



Economic and Social Council

Distr.: General
19 March 2004

Original: English

Commission on Crime Prevention and Criminal Justice

Thirteenth session

Vienna, 11-20 May 2004

Item 5 (b) of the provisional agenda*

International cooperation against transnational crime: United Nations Convention against Corruption

United Nations Convention against Corruption**

Report of the Secretary-General

Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction	1-6	2
II. Completion of the draft convention by the Ad Hoc Committee for the Negotiation of a Convention against Corruption	7-29	3
A. Fifth session of the Ad Hoc Committee	7-10	3
B. Sixth session of the Ad Hoc Committee	11-15	3
C. Seventh session of the Ad Hoc Committee	16-24	4
D. Consistency group established by the Ad Hoc Committee	25-29	6
III. Adoption of the Convention by the General Assembly at its fifty-eighth session .	30-31	7
IV. High-level Political Conference for the Purpose of Signing the United Nations Convention against Corruption	32-37	7
V. Promotion of the entry into force and implementation of the United Nations Convention against Corruption	38-43	8
Annex. Status of signature and ratification of the United Nations Convention against Corruption		10

* E/CN.15/2004/1.

** The present report was not submitted within the time required by the 10-week rule because of the need to finalize plans for scheduled activities and decisions relating to future efforts to promote the ratification of the United Nations Convention against Corruption.



I. Introduction

1. In its resolution 55/61 of 4 December 2000, the General Assembly recognized that an effective international legal instrument against corruption, independent of the United Nations Convention against Transnational Organized Crime (Assembly resolution 55/25, annex I) was desirable; and decided to establish an ad hoc committee for the negotiation of such an instrument in Vienna at the headquarters of the Centre for International Crime Prevention.
2. In its resolution 56/260 of 31 January 2002, the General Assembly decided that the Ad Hoc Committee for the Negotiation of a Convention against Corruption should negotiate a broad and effective convention, which, subject to the final determination of its title, should be referred to as the “United Nations Convention against Corruption”; and requested the Ad Hoc Committee, in developing the draft convention, to adopt a comprehensive and multidisciplinary approach and to consider, inter alia, the following indicative elements: definitions; scope; protection of sovereignty; preventive measures; criminalization; sanctions and remedies; confiscation and seizure; jurisdiction; liability of legal persons; protection of witnesses and victims; promoting and strengthening international cooperation; preventing and combating the transfer of funds of illicit origin derived from acts of corruption, including the laundering of funds, and returning such funds; technical assistance; collection, exchange and analysis of information; and mechanisms for monitoring implementation.
3. In its resolution 57/169 of 18 December 2002, the General Assembly noted the progress made by the Ad Hoc Committee, and urged it to endeavour to complete its work by the end of 2003.
4. The Ad Hoc Committee held seven sessions, as follows: first session from 21 January to 1 February 2002; second session from 17 to 28 June 2002; third session from 30 September to 11 October 2002; fourth session from 13 to 24 January 2003; fifth session from 10 to 21 March 2003; sixth session from 21 July to 8 August 2003; and seventh session from 29 September to 1 October 2003.
5. In its resolution 58/4 of 31 October 2003, the General Assembly adopted the United Nations Convention against Corruption.
6. The present report is submitted to the Commission on Crime Prevention and Criminal Justice to appraise it of the work carried out since the twelfth session of the Commission by the Ad Hoc Committee for the Negotiation of a Convention against Corruption, leading to the finalization of the draft convention. It also contains information on the High-level Political Conference for the Purpose of Signing the United Nations Convention against Corruption, held in Merida, Mexico, from 9 to 11 December 2003, as well as on future action planned by the United Nations Office on Drugs and Crime to promote the entry into force of the Convention.

II. Completion of the draft convention by the Ad Hoc Committee for the Negotiation of a Convention against Corruption

A. Fifth session of the Ad Hoc Committee

7. The Ad Hoc Committee held its fifth session in Vienna from 10 to 21 March 2003. The fifth session was attended by representatives of 114 States and by observers for United Nations Secretariat units, United Nations bodies and research institutes, specialized agencies and other organizations of the United Nations system, institutes of the United Nations Crime Prevention and Criminal Justice Programme network, intergovernmental organizations and non-governmental organizations.

8. At its fifth session, the Ad Hoc Committee considered articles 19-50, 1-3, 50 bis-59 and 73-77, in that order. It based its deliberations on the consolidated text contained in document A/AC.261/3/Rev.3 and on proposals and contributions made by Governments.

9. The Ad Hoc Committee provisionally approved the following: article 1, subparagraph (a); article 2, subparagraphs (f), (h), (j) and (k); article 19 (subject to the resolution of an issue relating to the definition of “public official” contained in article 2, subparagraph (a)); article 22; article 33 (except para. 2, subpara. (b)); article 38; article 38 bis; article 38 ter; article 40 (subject to a decision on whether to retain the phrase “offences covered by this Convention” or replace it with the phrase “offences established in accordance with this Convention”); article 40 bis; article 42 (except para. 3 and subject to a decision on whether to retain the phrase “offences covered by this Convention” or replace it with the phrase “offences established in accordance with this Convention”); article 42 bis; article 43 (subject to a decision on whether to retain the phrase “offences covered by this Convention” or replace it with the phrase “offences established in accordance with this Convention”); article 43 bis (subject to a decision on whether to retain the phrase “offences covered by this Convention” or replace it with the phrase “offences established in accordance with this Convention”); articles 44-46; articles 48-51 (subject to a decision on whether to use the phrase “offences covered by this Convention” or retain the phrase “offences established in articles [...] of this Convention” in para. 2 and except for paras. 3 and 4); article 52; article 53 (except for paras. 3, subparas. (j) and (k), and 9); articles 54-56; article 59; and articles 73-75.

10. The report of the Ad Hoc Committee on its fifth session was issued as document A/AC.261/16.

B. Sixth session of the Ad Hoc Committee

11. The Ad Hoc Committee held its sixth session in Vienna from 21 July to 8 August 2003. The sixth session was attended by representatives of 128 States and by observers for United Nations Secretariat units, United Nations bodies and research institutes, specialized agencies and other organizations of the United Nations system, institutes of the United Nations Crime Prevention and

Criminal Justice Programme network, intergovernmental organizations and non-governmental organizations.

12. During its sixth session, the Ad Hoc Committee considered the remaining provisions of the draft convention. It based its deliberations on the consolidated text contained in documents A/AC.261/3/Rev.4 and A/AC.261/L.232 and Add.1 and on proposals and contributions made by Governments.

13. The Ad Hoc Committee provisionally approved the following: article 1, subparagraphs (b) and (c); article 2, subparagraphs (a), (c), (d), (g) and (i), and the deletion of subparagraphs (b), (e) and (l); article 4, paragraph 1; the deletion of article 4 bis; article 5; article 5 bis; article 6; article 6 bis; articles 7-9; article 9 bis; the deletion of article 10; articles 11-14; article 19 bis; articles 21-25; the deletion of article 26; the deletion of article 28; article 32; the insertion of a new article 32 bis; article 33, paragraph 2 (b); article 39; article 40, paragraph 7 (b); article 50 bis; article 51, paragraphs 2-4; article 53, paragraphs 3 (j) and (k); article 64; article 65; article 67; article 67 bis; article 60; the insertion of a new article 60 bis; the deletion of article 68; article 61; the deletion of article 62; article 66; article 76; the deletion of article 76 bis; article 77; and the deletion of article 79.

14. At the end of its sixth session, the Ad Hoc Committee decided to hold another session in September 2003, during which it would concentrate on outstanding matters in the draft convention, with a view to finalizing the text and submitting it to the General Assembly for consideration and action at its fifty-eighth session, in accordance with Assembly resolution 56/260.

15. The report of the Ad Hoc Committee on its sixth session was issued as document A/AC.261/22.

C. Seventh session of the Ad Hoc Committee

16. The seventh session of the Ad Hoc Committee was held in Vienna from 29 September to 1 October 2003 and was attended by representatives of 114 States and by observers for United Nations Secretariat units, United Nations bodies and research institutes, specialized agencies and other organizations of the United Nations system, institutes of the United Nations Crime Prevention and Criminal Justice Programme network and intergovernmental and non-governmental organizations.

17. During its seventh session, the Ad Hoc Committee considered the remaining provisions of and finalized the draft convention. It based its deliberations on the consolidated text contained in document A/AC.261/3/Rev.5 and on proposals and contributions submitted by Governments. The Ad Hoc Committee also had before it revisions of and amendments to the draft convention prepared during informal consultations at the request of the Chairman.

18. On 1 October 2003, the Ad Hoc Committee approved the draft United Nations Convention against Corruption and decided to submit it to the General Assembly for consideration and action at its fifty-eighth session, in accordance with Assembly resolution 56/260.

19. Also on 1 October 2003, the Ad Hoc Committee considered and approved a draft resolution submitted by the Chairman, entitled "United Nations Convention against Corruption" (A/AC.261/L.233), for submission to the General Assembly for consideration and action at its fifty-eighth session.

20. The Executive Director of the United Nations Office on Drugs and Crime offered his warm congratulations to the Acting Chairman, the members of the bureau of the Ad Hoc Committee and all the delegations for concluding the negotiations on the draft convention. He noted that, at the beginning of the seventh session, on 29 September 2003, the United Nations Convention against Transnational Organized Crime had entered into force and that he had been informed that the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (General Assembly resolution 55/25, annex II), had received the required number of ratifications and would enter into force on 25 December 2003. The Ad Hoc Committee had added to those successes the approval by consensus of the new draft convention. The new convention would be both balanced and comprehensive and it would establish benchmarks; thus, it would offer good prospects for the fight against corruption. Furthermore, it commanded broad support, as all the regional groups had participated actively in the negotiation process. The Executive Director thanked all those who had contributed to the success of the Ad Hoc Committee. He concluded his statement by reading the following message to the Ad Hoc Committee from the Secretary-General:

"I am pleased to extend my best wishes and congratulations to the Ad Hoc Committee on the successful conclusion of the negotiation process leading to the United Nations Convention against Corruption. It is particularly heartening that you were able to complete this process in less than two years. I would also like to take this opportunity to pay tribute to the late Ambassador Héctor Charry Samper for his leadership, dedication and expertise in chairing the Committee. He will be greatly missed. This Convention can make a real difference to the quality of life of millions of people around the world. I urge Member States to continue demonstrating their commitment with their signature at the Merida conference in December."

21. The representative of Mexico informed the Ad Hoc Committee of the preparations for the High-level Political Signing Conference, to be held in Merida, Mexico, from 9 to 11 December 2003, pursuant to General Assembly resolution 57/169. He noted that, in accordance with that resolution, consultations on the draft provisional agenda of the Conference would be organized by the Secretariat in Vienna in October.

22. At the closing of the session, statements were made by the following: the representative of Tunisia, speaking on behalf of the States Members of the United Nations that are members of the Group of African States; the representative of Paraguay, speaking on behalf of the States Members of the United Nations that are members of the Group of Latin American and Caribbean States; the representative of the Syrian Arab Republic, speaking on behalf of the States Members of the United Nations that are members of the Group of Arab States; the representative of Italy, speaking on behalf of the States Members of the United Nations that are members of the European Union, as well as the acceding countries (Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and

Slovenia) and the associate countries (Bulgaria, Romania and Turkey); the representative of Brazil, speaking on behalf of the States Members of the United Nations that are members of the Group of 77 and China; the representative of Japan, speaking on behalf of the States Members of the United Nations that are members of the Group of Asian States; and the representatives of Algeria, China and the United States of America.

23. The Acting Chairman expressed his appreciation to all delegations for the efforts that they had exerted, which had enabled the Ad Hoc Committee to achieve its goal within the time limit set by the General Assembly. He noted that the new convention would enhance international, regional and national efforts to curb corruption, which posed a threat to national security and stability and undermined respect for the rule of law and the legitimacy of Governments. The members of the Ad Hoc Committee had ample reason to be proud for having completed the negotiation process, which had at times been arduous. He urged Governments to continue to demonstrate their commitment to making the convention a reality by ensuring their participation in the High-level Political Signing Conference, to be held in Merida, Mexico, in December 2003, in order to ensure a high number of signatories to the new convention.

24. The report of the Ad Hoc Committee on its seventh session appears in document A/AC.261/25.

D. Consistency group established by the Ad Hoc Committee

25. The Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime had established a consistency group to ensure the consistency of the draft convention and of the draft protocols thereto, in all the official languages of the United Nations. In view of the substantial contribution that that consistency group had made to the negotiation of the United Nations Convention against Transnational Organized Crime and its Protocols, the Ad Hoc Committee for the Negotiation of a Convention against Corruption also decided to establish a consistency group.

26. At the fourth session of the Ad Hoc Committee, the Chairman requested all the regional groups to appoint representatives to the consistency group, which would be asked, beginning at the fifth session, to ensure consistency within the text of the draft convention and between all the language versions of the draft convention. In addition, the consistency group recognized the need to review the concordance between articles of the draft convention that contained restatements of provisions of the United Nations Convention against Transnational Organized Crime and the respective articles of that Convention.

27. The composition of the consistency group was as follows: the representatives of Algeria, Cameroon and South Africa, appointed by the Group of African States; the representatives of China and Pakistan, with the representatives of Oman, Saudi Arabia and the Syrian Arab Republic alternating in a third position, appointed by the Group of Asian States; the representatives of Poland and the Russian Federation, appointed by the Group of Eastern European States; the representatives of Colombia and Mexico, appointed by the Group of Latin American and Caribbean States; and the representatives of France and Spain, with the representatives of Australia and

the United States alternating in a third position, appointed by the Group of Western European and Other States. Thus, there were members of the consistency group not only from each of the regional groups, but also for each of the official languages of the United Nations. The consistency group was assisted in its work by editors and by translators from the translation sections for each official language of the United Nations, as well as by members of the secretariat of the Ad Hoc Committee. The Chairman of the Ad Hoc Committee requested Joel Hernández (Mexico) to act as coordinator of the consistency group.

28. The consistency group held a total of 29 meetings during the fifth, sixth and seventh sessions of the Ad Hoc Committee and reviewed provisions of the draft convention that had been approved by the Ad Hoc Committee.

29. The consistency group kept the Ad Hoc Committee abreast of its work through oral reports by its coordinator at the fifth and sixth sessions and brought to the attention of the Ad Hoc Committee at its seventh session the results of its work, together with recommendations on changes to be made to the draft convention (A/AC.261/24 and Corr.1). The Ad Hoc Committee approved all the recommendations of the consistency group.

III. Adoption of the Convention by the General Assembly at its fifty-eighth session

30. At its fifty-eighth session, the General Assembly had before it the report of the Ad Hoc Committee for the Negotiation of a Convention against Corruption (A/58/422 and Add.1), in which the Ad Hoc Committee submitted the final text of the draft United Nations Convention against Corruption to the Assembly for its consideration and action, in accordance with resolution 56/260.

31. In its resolution 58/4, the General Assembly adopted the United Nations Convention against Corruption and opened it for signature at the High-level Political Signing Conference to be held in Merida, Mexico, in December 2003; and urged all States and competent regional economic integration organizations to sign and ratify the Convention as soon as possible in order to ensure its rapid entry into force.

IV. High-level Political Conference for the Purpose of Signing the United Nations Convention against Corruption

32. In its resolution 57/169, the General Assembly had accepted with appreciation the offer made by the Government of Mexico to host a high-level political conference for the purpose of signing the convention; and had decided to convene the conference for a period of three days before the end of 2003.

33. Pursuant to that resolution, the High-level Political Conference for the Purpose of Signing the United Nations Convention against Corruption was held in Merida, Mexico, from 9 to 11 December 2003. Ninety-five States signed the Convention during the Conference. One State took the opportunity of the Conference not only to sign the Convention but also to deposit its instrument of ratification.

34. The Conference was attended by representatives of 111 States. Also attending the Conference were observers for United Nations Secretariat units and other entities and specialized agencies of the United Nations system and intergovernmental and non-governmental organizations. Over 18 experts participated in the Conference as observers.

35. The Conference was opened on 9 December 2003 by the President of the United Mexican States and by the Under-Secretary-General for Legal Affairs, the Legal Counsel, who delivered a message on behalf of the Secretary-General. The Governor of Yucatan welcomed the participants of the Conference to Merida.

36. The Conference included opportunities for high-level delegates to discuss matters related to the Convention, in particular follow-up activities for its effective implementation and future work. Accordingly, the organization of work included round tables on preventive measures against corruption: the role of the private and public sectors; the role of civil society and the media in building a culture against corruption; legislative measures to implement the United Nations Convention against Corruption; and measures to fight corruption in national and international financial systems.

37. The report of the Conference is contained in document A/CONF.205/2. Pursuant to General Assembly resolution 58/4, the Secretary-General will submit a detailed report on the Conference to the Assembly at its fifty-ninth session.

V. Promotion of the entry into force and implementation of the United Nations Convention against Corruption

38. As at 12 March 2004, 104 States had signed the Convention and 1 State had ratified it. (The list of signatories and parties to the Convention appears in the annex to the present document.) In accordance with its article 67, paragraph 1, the Convention will be open for signature until 9 December 2005 at United Nations Headquarters in New York. Pursuant to article 68, the Convention shall enter into force on the ninetieth day after the date of deposit of the thirtieth instrument of ratification, acceptance, approval or accession.

39. Article 63 of the Convention establishes a Conference of the States Parties to the Convention, to be convened not later than one year following the entry into force of the Convention.

40. In its resolution 58/4, the Assembly decided that the Ad Hoc Committee for the Negotiation of a Convention against Corruption would complete its tasks by holding a meeting well before the convening of the first session of the Conference of the States Parties to the Convention in order to prepare the draft text of the rules of procedure of the Conference of the States Parties and of other rules described in article 63 of the Convention; encouraged Member States to begin making adequate voluntary contributions to the account referred to in article 62 of the Convention for the provision to developing countries and countries with economies in transition of the technical assistance that they might require to prepare for the ratification and implementation of the Convention; and requested the Secretary-General to provide the United Nations Office on Drugs and Crime with the resources necessary to enable it to promote in an effective manner the rapid entry into force of the

Convention and to discharge the functions of secretariat of the Conference of the States Parties to the Convention.

41. The United Nations Office on Drugs and Crime has prepared a programme of activities to promote the entry into force of the Convention as soon as possible, in order to sustain the political momentum that allowed the Convention to be negotiated and adopted in less than two years. It has drawn inspiration from the successful experience gained from the series of activities undertaken to promote the entry into force of the United Nations Convention against Transnational Organized Crime and its Protocols, while tailoring the programme to the specific requirements of the new Convention.

42. The activities foreseen include the development of a legislative guide related to ratification and implementation of the Convention and the organization of a series of six regional consultations to develop a general framework for legislative reform and measures towards the speedy ratification and future implementation of the Convention. The Office has also decided to avail itself of the four regional preparatory meetings for the Eleventh United Nations Congress on Crime Prevention and Criminal Justice (for Africa, West Asia, Asia and the Pacific and Latin America and the Caribbean, respectively) to be held in March and April 2004, to promote the entry into force of the Convention. More specifically, at the end of each regional preparatory meeting, the Office will conduct a two-day seminar on both the United Nations Convention against Transnational Organized Crime and the United Nations Convention against Corruption.

43. At the High-level Political Signing Conference, the President of the United States of Mexico proposed that States combine their efforts and work together to bring the Convention into force by the first anniversary of the Conference, which will coincide with the first International Day against Corruption, in accordance with General Assembly resolution 58/4. For many developing countries and countries with economies in transition, meeting that challenge is not only a matter of sustained political will: those countries are likely to require specialized advice and assistance to enable them to expedite their national legislative review processes. Ready availability of the specialized expertise necessary is likely to make a considerable difference. It would be particularly important for the effective implementation of the Convention not only that the Conference of the States Parties to the Convention begin functioning as soon as possible, but that it also include States from all regions. It will therefore be essential for the United Nations Office on Drugs and Crime to be in a position to extend support to a broad range of States from all regions.

Annex

Status of signature and ratification of the United Nations Convention against Corruption

<i>Country</i>	<i>Date of signature</i>	<i>Date of ratification</i>
Afghanistan	20 February 2004	
Albania	18 December 2003	
Algeria	9 December 2003	
Angola	10 December 2003	
Argentina	10 December 2003	
Australia	9 December 2003	
Austria	10 December 2003	
Azerbaijan	27 February 2004	
Barbados	10 December 2003	
Belgium	10 December 2003	
Benin	10 December 2003	
Bolivia	9 December 2003	
Brazil	9 December 2003	
Brunei Darussalam	11 December 2003	
Bulgaria	10 December 2003	
Burkina Faso	10 December 2003	
Cameroon	10 December 2003	
Cape Verde	9 December 2003	
Central African Republic	11 February 2004	
Chile	11 December 2003	
China	10 December 2003	
Colombia	10 December 2003	
Comoros	10 December 2003	
Costa Rica	10 December 2003	
Côte d'Ivoire	10 December 2003	
Croatia	10 December 2003	
Cyprus	9 December 2003	
Denmark	10 December 2003	
Dominican Republic	10 December 2003	
Ecuador	10 December 2003	
Egypt	9 December 2003	
El Salvador	10 December 2003	
Ethiopia	10 December 2003	
Finland	10 December 2003	
France	9 December 2003	
Gabon	10 December 2003	
Germany	9 December 2003	
Greece	10 December 2003	
Guatemala	9 December 2003	
Haiti	10 December 2003	
Hungary	10 December 2003	

<i>Country</i>	<i>Date of signature</i>	<i>Date of ratification</i>
Indonesia	18 December 2003	
Iran (Islamic Republic of)	9 December 2003	
Ireland	9 December 2003	
Italy	9 December 2003	
Japan	9 December 2003	
Jordan	9 December 2003	
Kenya	9 December 2003	9 December 2003
Kuwait	9 December 2003	
Kyrgyzstan	10 December 2003	
Lao People's Democratic Republic	10 December 2003	
Libyan Arab Jamahiriya	23 December 2003	
Liechtenstein	10 December 2003	
Lithuania	10 December 2003	
Luxembourg	10 December 2003	
Madagascar	10 December 2003	
Malaysia	9 December 2003	
Mali	9 December 2003	
Mauritius	9 December 2003	
Mexico	9 December 2003	
Morocco	9 December 2003	
Namibia	9 December 2003	
Nepal	10 December 2003	
Netherlands	10 December 2003	
New Zealand	10 December 2003	
Nicaragua	10 December 2003	
Nigeria	9 December 2003	
Norway	9 December 2003	
Pakistan	9 December 2003	
Panama	10 December 2003	
Paraguay	9 December 2003	
Peru	10 December 2003	
Philippines	9 December 2003	
Poland	10 December 2003	
Portugal	11 December 2003	
Republic of Korea	10 December 2003	
Romania	9 December 2003	
Russian Federation	9 December 2003	
Saudi Arabia	9 January 2004	
Senegal	9 December 2003	
Serbia and Montenegro	11 December 2003	
Seychelles	27 February 2004	
Sierra Leone	9 December 2003	
Slovakia	9 December 2003	
South Africa	9 December 2003	
Sweden	9 December 2003	
Switzerland	10 December 2003	

<i>Country</i>	<i>Date of signature</i>	<i>Date of ratification</i>
Syrian Arab Republic	9 December 2003	
Thailand	9 December 2003	
Timor-Leste	10 December 2003	
Togo	10 December 2003	
Trinidad and Tobago	11 December 2003	
Turkey	10 December 2003	
Uganda	9 December 2003	
Ukraine	11 December 2003	
United Kingdom of Great Britain and Northern Ireland	9 December 2003	
United Republic of Tanzania	9 December 2003	
United States of America	9 December 2003	
Uruguay	9 December 2003	
Venezuela	10 December 2003	
Viet Nam	10 December 2003	
Yemen	11 December 2003	
Zambia	11 December 2003	
Zimbabwe	20 February 2004	
