders, or systematically turn a blind eye to other offenders. They may arbitrarily undercharge or overcharge taxes and duties on commercial transactions to the point of extortion. Obstruction of

justice is an offence that may be used against officials who seek to hide or cover up such illegal activities by misdirecting investigations or destroying evidence. Such misconduct is often linked to the operation of illegal enterprises and markets - what is usually considered organized crime. The best-organized crimes perpetrated discreetly, without risking scandals and public attention, and with the collaboration of officials. Whenever there is suspicious of serious drug trafficking, arms trafficking or other smuggling operations on a grand scale, it can be expected that the collusion and illicit enrichment of some official will be found. In dealing with such practices, legal tools used against organized criminal groups, such as the Racketeer Influenced and Corrupt Organizations (RICO) statute in the United States of America, may prove useful in the punishment of corrupt officials.

Misappropriation of public funds

The offences of abuse of power and breach of trust can also be used against practices that involve the misuse and misappropriation of public funds or resources. Public officials may divert public money to their accounts or those of a partner. Some autocratic rulers are known for the systematic looting of their countries' wealth. Additional offences that may be used in those cases include embezzlement and theft, both of which are quite common among Member States. States that apply currency restrictions and controls may use the violation of those rules to prosecute corrupt officials who export the proceeds of their illicit profits overseas. Other States may resort to laws prohibiting tax evasion, given that this illegal income is neither declared nor taxed. In the event that an official is unable to explain his or her net worth and level of spending, prosecutors may be able to use this as an evidence of tax evasion.

Conflict of interest

Public officials have the obligation to be fair, impartial and efficient in their public roles. The legislation of many States provides that it is not appropriate for officials to make decisions significantly affecting companies in which they are shareholders or directors. Such conflicts, in some States, are outlawed entirely. In others, the officials must declare the conflict and withdraw from the decision-making process with respect to the area of potential conflict. In yet other States, mere disclosure of the conflict is considered sufficient to prevent improper decisions by an official. In those cases, non-disclosure of related interests is a punishable offence. The same would apply to violations of routine obligations of public servants to place their assets on public records (sometimes including the assets of their close family members).

United Nations action against corruption and bribery

The United Nations has been concerned with the problem of corruption for more than two

decades. The matter has been discussed by the quinquennial United Nations congresses on the prevention of crime and the treatment of offenders, particularly with reference to new forms of crime and crime prevention planning in the context of development. The Fifth Congress on the Prevention of Crime and the Treatment of Offenders, held in Geneva in 1975, focused on crime as business at the national and international levels, bringing particular attention into organized crime, white collar crime and corruption. The working paper prepared by the Secretariat and titled: "Changes in Forms and Dimensions of Criminality - Transnational and National"⁽²⁾, recognized the increasing threat posed by economic crimes, and in particular by corruption, to many countries in the world. The report also noted that for most countries the economic and social consequences of economic criminality are much greater than the consequences of the traditional forms of violent crime and crime against property. The Fifth Congress also considered the role of the police in the prevention of crime, in accordance with a specific request made by the General Assembly in 1974 (resolution 3218 - XXIX).

In the working paper on: "The Emerging Role of the Police and Other Law Enforcement Agencies, with Special Reference to Changing Expectations and Minimum Standards of Performance"⁽³⁾, the Secretariat noted that when corruption occurs in high places, it is a problem for those who are expected to keep order to maintain standards different from those respected by their superiors. For this reason, corruption within the police depends largely upon the influence, guidance and interest of the total society on the police. Nevertheless, it is still true that a police force is in a unique position and a police officer cannot be regarded simply as an ordinary citizen in so far as his conduct is concerned. By virtue of his appointment, he is expected to behave in a manner that is at least one level higher than that of most persons.

In preparation for the Fifth Congress, the United Nations convened a working group of police experts from several regions of the world in January 1975 (Warrenton, Virginia, United States of America) to help draft an international code of ethics for the police and related law enforcement agencies. The working group, after reviewing the methods used in setting standards for law enforcement officials in various parts of the world and studying a variety of models, prepared a draft international code of police ethics, which was subsequently presented to the Congress, as part of the above mentioned working paper prepared by the Secretariat.

On the basis of the above, the Fifth Congress, which is remembered mainly for having offered the Declaration on the Protection of all Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, discussed the scope and content of the international code of conduct and recommended the General Assembly be requested to establish a committee of experts to study the question of an international code of police ethics and within one year prepare a new document to be considered by the competent organs of the United Nations, including the feasibility of regional groups drafting preliminary documents, consisting of representatives who would reflect the cultural and legal system of each region. The General Assembly, by resolution 3453 (XXX) of 9 December 1975, requested the Committee on Crime Prevention and Control "to elaborate, on the basis of, inter alia, the proposal presented to and conclusions arrived at by the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, a draft code of conduct for law enforcement officials and to submit this draft code to the General Assembly".

The Fourth session of the Committee on Crime Prevention and Control (New York, 21 June-2 July 1976) elaborated, on the basis of the proposals presented to and conclusions arrived by the Fifth Congress a draft code of conduct, for submission to the Assembly. Further its consideration, the Assembly established in 1977 an intersessional working group of the Third Committee to achieve universal consensus on its text.

In finalizing the working of the code, much attention was devoted to the question of police professionalism and accountability. Regarding the problem of corruption among police officials, the code states that: "Corruption being intolerable in all phases of life, and inasmuch as Governments cannot expect to enforce the law among their citizens if they cannot, or will not, enforce the law against their own agents and agencies, it is incumbent upon law enforcement officials to rigorously oppose and pursue all acts of corruption coming to their attention". At its thirty-fourth session, in 1979, the General Assembly adopted the Code of Conduct for Law Enforcement Officials, by resolution 34/169. The Assembly decided to transmit the Code to Governments with the recommendation that favourable consideration should be given to its use within the framework of national legislation or practice as a body of principles for observance by law enforcement officials.

While assisting Countries in the implementation of the above mentioned code, the United Nations has also devoted substantial energy to develop proposals on practical steps that States can follow in their efforts to devise and implement strategies and reforms. In this connection, for example, the Eighth Congress considered a draft resolution on international co-operation for crime prevention and criminal justice in the context of development, to which were annexed a series of recommendations on the subject. Recommendation 8 reads as follows: "Because the corrupt activities of public officials can destroy the potential effectiveness of all types of governmental programmes, hinder development, and victimize individuals and groups, it is of crucial importance that all nations should: (a) review the adequacy of their criminal laws, including procedural legislation, in order to respond to all forms of corruption and related actions designed to assist or to facilitate corrupt activities, and should have recourse to sanctions that will ensure an adequate deterrence; (b) devise administrative and regulatory mechanism for the prevention of corrupt practices or the abuse of power; (c) adopt procedures for the detection, investigation and conviction of corrupt officials; (d) create legal provisions for the forfeiture of funds and property from corrupt practices; and (e) adopt economic sanctions against enterprises involved in corruption. The Crime Prevention and Criminal Justice Branch should co-ordinate the elaboration of materials to assist countries in these efforts, including the development of a manual to combat corruption, and should provide specialized training to judges and prosecutors that would qualify them to deal with the technical aspects of corruption, as well as with the experience derived from specialized tribunals handling such matters"⁽⁴⁾.

Almost one year early, and also as part of the preparation activities for the Eighth Congress, the Crime Prevention and Criminal Justice Branch (now Division), in cooperation with the Department of Technical Cooperation for Development (now part of the new Department for Development Support and Management Services) organized an Interregional Seminar on Corruption in Government, hosted by the Government of the Netherlands at The Hague⁽⁵⁾. The Seminar was attended by high-level officials from 18 developing countries from all the regions and by observers from eight developed countries, non-governmental organizations, academic institutions, independent anti-corruption bodies and ombudsman's offices. A first draft Manual

to Combat Corruption, prepared for submission to the Eighth Congress, was circulated for comments. The Seminar conducted in-depth discussions on the forms of corruption in government, and its causes, consequences, and relationships with organized crime; and it assessed the existing measures against corruption, as well as appropriate actions to be taken against it at the national, regional and international levels. At the same time, the role of international cooperation in the prevention, detection, investigation, prosecution and sanctioning of corrupt practices and enforcement in the public management system, was highlighted. The need for better information and expertise, and facilitating technical cooperation and mutual assistance through technical co-operation among developing countries was emphasized. Finally, the possibility of an international convention to deal with transnational corruption and an international code of ethics for public service was also considered.

On the basis of the above, the Eighth Congress received a new version of the Manual on Practical Measures against Corruption. Its purpose was to review the most common problems encountered by policy-makers and practitioners in their efforts to deal with corruption. It highlights possible measures that could be taken and procedures for devising anti-corruption programmes. In suggesting possible courses of action, the manual touches on legal issues whose degree of relevance and difficulty may vary, depending on the legal system of each country. As far as possible, such issues have been taken into account, in order to facilitate the adaptability of the Manual to as many contexts as possible. After that Congress, the Manual was circulated to experts around the world and the comments received were incorporated to produce a revised version, which was published as a special issue in the *International Review of Criminal Policy*⁽⁶⁾.

The Eighth Congress also adopted resolution 7 on "corruption in government" recommending that Member States should devise a variety of administrative and regulatory mechanism for the prevention of corrupt practices, and inviting them to review the adequacy of their criminal laws, including procedural legislation, to respond to all forms of corruption and to actions designed to assist or facilitate corrupt activities. The Eighth Congress requested the Secretariat to provide technical cooperation assistance to requesting Member States in the fields of strategic planning of anti-corruption programmes, law reforms, public administration and management, training of public officials and criminal justice personnel, and in tendering international aid projects. The Secretariat was also requested to organize regional and interregional seminars, expert group meetings, workshops and other appropriate activities. These were intended to encourage the exchange of information on anti-corruption techniques, laws and research, and in the examination and promotion of improvements in institutional arrangements and processes. In addition, these activities were also directed towards the improvement of the management of the justice process, through the use of databases, to improve decision-making. Finally, the Secretary was requested to develop a draft international code of conduct for public officials, for submission to the Ninth Congress.

The issue of corruption received further attention by the General Assembly, which adopted resolution 45/107 of 14 December 1990 on international cooperation for crime prevention and criminal justice in the context of development, as recommended by the Eighth Congress. The Assembly reiterated the recommendations of the Eighth Congress regarding the measures that should be adopted by Member States and recommended that the Branch coordinate the elaboration of materials to assist countries in their efforts against corruption and to provide specialized training to judges and prosecutors to qualify them to deal with the technical aspects

of corruption.

One year later, and as a result of the Ministerial Summit held in November 1991 and the restructuring of the Crime Programme, the Assembly adopted a Statement of Principles and Programme of Action, annexed to its resolution 46/152, in which it decided that the United Nations Crime Prevention and Criminal Justice Programme should be designed to assist the international community in meeting its pressing needs in the field of crime prevention and criminal justice and to provide countries with timely and practical assistance in dealing with problems of both national and international crime. For this reason a new functional interregional body was established: the Commission on Crime Prevention and Criminal Justice. Among the goals of the programme would be the integration and consolidation of the efforts of Member States in preventing and combatting transnational crime and the promotion of the highest standards of fairness, justice and professional conduct.

At its second session, the Commission on Crime Prevention and Criminal Justice (Vienna, 13-23 April 1993) had before it a number of suggestions regarding possible subjects of workshops to be organized during the Ninth Congress. Corruption was one of those subjects. On the recommendation of the Commission, the Economic and Social Council decided, by its resolution 1993/32 of 27 July 1993, to devote one day of plenary general discussions at the Ninth Congress to the issue.

In pursuance of resolution 7 of the Eighth Congress, the Secretariat elaborated a draft international code of conduct for public officials, which was discussed by the five regional preparatory meetings for the Ninth Congress and by the Commission at its third session. It also prepared a working paper⁽⁷⁾ which helped for approaching the discussion in plenary, which was introduced by five panellists⁽⁸⁾. The Economic and Social Council, in its resolution 1994/19, section VI, of 25 July 1994, recommended that the Ninth Congress should consider the desirability of a code of conduct for public officials, and that the Secretary-General should seek comments from Member States and relevant entities, in order to assist the Commission on Crime Prevention and Criminal Justice in its consideration of the matter at its fourth session.

As recommended by the Congress, the draft code was submitted to the Commission at its fourth session (Vienna, 30 May-9 June 1995) for its review and comments. The Commission was of the opinion that the draft code, when finalized, could constitute an important tool for the operational activities of the United Nations Crime Prevention and Criminal Justice Programme, as well as for States wishing to include similar codes in measures to prevent and control corruption.

In its resolution 1995/14 on action against corruption, adopted on the recommendation of the Commission on Crime Prevention and Criminal Justice at its fourth session, the Economic and Social Council requested the Secretary-General to finalize the draft code, on the basis of the comments received from Governments. In the same resolution, the Council urged States to develop and implement anti-corruption measures, to increase their capacities to prevent and adequately control corrupt practices, and to improve international cooperation in this field. The Council also requested the Secretary-General, *inter alia*, to review and expand the Manual on

Practical Measures against Corruption, then published in the above-mentioned double-issue of the International Review of Criminal Policy; to coordinate and cooperate with other United Nations entities and relevant international organizations in the anti-corruption efforts; and to keep the issue of action against corruption under regular review. The General Assembly, by resolution 50/225 on "Public administration and development"⁽⁹⁾, also took note of the fact that the United Nations system, responding to requests from interested Member States, has contributed in support of their public administration to include wider aspect of governance, including democratic, legal and judiciary reform, and strengthening of the civil society and recognized that Governments in all countries should make their procedures transparent in order to avoid and combat all acts of corruption.

Accordingly, on its proposal, and as recommended by the Council in its resolution 1996/8, the General Assembly, in December 1996, adopted the International Code of Conduct for Public Officials⁽¹⁰⁾ recommending it to Member States as a tool to guide their efforts against corruption. The Assembly requested the Secretary-General to distribute the Code to all States and to include it in the Manual on Practical Measures against Corruption, to be revised and expanded pursuant to Council resolution 1995/14. The Assembly further requested the Secretary-General to continue to collect information and legislative and regulatory texts from States and relevant intergovernmental organizations, in the context of his continuing study of the problem of corruption.

According to the Code a public office is a position implying a duty to act in the public interest. As a consequence the ultimate loyalty of public officials shall be to the public interests of their country. The code also focuses on several issues concerning the conduct of public officials, such as: (a) Conflict of interest and disqualification; (b) Disclosure of assets; (c) Acceptance of gifts or other favours; (d) Confidential information; (e) Political activity. Concerning the conflict of interest and disqualification, the Code states that:

- Public official shall not use their official authority for the improper advancement of their own or their family's personal or financial interest. They shall not engage in any transaction, acquire any position or function or have any financial, commercial or other comparable interest that is incompatible with their office, functions and duties or the discharge thereof;**
- Public officials shall, in accordance with laws or administrative policies, declare business, commercial and financial interests or activities undertaken for financial gain that may raise a possible conflict of interest;**
- Public officials shall at no time improperly use public moneys, property, services or information that is acquired in the performance of, or as a result of, their official duties for activities not related to their official work;**
- Public officials shall comply with measures established by law or by administrative policies in order that after leaving their official positions they will not take improper advantage of their previous office.**

The General Assembly, after the approval, in March 1996, by the Member States of the Organization of American States of the Inter-American Convention against Corruption and

aware of the relevant work developed by other regional and international organizations, such as the Council of Europe and the European Union, to combat international bribery, adopted, by its resolution 51/191 (see annex 2), the United Nations Declaration against Corruption and Bribery in International Commercial Transactions annexed to the resolution. The Declaration recognized the importance of promoting social responsibility and appropriate standards of ethics not only in the public sector, but also in private corporations, "including transnational corporations, and individuals engaged in international commercial transactions, *inter alia*, through observance of the laws and regulations of the countries in which they conduct business, and taking into account the impact of their activities on economic and social development and environmental protection".

The Declaration also urged Member States to take concrete action:

- to combat all forms of corruption, bribery and related illicit practices in international commercial transactions;
- to criminalize bribery of foreign public officials in an effective and coordinate manner;
- to develop or maintain accounting standards and practices that improve the transparency of international commercial transactions;
- to develop or to encourage the development, as appropriate, of business codes, standards or best practices that prohibit corruption, bribery and related illicit practices in international transactions;
- to examine establishing illicit enrichment by public officials or elected representative as an offence;
- to cooperate and afford one another the greatest possible assistance in connection with criminal investigations and other legal proceedings brought in respect of corruption and bribery in international commercial transactions;
- to enhance cooperation to facilitate access to documents and records about transactions and about identities of persons engaged in bribery in international transactions;
- to ensure that bank secrecy provisions do not impede or hinder criminal investigations or other legal proceedings relating to corruption, bribery or related illicit practices in international commercial transactions, and that full cooperation is extended to Governments that seek information on such transactions.

The General Assembly also requested the Economic and Social Council and its subsidiary bodies, in particular the Commission on Crime Prevention and Justice: (a) to examine ways, including through binding international instruments, without in any way precluding, impeding or delaying international, regional or national actions, to further the implementation of the resolution and the Declaration, so as to promote the criminalization of corruption and bribery in international commercial transactions; (b) to keep the issue of corruption and bribery in international commercial transactions under regular review; and (c) to promote the effective implementation of the resolution.

As a follow-up of the request to revise and to expand the Manual on Practical Measures against

Corruption, the Crime Prevention and Criminal Justice Division of the Secretariat, with the assistance of the Government of Argentina, organized a meeting of experts from all regions at Buenos Aires from 17 to 21 March 1997 to consider ways and means of strengthening international cooperation in this field, as well as to offer suggestions on the revision and expansion of the manual (see annex 3). The Expert Group Meeting on Corruption brought to the attention of the Commission at its sixth session that action against corruption requires the adoption and revision of legislation and regulatory provisions to ensure that there is in place a set of measures that facilitate the prevention, detection, deterrence, prosecution and adjudication of corruption, fully taking into account the evolving nature of the problem and its various manifestations. The Expert Group Meeting also recommended that consideration should be given to the following specific measures:

1. Disclosure by public officials of assets and liabilities;
2. Guidelines for the performance of duties by public officials;
3. Introducing or strengthening existing independent auditing institutions or bodies that vet public expenditures;
4. Establishment of specialized anti-corruption bodies;
5. Measures to introduce or encourage transparency in the management of public funds and in the decision-making process;
6. Establishment of transparent and competitive procedures for tendering and supervision of public works contracts and introduction of clear procurement rules;
7. Measures to ensure free competitions, including anti-trust regulations;
8. Measures to prevent improper advantages;
9. Elimination of curtailment of bank secrecy;
10. Measures to ensure and encourage public participation;
11. Measures to ensure accountability and effective disciplinary action;
12. Financing of political parties and campaigns;
13. Guaranteeing freedom of the parties and the right to information;
14. Elaboration and introduction of codes of ethics for certain categories of professions;
15. Elaboration of a programme to encourage the implementation of the International Code of Conduct for Public Officials.

Pursuant to resolutions 51/59 and 51/191, the Crime Prevention and Criminal Justice Division organized the African Regional Ministerial Workshop on Action against Organized Crime and Corruption at Dakar, Senegal, from 21 to 23 July 1997, at the invitation of the Government of Senegal. The Workshop was supported by the Agency for Cultural and Technical Cooperation (ACCT), and in cooperation with the United Nations International Drug Control Programme (UNDCP). The Dakar Ministerial Workshop was crucial in the translation of declarations of political support into concrete action plans for the implementation of effective regional

cooperation, covering investigation and legal assistance, extradition and confiscation of criminal proceeds. In this context, three projects had been prepared covering the fields of organized crime control, an inventory of trafficking routes in Africa and the elaboration of instruments to fight corruption for the consideration and approval of the African Ministers. At its final meeting on 23 July 1997, the Workshop adopted unanimously the Dakar Declaration. In the Declaration the Ministers and Representatives of the African States expressed their concern about the increase and expansion of organized criminal activities, corrupt practices and bribery in international commercial transactions, recognizing the importance of the contribution that the United Nations Crime Prevention and Criminal Justice Programme can make to the implementation of the United Nations New Agenda for the Development of Africa in the 1990s, in particular regarding the intensification of the democratic process and the strengthening of the protection of the civil society. The Ministers and Representatives of African States expressed their commitment to combat corruption and organized crime by:

- Reviewing and strengthening the existing institutions, in particular the criminal justice systems and establishing appropriate mechanisms to coordinate action at the national level;
- Reviewing, modernizing and harmonizing existing substantive and procedural legislation and regulatory regimes, to ensure their continued relevance, efficiency and adaptability to the various forms of corrupt practices, including in the context of international commercial transactions, and to modern manifestations of organized crime;
- Elaborating and adopting new laws and regulations, designed to meet the challenge posed by the complexity and sophistication of organized crime and corruption;
- Upgrading the skills of the law enforcement and criminal justice personnel, increasing their knowledge and expertise, and raising their professional abilities, to enable them to effectively implement relevant legislation and regulations, for the purpose of preventing and controlling organized crime and corruption.

At its sixth session, the Commission on Crime Prevention and Criminal Justice (Vienna, 28 April-9 May 1997) recommended the adoption of five draft resolutions by the General Assembly. One of these draft resolution was the "International cooperation against corruption and bribery in international commercial transactions" (see annex 4). The draft resolution stressed the threat posed by the bribery of public officials by individuals and enterprises to the international commercial transactions. The draft resolution also urged Member States "to criminalize, in an effective and coordinated manner, the bribery of public office holders of other States in international commercial transactions and encourages them to engage, as appropriate, in programmatic activities to deter, prevent and combat bribery and corruption (...)". During the Commission great attention was given to preventive measures, in particular to the establishment or strengthening of already existing auditing institutions or agencies having the authority and the capacity to scrutinize public expenditure, to the elaboration and introduction of code of ethics for certain categories of professions, to measures to ensure accountability and effective disciplinary action, to measures to guarantee the independent status of officials working within the public sector or in charge of fighting against corruption and bribery, and educational programmes to promote ethical values and training programmes for law enforcement officers. Particular importance was attached to measures taken at the national

level to promote transparency in the expenditure of public funds by allowing or encouraging public access to and monitoring of the related decision-making process.

Activities of the Crime Prevention and Criminal Justice Division:

Technical Cooperation

The Crime Prevention and Criminal Justice Division has also made efforts to provide its technical cooperation services to requesting Member States to enable them to enhance their capacity to develop and pursue anti-corruption policies and strategies effectively and to combat corrupt practices and related activities.

In this connection, the Division undertook a number of needs assessment missions at the request of Member States (Angola, Gambia, Romania, Senegal, Sierra Leone, the former Yugoslav Republic of Macedonia and Togo). As a follow-up to those missions, five projects proposals have been elaborated and are either awaiting funding or are in the first stages of implementation.

The first project is aimed at strengthening the institutional capacity of Angola to prevent and fight corruption. The project accords high priority to the improvement of the effectiveness of Angolan legislation in combatting activities related to corruption by introducing new and more effective measures. The project includes the provision of assistance in improving the capacity of Angola for international cooperation in criminal matters, mainly through promoting the harmonization of its various penal laws with those of other countries in the subregion. Further, the project includes practical measures such as establishing a national commission on corruption with the tasks of coordinating action and setting up database in this field.

The aim of the second project is to provide advisory services and training to assist the Government of the former Yugoslav Republic of Macedonia in its efforts against corruption. The project also aims at elaborating anti-corruption legislation and envisages the introduction of basic concepts of community policing and the provision of training to improve police skills in the prevention and control of criminal activities related to corruption.

The objective of the projects for Gambia, Guinea and Sierra Leone is to build and strengthen the institutional mechanism of those States for preventing and fighting corruption, initially through introducing new legislative tools, as well as setting up a national commission on corruption and an interministerial unit aimed at coordinating national and subregional efforts in the fight against corruption. The projects provide for assistance in facilitating cooperation within the subregion through the conclusion of agreements on extradition and mutual assistance with neighbouring countries. The projects also envisage a training programme for judges, prosecutors and law enforcement officers, as well as the provision of technical assistance for the establishment of a central database to store and retrieve relevant information on corruption activities to be run by the interministerial unit. Finally the projects seek to strengthen the exchange of information and experience between the States concerned and international agencies.

The Crime Prevention and Criminal Justice Division has also elaborated practical tools for technical cooperation activities in the field of corruption, such as the model law on corruption. In 1996, the interregional advisor of the Division was asked by the authorities of Romania, to identify possible areas of activities in the field of corruption. As a result of that mission, undertaken jointly with UNDCP and UNDP, the Division elaborated a project proposal for building and strengthening the capacity of the Romanian criminal justice system to prevent and fight corruption and organized crime activities. As a first step in the implementation of the project, the Parliament of Romania is going to discuss a law on corruption drawn upon the model law and tailored to local needs with the assistance of the Division. The project for Romania also pursues the establishment of a national commission against corruption to coordinate national policies in this area, assistance on providing a training programme and the development of the capacity for the exchange of information and experiences.

As a follow-up to the signature of a memorandum of understanding with respect to the provision of technical assistance in the area of crime prevention and criminal justice between the Division and the Ministry of Justice of Bosnia and Herzegovina, the Division, in cooperation with Department for Development Support and Management Services and UNDP, has developed a project for strengthening the administration of justice in Bosnia and Herzegovina. One of the main objectives of the project is to provide advisory assistance on anti-corruption strategies, thereby strengthening the criminal justice mechanism of the State in this particular area.

UNDP has become increasingly interested in corruption as part of the work of its Management Development and Governance Division (MDGD). Programmes that explicitly attempt to reduce malfeasance in government are complementary to the MDGD's broader mandate to help countries reform their institutional structures. As a result of the new partnership between the Division and UNDP, a memorandum of understanding with the Regional Bureau for Eastern Europe and the Commonwealth of Independent States was signed in 1996. This memorandum of understanding will provide opportunities for joint needs assessment missions and fund-raising and the actual funding or co-funding of projects in crime prevention and criminal justice, particularly with regard to action against corruption.

The Division is also cooperating closely with the Inter-Parliamentary Union, with a view to addressing issues of mutual concern and exchanging experiences and expertise, particularly considering the intense interest of that organization in action against corruption and its ongoing work in this area.

Further, the Division continued to cooperate and interact with the scientific and research institutions involved in criminological activities, such as the International Society of Social Defence, which held its thirteenth international congress at Lecce, Italy, from 28 to 30 November 1996, on the theme of "Social defence, corruption, and the protection of public administration and the independence of justice". The international congress was an occasion to carry out an in-depth examination of available legislative options, whether in criminal, administrative or constitutional law, to prevent and control corruption and ensure fairness, equity and justice in both the public and private sectors.

In view of the growing needs of States and the consequent increase in requests for technical assistance, the Division plans to continue developing operational activities in this area. In this context, the Division could collect and analyse national anti-corruption strategies, in order to elaborate compilations of best practices, which would form the basis for training programmes. Further, the Division could undertake the elaboration of comparative studies, which would assist States in designing, formulating and implementing joint strategies and collaborative arrangements to prevent and control corruption. The technical cooperation activities of the Division could also include model courses for universities and schools of business and public administration, as well as the provision of assistance in organizing public campaigns to promote good governance, for the purpose of enlisting public support for necessary anti-corruption resources and legislation. In addition, the Division could provide assistance in the establishment of special anti-corruption entities, including by elaborating feasibility studies and making available the required expertise. The need for such entities, is of high priority, particularly in the case of transnational bribery and corruption, where the sensitive nature of the transactions, the usually high level of the officials involved and the diversity of sophisticated techniques for the transfer and concealment of the proceeds make detection of corrupt activities extremely difficult.

Conclusion

The phenomenon of corruption, in all its forms, has commanded such international attention and concern that it has led to an emerging consensus regarding the urgency of concerted action at all levels. The complex and often elusive nature of the phenomenon, as well as its increasingly evident and alarming links with other forms of criminal activities, warrant focused attention, continued commitment and unwavering political will. Solutions are not easy, particularly in view of the fact that addressing the phenomenon effectively in its numerous forms would require action at various levels and with diverse modalities, necessitating parallel and well-coordinated activities and interventions. As it has been noted, even through international organizations are lending their help in fighting corruption through aid for democratic reform, more competitive economies and the improvement of governance, a more focused efforts is needed, involving a systematic attack on systematic corruption. This is a process whose constituent elements should be advanced at the same speed and with the same vigour at all levels, in order for success to be achieved. At the international level in particular, it appears essential to enhance the momentum for advancing international agreements and cooperation arrangements, while devoting the necessary energy and resources to creating an environment in which corrupt practices would no longer be tolerated.

Annex 1

General Assembly - Resolution 51/59 *Action against corruption and International Code of Conduct for Public Officials*

Date: 12 December 1996 Meeting: 82

Adopted without a vote Report: A/51/610

The General Assembly,

Concerned at the seriousness of problems posed by corruption, which may endanger the stability and security of societies, undermine the values of democracy and morality and jeopardize social, economic and political development,

Also concerned about the links between corruption and other forms of crime, in particular organized crime and economic crime, including money-laundering,

Convinced that, since corruption is a phenomenon that currently crosses national borders and affects all societies and economies, international cooperation to prevent and control it is essential,

Convinced also of the need to provide, upon request, technical assistance designed to improve public management systems and to enhance accountability and transparency,

Recalling the Inter-American Convention against Corruption, adopted by the Organization of American States at the Specialized Conference for Consideration of the Draft Inter-American Convention against Corruption, held at Caracas from 27 to 29 March 1996,

Recalling also its resolutions 45/121 of 14 December 1990 and 46/152 of 18 December 1991, and Economic and Social Council resolutions 1992/22 of 30 July 1992, 1993/32 of 27 July 1993 and 1994/19 of 25 July 1994,

Recalling in particular its resolution 50/225 of 19 April 1996, adopted at its resumed session on public administration and development,

Recalling Economic and Social Council resolution 1995/14 of 24 July 1995 on action against corruption,

Recalling also the work carried out by other international and regional organizations in this field, including the activities of the Council of Europe, the European Community, the Organisation for Economic Cooperation and Development and the Organization of American States,

1. Takes note of the report of the Secretary-General on action against corruption, [\(11\)](#) submitted

to the Commission on Crime Prevention and Criminal Justice at its fifth session;

2. adopts the International Code of Conduct for Public Officials, annexed to the present resolution, and recommends it to Member States as a tool to guide their efforts against corruption;

3. Requests the Secretary-General to distribute the International Code of Conduct to all States and to include it in the manual on practical measures against corruption, to be revised and expanded pursuant to Economic and Social Council resolution 1995/14, with a view to offering both those tools to States in the context of advisory services, training and other technical assistance activities;

4. Also requests the Secretary-General to continue to collect information and legislative and regulatory texts from States and relevant intergovernmental organizations, in the context of his continuing study of the problem of corruption;

5. Further requests the Secretary-General, in consultation with States, relevant intergovernmental and non-governmental organizations, as well as in cooperation with the institutes comprising the United Nations Crime Prevention and Criminal Justice Programme network, to elaborate an implementation plan and submit it to the Commission on Crime Prevention and Criminal Justice at its sixth session, in conjunction with his report to be submitted pursuant to Economic and Social Council resolution 1995/14;

6. Urges States, relevant intergovernmental and non-governmental organizations, as well as the institutes comprising the United Nations Crime Prevention and Criminal Justice Programme network, to extend to the Secretary-General their full support in elaborating the implementation plan and in implementing paragraph 4 above;

7. Urges Member States carefully to consider the problems posed by the international aspects of corrupt practices, especially as regards international economic activities carried out by corporate entities, and to study appropriate legislative and regulatory measures to ensure the transparency and integrity of financial systems and transactions carried out by such corporate entities;

8. Requests the Secretary-General to intensify his efforts to closely cooperate with other entities of the United Nations system and other relevant international organizations and to more effectively coordinate activities undertaken in this area;

9. Also requests the Secretary-General, subject to the availability of extrabudgetary resources, to provide increased advisory services and technical assistance to requesting Member States, in particular in the elaboration of national strategies, the elaboration or improvement of legislative and regulatory measures, the establishment or strengthening of national capacities to prevent and control corruption, as well as in training and upgrading skills of relevant personnel;

10. Calls upon States, relevant international organizations and financing institutions to extend to the Secretary-General their full support and assistance in the implementation of the present resolution;

11. Requests the Commission on Crime Prevention and Criminal Justice to keep the issue of action against corruption under regular review.

ANNEX

International Code of Conduct for Public Officials

I. GENERAL PRINCIPLES

1. A public office, as defined by national law, is a position of trust, implying a duty to act in the public interest. Therefore, the ultimate loyalty of public officials shall be to the public interests of their country as expressed through the democratic institutions of government.

2. Public officials shall ensure that they perform their duties and functions efficiently and effectively, in accordance with laws or administrative policies, and with integrity. They shall at all times seek to ensure that public resources for which they are responsible are administered in the most effective and efficient manner.

3. Public officials shall be attentive, fair and impartial in the performance of their functions and, in particular, in their relations with the public. They shall at no time afford any undue preferential treatment to any group or individual or improperly discriminate against any group or individual, or otherwise abuse the power and authority vested in them.

II. CONFLICTS OF INTEREST AND DISQUALIFICATION

4. Public officials shall not use their official authority for the improper advancement of their own or their family's personal or financial interest. They shall not engage in any transaction, acquire any position or function, or have any financial, commercial or other comparable interest that is incompatible with their office, functions and duties or the discharge thereof.

5. Public officials, to the extent required by the officials' position, shall in accordance with laws or administrative policies, declare business, commercial and financial interests, or activities undertaken for financial gain that may raise a possible conflict of interest. In situations of possible or perceived conflict of interest between the duties and private interests of public officials, they shall comply with the measures established to reduce or eliminate such conflict of interest.

6. Public officials shall at no time improperly use public moneys, property, services or information that is acquired in the performance of, or as a result of, their official duties for activities not related to their official work.

7. Public officials shall comply with measures established by law or administrative policies in order that after leaving their official positions they will not take improper advantage of their previous office.

III. DISCLOSURE OF ASSETS

8. Public officials shall, in accord with their' position and as permitted or required by law and administrative policies, comply with requirements to declare or to disclose personal assets and liabilities, as well as, if possible, those of their spouses and/or dependents.

IV. ACCEPTANCE OF GIFTS OR OTHER FAVOURS

9. Public officials shall not solicit or receive directly or indirectly any gift or other favours that may influence the exercise of their functions, performance of their duties or their judgement.

V. CONFIDENTIAL INFORMATION

10. Matters of a confidential nature in the possession of public officials shall be kept confidential unless national legislation, the performance of duty or the needs of justice strictly require otherwise. Such restrictions shall apply also after separation from service.

VI. POLITICAL ACTIVITY

11. The political or other activity of public officials outside the scope of their office shall, in accordance with laws and administrative policies, not be such as to impair public confidence in the impartial performance of their functions and duties.

Annex 2

General Assembly - Resolution 51/191 *United Nations Declaration against Corruption and Bribery in International Commercial Transactions*

Date: 16 December 1996 Meeting: 86

Adopted without a vote Report: A/51/601

The General Assembly.

Recalling its resolution 3514 (XXX) of 15 December 1975, in which it, inter alia. condemned all corrupt practices, including bribery, in international commercial transactions, reaffirmed the right of any State to adopt legislation and to investigate and take appropriate legal action, in accordance with its national laws and regulations, against such corrupt practices, and called upon all Governments to cooperate to prevent corrupt practices, including bribery,

Recalling~ also the further work carried out by the General Assembly and the Economic and Social Council on the issue of illicit payments and on elaborating a code of conduct for transnational corporations, [\(12\)](#) consideration of which helped call attention to and raise international awareness of the adverse consequences of bribery in international commercial transactions,

Recalling further its resolution 50/106 of 20 December 1995, in which it recommended that the Economic and Social Council consider the draft international agreement on illicit payments at its substantive session of 1996 and report to the Assembly at its fifty-first session,

Welcoming the steps taken at the national, the regional, and the international level to fight corruption and bribery, as well as recent developments in international forums that have further advanced international understanding and cooperation regarding corruption and bribery in international commercial transactions,

Noting the adoption in March 1996 by States members of the Organization of American States of the Inter-American Convention against Corruption, [\(13\)](#) which includes an article on transnational bribery,

Noting also significant continuing work relevant to and consistent with the objectives of the present resolution in other regional and international forums, such as the continuing work of the Council of Europe and the European Union to combat international bribery, as well as the

commitment by the States members of the Organization for Economic Cooperation and Development (14) to criminalize bribery of foreign public officials in international commercial transactions in an effective and coordinated manner and further examine the modalities and appropriate international instruments to facilitate criminalization, and to re-examine the tax deductibility of such bribes with the intention of denying such tax deductibility in the member States that do not already do so,

1. Adopts the United Nations Declaration against Corruption and Bribery in International Commercial Transactions, the text of which is annexed to the present resolution;

2. Notes the work being undertaken by the United Nations and in other international and regional forums to address the problem of corruption and bribery in international commercial transactions, and invites all States concerned to pursue the completion of such work;

3. Invites Member States, in accordance with the Declaration, to take appropriate measures and cooperate at all levels to combat corruption and bribery in international commercial transactions;

4. Requests the Economic and Social Council and its subsidiary bodies, in particular the Commission on Crime Prevention and Criminal Justice:

(a) To examine ways, including through legally binding international instruments, without in any way precluding, impeding or delaying international, regional or national actions, to further the implementation of the present resolution and the annexed Declaration, so as to promote the criminalization of corruption and bribery in international commercial transactions;

(b) To keep the issue of corruption and bribery in international commercial transactions under regular review;

© To promote the effective implementation of the present resolution;

5. Invites other bodies of the United Nations system, including the United Nations Conference on Trade and Development, whose competence extends to this matter to take action as appropriate within their mandates to promote the objectives of the present resolution and the Declaration;

6. Encourages private and public corporations, including transnational corporations, and individuals engaged in international commercial transactions to cooperate in the effective implementation of the Declaration;

7. Requests the Secretary-General to inform Member States, the relevant bodies and the specialized agencies of the United Nations system, and international, regional and non-governmental organizations, of the adoption of the present resolution, to encourage action

towards making its provisions widely known and to promote its effective implementation;

8. Also requests the Secretary-General to prepare a report, for consideration by the General Assembly at its fifty-third session, on the progress made towards implementation of the present resolution and the steps taken by Member States, international and regional organizations and other relevant institutions to combat corruption and bribery in international commercial transactions; on the results of the work in this regard undertaken by the Commission on Crime Prevention and Criminal Justice and other bodies of the United Nations system; and on measures taken in accordance with the present resolution to promote social responsibility and the elimination of corruption and bribery in international commercial transactions;

9. Invites Member States and competent international, regional and non-governmental organizations to provide relevant information to assist the Secretary-General in preparing the above-mentioned report;

10. Decides to include in the provisional agenda of its fifty-third session, under the item entitled "Business and development", a review of the report of the Secretary-General concerning the implementation of the present resolution.

Annex

UNITED NATIONS DECLARATION AGAINST CORRUPTION AND BRIBERY IN INTERNATIONAL COMMERCIAL TRANSACTIONS

The General Assembly,

Convinced that a stable and transparent environment for international commercial transactions in all countries is essential for the mobilization of investment, finance, technology, skills and other important resources across national borders, in order, inter alia, to promote economic and social development and environmental protection,

Recognizing the need to promote social responsibility and appropriate standards of ethics on the part of private and public corporations, including transnational corporations, and individuals engaged in international commercial transactions, inter alia, through observance of the laws and regulations of the countries in which they conduct business, and taking into account the impact of their activities on economic and social development and environmental protection,

Recognizing also that effective efforts at all levels to combat and avoid corruption and bribery in all countries are essential elements of an improved international business environment, that they enhance fairness and competitiveness in international commercial transactions and form a critical part of promoting transparent and accountable governance, economic and social

development and environmental protection in all countries, and that such efforts are especially pressing in the increasingly competitive globalized international economy,

Solemnly proclaims the United Nations Declaration against Corruption and Bribery in International Commercial Transactions as set out below.

Member States, individually and through international and regional organizations, taking actions subject to each State's own constitution and fundamental legal principles and adopted pursuant to national laws and procedures, commit themselves:

1. To take effective and concrete action to combat all forms of corruption, bribery and related illicit practices in international commercial transactions, in particular to pursue effective enforcement of existing laws prohibiting bribery in international commercial transactions, to encourage the adoption of laws for those purposes where they do not exist, and to call upon private and public corporations, including transnational corporations, and individuals within their jurisdiction engaged in international commercial transactions to

promote the objectives of this Declaration;

2. To criminalize such bribery of foreign public officials in an effective and coordinated manner, but without in any way precluding, impeding or delaying international, regional or national actions to further the implementation of this Declaration;

3. Bribery may include, inter alia. the following elements:

(a) The offer, promise or giving of any payment, gift or other advantage, directly or indirectly, by any private or public corporation, including a transnational corporation, or individual from a State to any public official or elected representative of another country as undue consideration for performing or refraining from the performance of that official's or representative's duties in connection with an international commercial transaction;

(b) The soliciting, demanding, accepting or receiving, directly or indirectly, by any public official or elected representative of a State from any private or public corporation, including a transnational corporation, or individual from another country of any payment, gift or other advantage, as undue consideration for performing or refraining from the performance of that official's or representative's duties in connection with an international commercial transaction;

4. To deny, in countries that do not already do so, the tax deductibility of bribes paid by any private or public corporation or individual of a State to any public official or elected representative of another country, and to that end, to examine their respective modalities for doing so;

5. To develop or maintain accounting standards and practices that improve the transparency of

international commercial transactions, and that encourage private and public corporations, including transnational corporations, and individuals engaged in international commercial transactions to avoid and combat corruption, bribery and related illicit practices;

6. To develop or to encourage the development, as appropriate, of business codes, standards or best practices that prohibit corruption, bribery and related illicit practices in international commercial transactions;

7. To examine establishing illicit enrichment by public officials or elected representatives as an offence;

8. To cooperate and afford one another the greatest possible assistance in connection with criminal investigations and other legal proceedings brought in respect of corruption and bribery in international commercial transactions. Mutual assistance shall include, as far as permitted under national laws or as provided for in bilateral treaties or other applicable arrangements of the affected countries, and taking into account the need for confidentiality as appropriate:

(a) Production of documents and other information, taking of evidence and service of documents relevant to criminal investigations and other legal proceedings;

(b) Notice of the initiation and outcome of criminal proceedings concerning bribery in international commercial transactions to other States that may have jurisdiction over the same offence;

(c) Extradition proceedings where and as appropriate;

9. To take appropriate action to enhance cooperation to facilitate access to documents and records about transactions and about identities of persons engaged in bribery in international commercial transactions;

10. To ensure that bank secrecy provisions do not impede or hinder criminal investigations or other legal proceedings relating to corruption, bribery or related illicit practices in international commercial transactions, and that full cooperation is extended to Governments that seek information on such transactions;

11. Actions taken in furtherance of this Declaration shall respect fully the national sovereignty and territorial jurisdiction of Member States, as well as the rights and obligations of Member States under existing treaties and international law, and shall be consistent with human rights and fundamental freedoms;

12. Member States agree that actions taken by them to establish jurisdiction over acts of bribery of foreign public officials in international commercial transactions shall be consistent with the

Annex 3

Economic and Social Council - Commission on Crime Prevention and Criminal Justice - Sixth session - *Promotion and maintenance of the rule of law and good governance. Action against corruption and bribery* (Document E/CN.15/1997/3/Add.1 of 8 April 1997; Vienna, 28 April - 9 May 1997

UNITED
NATIONS



Economic and Social

Council

Distr.

GENERAL

E/CN.15/1997/3/Add.1

8 April 1997

ORIGINAL: ENGLISH

COMMISSION ON CRIME PREVENTION

AND CRIMINAL JUSTICE

Sixth session

Vienna, 28 April-9 May 1997

Item 4 of the provisional agenda[\(15\)](#)

**PROMOTION AND MAINTENANCE OF THE RULE OF LAW AND
GOOD GOVERNANCE; ACTION AGAINST CORRUPTION**

Action against corruption and bribery

Report of the Secretary-General

Addendum

The Secretary-General has the honour to submit to the Commission on Crime Prevention and Criminal Justice the report of the Expert Group Meeting on Corruption, held at Buenos Aires from 17 to 21 March 1997 (see annex).

Annex

REPORT OF THE EXPERT GROUP MEETING ON CORRUPTION, HELD AT BUENOS AIRES FROM 17 TO 21 MARCH 1997

CONTENTS

Paragraphs Page

CONCLUSIONS AND RECOMMENDATIONS 1-51 2

INTRODUCTION 52-55 13

ORGANIZATION OF THE MEETING 56-62 13

A. Opening of the Meeting 56-57 14

B. Attendance 58 14

C. Documentation 59 14

D. Election of Officers 60 14

E. Adoption of the agenda 61 14

F. Closure of the Meeting 62 14

Appendices

I. List of participants 15

II. List of documents 16

CONCLUSIONS AND RECOMMENDATIONS

- 1. The Expert Group Meeting on Corruption, held at Buenos Aires from 17 to 21 March 1997, would like to bring to the attention of the Commission on Crime Prevention and Criminal Justice, at its sixth session, the conclusions and recommendations below for its consideration and action.**

**A. Implementation of General Assembly resolution 51/59 and
Economic and Social Council resolution 1995/14**

General considerations

- 1. The increasing complexity and growing sophistication of corruption, as well as the multiplicity and diversity of the problems it creates at the national and international levels, require concerted action and common solutions. The measures to prevent and control the phenomenon, which need to be elaborated and implemented at the national and international levels, cut across the economic, social, cultural, political and legal fields. Therefore, programmes composed of interrelated and carefully coordinated measures, including administrative, civil, procedural and criminal legislation, as well as various regulatory provisions and administrative action designed to prevent and control corruption, are of high priority.**
- 2. Successful action against corruption must be based on a strong and sustained commitment of Governments to combat the phenomenon in all its manifestations. Such action also needs to be based on a culture of accountability, transparency, competence and integrity in public life. That culture needs to be complemented by the pursuit of excellence and respect for merit. Greater awareness of and sensitivity to the adverse effects of corruption on economic and social development are conducive to the formation and sustainability of that commitment.**
- 3. Institutions that are essential in any programme for the prevention and control of corruption must include the following:**

(a) An effective and fair criminal justice system, especially an independent judiciary,⁽¹⁶⁾ which utilizes all available tools for the investigation and prosecution of corrupt activities;

(b) A free, fair and attentive press;

(c) Adequately trained and compensated law enforcement, investigative, auditing and monitoring bodies with the highest standards of professionalism and integrity.

1. Action against corruption also requires the adoption or revision of legislation and regulatory provisions to ensure that there is in place a set of measures that facilitate the prevention, detection, deterrence, prosecution and adjudication of corruption, fully taking into account the evolving nature of the problem and its various manifestations. Legislation and regulatory provisions should also be geared towards matching the sophistication of the phenomenon and its increasingly transnational nature.
2. Furthermore, effective action against corruption requires the participation, active involvement and cooperation of civil society. This is important in order to ensure that public attitudes and perceptions of corruption are changed, where necessary, (a) to instil and maintain a culture of legality as the basis for the sustainability and success of measures to prevent and control corruption and (b) to enlist support and cooperation to help defeat the consensual nature of corruption. Programmes for the prevention and control of corruption, therefore, need to include measures to ensure public involvement and support at all levels.

Specific measures

1. It is recommended that consideration should be given to the specific measures presented below.

Disclosure by public officials of assets and liabilities

1. States are urged to adopt or review, as appropriate, measures that oblige public officials to disclose assets, liabilities and copies of their income tax returns. The purpose of such disclosure is to facilitate accountability; the relevant disclosure rules should, therefore, be extended to at least the spouses and dependent children of public officials and could cover other persons as may be dictated by the cultural traditions of the country. States should consider whether such disclosure should be required of public officials at all levels or only of those at higher levels in administration or of public officials who may be more vulnerable because of their positions. Consideration should be given to conferring investigative powers on appropriate bodies in connection with monitoring and evaluating disclosures, as well as to imposing sanctions for false reporting. Provisions would also need to be made to ensure that the information provided will not be misused.

Guidelines for the performance of duties by public officials

1. It is recommended that States should consider elaborating guidelines and other material,

such as case studies and information circulars, which set out clearly and consistently the functions and duties of public officials. This practice would be particularly important for officials holding positions with highly complex functions. The ultimate purpose of the guidelines and related material would be to assist public officials in resolving ethical or legal dilemmas, by making it clear to public officials what is expected or required of them.

Introducing or strengthening existing independent auditing institutions or bodies that vet public expenditures

1. States should establish or strengthen, as appropriate, independent auditing entities, providing them with the authority and capacity to scrutinize public expenditures. This would be a very valuable and effective measure to prevent and deter corrupt practices, while promoting a culture of transparency and accountability in the administration of public funds.

Establishment of specialized anti-corruption bodies

1. Experience has shown that there are definite advantages to the establishment of specialized bodies provided with the mandate and capacity to concentrate on the prevention and control of corruption. Such bodies could include general inspectorate, ombudsmen, vigilance committees or other similar entities that can give sufficient attention to all problems involving corruption. It is recommended that States should consider the feasibility of establishing such groups and passing legislation regarding the range of their powers, the degree of independence to be accorded to them and mechanisms with which they can effectively operate and cooperate and coordinate their action with existing institutions.

Measures to introduce or encourage transparency in the management of public funds and in the decision-making process

1. It is recommended that States should elaborate and implement, or review, as appropriate, legislative measures to promote greater transparency in the expenditure of public funds by allowing or encouraging public access to and monitoring of the related decision-making process. The relevant rules would be applicable to the decision-making process in the ordinary course of government operations. These measures could be coupled with legislation and regulations to ensure transparency in the accounting of business expenses of individual or corporate entities doing business with the Government.

Establishment of transparent and competitive procedures for tendering and supervision of public works contracts and introduction of clear procurement rules⁽¹⁷⁾

1. In view of the sensitivity of the public works tendering and supervision processes and the vulnerability of procurement carried out through the use of public funds, transparency and competition, as well as clarity of both rules and procedures, are essential. It is recommended that the rules covering these processes should be reviewed and, where such

rules do not exist, appropriate legislation and regulations should be elaborated and adopted to ensure the above-mentioned qualities. Simplicity and consistency, coupled with the elimination of unnecessary procedures that prolong the process or make it cumbersome, are additional elements to be taken into consideration in this context.

Measures to ensure free competition, including anti-trust regulations

1. An economic environment where free competition operates offers fewer opportunities for corrupt practices and provides the possibility to better prevent and control corruption. It is recommended that legislative and regulatory action should be taken in this area as a means of preventing the occurrence of corruption. Price-fixing, boycotts, market allocations and refusals to deal are among the practices that such measures should target.

Measures to prevent improper advantages

1. It is recommended that States should consider curtailing practices involving covert corruption occurring in connection with the use by public officials of their positions, influence or knowledge acquired in the course of performing their functions to inappropriately benefit individuals or entities dealing with government agencies. Such practices offer no immediate pecuniary benefit or other advantage to the public official but have a deferred benefit, which is offered after the public official has left office. Measures intended to deal with such practices should not result in overregulation or in any way impede the perfectly legitimate right of public officials to secure employment after leaving public office or to use the experience or expertise they acquired during their time in public office.

Elimination or curtailment of bank secrecy

1. Corruption is often linked with the laundering of illicit proceeds. Corrupt officials are using the same channels and operate in the same fashion as the perpetrators of other serious offences from which profit is derived in order to launder and enjoy the proceeds of their illicit activities. In view of the complex nature of corrupt practices and the difficulties in detecting and investigating related crimes, the elimination or curtailment of bank secrecy is essential. States should take appropriate legislative and regulatory measures to ensure that the proceeds of corruption are detected and recovered.

Measures to ensure and encourage public participation

1. As mentioned above, public participation, involvement and cooperation are essential prerequisites of every programme to prevent and control corruption. States should, therefore, adopt measures that emphasize the need for widespread change in public attitudes towards the problem and ensure that tolerance of corruption is lowered or eliminated. It is also important to ensure increased public awareness of citizens' rights to uncorrupted government services and programmes. In this connection, measures should include the elaboration of citizens' complaint procedures and the establishment of a

system of initial review to avoid unsubstantiated, frivolous, vexatious or mischievous accusations. Furthermore, action in this field should involve encouraging regular monitoring of bodies in charge of handling complaints and developing public campaigns involving the media, educational institutions, business, trade unions and religious and community leaders, in order to change attitudes, promote ethical values and enlist public support for necessary anti-corruption resources and legislation. States should fully develop the potential of relevant bodies already foreseen in their constitutions or legislation. It would also be useful to encourage the formation of citizens' organizations to monitor official bodies.

Measures to ensure accountability and effective disciplinary action

1. It is recommended that States should establish, where appropriate, essentially administrative measures and procedures within public administration to ensure accountability for action taken and decisions made by public officials and to envisage disciplinary measures for violations of regulations or codes of conduct, including remedial action, while safeguarding due process. These measures are important as they are complementary to any other action or recourse that may be appropriate when the act in question also constitutes a violation of legislation. Such measures have a significant deterrent effect, in addition to the obvious advantage of ensuring that internal regulations and codes of conduct are not of a merely symbolic nature.

Financing of political parties and campaigns

1. It is recommended that States should consider measures to ensure transparency in the financing of political parties and campaigns, while safeguarding related fundamental rights and freedoms and avoiding the placement of impediments to the operation of political parties.

Guaranteeing freedom of the press and the right to information

1. Guaranteeing freedom of the press and the right of the public to information is indispensable for the prevention and control of corruption. The press has a duty to contribute to the prevention and control of corruption by faithfully and consistently delivering information.

Elaboration and introduction of codes of ethics for certain categories of professions

1. The central role certain professions play in action against corruption, together with the consequent expectations of the public and of the State of increased contributions by those professions to the achievement of common objectives, creates increased responsibilities and obligations for their members. In addition, the essential position of certain professions in a democratic society argues in favour of their self-regulation rather than action by the State in that direction. It is, therefore, recommended that certain professions such as judges, prosecutors, auditors, lawyers and journalists should be encouraged to develop and

implement codes of ethics to enable them to discharge their obligations and responsibilities in the common efforts against corruption.

Elaboration of a programme to encourage the implementation of the International Code of Conduct for Public Officials

1. States should rely on the International Code of Conduct for Public Officials⁽¹⁸⁾ and to use the principles it embodies as the basis for the development of programmes against corruption. The Crime Prevention and Criminal Justice Division of the Secretariat should regularly collect information on this matter and keep the Commission on Crime Prevention and Criminal Justice informed of such reliance and of the implementation of national programmes. The Division should further develop technical cooperation programmes for providing assistance to States desiring to elaborate and implement anti-corruption programmes.⁽¹⁹⁾

B. Implementation of General Assembly resolution 51/191

Making it a criminal offence to bribe or corrupt foreign public officials

1. Making corruption and bribery of foreign public officials a criminal offence is of the utmost importance in a consolidated international effort against corruption. States should review their legislation and establish that offence or, as appropriate, pursue effective enforcement of existing laws prohibiting bribery in international commercial transactions. Appropriate consideration should be given, in this context, to the sanctions foreseen in order to provide for an effective deterrent. Furthermore, States should consider including in their legislation provisions that would allow private parties qualifying as victims of corrupt practices in international commercial transactions to pursue remedial action against perpetrators.

Legislation against money-laundering

1. Bribery of foreign officials should be included among the predicate offences in legislation against money-laundering. States that do not yet have legislation against money-laundering should be strongly urged to adopt such legislation.

International convention against corruption and bribery in international commercial transactions

1. It is strongly recommended that the Commission on Crime Prevention and Criminal Justice should elaborate an international convention against corruption and bribery in international

commercial transactions, pursuant to General Assembly resolution 51/191, such a convention being the most appropriate tool for fighting this problem. Such a convention would need to include effective enforcement mechanisms.⁽²⁰⁾

Tax deductibility of illicit payments

1. States should be encouraged to adopt legislative and regulatory measures to make it impossible for corporate entities or individuals to obtain tax benefits or deductions for payments outside their countries that would constitute bribes or other inappropriate payments to foreign public officials. In elaborating and putting in place the relevant legislative and regulatory regime, States should consider the development of systems and procedures that would allow the detection of illicit payments hidden under presumed legal expenditure.

Corporate criminal liability

1. In accordance with their legal systems and traditions, States should include in their legislation provisions to establish corporate criminal liability as a measure to enhance accountability of corporate entities and allow more effective enforcement of other legislative and regulatory measures against corruption and bribery.

Accounting standards and practices

1. States should review their existing regulatory and legislative measures to ensure that accounting standards and practices that enhance the transparency of international commercial transactions are improved or developed, as appropriate, and are followed consistently in order to increase the effectiveness of other measures against corruption and bribery.

C. Measures common to the implementation of General Assembly resolutions 51/59 and 51/191

Criminal law

Review of the adequacy of national criminal laws

1. To enhance their capacity to respond to all forms and manifestations of corruption, as well as to any conduct assisting or facilitating corrupt activities, States should be encouraged to review their criminal policy and legislation in order to determine their adequacy for effective

prevention and control of corruption. States should examine the adequacy of sanctions foreseen under their legislation in order to ensure sufficient deterrence.

Revision of immunity mechanisms

1. States should be encouraged to review and, if appropriate, revise mechanisms and rules that under certain circumstances accord immunity to public officials, in order to preclude the possibility of those mechanisms or rules being used to engage in corruption or bribery with impunity.

Laundering of the proceeds from corruption

1. Further to the recommendation concerning the inclusion of corruption and bribery among the predicate offences foreseen by legislation against money-laundering, criminal legislation should be strengthened by making the laundering of proceeds from corruption and bribery a criminal offence.

Aggravating circumstances

1. States should consider including in their legislation provisions taking into account aggravating circum-stances in cases where corruption is linked with organized criminal activities, including illicit drug and arms trafficking, as well as other serious crimes. This measure is particularly important in view of the fact that corruption is almost invariably used by organized criminal groups in their operations, particularly those of a transnational nature.

Securing the cooperation of witnesses and accomplices

1. In view of the complexity and consensual nature of corruption and bribery, it is recommended that States should consider, within the context of their legal systems and traditions, ensuring or increasing the flexibility of their criminal legislation, in order to allow for the consideration of either extenuating circumstances or immunity from prosecution, as appropriate, for those who provide evidence or other useful information to law enforcement authorities investigating or prosecuting corruption cases.

Protection of and remedial action for victims of corruption

1. States should be encouraged to review their civil legislation and adopt or strengthen, as appropriate, measures to ensure that the victims of corruption, such as competitors or individuals and victims of extortion, have access to remedial action both in their home countries and abroad. Such remedial action would also include the ability to recover fraudulently obtained funds. States should also consider including in bilateral or multilateral treaties on cooperation in criminal matters provisions for the protection of the rights of foreign individuals or entities in corruption cases.⁽²¹⁾

Administrative law

Use of administrative sanctions

1. It is recommended that States should undertake an examination of the relationship between criminal and administrative law for the purpose of finding the best way for speedy action to be taken against corruption. It is also recommended that administrative provisions should complement criminal legislation. Such provisions should include sanctions, to be imposed with full regard to due process, and should be used as much as possible because of the flexibility they offer, particularly in cases of corrupt practices within public administration.

Oversight mechanisms

1. States should be encouraged to elaborate and adopt, as appropriate, measures designed to make high-ranking public officials, as well as officials whose functions include making important decisions, also accountable to elected bodies. Such measures would raise the standards of management in public administration, while guaranteeing that elected representatives pay due attention to the functioning of public administration, thereby fulfilling in a responsible fashion a role entrusted to them by their constituencies. Such measures also offer the advantage of promoting the values of good governance.

Fostering responsibility at the local level by decentralizing the decision-making process

1. States should be encouraged to consider the possibility of promoting or enhancing decentralization, allowing local authorities to exercise their roles and perform their assigned tasks more rationally and responsibly. The process of decentralization should be accompanied by a simplification of rules and procedures for public contracts and procurement, in order to exercise more efficient controls.

Procedural law

Execution of foreign judgements

1. States should be encouraged to ensure that judgements rendered in foreign jurisdictions concerning the protection of victims of corruption, or the remedies afforded to them, are enforceable in their jurisdictions.

Accessory measures

1. States should consider the adoption of measures that would be triggered by a final judgement and would provide for exclusion from entering into contractual arrangements with public institutions for certain periods of time.

Provisions to encourage the cooperation of witnesses

1. States should be encouraged to review their legislation, as appropriate, in order to determine the possibility of adopting measures to encourage and facilitate the cooperation with law enforcement authorities of witnesses, victims and individuals charged as co-defendants in corruption cases, paying due regard to the rights of the accused. Such measures should include witness protection schemes, alternatives to prosecution and flexibility in determining penalties.

Burden of proof in corruption cases

1. States should consider whether circumstances prevailing in their respective jurisdictions would justify the adoption of provisions which, without impinging upon the fundamental rights of the accused, including the right to a fair trial, would provide for the reversal of the burden of proof, particularly during the investigation, in cases where the individuals or entities under investigation appear to have in their possession or have available, directly or indirectly, goods and means that are clearly beyond their normal financial standards.

Investigation techniques

1. States should be encouraged to consider the use of modern techniques that have proved to be effective in investigating complex forms of crime such as corruption. Such techniques could include electronic surveillance, the use of undercover agents and the collection of information through confidential reporting mechanisms. Such law enforcement operations should be submitted to the appropriate legal and judicial controls.

Duty to observe confidentiality during the investigation

1. States should be encouraged to consider the adoption of measures to ensure that law enforcement officials do not disclose confidential information to the public or the media, particularly at the investigation stage, when the guarantees of due process are not yet in full effect. Such measures should guarantee the protection of the rights of the accused, as well as the proper conduct of the investigation.

Strengthening the capabilities of investigative personnel and the judiciary

1. States should be encouraged to ensure that law enforcement personnel, prosecutors and the judiciary dealing with corruption cases are properly trained and skilled, particularly in view of the highly sophisticated methods employed in serious corruption cases.

Forfeiture of assets that are the fruits of corruption and bribery

1. States should be encouraged to adopt legislation that would allow the seizure and forfeiture of assets acquired through corruption and bribery. Such assets may be used to provide the means for restitution for victims of corruption and to finance law enforcement investigations aimed at preventing and controlling corruption and may be shared with other States that have been involved in and have contributed to the detection and investigation of corruption cases.

International cooperation

Preventing the laundering of proceeds of corruption

1. States should be encouraged to explore all possible mechanisms of international cooperation with a view to limiting the use of banking and commercial institutions and mechanisms to launder ill-gotten proceeds, including tax havens, "shell" companies⁽²²⁾ and other systems as they may deem appropriate.

Evidence-gathering procedures in corruption cases

1. States should study legal mechanisms and arrangements to facilitate law enforcement and judicial cooperation at the bilateral, regional and international levels, particularly as it relates to evidence gathering and admissibility in corruption cases, also with a view to harmonizing national legislation. That may be facilitated by a study on evidence gathering in corruption cases that the Secretariat, with the assistance of Member States and relevant international organizations, may be requested to carry out.

Mutual assistance in corruption cases

1. States should assist each other during the investigation of corruption cases and in the enforcement of legislation against corruption. Such assistance may consist of formal and informal arrangements, such as the rapid execution of letters rogatory or the exchange of information between law enforcement authorities to prevent delays in a corruption case and should be rendered in a way that does not prejudice the investigation and adjudication of the case in the requested State.

Joint activities and mechanisms for preventing and controlling international corruption

1. States should consider providing for joint investigations, including through the establishment of joint anti-corruption units, or within regional and international arrangements, with a view to preventing and controlling corruption cases that may be carried out in more than one State, or through the use of international transactions or banking and commercial arrangements.

D. Technical assistance

1. Technical cooperation is indispensable in the common pursuit of effectively preventing and controlling corruption. As such, it must form a central and essential component of the efforts of the international community, including the efforts of the United Nations and other international organizations, to improve concerted action against corruption at every level. States should support the United Nations and other relevant international organizations in elaborating and implementing technical cooperation programmes aimed at providing assistance to States that need to strengthen their capacity to meet the threat posed by corruption. Such assistance should include:

(a) Provision of advisory services and expertise in the elaboration and implementation of comprehensive strategies and mechanisms for preventing and controlling corruption;

(b) Provision of training programmes for key public officials, including law enforcement personnel and the judiciary, auditors and personnel responsible for public contracts and procurements, so as to enhance standards of professional conduct and accountability;

(c) Elaboration of comparative studies on the different means and procedures of obtaining evidence and its use in relation to corruption offences;

(d) Provision of assistance in the identification of international experts and consultants who may be employed in technical cooperation programmes aimed at strengthening the internal capacity of national structures to deal with corruption;

(e) Development of a database on national legislation, investigation techniques, best practices and relevant experience, information and knowledge in preventing and controlling corruption, both at the regional and international levels;

(f) Examination and elaboration of procedures for the disclosure of assets and liabilities of public officials;

(g) Elaboration of programmes to assist States in promoting the establishment and strengthening of internal and external auditing systems and mechanisms for use by interested entities. Such systems and mechanisms would be designed to provide greater transparency and thereby facilitate the detection of corruption and bribery;

(h) Implementation of feasibility studies, as well as provision of advisory services, expertise and equipment, for the establishment of national independent anti-corruption bodies;

(i) Implementation of feasibility studies, as well as provision of advisory services, expertise and

equipment, for the establishment of ombudsmen as a means of responding to victims' complaints;

(j) Development of sustainable public campaigns involving the media, educational institutions, business and community leaders to change attitudes, promote ethical values, reduce tolerance to corruption and enlist public support for anti-corruption efforts;

(k) Collection and analysis of national anti-corruption strategies in order to elaborate a compilation of best practices that would form the basis for training programmes;

(l) Elaboration of comparative studies that would assist States in designing, formulating and implementing joint strategies and collaborative arrangements to prevent and control corruption;

(m) Elaboration of manuals on the investigation and prosecution of corruption and bribery.

E. Elaboration of an international convention against corruption and bribery

1. The elaboration of an international convention against corruption and bribery, pursuant to General Assembly resolution 51/191, paragraph 4, is considered to be the most effective response to the problem. Successful efforts at the regional level demonstrate the feasibility of this undertaking and constitute proof of the ability of the international community to arrive at common concepts and to devise generally acceptable methods and strategies that would form the basis of improved and effective international cooperation. The phenomenon of corruption and bribery has become transnational in nature as a result of increasing globalization and liberalization of trade. It is no longer possible to deal with it effectively only through national action. The international community is in urgent need of a common basis for cooperation that would promote the values of good governance and would ensure that development and growth are not impeded by corrupt practices. While recognizing that action already under way at the national or regional level should continue and be intensified, the elaboration of such an international convention must be the ultimate objective. It is therefore strongly recommended that the Commission on Crime Prevention and Criminal Justice should be requested to undertake this task as a matter of high priority, drawing also on the relevant provisions of General Assembly resolution 51/59 and Economic and Social Council resolution 1995/14. States should extend to the Commission their full support and cooperation and be fully engaged in the process, in order to permit the Commission to perform this task as soon as possible.

INTRODUCTION

1. The Economic and Social Council, in its resolution 1995/14, adopted on the recommendation

of the Commission on Crime Prevention and Criminal Justice at its fourth session, urged States to develop and implement anti-corruption measures, to increase their capacity to prevent, detect, investigate and prosecute corrupt practices and to improve international cooperation in the prevention and control of corruption. In the same resolution, the Council requested the Secretary-General to review and expand the manual on practical measures against corruption⁽²³⁾ and to coordinate and cooperate with other United Nations entities and other international organizations in undertaking joint activities to prevent and control corruption. In addition, the Council requested the Commission to keep the issue of action against corruption under regular review.

2. The Commission at its fifth session recommended to the Economic and Social Council the approval of a draft resolution entitled "Action against corruption" for adoption by the General Assembly. The draft resolution was subsequently adopted by the General Assembly as its resolution 51/59. In that resolution the Assembly adopted the International Code of Conduct for Public Officials, annexed to the resolution, and recommended it to Member States as a tool to guide their efforts against corruption. In the same resolution, the Assembly requested the Secretary-General, in consultation with States and relevant entities, to elaborate an implementation plan and submit it to the Commission at its sixth session, in conjunction with his report to be submitted pursuant to Council resolution 1995/14.
3. The General Assembly, in its resolution 51/191, adopted the United Nations Declaration against Corruption and Bribery in International Commercial Transactions, annexed to that resolution, and requested the Economic and Social Council and its subsidiary bodies, in particular the Commission on Crime Prevention and Criminal Justice: (a) to examine ways, including through binding international instruments, without in any way precluding, impeding or delaying international, regional or national actions, to further the implementation of the resolution and the Declaration, so as to promote the criminalization of corruption and bribery in international commercial transactions; (b) to keep the issue of corruption and bribery in international commercial transactions under regular review; and (c) to promote the effective implementation of the resolution.
4. The Expert Group Meeting on Corruption was organized pursuant to the generous offer by the Government of Argentina to act as host to the Meeting and to cover all related expenses, in an effort to assist the Commission on Crime Prevention and Criminal Justice in implementing the above-mentioned resolutions.

ORGANIZATION OF THE MEETING

A. Opening of the Meeting

1. The Expert Group Meeting on Corruption was hosted by the Ministry of Justice of

Argentina. The Crime Prevention and Criminal Justice Division of the Secretariat served as secretariat of the Meeting.

2. At the opening meeting, statements were made by the Minister of Justice of Argentina and by the Officer-in-Charge of the Division.

B. Attendance

1. The list of experts attending the Meeting is contained in appendix I.

C. Documentation

1. The list of documents distributed to the experts is contained in appendix II.

D. Election of Officers

1. Eugenio María Curia, Director of the Department of International Affairs of the Ministry of Justice of Argentina, was elected Chairman of the Meeting.

E. Adoption of the agenda

1. The Expert Group adopted the following agenda:

1. Opening of the Meeting.

2. Adoption of the agenda and organization of work.

3. Elaboration of an action plan for the implementation of General Assembly resolution 51/59, including the International Code of Conduct for Public Officials, and Economic and Social Council resolution 1995/14.

4. Identification of modalities and action for the implementation of General Assembly resolution 51/191, on corruption and bribery in international commercial transactions.

5. Revision and expansion of the manual on practical measures against corruption, developed and

published by the Crime Prevention and Criminal Justice Division (International Review of Criminal Policy, Nos. 41 and 42).

6. Review and provision of comments on a draft model law against corruption, prepared by the Crime Prevention and Criminal Justice Division and the United Nations International Drug Control Programme.

7. Adoption of the report of the Meeting.

8. Closure of the Meeting.

F. Closure of the Meeting

1. Closing statements were made by the Minister of Justice of Argentina and by a representative of the Division.

Notes

Appendix I

LIST OF PARTICIPANTS

Experts

Rafael Alunan III (Philippines)

Laurence Giovacchini (France)

Edward G. Hoseah (United Republic of Tanzania)

Cristina Luzescu (Romania)

Abelardo Rivera Llano (Colombia)

Fyodor Shelyuto (Russian Federation)

Jong Dae Shin (Republic of Korea)

Frank Solomon (Trinidad and Tobago)

Richard Thornburgh (United States of America)

Observers

Sergio Martín Alvarez, Rafael Eduardo Ciccía, Mariano Enrico, Fabricio Guariglia, Guillermo Pablo Laveglia, Esteban Marino, Jose Ureta.

Intergovernmental Organizations represented by observers

World Bank, Inter-American Development Bank, Organization of American States and International Criminal Police Organization.

Appendix II

LIST OF DOCUMENTS

I. UNITED NATIONS

1. United Nations, Department of Technical Cooperation for Development and Centre for Social Development and Humanitarian Affairs, Corruption in Government: Report of an Interregional Seminar, The Hague, The Netherlands, 11-15 December 1989 (TCD/SEM.90/2).

2. *Efforts by the United Nations to address the issue of corrupt practices: report of the Secretary-General (E/1991/31 Add.1, 4 July 1991).*
3. *"Practical measures against corruption", International Review of Criminal Policy, Nos. 41 and 42.*
4. *Economic and Social Council resolution 1995/14 of 24 July 1995.*
5. *International Code of Conduct for Public Officials (General Assembly resolution 51/59, annex, of 12 December 1996).*
6. *United Nations Declaration against Corruption and Bribery in International Commercial Transactions (General Assembly resolution 51/191, annex, of 16 December 1996).*
7. *"Model Law on Corruption".*
8. *"Commentary on Model Law on Corruption".*

II. COUNCIL OF EUROPE

1. *Multidisciplinary Group on Corruption (GMC). Code of Ethics for Board Directors in the Public Sector: document submitted by the Office of the Prime Minister of Malta (GMC (95) 24, 28 March 1995).*
2. *Multidisciplinary Group on Corruption: First Conference for Law-Enforcement Officers Specialized in the Fight against Corruption (Strasbourg, 24-25 April 1996); conclusions and recommendations of the General Rapporteur (GMC (96) 53, 26 April 1996).*
3. *Multidisciplinary Group on Corruption (GMC) and Working Group on Criminal Law (GMCP): summary report of the fourth meeting (Strasbourg, 24-27 June 1996) and summary report of the fourth plenary meeting of the GMC (Strasbourg, 28 June 1996) (GMC (96) 74, 9 September 1996).*
4. *Multidisciplinary Group on Corruption (GMC): preliminary draft framework convention against corruption (GMC (96) 81, 5 November 1996).*
5. *Multidisciplinary Group on Corruption (GMC) and Working Group on Civil Law (GMCC).*

Feasibility Study on the drawing up of a convention on civil remedies for compensation for damage resulting from acts of corruption (GMC (96) 43 final 2, 2 December 1996).

6. Multidisciplinary Group on Corruption (GMC): Programme of Action against Corruption adopted by the Committee of Ministers.

III. EUROPEAN COMMUNITY

1. "Protocol drawn up on the basis of article K.3 of the Treaty on European Union to the Convention on the Protection of the European Communities' Financial Interests" (18 October 1996).

2. "Draft convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union" (20 November 1996).

IV. ORGANIZATION OF AMERICAN STATES

1. Inter-American Convention against Corruption (1996).

2. Plan of Action against Corruption.

V. ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Implementation of the recommendations on bribery in international business transactions: Report of the Organisation for Economic Co-operation and Development (OECD) Committee on International Investment and Multinational Enterprises (CIME) to the 1996 meeting of the OECD Council at the ministerial level.

VI. INTER-PARLIAMENTARY UNION

Draft convention on measures to be taken in the international field against those guilty, in the exercise of public office, of fraudulent enrichment prejudicial to the public interest: recommended by the 51st Inter-Parliamentary Conference (Brasilia, 1 November 1962).

Annex 4

*Commission on Crime Prevention and Criminal Justice - Sixth session - draft resolution IV
International cooperation against corruption and bribery in international commercial transactions*

The Economic and Social Council recommends to the General Assembly the adoption of the following draft resolution:

The General Assembly,

Disturbed by the bribery of public officials by individuals and enterprises of other States, in relation to international commercial transactions,

Convinced that such practices undermine the integrity of state bureaucracies and weaken social and economic policies by promoting corruption in the public sector, thus diminishing its credibility,

Convinced that the fight against corruption must be supported by sincere international cooperation efforts,

Recalling its resolution 3514 (XXX) of 15 December 1975, in which it, inter alia, condemned all corrupt practices, including bribery, by transnational corporations and other corporations, their intermediaries and others involved, in violation of the laws and regulations in host countries, reaffirmed the right of any State to adopt legislation and to investigate and take appropriate legal action, in accordance with its national laws and regulations, against such corrupt practices and called upon all Governments to cooperate to prevent corrupt practices, including bribery,

Recalling Economic and Social Council resolution 1995/14 of 24 July 1995, on action against corruption,

Recalling its resolution 50/225 of 19 April 1996, on public administration and development,

Recalling in particular its resolution 51/59 of 12 December 1996, in which it adopted the International Code of Conduct for Public Officials, annexed thereto, and recommended it to Member States as a tool to guide their efforts against corruption,

Recalling that, in its resolution 51/191 of 16 December 1996, it adopted the United Nations Declaration against Corruption and Bribery in International Commercial Transactions,

Recalling also that, in its resolution 51/191, it requested the Economic and Social Council and its subsidiary bodies, in particular the Commission on Crime Prevention and Criminal Justice, to examine ways to further the implementation of that resolution and the United Nations Declaration against Corruption and Bribery in International Commercial Transactions, to keep the issue of corruption and bribery in international commercial transactions under regular review and to promote the effective implementation of that resolution.

Taking note of the report of the Secretary-General on action against corruption and bribery⁽²⁴⁾ and of the report of the Expert Group Meeting on Corruption, held at Buenos Aires from 17 to 21

Welcoming developments that have advanced international understanding and cooperation regarding bribery in transnational business, such as the Inter-American Convention against Corruption, of the Organization of American States, March 1996, which includes an article on the prohibition of foreign commercial bribery, the ongoing work of the Council of Europe against corruption to elaborate several international conventions including provisions on bribery in international commercial transactions, the ongoing work in the World Trade Organization to improve transparency, openness and due process in government procurement procedures, the ongoing work of the member States of the Organization for Economic Co-operation and Development including, as elements, the agreement to prohibit the tax deductibility of bribes paid to foreign public officials in international commercial transactions, and the commitment to criminalize the bribing of foreign public officials in international business transactions,

1. Agrees that all States should take all possible measures to further the implementation of the United Nations Declaration against Corruption and Bribery in International Commercial Transactions (3) and of the International Code of Conduct for Public Officials; (4)

2. Urges Member States that have not yet done so to implement relevant international declarations and to ratify, where appropriate, international instruments against corruption;

3. Urges Member States to criminalize, in an effective and coordinated manner, the bribery of public office holders of other States in international commercial transactions and encourages them to engage, as appropriate, in programmatic activities to deter, prevent and combat bribery and corruption, for example, by diminishing institutional barriers through the development of integrated management systems and the promotion of legal reform in accordance with their fundamental legal principles in both the public and private sectors, by encouraging a greater role for citizens in the development of transparent and accountable governments, by supporting the active participation of non-governmental organizations in the identification, planning and implementation of initiatives that raise ethical standards and practices in both government and business transactions and by providing training and technical assistance to other States, as appropriate, to develop and implement standards of good governance, in particular, accountability and transparency, legitimate commercial and financial conduct and other anti-corruption measures;

4. Requests the Secretary-General to invite each Member State to provide a report on steps taken to implement the provisions of the Declaration, including those dealing with criminalization, effective sanctions, tax deductibility, accounting standards and practices development of business codes, illicit enrichment, mutual legal assistance and bank secrecy provisions, as well as on national anti-corruption strategies and policies, for compilation by the Secretary-General, distribution and consideration by the Commission on Crime Prevention and Criminal Justice, with a view to examining further steps to be taken for the full implementation of the Declaration;

5. Invites competent international, regional and non-governmental organizations to provide relevant information to the Commission on Crime Prevention and Criminal Justice on

international efforts to combat corruption and bribery;

6. Requests the Secretary-General, subject to the availability of extra budgetary funds, to intensify technical assistance to combat corruption, providing advisory services to Member States that request such services, and urges Member States to provide the Secretariat with the necessary extrabudgetary funds for such technical assistance;

7. Requests the Commission on Crime Prevention and Criminal Justice to give attention to the question of the bribery of public office holders of other States in international commercial transactions and to include in its agenda for a future session a review of action by States to implement the Declaration.

1. See P. Arlacchi, Political corruption and organized crime in contemporary Italy, The Collected Works of the Seventh International Anti-Corruption Conference, Beijing, Hong Qi Publishing House, 1996), p. 243.

2. United Nations, Fifth Congress on the Prevention of Crime and the treatment of Offenders, Changes in Forms and Dimensions of Criminality - Transnational and National, Working paper prepared by the Secretariat, A/CONF.56/3.

3. United Nations, Fifth Congress on the Prevention of Crime and the Treatment of Offenders, The Emerging Roles of the Police and Other Law Enforcement Agencies, with Special reference to Changing Expectations and Minimum Standards of Performance, Working paper prepared by the Secretariat, A/CONF.56/5.

4. See Official Records of the Economic and Social Council, 1990, Supplement No. 10 (E/1990/31), chap. I, sect. C, decision 11/104.

5. Department of Technical Cooperation for Development and Centre for Social Development and Humanitarian Affairs, Corruption in Government: Report of an Interregional Seminar, The Hague, Netherlands, 11-15 December 1989 (New York, 1990) (TCD/SEM.90/2 - INT-89-R56).

6. International Review of Criminal Policy, Nos. 41 and 42, 1993 (United Nations publication, Sales No. E.93.IV.4).

7. United Nations, Ninth Congress on the Prevention of Crime and the treatment of Offenders, background paper prepared by the Secretariat on international action against corruption, Cairo, 29 April-8 May 1995, A/CONF. 169/14.

8. The panel of experts invited to make introductory remarks was composed of H.E. Mr. Nelson Azevedo Jobim, Minister of Justice of Brazil; Mr. Romul Petru Vonica, Senator, Chairman of the Anti-Corruption Commission of the Senate of Romania; Mr. Shinichi Tsuchiya, Director of the Asia Crime Prevention Foundation and former prosecutor in Japan; Professor M. Cherif Bassiouni,

President of the International Association of Penal Law and member of the delegation of Egypt; and Mr. Antonio Di Pietro, former prosecutor in Milan, Italy.

9. General Assembly, Resolution 50/225, Public administration and development, 50th session, 112th plenary meeting, 19 April 1996.

10. General Assembly, Resolution 51/59, Action against corruption and the International Code of Conduct for Public Officials, (see annex 1).

11. E/CN.15/1996/5

12. E/1991/31/add.1.

13. See E/1996/99.

14. See E/1996/106.

15. E/CN.15/1997/1.

V.97-22180T

16. See the Basic Principles on the Independence of the Judiciary (Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. D.2, annex).

17. The UNCITRAL Model Law on Procurement of Goods, Construction and Services (Official Records of the General Assembly, Forty-ninth Session, Supplement No. 17 and corrigendum (A/49/17 and Corr.1), annex I) could serve as a useful reference in this connection.

18. General Assembly resolution 51/59, annex.

19. The issue of technical assistance is discussed in more detail in paragraph 50 below.

20. The question of the elaboration of such a convention is discussed in more detail in paragraph 51 below.

21. See also the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (General Assembly resolution 40/34, annex).

22. "Shell" companies are entities legally established solely for the purpose of engaging in criminal activity.

23. International Review of Criminal Policy, Nos. 41 and 42 (United Nations publication, Sales No. E.93.IV.4).

24.

25.