



**CAMBRIDGE MUN 2013
BACKGROUND GUIDE
GENERAL ASSEMBLY**

**AGENDA: Preventing Bribery and Corruption
in Political Processes by Implementing
International Guidelines**

COMMITTEE:

The General Assembly (GA) is the main decision-making body of the United Nations. It includes all 192 member states; each member state has one vote. It is empowered through Article 11 of the UN Charter to —consider the general principles of cooperation in the maintenance of international peace and security. The GA addresses issues involving all aspects of the UN's work, including humanitarian, peace and security, and human rights matters. It refers threats to peace to the Security Council for discussion. Resolutions, or peaceful decisions, produced by the GA are not binding—the GA cannot force countries to take action on any issue—but because they are supported by a majority of countries in the world, they are important international documents. The GA is divided into six committees, with each committee responsible for certain issues. It also meets as a whole. The sessions in which all members of the UN meet are called Plenary sessions.

Dear delegates

I sincerely welcome to the General Assembly of CAMUN 2013. Being the chairperson of this committee, I believe it is my responsibility to brief you over what we are expecting from you as a delegate and from the committee as a whole in this welcome letter.

MUNs in their essence are about factual debating with the principal of diplomacy being imperative. I'm looking at reinforcing this in the committee so it would be highly appreciated if you act out of diplomacy and help in the contributing towards a constructive debate. Rules of procedures should be adhered to, however, if you are doubtful about any procedures, you are more than welcome to ask us and clear those doubts for facilitating better participation and smooth functioning of the committee.

This background guide has been made keeping in mind the perspective of giving you a starting point to agenda, country and problem-centric research. We hope you have already read up on the agenda in general and built a basic understanding of what we're going to be discussing in the committee. By no means, is the list of topics discussed here exhaustive and you may bring up any other important topics of discussion to the committee.

A good delegate can generate consensus in committee, take debate forward and formulate policies that show concrete steps towards solving the problem at hand. We look forward to spotting various good delegates in this conference.

Regards,

Anuj Gandhi

Chairperson

General Assembly

Introduction

The prevention of bribery and corruption in political processes is a key challenge to the effective and undiscriminating operation of the public sector as well as sound policy-making in many countries across the globe. It is an unfortunate fact that public officials often take advantage of their position, in order to gain unfair financial or other advantages, sometimes even through extortion and similar techniques.

Over the years, leaders of many governments have been making an effort to devise effective mechanisms to prevent bribery and corruption in political processes.

However, their objective was hard to accomplish due to the nature of the subject matter. Corruption is perpetuated in several different forms, which often require an unfeasible degree of supervision monitoring the concerned processes.

The delegates are called to develop innovative and feasible mechanisms, which can be put in place so as to prevent the abovementioned phenomena. This study guide provides fundamental background information on the issue, assesses already existing national as well as international mechanisms, analyses the various standards put in place by the United Nations (UN) as well as other supranational bodies and directs the delegates in the formulation of implementable solutions.

Definition of Key-Terms

Political Process

“The process of the formulation and administration of public policy.”

- <http://www.merriam-webster.com/dictionary/political%20process>Corruption (in political processes)

The aggregate of conscious illegal, biased, dishonest and/or unethical action by public officials in the discharge of their public or legal duties, usually for private gain.

These forms of action may include embezzlement, the theft of government capital, bribery (as well as the acceptance of bribes), extortion, cronyism, nepotism, patronage and graft, amongst others, or any form of complicity therein. The existence of legal, procedural or other weaknesses within an institution, system or organization often plays a key role in the development of corruption.

Bribery (in political processes)

“The offering, giving, receiving, or soliciting of something of value for the purpose of influencing the action of an official in the discharge of his or her public or legal duties.”

- <http://legal-dictionary.thefreedictionary.com/bribery>

International Guidelines

A set of standards and/or recommendations pertaining to a specific subject which is usually agreed on in multilateral negotiations and published by independent global institutions, international and/or intergovernmental bodies or similar organs with the aim of unifying legislation and common practice on a global level in a mutually beneficial way.

Checks and Balances

“Limits imposed on all branches of a government by vesting in each branch the right to amend or void those acts of another that fall within its purview.”

- <http://dictionary.reference.com/browse/checks+and+balances>

Checks and balances are a system of shared liability and power among executive, legislator or judicial authorities of the state which reduces the possibility for abuses of office and power, thus naturally reducing levels of corruption.

Background Information

The European Colonial Period (approx. 16th - 19th century AD)

1. Bribery may also more generally refer to an illegal (or even immoral) payment from one party to another in return for some kind of favor. Although the concept of political corruption had existed since the beginning of civilization (and the birth of organized society), it thrived particularly during the colonial era.

European invasions into foreign lands were followed by oppression and large-scale exploitation of the local populations by colonizers for the acquisition of raw materials and/or intermediates (such as coffee, tobacco and tea) and their transportation to their domestic industries. Of course, this practice was a major factor in the accelerated development and growth of the European economy of that time. Major colonial powers, such as the UK, also relocated part of their domestic population to the colonies granting them large pieces of land in fertile areas.

This whole situation proved to be fertile ground for the development of corruption among government officials who exercised their powers in the colonies as representatives of the invading country. Far away from their superiors, in the unstable and insecure environment of the colonies these officials took advantage of their position and expected special favors in return for the discharge (or not) of their duties. The existence of two ethnical, social, economic and political classes with the resulting exploitation of local populations only added to this situation.

Corruption during the Post-Colonial Era

After years of looking for ways of ousting the colonial governments, many natives decided to engage in armed struggle so as to achieve their independence. A majority of them were not successful at first. However, after the two world wars European nations were not able to hold on to most of their colonies. After the achievement of independence, most of the leaders who fought for it made significant strides in developing their countries. This was followed by a period, in which these countries strived for economic development. The era immediately after independence was characterized by leaders who were statesmen. Their main objectives were to eliminate poverty and ensure that their countries would develop stable public institutions.

Many of the leaders who rose to power after these countries had well-established institutions and their economies were performing quite well (compared to colonial times). Thus, many of these leaders sought to pursue their own interests and embarked on a process of acquiring wealth through questionable means. In that process, they were gluttonous and they ended up embezzling state properties and funds, which became the predominant form of corruption of the time.

In the United States, the 20th century was characterized by competitive politics. The reason for this was the fact that most of the large corporations were formed during this period. Most of these corporations would fund the electoral campaign of their preferred candidate with the objective of earning the favor of his future administration. This funding turned to be an indirect form of bribery. Upon gaining power through such means, a candidate who had been funded through this process was inclined to twist the rules in one way or another as a favor to their allies, in order to ensure further support in future campaigns. As a result, most corporations in the country started playing an important role in both local and national elections.

Of course (and as usually), this system operated at the cost of national interests and the general public.

The contemporary situation in More Economically Developed Countries (MEDCs)

It would be false to claim that this practice has ended. With the existence of a well established judicial system in America, the perpetrators of such crimes can be prosecuted appropriately in a court of law. However, the government has not been successful in reducing the level of bribery in the political system. This can be attributed to the complex and indirect ways of transmitting the involved funds, which are hard to trace. This transition to indirect and legally as well as technically complex means of bribery constitutes the major challenge for the political systems of most (MEDCs), while other forms of corruption such as patronage and embezzlement are more common than ever.

The situation in Less Economically Developed Countries (LEDCs)

In most LEDCs, bribery and corruption are rampant in political systems. The low standards of living and education, the high poverty rates and widespread illiteracy allow for the preservation of a minimum-transparency political system by officials and effectively prevent public critique of governmental practices. More often than not, the national checks and balances are of poor standard. As a result of this, the act of bribery becomes easier. Citizens are easily swayed by hand-outs and prefer to vote for petty cash or some essential goods. However, with the increase in the number of persons who are literate in these countries, the level of voter bribery is likely to reduce. This is because a large percentage of the electorate is well informed of the quality of leaders that they would like to elect.

In addition, more people are now able to secure decent, well-paying jobs. This has brought about a situation where there has been a rise in the standards of living of the electorate, leading to a decline in the reliance on hand-outs. There has also been an increase in the number of civil society groups that are championing for the development of credible institutions.

Some countries have even gone as far as to establish governmental agencies mandated with combating corruption. Other countries such as China and Japan have put in place stringent laws to govern bribery and corruption. Such efforts have brought about a significant decline in the levels of corruption that is prevalent in such countries.

Major Countries and Organizations Involved

The United Nations

The United Nations has a Department of Political Affairs that seeks to ensure that all elections that are carried out throughout the world are in conformity with international standards. It is through this department that the United Nations is able to play an oversight role through the institution of electoral observers. In some cases, the United Nations Department of Political Affairs can be appointed to manage the elections of a country. This is especially common in newly founded or revolutionized countries.

A good example is that of Tunisia:

After the citizens of Tunisia overthrew the government of President Ben Ali, the people of Tunisia called upon the United Nations to manage the electoral process. Most recently after the ousting of President Muammar Gaddafi from office, the United Nations has been given the responsibility of organizing elections in the country. This is a very challenging task given that the citizens of Libya had not taken part in any democratic elections since Gaddafi ascended to power in 1969/1970.

The African Union (AU)

Many political systems in Africa are characterized by bribery and corruption. This has mainly been due to lack of well-established institutions and a widespread culture of impunity, which has been propagated over the years. When perpetrators of bribery and corruption were found guilty, most of them sought political asylum from neighboring countries. Additionally, most countries haven't enforced extradition treaties; consequently, the individuals can easily evade prosecution.

In light of this, the African Union decided to host a conference on an "African Charter on Democracy, Elections, and Governance". The main objective of this conference was to deliberate on matters pertaining to efficiency in governance. During the meeting, the AU member states arrived at a consensus on collaborating in an attempt to curb corruption in Africa.

Mexico

Mexico has one of the highest levels of bribery and corruption worldwide. This has allowed drug barons to conduct their illegal trade with minimal interference from the authorities, thus contributing to an alarming increase in the level of domestic and cross-border drug trafficking. One of the side-effects of this development was a sharp increase in gang related violence. The high levels of bribery and corruption have entered Mexico's political system and have influenced domestic political processes to such an extent, that many citizens find it pointless to participate in elections. However, it is worth noting that the country has been making strides in a bid to end this menace. For instance, the country passed an anti-corruption law which targets the whole political system.

United States of America

Over the years, the U.S. has faced numerous challenges with respect to its political system, including several large-scale corruption related scandals. This has brought about a situation whereby the legislature has passed numerous bills and acts of parliament so as to reduce and prevent corruption within the country.

Examples include the Foreign Corrupt Practices Act of 1977 and Ethics in Government Act of 1978.

Relevant International Treaties, Resolutions and Events

United Nations Convention Against Corruption

“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 Crime² (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 United Nations Office on 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 21 January 2002 and 1 October 2003.

The Convention approved by the Ad Hoc Committee was adopted by the General Assembly by resolution 58/4 of 31 October 2003. The General Assembly, in its resolution 57/169 of 18 December 2002, accepted the offer of the Government of

Mexico to host a high-level political signing conference in Merida for the purpose of signing the United Nations Convention against Corruption.

In accordance with article 68 (1) of resolution 58/4, the United Nations Convention against Corruption entered into force on 14 December 2005. A Conference of the States Parties is established to review implementation and facilitate activities required by the Convention.”

- <http://www.unodc.org/unodc/en/treaties/CAC/>

The major aspects of the Convention are set out here (please read): 2

http://www.unodc.org/unodc/treaties/CTOC/http://www.unodc.org/unodc/en/treaties/CAC/conventionhighlights.html#Asset_recovery

The text of the convention here:

http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf

Inter-American Convention Against Corruption

It was the first multilateral treaty to involve legally binding commitments on joint efforts to eradicate corruption. The convention was adopted by the members of the Organization of American States

(OAS) in 1996 and came into force in 1997. Article II of the convention reads:

“The purposes of this Convention are:

1. To promote and strengthen the development by each of the States Parties of the mechanisms needed to prevent, detect, punish and eradicate corruption; and

2. To promote, facilitate and regulate cooperation among the States Parties to ensure the effectiveness of measures and actions to prevent, detect, punish and eradicate corruption in the performance of public functions and acts of corruption specifically related to such performance.”

According to Jorge Garcia-Gonzalez, Director of the Department of Legal Cooperation of the OAS Secretariat for Legal Affairs, in his publication entitled “The OAS and the fight against corruption in the Americas”:

“Second, the Convention expressly recognizes, in its preamble and in various articles that this problem can’t be solved with repressive or punishing actions once the evil has emerged. On the contrary, precise decisions of a preventive nature are to be taken also. These are directly linked to the modernization of institutions and the elimination of its causes or the conditions that facilitate or instigate its use. [...]

Lastly, the Convention, without setting aside State responsibility in eradicating corruption, reveals the importance of action taken by all the actors involved.

Especially, it recognizes the need of strengthening the participation of civil society in preventing and combating corruption and it expresses that States will extend to each other broad technical cooperation, exchange experiences and give special attention to the ways and forms citizens participate.”

About the OAS: http://www.oas.org/en/about/who_we_are.asp

OAS members: http://www.oas.org/en/member_states/default.asp

4

<http://www.oecd.org/gov/ethics/2731127.pdf>

EXTRA READING MATERIAL:

[United Nations action against corruption and bribery](#)

The United Nations has been concerned with the problem of corruption for more than two decades. The matter has been discussed by the United Nations congresses on the prevention of crime and the treatment of offenders, particularly with reference to new forms of crime and crime prevention planning in the context of development. The Fifth Congress on the Prevention of Crime and the Treatment of Offenders, held in Geneva in 1975, focused on crime as business at the national and international levels, bringing particular attention into organized crime, white collar crime and corruption. The working paper prepared by the Secretariat and titled: "Changes in Forms and Dimensions of Criminality - Transnational and National"⁽²⁾, recognized the increasing threat posed by economic crimes, and in particular by corruption, to many countries in the world. The report also noted that for most countries the economic and social consequences of economic criminality are much greater than the consequences of the traditional forms of violent crime and crime against property. The Fifth Congress also considered the role of the police in the prevention of crime, in accordance with a specific request made by the General Assembly in 1974 (resolution 3218 - XXIX).

In the working paper on: "The Emerging Role of the Police and Other Law Enforcement Agencies, with Special Reference to Changing Expectations and Minimum Standards of Performance"⁽³⁾, the Secretariat noted that when corruption occurs in high places, it is a problem for those who are expected to keep order to maintain standards different from those respected by their superiors. For this reason, corruption within the police depends largely upon the influence, guidance and interest of the total society on the police. Nevertheless, it is still true that a police force is in a unique position and a police officer cannot be regarded simply as an ordinary citizen in so far as his conduct is concerned. By virtue of his appointment, he is expected to behave in a manner that is at least one level higher than that of most persons. In preparation for the Fifth Congress, the United Nations convened a working group of police experts from several regions of the world in January 1975 (Warrenton, Virginia, United States of America) to help draft an international code of ethics for the police and related law enforcement agencies. The working group, after reviewing the methods used in setting standards for law enforcement officials in various parts of the world and studying a variety of models, prepared a draft international code of police ethics, which was subsequently presented to the Congress, as part of the above mentioned working paper prepared by the Secretariat. On the basis of the above, the Fifth Congress, which is remembered mainly for having offered the Declaration on the Protection of all Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, discussed the scope and content of the international code of conduct and recommended the General Assembly be requested to establish a committee of experts to study the question of an international code of police ethics and within one year prepare a new document to be considered by the competent organs of the United Nations, including the feasibility of regional groups drafting preliminary documents, consisting of representatives who would reflect the cultural and legal system of each region. The General Assembly, by resolution 3453 (XXX) of 9 December 1975, requested the Committee on Crime Prevention and Control "to elaborate, on the basis of, inter alia, the proposal presented to and conclusions arrived at by the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, a draft code of conduct for law enforcement officials and to submit this draft code to the General Assembly". The Fourth session of the Committee on Crime Prevention and Control (New York, 21 June-2 July 1976) elaborated, on the basis of the proposals presented to and conclusions arrived by the Fifth Congress a draft code of conduct, for submission to the Assembly. Further its consideration, the Assembly established in 1977 an inter-sessional working group of the Third Committee to achieve universal consensus on its text.

In finalizing the working of the code, much attention was devoted to the question of police professionalism and accountability. Regarding the problem of corruption among police officials, the code states that: "Corruption being intolerable in all phases of life, and inasmuch as Governments cannot expect to enforce the law among their citizens if they cannot, or will not, enforce the law against their own agents and agencies, it is incumbent upon law enforcement officials to rigorously oppose and pursue all acts of corruption coming to their attention". At its thirty-fourth session, in 1979, the General Assembly adopted the Code of Conduct for Law Enforcement Officials, by resolution

34/169. The Assembly decided to transmit the Code to Governments with the recommendation that favourable consideration should be given to its use within the framework of national legislation or practice as a body of principles for observance by law enforcement officials.

While assisting Countries in the implementation of the above mentioned code, the United Nations has also devoted substantial energy to develop proposals on practical steps that States can follow in their efforts to devise and implement strategies and reforms. In this connection, for example, the Eighth Congress considered a draft resolution on international co-operation for crime prevention and criminal justice in the context of development, to which were annexed a series of recommendations on the subject. Recommendation 8 reads as follows: "Because the corrupt activities of public officials can destroy the potential effectiveness of all types of governmental programs, hinder development, and victimize individuals and groups, it is of crucial importance that all nations should: (a) review the adequacy of their criminal laws, including procedural legislation, in order to respond to all forms of corruption and related actions designed to assist or to facilitate corrupt activities, and should have recourse to sanctions that will ensure an adequate deterrence; (b) devise administrative and regulatory mechanism for the prevention of corrupt practices or the abuse of power; (c) adopt procedures for the detection, investigation and conviction of corrupt officials; (d) create legal provisions for the forfeiture of funds and property from corrupt practices; and (e) adopt economic sanctions against enterprises involved in corruption. The Crime Prevention and Criminal Justice Branch should co-ordinate the elaboration of materials to assist countries in these efforts, including the development of a manual to combat corruption, and should provide specialized training to judges and prosecutors that would qualify them to deal with the technical aspects of corruption, as well as with the experience derived from specialized tribunals handling such matters"⁽⁴⁾. Almost one year early, and also as part of the preparation activities for the Eighth Congress, the Crime Prevention and Criminal Justice Branch (now Division), in cooperation with the Department of Technical Cooperation for Development (now part of the new Department for Development Support and Management Services) organized an Interregional Seminar on Corruption in Government, hosted by the Government of the Netherlands at The Hague⁽⁵⁾. The Seminar was attended by high-level officials from 18 developing countries from all the regions and by observers from eight developed countries, non-governmental organizations, academic institutions, independent anti-corruption bodies and ombudsman's offices. A first draft Manual to Combat Corruption, prepared for submission to the Eighth Congress, was circulated for comments. The Seminar conducted in-depth discussions on the forms of corruption in government, and its causes, consequences, and relationships with organized crime; and it assessed the existing measures against corruption, as well as appropriate actions to be taken against it at the national, regional and international levels. At the same time, the role of international cooperation in the prevention, detection, investigation, prosecution and sanctioning of corrupt practices and enforcement in the public management system, was highlighted. The need for better information and expertise, and facilitating technical cooperation and mutual assistance through technical co-operation among developing countries was emphasized. Finally, the possibility of an international convention to deal

with transnational corruption and an international code of ethics for public service was also considered.

On the basis of the above, the Eighth Congress received a new version of the Manual on Practical Measures against Corruption. Its purpose was to review the most common problems encountered by policy-makers and practitioners in their efforts to deal with corruption. It highlights possible measures that could be taken and procedures for devising anti-corruption programs. In suggesting possible courses of action, the manual touches on legal issues whose degree of relevance and difficulty may vary, depending on the legal system of each country. As far as possible, such issues have been taken into account, in order to facilitate the adaptability of the Manual to as many contexts as possible. After that Congress, the Manual was circulated to experts around the world and the comments received were incorporated to produce a revised version, which was published as a special issue in the *International Review of Criminal Policy*⁽⁶⁾. The Eighth Congress also adopted resolution 7 on "corruption in government" recommending that Member States should devise a variety of administrative and regulatory mechanism for the prevention of corrupt practices, and inviting them to review the adequacy of their criminal laws, including procedural legislation, to respond to all forms of corruption and to actions designed to assist or facilitate corrupt activities. The Eighth Congress requested the Secretariat to provide technical cooperation assistance to requesting Member States in the fields of strategic planning of anti-corruption programs, law reforms, public administration and management, training of public officials and criminal justice personnel, and in tendering international aid projects. The Secretariat was also requested to organize regional and interregional seminars, expert group meetings, workshops and other appropriate activities. These were intended to encourage the exchange of information on anti-corruption techniques, laws and research, and in the examination and promotion of improvements in institutional arrangements and processes. In addition, these activities were also directed towards the improvement of the management of the justice process, through the use of databases, to improve decision-making. Finally, the Secretary was requested to develop a draft international code of conduct for public officials, for submission to the Ninth Congress.

The issue of corruption received further attention by the General Assembly, which adopted resolution 45/107 of 14 December 1990 on international cooperation for crime prevention and criminal justice in the context of development, as recommended by the Eighth Congress. The Assembly reiterated the recommendations of the Eighth Congress regarding the measures that should be adopted by Member States and recommended that the Branch coordinate the elaboration of materials to assist countries in their efforts against corruption and to provide specialized training to judges and prosecutors to qualify them to deal with the technical aspects of corruption. One year later, and as a result of the Ministerial Summit held in November 1991 and the restructuring of the Crime Program, the Assembly adopted a Statement of Principles and Program of Action, annexed to its resolution 46/152, in which it decided that the United Nations Crime Prevention and Criminal Justice Programme should be designed to assist the international community in meeting its pressing needs in the field of crime prevention and criminal justice and to provide countries with timely and practical assistance in dealing with problems of both national and international crime. For this

reason a new functional interregional body was established: the Commission on Crime Prevention and Criminal Justice. Among the goals of the programme would be the integration and consolidation of the efforts of Member States in preventing and combating transnational crime and the promotion of the highest standards of fairness, justice and professional conduct.

At its second session, the Commission on Crime Prevention and Criminal Justice (Vienna, 13-23 April 1993) had before it a number of suggestions regarding possible subjects of workshops to be organized during the Ninth Congress. Corruption was one of those subjects. On the recommendation of the Commission, the Economic and Social Council decided, by its resolution 1993/32 of 27 July 1993, to devote one day of plenary general discussions at the Ninth Congress to the issue.

In pursuance of resolution 7 of the Eighth Congress, the Secretariat elaborated a draft international code of conduct for public officials, which was discussed by the five regional preparatory meetings for the Ninth Congress and by the Commission at its third session. It also prepared a working paper ⁽⁷⁾ which helped for approaching the discussion in plenary, which was introduced by five panelists ⁽⁸⁾. The Economic and Social Council, in its resolution 1994/19, section VI, of 25 July 1994, recommended that the Ninth Congress should consider the desirability of a code of conduct for public officials, and that the Secretary-General should seek comments from Member States and relevant entities, in order to assist the Commission on Crime Prevention and Criminal Justice in its consideration of the matter at its fourth session.

As recommended by the Congress, the draft code was submitted to the Commission at its fourth session (Vienna, 30 May-9 June 1995) for its review and comments. The Commission was of the opinion that the draft code, when finalized, could constitute an important tool for the operational activities of the United Nations Crime Prevention and Criminal Justice Programme, as well as for States wishing to include similar codes in measures to prevent and control corruption.

In its resolution 1995/14 on action against corruption, adopted on the recommendation of the Commission on Crime Prevention and Criminal Justice at its fourth session, the Economic and Social Council requested the Secretary-General to finalize the draft code, on the basis of the comments received from Governments. In the same resolution, the Council urged States to develop and implement anti-corruption measures, to increase their capacities to prevent and adequately control corrupt practices, and to improve international cooperation in this field. The Council also requested the Secretary-General, *inter alia*, to review and expand the Manual on Practical Measures against Corruption, then published in the above-mentioned double-issue of the International Review of Criminal Policy; to coordinate and cooperate with other United Nations entities and relevant international organizations in the anti-corruption efforts; and to keep the issue of action against corruption under regular review. The General Assembly, by resolution 50/225 on "Public administration and development"⁽⁹⁾, also took note of the fact that the United Nations system, responding to requests from interested Member States, has contributed in support of their public administration to include wider aspect of governance, including democratic, legal and judiciary reform, and strengthening of the civil society and recognized that Governments in all countries should make their procedures transparent in order to avoid and combat all acts of

corruption.

Accordingly, on its proposal, and as recommended by the Council in its resolution 1996/8, the General Assembly, in December 1996, adopted the International Code of Conduct for Public Officials⁽¹⁰⁾ recommending it to Member States as a tool to guide their efforts against corruption. The Assembly requested the Secretary-General to distribute the Code to all States and to include it in the Manual on Practical Measures against Corruption, to be revised and expanded pursuant to Council resolution 1995/14. The Assembly further requested 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.

According to the Code a public office is a position implying a duty to act in the public interest. As a consequence the ultimate loyalty of public officials shall be to the public interests of their country. The code also focuses on several issues concerning the conduct of public officials, such as: (a) Conflict of interest and disqualification; (b) Disclosure of assets; (c) Acceptance of gifts or other favours; (d) Confidential information; (e) Political activity. Concerning the conflict of interest and disqualification, the Code states that:

- Public official 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;
- Public officials 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;
- 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;
- 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.

The General Assembly, after the approval, in March 1996, by the Member States of the Organization of American States of the Inter-American Convention against Corruption and aware of the relevant work developed by other regional and international organizations, such as the Council of Europe and the European Union, to combat international bribery, adopted, by its resolution 51/191 (see annex 2), the United Nations Declaration against Corruption and Bribery in International Commercial Transactions annexed to the resolution. The Declaration recognized the importance of promoting social responsibility and appropriate standards of ethics not only in the public sector, but also in private corporations, "including transnational corporations, and individuals engaged in international commercial transactions, *inter alia*, through observance of the laws and regulations of the countries in which they conduct business, and taking into account the impact of their activities on economic and social development and environmental protection".

The Declaration also urged Member States to take concrete action:

- to combat all forms of corruption, bribery and related illicit practices in international commercial transactions;

- To criminalize bribery of foreign public officials in an effective and coordinate manner;

- to develop or maintain accounting standards and practices that improve the transparency of international commercial transactions;

- to develop or to encourage the development, as appropriate, of business codes, standards or best practices that prohibit corruption, bribery and related illicit practices in international transactions;

- to examine establishing illicit enrichment by public officials or elected representative as an offence;

- to cooperate and afford one another the greatest possible assistance in connection with criminal investigations and other legal proceedings brought in respect of corruption and bribery in international commercial transactions;

- to enhance cooperation to facilitate access to documents and records about transactions and about identities of persons engaged in bribery in international transactions;

- to ensure that bank secrecy provisions do not impede or hinder criminal investigations or other legal proceedings relating to corruption, bribery or related illicit practices in international commercial transactions, and that full cooperation is extended to Governments that seek information on such transactions.

The General Assembly also requested the Economic and Social Council and its subsidiary bodies, in particular the Commission on Crime Prevention and 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.

As a follow-up of the request to revise and to expand the Manual on Practical Measures against Corruption, the Crime Prevention and Criminal Justice Division of the Secretariat, with the assistance of the Government of Argentina, organized a meeting of experts from all regions at Buenos Aires from 17 to 21 March 1997 to consider ways and means of strengthening international cooperation in this field, as well as to offer suggestions on the revision and expansion of the manual (see annex 3). The Expert Group Meeting on Corruption brought to the attention of the Commission at its sixth session that action against corruption requires the adoption and 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. The Expert Group Meeting also recommended that consideration should be given to the following specific measures:

1. Disclosure by public officials of assets and liabilities;

2. Guidelines for the performance of duties by public officials;
3. Introducing or strengthening existing independent auditing institutions or bodies that vet public expenditures;
4. Establishment of specialized anti-corruption bodies;
5. Measures to introduce or encourage transparency in the management of public funds and in the decision-making process;
6. Establishment of transparent and competitive procedures for tendering and supervision of public works contracts and introduction of clear procurement rules;
7. Measures to ensure free competitions, including anti-trust regulations;
8. Measures to prevent improper advantages;
9. Elimination of curtailment of bank secrecy;
10. Measures to ensure and encourage public participation;
11. Measures to ensure accountability and effective disciplinary action;
12. Financing of political parties and campaigns;
13. Guaranteeing freedom of the parties and the right to information;
14. Elaboration and introduction of codes of ethics for certain categories of professions;
15. Introduction of a program to encourage the implementation of the International Code of Conduct for Public Officials.

Pursuant to resolutions 51/59 and 51/191, the Crime Prevention and Criminal Justice Division organized the African Regional Ministerial Workshop on Action against Organized Crime and Corruption at Dakar, Senegal, from 21 to 23 July 1997, at the invitation of the Government of Senegal. The Workshop was supported by the Agency for Cultural and Technical Cooperation (ACCT), and in cooperation with the United Nations International Drug Control Program (UNDCP). The Dakar Ministerial Workshop was crucial in the translation of declarations of political support into concrete action plans for the implementation of effective regional cooperation, covering investigation and legal assistance, extradition and confiscation of criminal proceeds. In this context, three projects had been prepared covering the fields of organized crime control, an inventory of trafficking routes in Africa and the elaboration of instruments to fight corruption for the consideration and approval of the African Ministers. At its final meeting on 23 July 1997, the Workshop adopted unanimously the Dakar Declaration. In the Declaration the Ministers and Representatives of the African States expressed their concern about the increase and expansion of organized criminal activities, corrupt practices and bribery in international commercial transactions, recognizing the importance of the contribution that the United Nations Crime Prevention and Criminal Justice Program can make to the implementation of the United Nations New Agenda for the Development of Africa in the 1990s, in particular regarding the intensification of the democratic process and the strengthening of the protection of the civil society. The Ministers and Representatives of African States expressed their commitment to combat corruption and organized crime by:

- Reviewing and strengthening the existing institutions, in particular the criminal justice systems and establishing appropriate mechanisms to coordinate action at the national level;
- Reviewing, modernizing and harmonizing existing substantive and procedural legislation and regulatory regimes, to ensure their continued relevance, efficiency and adaptability to the various forms of corrupt practices, including in the context of international commercial transactions, and to modern manifestations of organized crime;
- Elaborating and adopting new laws and regulations, designed to meet the challenge posed by the complexity and sophistication of organized crime and corruption;
- Upgrading the skills of the law enforcement and criminal justice personnel, increasing their knowledge and expertise, and raising their professional abilities, to enable them to effectively implement relevant legislation and regulations, for the purpose of preventing and controlling organized crime and corruption.

At its sixth session, the Commission on Crime Prevention and Criminal Justice (Vienna, 28 April-9 May 1997) recommended the adoption of five draft resolutions by the General Assembly. One of these draft resolution was the "International cooperation against corruption and bribery in international commercial transactions" (see annex 4). The draft resolution stressed the threat posed by the bribery of public officials by individuals and enterprises to the international commercial transactions. The draft resolution also urged Member States "to criminalize, in an effective and coordinated manner, the bribery of public office holders of other States in international commercial transactions and encourages them to engage, as appropriate, in programmatic activities to deter, prevent and combat bribery and corruption (...)". During the Commission great attention was given to preventive measures, in particular to the establishment or strengthening of already existing auditing institutions or agencies having the authority and the capacity to scrutinize public expenditure, to the elaboration and introduction of code of ethics for certain categories of professions, to measures to ensure accountability and effective disciplinary action, to measures to guarantee the independent status of officials working within the public sector or in charge of fighting against corruption and bribery, and educational programs to promote ethical values and training programs for law enforcement officers. Particular importance was attached to measures taken at the national level to promote transparency in the expenditure of public funds by allowing or encouraging public access to and monitoring of the related decision-making process.

POINTERS:

1. Studying Existing Frameworks.
2. Flaws in the present framework.
3. Reforms to be brought in.
4. Steps to be taken by: Each country, World community, International Bodies, UN etc.
5. Studying steps that have been taken. Discussing their impact on the system.
6. Attaining a possible fool proof system.
7. Clarifying the definitions.
8. Considering various economies and difference in steps.
9. Future course by developed, developing and under developed countries.
10. Is corruption actually helpful?
11. Why is corruption not part of the system?
12. Short term, Long Term and Urgent term plans.
13. Solutions for the problems of the common problems in regard with corruption and the like.
14. Possible forms of future corruption and their solutions.
15. Making UN a stronger tool or not? If yes, How?