



VIENNA CHAPTER

STATEMENT OF THE G-77 AND CHINA AT THE SECOND CONFERENCE OF STATES PARTIES TO THE UNITED NATIONS CONVENTION AGAINST CORRUPTION, NUSA DUA, BALI, 28 JANUARY - 1 FEBRUARY 2008, DELIVERY BY H.E. MR. NAWID AHSAN, CHAIRMAN NATIONAL ACCOUNTABILITY BUREAU (Head of the Delegation of Pakistan)

Mr. President,

On behalf of the Group of 77 and China, I would like to congratulate you on your election to the chair of this second conference of States Parties to the United Nations Convention against corruption. The Group is confident of your ability to steer the proceeding of this session and assures you of its support. The Group would like also to congratulate of the members of the Bureau for their election.

The Group of 77 and China would like to take this opportunity to express our deep gratitude to the Government of the Indonesia for the excellent arrangements made for the hosting of this important event.

The Group also wishes to thank the Secretariat staff for their efforts in the preparation of the conference including the various consultations undertaken and providing us with the necessary documents in advance.

Mr. President,

The Group of G-77 and China believes that Technical Assistance is a crosscutting issue throughout the Convention, and its provision is an essential part of its effective and efficient implementation. The Group emphasizes that in order to promote UNCAC implementation; States parties should afford one another the widest measure of technical assistance, especially for the benefit of developing countries and their efforts to apply the Convention. Assuring sufficient and stable funding to the Conference and to the United Nations Office on Drugs and Crime is also essential to promote programmes and projects, which provide, at the request of the benefiting country, the proper technical assistance to implement the Convention.

The Group would also like to welcome the work carried out by the interim open-ended intergovernmental group on Technical Assistance. The Group believes that the delivery of Technical Assistance must be based on the needs and priorities identified by the requesting states through, inter alia, the self-assessment checklist. In this connection, the Group proposes to extend the work of the open-ended working group until the third Conference of States Parties, to address the emerging needs and priorities of states arising at different stages of the ratification and implementation processes.

The Group of 77 and China welcomes the report of the Secretariat: "Self-assessment of technical assistance needs for the implementation of the United Nations Convention against Corruption". The Group also welcomes the ever-increasing response rate to the checklist, which highlights the importance that governments give to fight against corruption.

Mr. President,

The Group of 77 and China believes that the basic principles to guide how technical assistance should be delivered must be for mutual benefit, respect for diversity and national sovereignty. Furthermore, the Group reaffirms that no conditions should be attached to the provision of technical assistance, and no links be established with development assistance.

The Group of 77 and China stresses that the provisions of UNCAC should be the framework for the anti-

corruption plans and strategies of bilateral and multilateral donors for the provisions of technical assistance.

The Group of 77 and China stresses the fact that national practitioners and legal experts need more information about how UNCAC may be the suitable framework for developing activities targeting corruption at national, regional and international levels. In this context, the Group considers essential to undertake training activities for national experts, as well as training of trainers. So that they can disseminate knowledge, experience and awareness about UNCAC.

The G-77 and China takes note of the Round Table on Development and Corruption, to be held during this second session of the Conference, whose main objective is to bring together representatives of States and of bilateral and multilateral donor agencies to discuss ongoing and planned technical assistance programmes and improve coordination in line with the requirements for implementation of the Convention. The G-77 and China welcomes the fact that the round table is open for all States Parties, a practice which should always be promoted for it provides transparency into the works of the Conference.

Mr. President,

The G-77 and China welcomes the results of the meeting of the open-ended intergovernmental working group on Asset Recovery held in Vienna in August 2007, as contained in document CAC/COSP/2008/4, which has, among others, facilitated an exchange of ideas among States on ways and means to expedite the return of stolen assets.

The Group of 77 and China believes that the diversion of national wealth from public budgets and its transfer abroad seriously compromises the potential for the development of the country of origin. The return of those funds to the country of origin and the elimination of safe havens for looted assets in the world are, therefore, viewed as one of the high priorities in the fight against corruption.

Obstacles faced in recovering stolen assets have shown that more needs to be done to streamline the process and facilitate requesting states in their efforts. The G-77 and China is of the view that technical assistance in preparing a case, enhanced capacity of the criminal justice system, as well as enhanced international commitment, mutual confidence and cooperation in facilitating asset recovery and eliminating safe havens for looted assets are very important for the success of current and future efforts.

A major challenge in Asset Recovery is surmounting the bureaucratic procedures and legal barriers in the requested State. In many cases, the resources spent with court procedures can outweigh the amount to be recovered. More agile and simpler procedures should thus be put in place, while safeguarding the due process of law.

Mr. President,

The Group wishes to re-emphasize the need for the effective implementation of the provisions of the asset recovery chapter of the Convention, in particular, the mechanism established in Article 57 for the return of assets. The Group is also aware that notwithstanding appropriate changes to domestic legal framework, the effective implementation of the Asset Recovery provisions depends, to a considerable extent, on the will of the requested State to cooperate. This often leads to prolonged period of delay and huge financial costs in repatriation. The Group wishes to recall Article 51 that clearly states that the return of assets is a fundamental principle of the Convention and States Parties shall afford one another the widest measure of cooperation and assistance. The Group, therefore, urges all States, in the spirit of the Convention to facilitate the quick return of assets and to assist the requesting states to build required capacity in tracing, confiscation and recovery of assets, to minimize the costs for the requesting State.

The repatriation of public assets is an international obligation derived from the fact that the asset has a legitimate owner, the Government of the country of origin. A criminal network of corrupt officials in the

country of origin and criminal network of financial experts in the country of destination are intertwined and have large profits in the business. Therefore, the Group believes that international cooperation between law enforcement authorities is of absolute essence.

The Group of 77 and China will submit a draft resolution on the establishment of a Consultative Group of Experts on Asset Recovery to provide expertise to States Parties and the UNODC in the area of Asset Recovery.

Mr. President,

The G-77 and China takes note of the StAR initiative, a joint initiative between UNODC and the World Bank. The Group observes that the initiative may have the potential for facilitating Asset Recovery and the implementation of the UNCAC, if certain concerns of the Group are adequately addressed.

Following are some of the concerns and comments of the Group of 77 and China:

- First, the StAR initiative lacks clarity on the way technical assistances provided to States Parties is funded. The Group stresses that it should be in the form of grants.
- Second, the Group is against any form of external monitoring of the use of recovered assets. The Group regards such monitoring as intrusive and impinges on the sovereign right of the country involved. Moreover, the Group is of the view that such provisions or requirements tantamount to conditionality, notwithstanding the StAR Initiative's claim that monitoring will be voluntary.

In this regard, the Group requests detailed information on the StAR Initiative including its terms of reference, and looks forward to the outcome of the Ministerial Panel discussion on the Initiative at this session of the Conference.

Mr. President,

The Group of 77 and China attaches great importance to the review of the implementation of the Convention and in this regard, would like to reaffirm the following:

- i) According to Article 63, paragraph 1, the Convention establishes COSP to, inter alia, promote and review its implementation.
- ii) According to Article 63, paragraph 4 (e) the COSP shall agree upon activities, procedures and methods of work to achieve, "Reviewing periodically the implementation of this Convention by its States Parties".
- iii) According to Article 63, paragraph 7, COSP shall establish, if it deems it necessary, any appropriate mechanism or body to assist in the effective implementation of the Convention. This has also been restated in operative paragraph 1 of the resolution 1/1 of the COSP.

In view of these provisions of the Convention and resolution 1/1, the Group firmly believes that the COSP is the sole body responsible for the review of the implementation of the Convention. Any mechanism or body to be established will, therefore, have to be a subsidiary mechanism or body of the COSP. The final recommendations and decisions on any report on the review of the implementation of the Convention will have to be made by the COSP and not by the mechanism itself.

The Group of 77 and China requests that any information provided by Member States in response to its commitments in the review of the implementation of the Convention can be used for analytical purposes, but cannot be disclosed to any person or entity, without the prior consent of the State concerned.

Mr. President,

The Group reiterates that any mechanism or body should have the characteristics defined in operative paragraph-3 of resolutions 1/1 of the 1st session of the COSP, i.e. it should be transparent, efficient, non-intrusive, inclusive and impartial, it should not produce any form of ranking, it should provide opportunities

to share good practices and challenges, it should complement existing international and regional review mechanisms in order that the Conference might, as appropriate, cooperate with them and avoid duplication of effort. In addition, it should also have the following terms of reference:

- i) Its sole objective should be to assist the COSP in helping the States Parties to effectively implement the Convention.
- ii) It should avoid selectiveness among Member States and it should not undermine the universality of the Convention or dissuade the accession of new countries to it.
- iii) The composition of any mechanism or body should be based on equitable geographical distribution. iv) Its reports should not be disclosed to Non-State Parties, until considered by the COSP
- v) All its reports must be submitted to the COSP for its consideration. Only COSP will be competent to approve and issue Implementation Review Reports.
- vi) The review mechanism or body should base its reports on the information provided only by the States Parties.
- vii) It should be funded from the Regular Budget to ensure its efficient functioning.

The Group of 77 and China acknowledges with appreciation the work of the open-ended intergovernmental group on review of the implementation of the Convention that met from 29-31 August 2007 in Vienna. The Group would like to make the following comments on the report of the working group contained in document CAC/COSP/2008/3:

- i) The proposal regarding the establishment of an independent body, such as the International Narcotics Control Board model, cannot serve the characteristics decided by the first meeting of the COSP and is therefore not acceptable to the Group.
- ii) The proposals for the establishment of UNCAC regional mechanisms, which would report to the Conference as the global review mechanism, has merits to be considered further.
- iii) The ten elements of convergence, contained in paragraph 40, contain some important elements, which could be used as additional terms of reference for the review mechanism. Therefore, the Conference of the States Parties should examine these elements in greater detail.
- iv) Recommendations by any voluntary mechanism, such as pilot project should not be imposed on States Parties in a later stage.
- v) The self-assessment checklist, while being an excellent information gathering tool, needed further development to cover all parts of the Convention. It should also take into account the differences between legal systems.
- vi) The self-assessment information provided should be updated periodically, in order to capture the progress made during the various stages of the implementation process.

The Group of 77 and China will submit a draft resolution on the review of implementation that will contain the above terms of reference as well as extending the work of the working group until the third COSP.

Mr. President,

On the issue of bribery of officials of Public International Organizations, the Group believes that there is a need for raising awareness of the host countries' authorities and of the investigation services in international organizations about the provisions of UNCAC. The Group also believes that further cooperation and the establishment of partnerships is needed between the international organizations and the Member States, in particular the host countries, to enable both parties to overcome the challenges of criminal investigations of corruption cases.

The Group highlights the importance of international organization undergoing internal reviews to make sure that the rules and regulations of these organizations conform to the provisions of the United Nations Convention against Corruption.