Report on a One-Day Workshop for Stakeholders
On the Ratification and Implementation of the Palermo Convention
16 November 2004 Lusaka, Zambia

1. Introduction and background

The Cape Town office of the Institute for Security Studies (ISS) is presently undertaking a three-year applied research project which, amongst others, aims at contributing towards the ratification and implementation of the UN Convention against Transnational Organised Crime (Palermo Convention) in the SADC region. The project is funded by the Norwegian Agency for Development Cooperation (NORAD). As part of the ISS’s efforts to promote the process of ratification and implementation of the Palermo Convention and its Protocols amongst SADC member States, a one-day workshop was organised at the Pamodzi Hotel in Lusaka, Zambia on 16 November 2004. The rationale for holding the workshop was based on the fact that Zambia is the only country in the SADC (apart from the DRC) that has not signed the Palermo Convention. It was therefore felt that additional effort had to be taken by ISS to promote the process of ratification and implementation of the Convention in Zambia.

2. Objectives of the workshop

2.1 The objectives of the workshop were as follows:

- Raise awareness and appreciation of the role that ISS can play in supporting SADC Member States in enhancing their capacity to counter terrorism, money laundering, organised crime, and corruption
- Provide a forum for stakeholders to identify problems that have caused delays in the ratification and implementation of the Palermo Convention.
- Develop a strategy for fast-tracking the implementation of the Palermo Convention

2.2 Workshop participants

A total of 15 participants consisting of government officials from various departments and ministries including Anti-Corruption Commission, Directorate of International Law, Directorate of Public Prosecutions, Zambia Police Service, Drug Enforcement Commission, Anti-Money Laundering Unit, Ministry of Home Affairs, Ministry of Foreign Affairs and Ministry of Justice took part in the workshop. The list of participants is attached as Annexure “A”.
3. Workshop Programme
3.1 A copy of the workshop Programme is attached as Annexure “B”.

Session 1
Welcome remarks and contextual overview by Mr. Mukelabai Mukelabai, head of the ISS Organised crime and Corruption Project.

3.1.2 Opening Address: Commissioner Mukutulu Sinyani
Commissioner Mukutulu Sinyani, the head of the Drug Enforcement Commission delivered the opening address. In his address the Commissioner recognised the threat of organised crime and its adverse impact on Zambia’s economic and social development. He stated that the Zambian Government was committed to the fight against organised crime. The Commissioner stated that the Government is in the process of reviewing the Ant-Money Laundering Act so as to discourage the infiltration into Zambia of organised criminal groups including terrorist and drug traffickers. He further stressed the importance of ratifying the Palermo convention for purposes of not only fighting organised crime in the country, but also to enable Zambia to participate in the fight against transnational organised crime on an equal footing with other members of the International Community. Commissioner Sinyani said that drug trafficking and arms smuggling are the two major forms of organised crime affecting Zambia and constitute the most profitable source of funding for organised criminal groups in the country. He noted that Zambia is in danger of being a target for more transnational crimes if criminals identify the country as a safe haven due to non-ratification of international instruments. He welcomed the initiative by ISS to organise the workshop on the ratification and implementation of the Palermo Convention.

4.1.2 An overview of the Palermo Convention: M. Mukelabai
After the Commissioner’s speech Mukelabai provided a brief summary of the work being undertaken by the ISS under the NORAD Programme on enhancing the capacity of SADC Member States to terrorism, money laundering, organised crime, and corruption. He stated that the workshop came out of the realisation that apart from the Democratic Republic of Congo, which has for years been plagued by war, Zambia is the only other SADC country that did not sign Palermo Convention, at the high level signing meeting in Palermo, Italy in 2000. He pointed out that the Zambian Government had indicated at the meeting that it was committed to the ratification and implementation of the Convention and four years have passed since that commitment without much progress being made towards the ratification of the Convention. Mukelabai gave the example of countries in the region who have made considerable progress towards implementation of the Convention by setting up inter-departmental committees which meet regularly to set goals and access progress towards ratification and implementation of international instruments. He further gave details of the nature of the threat of organised crime in the SADC region including
the trends and pattern of the phenomenon. He urged the participants to workout a strategy that would facilitate the speedy implementation of international instruments aimed at countering transnational crime.

4.1.3 Ministry of Home Affairs: Mrs. M. Mulikita
Mrs. M. Mulikita, Assistant Secretary, Ministry of Home Affairs explained that she was the Cabinet Liaison Officer and the point person on the ratification of international instruments concerning the Ministry of Home Affairs. She gave reasons for Zambia’s lack of progress towards the accession and implementation of international instruments. These include a lack of coordination amongst stakeholders, lack of knowledge of procedure on the part of government officials, and the unavailability of relevant copies of protocols and conventions. She noted that the procedure for ratifying an international instrument in Zambia involved the Cabinet Secretariat giving conveyance after the approval of a particular convention by Cabinet. She stressed the need for a focal point when meetings amongst stakeholders are convened. She also noted that the structure of some government institutions and the relations between them tend to create a lack of clarity as to their roles in relation to the ratification and implementation of international instruments. She stated that in her view there was political commitment to implement the Palermo Convention and all that was required was the relevant government technocrats to work together on the matter.

4.1.4 Directorate of International Law: Mrs. G.M. Salasini
Mrs. G. M. Salasini, the Director of International Law Department stresses the urgent need for stakeholders to know their respective roles in respect of implementation of the Palermo Convention since Zambia was on the brink of acceding to this Convention. She stated that Article 29 of the Palermo Convention that refers to the provision of technical assistance to countries that have ratified and implemented the Palermo Convention is an incentive that should motive poor country such as Zambia to be party to the Convention.

4.1.4 Drug Enforcement Commission: Mr. L. Saboi
Mr. L. Saboi, the Principal State Advocate and head of the Legal division of the Drug Enforcement Commission stated that there was need for capacity building efforts to move at the same pace as the implementation of international instruments such as the Palermo Convention. He also highlighted the need for law enforcement agencies in Zambia to effectively use Interpol where required and that currently the benefits of being a member of the organisation are not being fully utilised. He further said Zambia should consider the harmonisation of its legislation relating to criminal law and procedure with the rest of the SADC region. Mr. Saboi stated that SARPCCO Secretariat needed to encourage bilateral agreements in the regional. He stated that bilateral agreements are a more effective means of facilitating cooperation between countries. He said the implementation of bilateral agreements is often hindered by the personal preferences of countries. Mr. Saboi emphasised the need for raising awareness among political leaders so that they can understand and appreciate the value of the various international instruments. He also stated that the frequent change
of Ministers in the past may have contributed to the delay in ratification of international instruments and therefore there is need for senior civil servants to take some initiative by follow up matters when changes occur at the political level.

4.1.5 Ministry of Foreign Affairs: Ms. I. Limbabala
Ms. I. Limbabala, Second Secretary, Ministry of Foreign, stated that the Ministry was ready to work closely with other stakeholders to ensure the speedy ratification of all relevant international instruments and that the process of depositing instruments in respect of accession to the Palermo Convention will commence with the necessary speed as soon as the conveyance from Cabinet is received.

4.1.6 Zambia Police Service: Mr. John Katongo
Mr. John Katongo, Assistant Senior Commissioner of Police and Deputy Director of the Criminal Investigations Department said that Zambia had had some successes in countering organised crime. He noted a recent example where the Zambia Police had managed to apprehend members of criminal syndicate involved in the theft and smuggling of motor vehicles in the region. He acknowledged the need for Zambia to urgently accede to the Palermo Convention. He stated that criminal groups escape to countries with which Zambia does not have extradition and mutual legal assistance agreements. He said the ratification and implementation of relevant international instruments such as the Palermo Convention would help in facilitating effective cooperation with other countries in the region and beyond. Mr. Katongo also highlighted the need for consistency and unity of purpose when dealing with international instruments to avoid undue delay in the ratification and implementation process. He urged participants to take practical steps by first agreeing on an exhaustive list of stakeholders in the accession and implementation process and thereafter there was need to identify specific contact officers from each institution to constitute a committee that will meet regularly to determine activities to be undertaken by each stakeholder and access progress made towards achieving the desired goals.

4.1.7 Directorate of Public Prosecutions: Mrs. M.C. Ulaya, State Advocate
Mrs. M.C. Ulaya, the State Advocate, gave a position paper on behalf of the office of the DPP. Mr. R. C. F. Mchenga, the National Director of Public Prosecutions subsequently joined the deliberations. Mrs. Ulaya noted that there was great incapacity within the police to investigate organised crime matters. She stated that whereas the Police have had some successes in dealing with individuals who carry out criminal activities, there has been limited success in respect of criminal responsible for the planning of organised crimes. She stated that effective strategies have to be developed to ensure that issues relating to all forms of organised crime are adequately addressed.

4.1.8 Anti-Corruption Commission: Ms Betty M. Majula
Ms Majula, a Senior Legal Officer with the ACC stated that there is a strong link between organised crime and corruption and that a fight against corruption is also a fight against organised crime. She indicted that Zambia has signed number of
international instruments dealing with corruption such as the UN Convention against Corruption and SADC Protocol Against Corruption. A review of the current Act on corruption is being reviewed to ensure that it complies with international best practices.

5. Session 2

5.1 Developing an implementation strategy

The participants held discussions after which the following resolutions were made:

5.1.1 Resolutions

Recognising that organised crime poses a serious threat to Zambia’s economic and social stability, it is recommended that:

A. Zambia accedes urgently to the Palermo Convention and in this regard the Cabinet Office (Secretariat) should consider expediting the tabling of the instruments of ratification before Cabinet.

B. Legislation is enacted to incorporate the provisions of the Palermo Convention and its supplementary Protocols including legislation to deal with witness protection.

C. The Mutual Legal Assistance in Criminal Matters Act be reviewed due to the practical difficulties encountered in its implementation, particularly the fact that the Act does not take into consideration Constitutional provisions such as the right to a fair trial.

D. Efficacious policy guidelines regarding the nomination of government officials to represent the country at international conferences are developed by Cabinet Office to ensure continuity and effective representation of the country.

E. The levels of staffing in institutions involved in countering crime including organised crime should be improved.

F. Adequate funding is provided to institutions involved in countering crime including organised crime.

G. The investigative capacity of law enforcement agencies should be enhanced through improved forensic tools such as DNA matching system and automated fingerprint and chemical identification facilities.

H. An audit of all relevant international instruments that Zambia has ratified since independence in 1964 be conducted.
I. Specialised training is provided to personnel responsible for countering complex criminal activities such as organised crime, money laundering and terrorism.

J. A committee to be known as the Standing Committee on the Ratification and Implementation of International Instruments (Relating to Criminal Matters) is formed to manage the process and shall be chaired by Mrs. Monty M. Mulikita, Assistant Secretary, Ministry of Home Affairs.

The above recommendations/resolutions are to be communicated to all concerned Ministers, the Secretary to the Cabinet, Permanent Secretaries, and the heads of stakeholder institutions to ensure support at the highest levels of government.

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