



ALTO COMMISSARIO
per la prevenzione e il contrasto della corruzione e
delle altre forme di illecito nella Pubblica Amministrazione

**Italian High Commissioner for the Prevention of and Fight
Against Corruption**

Statement by Mrs. Elena Stanizzi

23 November 2007

(Working Group 2: Technical Assistance Needs for Preventive Measures)

Thank you Mr. Chairman.

Distinguished participants,

First of all let me thank the organizers of the Conference, and in particular the Secretary General of IAACA Mr. Ye Feng, for the opportunity they gave me to give a speech at the Second Annual Conference of IAACA as representative of the Italian High Commissioner for the prevention and the fight against corruption.

I also would like to thank you all for being here, and for the patience you will have in listening to me (being sure there would be lots of better things to do, specially in this location).

Let me first introduce myself.

I am an administrative judge, and I have been applied since the last two years, at the Italian High Commissioner for the prevention and the fight against corruption.

Please, forgive me for reading my speech, but not being English my mother language, I feel more confident – for your own sake as well – to read my writing.

I will be brief – you can trust me - trying to highlight the most important aspects, problems and issues concerning technical assistance – or at least what to my opinion are the most important – and proposing some suggestions, or at least formulating some considerations.

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When dealing with the issue of technical assistance, we must consider that the UNCAC recognizes its great importance and contains many provisions on technical assistance, which has to be delivered especially for the benefit of developing countries and countries with economies in transition.

Let me clarify that I am conscious that the definitions of developing countries and countries with economies in transition are not universally accepted – or better to say, are not accepted by some States - and I do not intend to take any position about it. But being the term of developing countries used by UNCAC, I find technically correct to refer to it.

The importance that UNCAC tributes to the technical assistance, to be addressed to developing countries, relies on the consciousness that preventing and controlling corruption is strictly related to sustainable development, having corruption negative effects on society in general, and in particular on sustainable development.

In fact, corruption is one the most important causes of poverty and lack of development, and is one of the main obstacle to the growth as well. So that the effects of corruption are more severe and more devastating in developing countries.

In this consideration relies the link between technical assistance to be provided for the implementation of the Convention and developing countries, as affirmed by UNCAC, being the implementation of the Convention the main instrument non only to fight corruption, but to allow development through the fight of corruption.

And development is a goal in itself.

If corruption is an impediment to development, its negative effects have both national than transnational dimension, thus involving the international community and its interest in the safeguard of economic investments and in international transactions, as well as in its engagement in the development of democracy and good governance, for the mutual benefits of all.

It has become urgent, consequentially, the full implementation of the Convention by each State Party or Signatory States in the most effective way, being the Convention the most important achievement of the international community in the action against corruption,

and the most important instrument for its prevention, not being the fight against corruption – in itself – effective enough to reach the goal.

In this perspective, let me remind to myself that the UNODC Convention is inspired to the pillars of democracy and good governance, which can be reached through the principles of integrity, accountability, transparency, proper management of public affairs and public property, fairness, responsibility and equality before the law.

Accordingly to the Convention statements, the achievement of these principles is essential to pursue an effective action in the prevention of corruption, which is one of the fundamental principles of the Convention itself.

So, with all evidence, to reach the goal of the prevention of corruption it is necessary to ensure accountability, integrity, transparency, the rule of law, good governance, etc.

Once that the above mentioned principles have been reached, we can reasonably affirm that a big step towards the prevention of corruption has been made.

In the perspective both of prevention and of fight corruption, the Convention emphasize the importance of technical assistance for its effective and full implementation, also reminding the central role of technical assistance for developing countries and countries with economies in transition to support their efforts to implement the Convention, and to help them in their broader developing process.

This because, as said, accordingly to the spirit of the Convention, a sustainable development requires the prevention and the control of corruption, which can be reached through the implementation of UNCAC.

Indeed, the implementation of the Convention, and the related efforts to prevent and control corruption, are key elements of development efforts and a guide for the assistance to be provided in this field, as development includes good governance, integrity, transparency, accountability, together with human rights, and political, economic, social and environmental related issues.

To ensure the implementation of the Convention, technical assistance plays a fundamental role, and requires a broad partnership between developing countries and developed countries, as well as international and regional organizations.

If implementation of the Convention is a part of a broader project, whose final goal is development, which necessarily includes democracy and good governance, technical assistance should deal with the capacity building, as well as the sharing and transfer of

knowledge, the exchange of information, and with material assistance to help the achievement of the aims of the Convention.

Each State is so called to pay strong attention to requirements for the implementation of the Convention, or for the access to it, analyzing the institutional or legislative gaps, so determining the technical assistance needs, which must be provided accordingly to the expressed needs.

Needless to say that each country can be at the same time donor and recipient.

At this regard, I would like to affirm that Italy, and the High Commissioner for the prevention of and the fight against corruption – to whom I am applied as expert judge - have been involved and are still involved in technical assistance programs, mainly providing expertise resources, and sometimes – when possible - financial contributions to the programs in which is involved.

So I would like to express the will of the Italian High Commissioner to offer its expertise for technical assistance and its interest in being involved in technical assistance projects, providing expertise in delivering specialized training, targeted technical assistance, in disseminating best practices, in supporting the creation or the functioning of Anti-Corruption bodies, and in the development of action plans, in legal advice, in legislative drafting, in model legislation and so on.

I will leave a brochure containing a brief description of the High Commissioner, whose main task is the prevention of corruption within the public administration, through wide-range investigations aimed at discovering the vulnerability of Administrations to corruption and the causes of corruption.

The Italian High Commissioner also promotes the principles of transparency, integrity, accountability; forwards recommendations to public Administrations; carries out analysis and studies on the adequacy of the legal framework; monitors contractual and expenditure procedures.

That's said, and please, forgive me if I am boring you, I would like now to recall your attention on the:

Links between technical assistance for the prevention and technical assistance for combating corruption.

For what concerns technical assistance for the prevention of corruption, this should be focused mainly on technical and financial support for the creation and the implementation of a global anti-corruption policy, and for the institutional strengthening and capacity development, including the creation of anti-corruption bodies, the implementation of anti-corruption mechanisms – such as declaration of assets, codes of conduct, complaint mechanisms, public procurements – as well as the strengthening of civil society, media and the private sector.

These measures are closely linked into broader governance reform, and deeply related to the modernization of the public administration and to democratic consolidation.

On the other hand, technical assistance for combating corruption mainly refers to the criminalization of corrupt practices and law enforcement at the domestic level, while at the international level it involves issues such as mutual legal assistance, extradition and asset recovery.

These different fields for anti-corruption technical assistance are strictly linked and must be considered as part of a systemic approach to the multi-faceted problem of corruption.

Their interdependence is confirmed by the UNCAC, which provides an internationally agreed framework which balances preventive and repressive measures, and gives the opportunity to bring cooperation and technical assistance on these 2 fronts linked together.

And in fact, as said before, the spirit of the Convention is not to prevent and combat corruption in itself, as a final purpose, but to promote, through preventing and combating corruption, the principles of integrity, accountability and proper management of public affairs and public property, which are essential to reach a good governance, which - in turn - is a crucial precondition for sustainable development.

So that the effective implementation of the Convention will be a result of the necessary coordination between technical assistance for corruption prevention and technical assistance for combating corruption, strictly linked together.

For what concerns the

Links between technical assistance for preventing corruption and good governance.

As said before, and it is worth to be underlined, the Convention provisions about preventive measures are strictly related to the principles of good governance. In other words, the preventive measures of the Convention reflect the generally accepted principles of good governance.

As consequence of this, technical assistance should be delivered as a part of broader development projects, which include functioning political systems, economic development, the justice sector, the rule of law, the financial management, the public sector, health and education, to ensure that anti-corruption efforts are in line with broader governance reform.

This because no anti-corruption strategy will be effective if good governance is lacking.

Technical assistance for prevention of corruption must be included in a wider contest, with a strategic view, taking into account other key policies and reform areas, to translate gradually the strategic vision into an effective implementation of the Convention, through institutional reform and behavioral changes.

Open questions.

Many are the problems and the open questions related to the issue of technical assistance.

Some of them have been recently pointed out during the Open-ended Intergovernmental Working Group on technical assistance - hold in Vienna on the first and the second of October - and they have been discussed with a variety of positions from different countries.

Given for granted what said till now, it can be easily imagined that the main issues concerning technical assistance consist in:

- how to collect information about technical assistance needs,
- how to gather them or put them into categories,
- if and how we can determine priorities for technical assistance,
- how to ensure the availability of technical assistance to countries which request it,

and

- how technical assistance can effectively contribute to the full implementation of the Convention.

Well, it is evident that these are not easy problems to be solved, and will not be easy to find an agreement by all Countries on them, as testified during the working group hold in Vienna.

In the attempt to analyze the above mentioned main issues concerning technical assistance, it comes into consideration the first step, consisting in identifying the needs, or, in other words, how information about the needs must be obtained and coordinated.

At this purpose, the UNODC has established a set of tools and instruments – such as the check list.

If checklist and questionnaire have a central role in identifying the needs, every other source of information can and must be used, such as analysis of reports, gap analysis, analysis of collected data, and so on, being a necessity to have any useful information about aids requested.

For what concerns the checklist, it includes questions on technical assistance provided, but some States did not respond to these questions, considering them facultative.

I would like to stress the importance to obtain an answers to all the questions contained in the checklist, which is a first step in the knowledge of the needs, which turns up in being a step towards the implementation of the Convention.

I also think that the lack of answer – by some Countries – to all the questions concerning the technical assistance provided, is a problem, indeed, and it should be raised at the Second Conference of State parties, and a document should be elaborated.

I firmly believe that the collection of information is a fundamental step to provide a useful technical assistance, and the development of a comprehensive instrument to collect and gather them, as well as cataloguing them, even with a software technology, is something we should do, and that we are far from having reached.

For sure we are dealing with a sort of work on progress, and the contribute of each State is necessary on this side, to allow the creation of a complete data collection concerning the status of ratification, the needs, and the technical assistance already provided and the ongoing or existing projects.

We could thus have a clear picture of the demand and of the supply, knowing what is going on and where, and what has already been done and where, thus allowing a monitoring of the results.

This method of facing the problem of the collection of information requires coordination, which is another fundamental issue concerning technical assistance, which will be treated in a while.

(Let's now say that) once that tools and instruments have been identified and once that the technical assistance needs have been gathered, the subsequent problem to face is how to determine the priorities between these needs, and how, consequentially, accordingly to the established priorities, technical assistance must be delivered.

I would like to submit to your attention – for your own considerations - the position expressed by some Countries when saying that it is not possible or realistic to determine a classification of needs and to fix priorities, due to the different needs of countries. Which means that it should be a matter of single recipient Countries how to address the technical assistance which is offered.

Indeed, although it is true that each recipient Country has different needs and different way to pursuit the implementation of the Convention, I do believe that is necessary to determine priorities in technical assistance needs, reaching a general agreement on this, and, accordingly to priorities, then deciding how to address the technical assistance required.

Without any doubt, technical assistance – if we want it to be effective and have a sustainable impact - requires a method for the identification of priorities within the needs expressed from different Countries.

At this regard, it is important to keep in mind that the financial and technical resources for technical assistance are limited, so that it is important to fix priorities of needs, and decide - accordingly to the agreed priorities - which programs of technical assistance must be delivered and to whom.

It is, indeed, a very complex issue, being the legislative, institutional, economic, social and administrative framework deeply different across the Countries, so that to fix priorities and deciding how to deliver technical assistance becomes a challenging issue.

Generally speaking, technical assistance responds to diversified needs, as emerging at the different stages of ratification and implementation process.

I can imagine 3 different approaches to identify priorities.

1- A first approach can move from the Convention, identifying particular areas or provisions, such as prevention or mutual assistance, or specific matters, regardless if provisions are compulsory or not.

2- A second approach can be related to the needs of each State, as each State has different needs and different way to reach the implementation of the Convention.

3- At a different level, technical assistance can be considered part of a broader program and of a wider developing policy, as it might be suggested by gap analysis.

Accordingly to this last approach, technical assistance should not be directed only to anti-corruption programs, but should embrace a wider range of issues, such as law enforcement, financial accountability, money laundering, the creation of awareness of civil society, the improvement of business and investments, transparency and integrity.

As already said, technical assistance must respond to diversified needs accordingly to the stage or ratification or implementation of each State.

Having regard to the pre-ratification phase, technical assistance can be – without any doubt - considered a priority, and may be required to support legislative and political action, which must be designed to ensure adherence to the Convention.

Such assistance should include knowledge-building and awareness-raising in order to sustain States to initiate the accession process or to advance in the ratification process.

As a consequence of this, technical support might be required for translating the provisions of the Convention into domestic legislation, which is a warranty for successful implementation.

It is something we cannot deny that although many State have ratified the Convention (now 104), many of them are far from responding to the requirements of the Convention and from showing an effective achievement of its aims.

Concerning the pre-ratification phase, technical assistance can be also called to deal with structural changes and institutional reforms, and it may be provided through legislative assistance, legal advice, training and capacity building concerning relevant institutions so ensuring the implementation of anticorruption policies and legislation. Technical assistance should also aim at the establishment of the institutional framework as prescribed by the Convention, such as the creation of independent anti-corruption bodies.

The establishment of independent anticorruption bodies is with all evidenced a central issue.

At this regard, I would like to recall what the chairman Mr. Vetere has stated yesterday, about the need for each State to provide the anti-corruption bodies with the necessary independence and autonomy, which include a sufficient financial budget.

If financial resources will be lacking, the anti-corruption bodies will not have any possibility to bring on their activities and functions.

This need has been stated at the First Conference of State Parties held in Jordan on December 2006, in the recommendation proposed by IAACA and approved by the general assembly.

Coordination

It is common opinion that technical assistance resources must be used in an effective way in order to ensure coherence with the purpose.

This would be possible only avoiding duplications of efforts and waste of resources.

To do this is necessary to reach a deep coordination and cooperation above all between donors, but also between donors and recipients countries, and much on this side has to be improved.

The issue of effective coordination – in the areas of anti-corruption and in good governance as well, which are strictly linked - is very critical.

Such coordination is a focal point, it requires a full exchange of information, but we are far from finding a solution to the problem of how to deal with this issue, due to the reluctance in giving such information.

Probably many donors and recipients have not yet fully appreciated the value of coordination and cooperation, and this could be one of the causes of the reluctance of donors to provide updated information on ongoing and planned programs, projects and activities.

But if limited resources are called to give the maximum result, more efforts are required.

Needless to say that many are the benefits coming out from coordination, both for donors and for recipients, as a functioning coordination and an updated exchange of information will allow technical resources to be correctly addressed, without waste of resources through duplications of aids and efforts. To reach these purposes, donors should jointly be involved in the development of the programs and in monitoring the follow-up of progress. The acknowledge coming from such information would be the best basis for any further deliver of technical assistance.

It is important to point out, at this regard, that part of the assistance currently provided in support of broader programs - such as those involving good governance and the rule of law - strongly contribute to the implementation of various aspects of the Convention.

This because of the comprehensive nature of the Convention and to the growing number of ratifications by mainly developing countries.

As a consequence of this, it is necessary a coordination between existing cooperation programs, included those not directly connected with corruption.

This would allow to face corruption phenomenom from an holistic perspective, as suggested by United Nations Convention and by Council of Europe's Conventions.

It is also important to be pointed out, at this regard, that the Convention has been ratified by many Countries, however the institutional capacity for its implementation is often weak, so that a cooperation for the establishment of an effective mechanism to support the institutions in their effort in the implementation of the Convention and in creating an appropriate framework is urged.

Needless to say that the Convention should be the main reference for the project planning and the coordination between projects.

In fact, the emphasis put by the Convention on the capacity development makes of it the best instrument to link the fight against corruption with broader governance reforms in each Country.

I would also recall the importance of the technical assistance provided for the full implementation of the Convention, due to the ability of the Convention to safeguard sustainable development and the rule of law, which turns up in a benefit for all.

In fact, the Convention introduces a comprehensive set of rules that each Country can apply to strengthen their legal and institutional systems to fight corruption.

For what concerns the issue of establishing a priority between needs expressed by countries in order to determine which technical assistance should be provided, Italy has expressed its position during the Working Group in Vienna, believing that it is necessary to collect every information about technical assistance needs and assistance already provided, and on this basis planning any further program of assistance.

Only through the determination of needs and the coordination of efforts, duplication of assistance will be avoided.

It should also be recommendable to set a sort of monitoring on the results of the technical assistance already provided to Countries and on the results produced.

To better explain the reasons of this statement, I think it could be useful to testify a concrete experience that Italy has gone through, which can suggest the opportunity to set some cautions when planning technical assistance projects.

Italy has been involved in few bilateral technical assistance programs – as an expertise donor. While providing technical assistance within one of these projects, it has been found out that a country was receiving, at the same time, the same technical assistance from other donor, with duplication of programs and waste of resources, which could have been more usefully directed to other Countries which were not receiving any technical assistance.

During the technical assistance project I am referring to, it also happened to discover a weak interest in the agreed training programs, which have been attended by only a few persons among those selected for the purpose.

What this experience can suggest is that recipient Countries must be monitored about the results of technical assistance received and been asked about what they are receiving, to avoid duplication in technical assistance and to avoid to provide technical assistance in which, in the end, they do not show great interest or involvement. The same request about ongoing programs should be address to donors, so allowing a useful and effective coordination between them.

Also, a sort of check on the progress of technical assistance should be set up, having the recipient countries the duty to make every effort for the effectiveness of the results of the technical assistance they received.

I am conscious that neither donors nor recipient have the will to give information about projects of technical assistance provided and received.

But what I think is important is to point out the necessity of information gathering to identify who is doing what and where, and to know what has been already done in a specific country and its results.

In this way technical assistance can be provided in a more effective way, without waste of resources and without duplications, which at the end, are the same thing.

It is, consequentially, a fundamental issue to collect information from donors and from recipients before planning and providing technical assistance, allowing the coordination between the efforts, also considering that resources are limited.

The collection of data from donors about their programs, of data from recipients about what they received and about what they are receiving, and the collection of data from recipient about their needs for technical assistance, will also allow the possibility to meet what is needed and what is offered, which turns up to be useful for both donors and recipient Countries, in such way coordinating demand for technical assistance and its supply.

Let me conclude by saying that we all are involved in the issue of fighting corruption, even through its prevention. It is a very challenging issue as corruption has always existed, and – to be realistic – it will always exist.

But we can try to make it less harmful and relegate it in narrower limits.

Let me also quote an Italian saying, telling that “*you must kick your heart beyond the fence*”. Which means that then we will have to work hard to reach our heart and join it again, or we will be incomplete.

And accordingly with another Italian saying – a slogan of the 70s’ – “*let’s be realistic, let’s work for the impossible*”.

Thank you for your patience.

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