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Report of the Expert Group



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COMMISSION ON CRIME PREVENTION  
AND CRIMINAL JUSTICE

Sixth session

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Item 4 of the provisional agenda\*

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**).

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\*E/CN.15/1997/1.

*Annex*

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

CONTENTS

	<i>Paragraphs</i>	<i>Page</i>
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*

2. 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.

3. **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.

4. 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**,\* 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.

5. 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.

6. 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**

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

##### *Disclosure by public **officials** of assets and liabilities*

8. 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 fake reporting. Provisions would **also** need to be made to ensure that the information provided will not be misused.

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\*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).

*Guidelines for the performance of duties by public officials*

9. 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*

10. 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*

11. 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*

12. 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\**

13. 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**

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\*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.

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*

14. 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*

15. 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*

16. 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*

17. 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 enliven 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*

18. 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<sup>7</sup> 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*

19. 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*

20. 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*

21. 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*

22. States should rely on the international Code of Conduct for Public Officials\* 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**.\*\*

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\*General Assembly resolution S 1/59, annex.

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

## B. Implementation of General Assembly resolution 51/191

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

23. Making conuption 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 parries **qualifying as** victims of corrupt practices in international commercial transactions to pursue remedial action against perpetrators.

### *Legislation against money-laundering*

24. 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*

25. 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 5 **1/191, such** a convention being the most appropriate tool for fighting this problem. Such a convention would need to, include effective enforcement mechanisms.\*

### *Tax deductibility of illicit payments*

26. 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*

27. 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*

28. 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**.

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\*The question of the elaboration of such a convention is **discussed in more detail in paragraph 5 1** below.

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*

29. 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*

30. 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*

31. 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*

32. States should consider including in their legislation provisions taking into account aggravating circumstances 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*

33. 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*

34. 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.\*

### *Administrative law*

#### *Use of administrative sanctions*

35. 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*

36. 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*

37. 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*

38. 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*

39. 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*

40. **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**,

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

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*

41. 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*

42. 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*

43. 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*

44. 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*

45. 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*

46. 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\*** and other systems as they may deem appropriate.

### *Evidence-gathering procedures in corruption cases*

47. 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*

48. 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*

49. 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

50. 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;

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

(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**

51. 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 5 1/59 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

52. 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' 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.

53. 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 5 1/59. 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.

54. '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.

55. **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

56. The Bxpert 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.

57. 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

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

C. Documentation

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

D. Election of **Officers**

60. Eugenio Maria 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

61. 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 **S 1/59**, 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 **S 1 /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**

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

*Notes*

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

*Appendix I*

## LIST OF PARTICIPANTS

**Expert.**

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** Martin 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. 4 1 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) 8 1, 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).

United Nations  
Resolution of the General Assembly  
Action Against Corruption



**General Assembly**

**Distr.  
GENERAL**

**A/RES/51/59**  
28 January 1997

**Fifty-first session**  
Agenda item 101

**RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY**

[on the report of the Third Committee (A/51/610)]

**51/59. Action against corruption**

**The General Assembly,**

**Concerned** at the seriousness of problems posed by corruption, which may endanger the stability and security of countries and 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 and to enhance accountability and transparency,

**Recalling** the Inter-American Convention against Corruption,<sup>1</sup> 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,

<sup>1</sup> See E/1996/99.

**Recalling** <sup>2</sup> **so** **ite** **reoolutions** **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**,<sup>3</sup> **on** public administration and development,

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

**Recalling also** ths work carried out' by other international and regional **organizations in** this field, including the **activities** of the Council of Europe, the **European Union**, 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' 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 **tecommende** it to **Member States as** a tool to guide their **effort8** against corruption;

3. **j&quests** 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,<sup>3</sup> 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** ths Secretary-General, **in consultation** with **States, relevant intergovernmental** and non-governmental **organizations, as well** as in cooperation with the institutor comprising the United Nations **Crime Prevention and Criminal Justice Programme** network, to elaborate an **implementation plan and submit it** to ths **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** • sd in **implementing** paragraph 4 above;

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<sup>2</sup> E/CN.15/1996/5.

<sup>3</sup> **International Review of Criminal Policy**, Nos. 41 and 42 (United Nations publication, **Sales No. E.93.IV.4**).

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 **Member States**, at their request, 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.

**82nd plenary meeting**  
**12 December 1996**

## 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 institution of government.

2. Public officials shall ensure that they *perform* their duties and functions efficiently, effectively and with integrity, in accordance with laws or **administrative policies**. 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. CONFLICT 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 their **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 by **administrative** policies in order that after leaving their official positions they will not take **improper** advantage of **their** previous office.

## III. DISCLOSURE OF ASSETS

a. 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 dependants.

## IV. ACCEPTANCE OF GIFTS OR OTHER FAVOURS

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

## V. CONFIDENTIAL INFORMATION

10. **Utters 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 restriction shall also apply **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.

## **CORRUPTION/BRIBERY**

### GENERAL ASSEMBLY RESOLUTIONS

3414 (XXX) Measures Against Corrupt Practices of Transnational and Other Corporations, Their Intermediaries and Others Involved (15 December 1975)

5 1/59 Action Against Corruption; ANNEX: International Code of Conduct for Public Officials (12 December 1996)

5 1/191 United Nations Declaration Against Corruption and Bribery in International Commercial Transactions (16 December 1996)

52/87 International Cooperation Against Corruption and Bribery in International Commercial Transactions (12 December 1997)

### ECOSOC RESOLUTIONS

E/RES/204 1 (LXI) Corrupt Practices, Particularly Illicit Payments, in International Commercial Transactions (11 August 1976)

E/RES/2 122 (LXIII) Corrupt Practices, Particularly Illicit Payments, in International Commercial Transactions (15 August 1977)

1995/1 4 Action Against Corruption; ANNEX: Draft International Code of Conduct for Public Office Holders (24 July 1995)

1996/8 Action Against Corruption (23 July 1996)

1997/25 International Cooperation Against Corruption and Bribery in International Commercial Transactions (21 July 1997)

1998/1 6 Action Against Corruption (28 July 1998)

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E/5838 Transnational Corporations: Measures Against Corrupt Practices of Transnational and Other Corporations, Their Intermediaries and Others Involved - Report of the Secretary-General (11 June 1976)

E/AC.64/3 Corrupt Practices, Particularly Illicit Payments in International Commercial Transactions: Concepts and Issues Related to the Formulation of an International Agreement - Report of the Secretariat (20 January 1977)

E/AC.64/L. 1 United States of America: Working Paper - Ideas on the Scope and Content of an International Agreement on Illicit Payments in **Connexion** with International Commercial Transactions (2 February 1977)

E/AC.64/4 Major Issues to be Considered in the Examination of the Problem of Corrupt Practices, in Particular Bribery, in International Commercial Transactions by Transnational and Other Corporations, Their Intermediaries and Others Involved (10 February 1977)

E/AC.64/5 Report of the Ad Hoc Intergovernmental Working Group on the Problem of Corrupt Practices on its Second Session (16 February 1977)

E/AC.64/7 Major Issues to be Considered in the Examination of the Problem of Corrupt Practices, in Particular Bribery, in International Commercial Transactions by Transnational and Other Corporations, Their Intermediaries and Others Involved - Annotated Outline; Report of the Secretariat (17 March 1977)

E/6006 Report of the Ad Hoc Intergovernmental Working Group on the Problem of Corrupt Practices on its First, Second, Third and Resumed Third Sessions (5 July 1977)

E/1 978/39 Report of the Ad Hoc Intergovernmental Working Group on the Problem of Corrupt Practices on its Fourth and Fifth Sessions (24 April 1978)

E/1 978/1 15 Report of the Ad Hoc Intergovernmental Working Group on the Problem of Corrupt Practices on its Fourth, Fifth and Resumed Fifth Sessions (7 July 1978)

E/AC.67/L. 1 Conclusions Reached by the Committee on an International Agreement on Illicit Payments During its First Session held at Headquarters from 29 January to 9 February 1979 (28 February 1979)

E/1 979/1 04 Report of the Committee on an International Agreement on Illicit Payments on its First and Second Sessions; 29 January - 9 February and 7-1 8 May 1979 (25 May 1979)

E/1 99 1/3 1/Add. 1 Report of the Commission on Transnational Corporations on its Seventeenth Session; Addendum: Efforts by the United Nations to Address the Issue of Corrupt Practices - Report of the Secretary-General (4 July 1991)

A/CONF. 169/1 6 Report of the Ninth United Nations Conference on the Prevention of Crime and the Treatment of Offenders: Special Sessions of the Congress in Plenary Meetings A. Experiences in Practical Measures Aimed at Combating Corruption Involving Public Officials (Cairo 29 April - 8 May 1995) (12 May 1995)

E/CN. 15/1 996/5 Action Against Corruption: Report of the Secretary-General (11 April 1996)

E/1996/99 Economic and Environmental Questions: Follow-Up to General Assembly Resolution 50/106: Business and Development; Letter Dated 19 July 1996 from Venezuela to the Secretary-General Transmitting the Inter-American Convention Against Corruption (23 September 1996)

E/1996/106 Economic and Environmental Questions: Follow-Up to General Assembly Resolution 50/106: Business and Development; Letter Dated 5 November 1996 from the United States of America to the Secretary-General Transmitting "Implementation of the Recommendation on Bribery in International Business Transactions" (12 November 1996)

E/CN.15/1997/3 Promotion and Maintenance of the Rule of Law and Good Governance; Action Against Corruption and Bribery: Report of the Secretary-General (5 March 1997)

E/CN.15/1997/3/Add.1 Promotion and Maintenance of the Rule of Law and Good Governance; Action Against Corruption and Bribery: Report of the Secretary-General. Addendum: Report of the Expert Group Meeting on Corruption, held at Buenos Aires from 17-21 March 1997 (8 April 1997)

E/CN.15/1998/6/Add.1 International Cooperation in Combating Transnational Crime; Addendum: Recommendations of the African Regional Ministerial Workshop on Organized Transnational Crime and Corruption, held at Dakar from 21 - 23 July 1997 (29 August 1997)

E/CN.15/1998/3 Promotion and Maintenance of the Rule of Law: Action Against Corruption and Bribery - Report of the Secretary-General (23 March 1998)