Ethics, Integrity, and Accountability in the Public Sector:
RE-BUILDING TRUST IN GOVERNMENT
Through
Implementation of the United Nations Convention against Corruption

AD HOC EXPERT GROUP MEETING
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Aide Memoire
A: Background and context

1. Over the past three to four decades, Governments in different parts of the world have instituted a variety of measures aimed at reforming and revitalizing the public sector. These measures include re-defining the role and sharpening the focus of government, enhancing the service delivery capacities of public agencies, incorporating private business ethos and techniques in decision-making processes, applying modern information and communication technologies in public management processes, reviewing procurement and financial management systems with a view to promoting transparency and accountability, and investing in human and institutional capacity building.

2. Notwithstanding the progress made towards modernizing and revitalizing the public sector in both the developed and the developing regions of the world, many countries are still confronted with a major challenge – that is, how to stem the steady decline in public trust, and reconnect the citizen with the government. Evidence of the decline in public trust is not far to seek – declining voter turn-outs at general and mid-term elections, growing appeal of populist and extremist ideologies, and, in some quarters, increasingly negative perception of organized government.

3. In an environment of rapid change and uncertainties, issues of ethics, integrity and accountability become secondary to that of personal survival. In extreme cases such as post-conflict settings, whatever is left of the police force cannot be trusted to protect every person’s life and property, for the simple reason that the force has either ceased to exist or it has come under the influence of a group or groups with scores to settle. In effect therefore, the preoccupation with survival in a post-conflict environment erodes the citizen’s confidence in government, promotes narcissism and self-aggrandizement, and gives racketeering a free rein.

4. In the absence of a swift and decisive response, unbridled pursuit of self interest in society at large would gradually extend to the public service, thus eroding its (public service) values and undermining its capacity to provide quality service to its diverse clientele. The more entrenched corruption becomes, the more difficult it will be to stem it and re-establish citizen trust in government.

5. As noted earlier, public distrust of government seems to affect many countries. The first danger signal is the growing perception that government and its officials are corrupt, and so, untrustworthy. Corruption thus constitutes as much a threat to public confidence as civil conflict. Just as devastating conflict forces the citizen to search for alternative
coping mechanisms, corruption encourages him to switch his allegiance (from formal organized government) to parallel, mostly under-ground, institutions.

6. The tendency to “switch off” government will increase where malfeasance in high places and impunity receive full press coverage, and reports of corrective actions are few and far in between. Fortunately, measures to combat corruption are receiving increasing attention in different parts of the world today. This is indeed the context in which the ad hoc Expert Group Meeting is being organized – that is, against the backdrop of the complex challenges facing the developed and the developing countries in combating the scourge of official corruption and promoting the cause of clean government.

B: Mandate

7: In its resolution 55/61 of December 4, 2000, the General Assembly of the United Nations recognized that an effective international legal instrument against corruption, independent of the United Nations Convention Against Transnational Organized Crime (resolution 55/25, annex 1), was desirable and decided to establish an Ad Hoc Committee for the negotiation of such an instrument in Vienna, Austria at the headquarters of the Centre for International Crime Prevention, Office for Drugs and Crime. The text of the United Nations Convention against Corruption was negotiated during seven sessions of the Ad Hoc Committee for the Negotiation of the Convention against Corruption, held between January 21, 2002 and October 1, 2003. The Convention approved by the Ad Hoc Committee was adopted by the General Assembly by resolution 58/4 of October 31, 2003. The General Assembly, in its resolution 57/169 of December 18, 2002, accepted the offer of the Government of Mexico to host a high-level political signing conference in Merida, Mexico for the purpose of signing the United Nations Convention against Corruption. The Assembly invited all States to be represented at the Conference at the highest possible levels of Government.

8: The most visible sign of the determination to stem the growth of corruption is probably the numerous regional and international anti-corruption conventions adopted in recent years, including the UN Convention against Corruption, the African Union Convention on Preventing and Combating Corruption, the SADC Protocol against Corruption, the OECD Convention against Bribery of Foreign Public Officials, the Inter-American Convention against Corruption, ADB-OECD Anti-Corruption Action Plan for Asia-Pacific, and the Council of Europe Criminal Law Convention on Corruption1. While many countries have signed such conventions thus committing themselves to implementing their provisions in the fight against corruption, one of the major problems they face concerns how to proceed and eliminate corruption.

9: For instance, the objectives of the United Nations Convention against Corruption (which is the direct concern of the Ad Hoc Expert Group Meeting this aide memoire is referring to) are (i) to promote and strengthen measures to prevent and combat corruption more efficiently and effectively, (ii) to promote, facilitate and support international

1 For a fairly comprehensive list of such conventions consult the Transparency International Web site. http://www.corisweb.org/article/articlestatic/546/1/336/
cooperation and technical assistance in the prevention of and fight against corruption, including in asset recovery, and (iii) to promote integrity, accountability, and proper management of public affairs and property.

10: The Convention calls upon governments to:

- Adopt preventive anti-corruption policies and practices
- Establish and operate preventive anti-corruption body or bodies
- Establish and enforce Codes of conduct for public officials
- Establish and operate appropriate systems of public procurement and management of public finances based on transparency, competition and objective criteria
- Establish public reporting mechanisms
- Promote active participation of society in the prevention of and fight against corruption.

11: By acceding to the UN Convention, countries demonstrated a level of willingness to fight corruption. Effectively implementing the provisions of the Convention would greatly contribute to the building of trust in government that has been so much eroded by unseemly conduct on the part of public officials and their clients.

12: However, it is one thing to adopt a convention against corruption, and another to build and effectively utilize the appropriate enforcement and monitoring capacities for its implementation. Many countries, especially the developing countries, are constrained by capacity weaknesses. The public sector which is expected to provide the lead in the anti-corruption battle is short of qualified and adequately motivated personnel – this is over and above the serious institutional capacity deficiencies that are now generally well-known.

13: Some of the countries that have signed the convention do not actually face the problems related to establishing institutional arrangements for implementing the provisions of the convention. While the institutional arrangements do exist, the capacities that would make them effective are either lacking or inadequate. This is the case in many developing countries. Institutional and human capacity building then becomes a critical issue in the implementation of the UN Convention against Corruption and in rebuilding trust in government. What are the specific measures that need to be taken to strengthen the capacity of the institutions that would support the implementation of the Convention?

14: Besides addressing the human and institutional capacity building challenges, it is essential that the following questions be satisfactorily answered:

- What practical steps must be taken to establish and implement preventive anti-corruption policies and practices? What are the general challenges that must be overcome in designing policies, strategies, and institutional mechanisms for effective implementation of the UN Convention in developed and developing countries?
• What should be the content of such (preventive anti-corruption) policies and practices?
• What structural arrangements, enabling acts, and operational processes should governments introduce in support of watch-dog and corruption-pre-empting agencies/institutions?
• What are the structural, functional, and behavioral attributes of a successful preventive anti-corruption body?
• What is the ideal path to designing codes of conduct for public officials and how should the values highlighted in the codes be related to indigenous cultural and religious beliefs (and thereby “internalized”)?
• What are the constituents of an effective, transparent, objective, and accountable system of public procurement and management of public finances? What would be the ideal steps to be followed in designing it and operating it?
• How is an ideal system of public reporting and disclosure put in place and operated? What are the scope and limits of freedom of information laws?
• In the entire institutional arrangement for preventing and fighting corruption what are the ideal measures for ensuring that the public participates and agrees with the ethical values that are being pursued? Related to this question is the transferability of values from one culture to another: can a value tried and tested in one country be successfully “transplanted” onto another? What situation specific factors, if any, must be taken into account in designing and operating institutional arrangements and systems for pre-empting and combating corruption?

15: Based on the answers to the preceding questions, the Ad hoc Expert Group Meeting will be expected to submit proposals on the development of appropriate tools and methodologies for the implementation of the United Nations Convention against Corruption. Such input will be included in a Technical Guide to the Convention that is being coordinated by the UN Office of Drugs and Crime. In addition, the material presented at the Meeting will form the basis for producing a policy brief on the subject.

C: Objectives of the Ad Hoc Expert Group Meeting (AEGM)

16: The general, the underlying objective of the EGM is to enable the experts to arrive at a consensus on some recommendations concerning the means to adopt to ensure effective implementation of the UN Convention against Corruption as one of the ways of rebuilding public trust in government. The materials gathered during the AEGM will be further analyzed and formulated into practical tools that can contribute to the design of various systems and institutional capacity building mechanism for effective anti-corruption, including the implementation of the United Nations Convention against corruption.

17: The specific objectives of the ad hoc EGM are to:

• Provide a forum at which the Experts could exchange ideas and experiences on the implementation of pre-emptive and ameliorative anti-corruption measures and the
risks as well as prospects in transferring anti-corruption practices from one culture to another;

- Enable Experts to deliberate on preventive measures that need to be adopted to strengthen corruption pre-empting capacities, highlighted in the UN Convention;
- Focus the Experts’ attention on specifying the various roles of governance actors in the design, implementation, and monitoring of corruption pre-empting and follow-up anti-corruption measures;
- Facilitate the Experts to reach an understanding on the strategies to adopt and the tools to develop to ensure that State Parties effectively mainstream and successfully implement the UN Convention against Corruption.

D: Thematic Focus of the EGM

18: The themes which will form the fulcrum of the presentations and discussions of the AEGM by resource persons and Experts are:

- Rebuilding Public Trust in Government: Challenges in designing policies, strategies, and institutional mechanisms for effective implementation of the UN Convention against corruption:
- Model for structural, functional, and behavioral attributes of a successful preventive anti-corruption body in the Public Service
- Designing codes of conduct for public officials
- Designing and operating an effective, transparent, objective, and accountable system of public procurement and management of Public finances
- Designing and operating an effective system of public reporting and disclosure
- Participatory Auditing: Promoting public participation and commitment to preventing corruption


Focusing on this issue, the experts are expected to examine the challenges confronting the design of policies, strategies and institutional mechanisms for effective implementation of the UN Convention against Corruption. Particularly, how to ensure that the provisions of the Convention are mainstreamed in national anti-corruption legislation and “internalized” in public management processes, and that the capacities of corruption pre-empting institutions are duly strengthened.

(ii): Structural, Functional and Behavioral attributes of a Successful Anti-Corruption Body or Bodies

The first task before the experts on this issue is to ask and answer the question of whether there is a universal “model” for the design of the structure, function, and “modus operandi” of a preventive anti-corruption body or a set of bodies in the public service. If the answer is yes, what should be the pillars on which the model rests? If such a model is
not feasible, what other guidelines can be suggested to developing countries embarking on the establishment and/or strengthening of their anti-corruption institutions? Step by step, how would a government establish and strengthen an anti-corruption body? How would its structure look like? What functions would be specified for it? And what are the expected appropriate behaviors of its personnel that would make it successful? How would such an institution relate to private sector and civil society organizations in order to enhance its effectiveness? How would the impact of such a body be monitored and evaluated

(iii): Designing codes of conduct for public officials
The focus here will be on identifying public and private interests, whether based on modern or pre-modern values, that may conflict in carrying out official duties. The implications of these tensions for the design, enforcement, and monitoring of public service codes will also be explored. The factors accounting for compliance with and deviations from the codes will also be examined.

(iv): Designing and operating an effective, transparent, objective, and accountable system of public procurement and management of Public finances
This will discuss contemporary issues and challenges in public financial and procurement management, examine trends within and across regions, and suggest measures that need to be adopted to enhance the effectiveness, transparency and accountability of institutions and processes. It will be enriching for the paper to present not only conceptual models but also cases of successful procurement systems and the step by step process through which they were established and how they have been maintained.

(v): Designing and operating an effective system of public reporting and disclosure
Proceeding from the underlying assumption that information and disclosure are critical to the effective implementation of preventive anti-corruption measures, the discussion on this issue will examine policies and strategies adopted within and across regions to promote the doctrine of “open government” (e.g., enactment of freedom of information laws, as well as institution of measures for assets declaration and disclosure, reporting and investigation of misconduct allegations, whistleblower protection etc. Several questions will be posed and answered including: How is an ideal system of public reporting and disclosure put in place and operated? What are the scope and limits of freedom of information laws? How is a whistle blower protection policy put in place? And what is the role of civic actors in promoting openness and transparency in the conduct of public affairs?

(vi): Role of the Auditor in corruption auditing (including Participatory Auditing: Promoting public participation and commitment to preventing corruption)
Here attention is expected to go beyond the conventional bounds of financial auditing to the institutional mechanisms and processes established to ensure effective auditing of public decisions – particularly, resource transfer and allocation decisions. The paper will
also outline measures for enhancing citizen participation in the decision audits, focusing on the effectiveness of expenditure tracking mechanisms instituted in various countries to ensure that the funds earmarked (and duly budgeted) for the implementation of pro-poor policies are not diverted to other ends. The role of the auditor has as yet to be defined in corruption auditing. Most of the literature on the subject deals with fraud auditing, which is relatively easy to handle. However, the literature on corruption auditing is almost nonexistent. Ideas about a tools-kit approach on the path of corruption auditing will be presented. Questions related to how auditing can be made participatory to cultivate the commitment of the public to fighting corruption will be raised and answered.

E: Experts

19: A number of reputable organizations both regional and international have come together to engage in the Ad Hoc Expert Group Meeting. The core of these is composed of the United Nations Department of Economic and Social Affairs (UNDESA), the United Office on Drugs and Crime, and the Network of Institutes and Schools of Public Administration in Central and Eastern Europe (NISPAcee). Others who will be joining in include United Nations Ethics Office, OECD, and Transparency International, United Stated Agency for International Development (USAID), experts from different regions, including developing countries, are expected to participate in the AEGM.

F: Outcome and outputs

20: Among the outputs expected at the end of the ad hoc EGM are:

- Participants’ inputs into the UN ODC-sponsored Technical Guide for implementation of the UN Convention against Corruption, to be reviewed by State Parties and published in various forms.
- Other proposals (including proposals on the provision of advisory services, design and conduct of training of trainers’ programmes, and institutional networking);
- A policy brief on a selected preventive measure in implementing the Convention.

G: Venue and dates

21: The EGM will take place at Tvricheskiy Palace, St. Petersburg, Russia from 26th to 27th September 2006

For Information contact:

1. Mr. John-Mary Kauzya
Chief Governance and Public Administration Branch
Division for Public Administration and Development Management
United Nations Department of Economic and Social Affairs
2 UN Plaza, New York, NY 10017, USA
2. Mr. Alexei Tikhomirov
Senior Programme Coordinator
Governance and Public Administration Branch
Division for Public Administration and Development Management
United Nations Department of Economic and Social Affairs
2 UN Plaza, New York, NY 10017, USA
Phone: 1 212 963 1070
Fax: 1 212 963 2916
E mail: tikhomirov@un.org

3: Mr. Stuart Gilman
Head of Anti-Corruption Unit United Nations office on Drugs and Crime,
1481, P.O. Box 500, A-1400, Vienna, Austria,
Phone +43 1 26060 4406
Stuart.gilman@unodc.org

4: Mrs Ludmila Gajdosova
Executive Director
NISPAcee
Hanulova 5/b
84002 Bratislava, SLOVAKIA
Phone/Fax: (421-26) 428-5357
e-mail: gajdosova@nispa.sk