

15th Steering Group Meeting
Kuala Lumpur, Malaysia, 22-23 September 2010

Minutes of the Meeting

Participants

Member countries and jurisdictions: Bangladesh; Bhutan; Cambodia; People's Republic of China; Cook Islands; Fiji Islands; Hong Kong, China; India; Indonesia; Japan; Kazakhstan; Republic of Korea; Kyrgyz Republic; Macao, China; Malaysia; Mongolia; Nepal; Pakistan; Papua New Guinea; Philippines; Samoa; Singapore; Sri Lanka; Thailand; Vietnam

Advisory Group: American Bar Association – Rule of Law Initiative (ABA); German Technical Cooperation (GTZ); Transparency International (TI); United Nations Development Programme (UNDP); World Bank

Observer countries: Brunei Darussalam; Solomon Islands; Timor Leste

Secretariat: Asian Development Bank (ADB); Organisation for Economic Co-operation and Development (OECD)

Summary of the Discussions

1. Opening and Adoption of Agenda

The Initiative's Secretariat opened the meeting and the Steering Group adopted the agenda.

2. Independent Review of the Initiative - Implementation of Recommendations

The Chair of the Small Group on the Implementation of the Independent Review's Recommendations (SGI) introduced a discussion paper prepared by the SGI. The other members of the SGI then presented the various proposals in the paper and led the Steering Group through discussions of each proposal. The Steering Group then adopted a series of strategic principles and a plan for future activities, the details of which are found in the Annex of these minutes.

3. Thematic Review on the Criminalisation of Bribery

The Steering Group considered a draft report of the Thematic Review, which consisted of a draft horizontal report and draft country reports for each member of the Initiative. The Steering Group agreed to publish the Conclusions and Recommendations in the horizontal report immediately after the meeting. Each Steering Group member was then given an opportunity to comment orally on the draft report of the Thematic Review. The Steering Group agreed that members would have two additional weeks after the meeting to provide further comments on the draft report. After this comment period expires, the draft report as it stands at that time would be considered finally adopted.

4. Thematic Review on Extradition, Mutual Legal Assistance and Asset Recovery

The Steering Group considered reports on the implementation of the recommendations from the 2007 Thematic Review on Extradition, Mutual Legal Assistance and Asset Recovery. The following Steering Group members provided written reports prior to the meeting: Australia; Cambodia; P.R. China; Cook Islands; Fiji Islands; Hong Kong, China; Japan; Korea; Kyrgyz Republic; Malaysia; Pakistan; Papua New Guinea; Philippines; Samoa; Singapore; and Sri Lanka. The Steering Group

also heard oral reports from the members present at the meeting. The Group agreed that members may file additional written reports up to two weeks after the meeting, after which the Secretariat will publish the oral and written reports on the Initiative's website.

5. Presentations from Steering Group members on specific issues and/or activities

Following the format adopted during the 14th Steering Group meeting, members were asked prior to the meeting whether they would be interested in making short presentations on specific anti-corruption issues or activities. Nine Steering Group members – Malaysia, Cambodia, Bangladesh, Pakistan, Papua New Guinea, Thailand, Indonesia, Korea, Kyrgyz Republic – and UNDP presented on a range of issues covering new legislation, strategies and plans, future learning events, anti-corruption websites, preventive measures and initiatives, and institutional developments. Each presentation was followed by a question-and-answer session.

6. The Initiative's 2011 Activities

The Steering Group considered proposals by the Secretariat for 2011 activities. Subject to funding, the members supported the proposal for a thematic review in 2011 on corporate compliance, ethics and internal controls, including accounting and auditing procedures, for preventing corruption, and the disallowance of the tax deductibility of bribes. The members noted that this topic is covered by Article 12 of the UNCAC on the private sector. In addition, the new direction for the Initiative that was adopted at the Steering Group meeting puts the focus on UNCAC implementation.

The members also supported holding a regional conference in 2011 (again subject to available funding), which could usefully cover the topic of the thematic review, or another topic agreed to by the host. The members noted that November 2011 will be the tenth anniversary of the Action Plan. It would also be an important juncture to welcome new members into the Initiative. The Steering Group was pleased that three members had provisionally offered to host the conference – Cook Islands, India and Vietnam.

The Steering Group also discussed another possible activity for 2011 – the provision of technical assistance based on the findings and recommendations in the 2010 Thematic Review on Criminalisation, depending on the availability of funding. The Steering Group agreed that the Secretariat could explore with the UNODC the possibility of providing regionally based technical assistance on the basis of the horizontal cross-cutting challenges identified in the Thematic Review. The Secretariat could also explore the potential to use anti-corruption training centers in the region for holding training meetings for the purpose of delivering such assistance.

7. Secretariat report and other business

Since the 14th Steering Group meeting, the Initiative's Secretariat main activities include attending the 3rd Conference of States Parties of the UN Convention against Corruption in Doha in November 2009; supporting the work of the Small Group on Implementation; and research and drafting of the report of the Thematic Review on Criminalisation.

ADB reported that it was supporting the 14th International Anti-Corruption Conference with a small scale technical assistance at the request of Transparency International (TI) and the National Anti-Corruption Commission, Thailand. The technical assistance will support (i) preparation of papers on the global themes/challenges identified as key streams of the Conference, and (ii) participation of selected government officials (ADB members) and representatives of civil society in the Conference.

On behalf of the Initiative, the Secretariat thanked Japan for its financial support of the Thematic Review on Criminalisation and Regional Seminar on Criminalisation. The Secretariat also thanks

the Swedish International Development Co-operation Agency for its continuing financial support. The Secretariat will engage in fundraising to secure the necessary financial resources for the Initiative's future activities.

The Secretariat will take steps to begin implementing the Strategic Principles and Future Activities of the Initiative adopted by the Steering Group at this meeting. This will include preparing a draft Strategy and Work Program for the Initiative for 2012-2014, and a new written self-reporting template for Steering Group meetings. Both documents will be circulated to Steering Group members in 2011 for comment.

Annex: Strategic Principles and Future Activities of the Initiative

A. Introduction

1. In 2009, the ADB/OECD Anti-Corruption Initiative for Asia and the Pacific retained two independent consultants to conduct a review of the Initiative. The purpose of the review was to assess the Initiative's efficacy and relevance at the global, regional and country levels, and to identify options for sustaining regional anticorruption activities in the future. The consultants presented a draft report at the 14th Steering Group Meeting in Manila in September 2009 and submitted the final report in November 2009.

2. At the September 2009 meeting, the Steering Group decided to establish a sub-group of Steering Group and Advisory Group members to formulate proposals for implementing the Review's recommendations. This Small Group on Implementation (SGI) was eventually formed with representatives from Bhutan; Macao, China; Pakistan; Samoa; Thailand; Transparency International; United Nations Development Program, and the World Bank. The SGI members nominated Thailand as the Chair. The National Anti-Corruption Commission of Thailand generously hosted a meeting of the SGI in March 2010 to allow the Group to discuss proposals for implementing the Review's Recommendations.

3. The SGI then presented detailed proposals for implementing the Review's Recommendations at the 15th Steering Group Meeting in Kuala Lumpur, Malaysia in September 2010. These proposals covered four areas:

- (a) **A Statement of the Initiative's Objective:** This is meant to succinctly capture the Initiative's role and vision. This objective will then be implemented through the strategic principles and operational activities described below.
- (b) **Strategic Guiding Principles:** These would be general strategies for guiding the Initiative in achieving its objective. These principles are important as they would define the Initiative's long-term direction and focus.
- (c) **Specific Operational Activities:** These refer to the activities in which the Initiative would engage at the operational level. These are the core activities that would serve to achieve the Initiative's Objective. The Strategic Guiding Principles would inform these operational activities.
- (d) **Financial Issues:** These refer to the Initiative's financing.

4. This document contains the proposals that were ultimately adopted by the Steering Group. The Steering Group and the Secretariat will now take steps to implement the adopted proposals. The Initiative expresses its gratitude to all SGI members for their efforts, and to Thailand for its generosity in hosting the March 2010 meeting.

B. Statement of the Initiative's General Objective

The Initiative is a regional forum for supporting national and multilateral efforts to address and reduce corruption in Asia and the Pacific, primarily through the effective implementation of UNCAC. The Initiative seeks to achieve this goal through capacity building based on peer-learning, mutual support and exchange of expertise, while taking into account the geographical and developmental diversity of its members; demands on members' human and financial resources; and the need to provide value-added in view of the functions and roles of other multilateral anti-corruption bodies.

C. Proposals for the Initiative's Strategic Principles

- 1. Extending Support for UNCAC Implementation:** The Initiative's primary goal should be to help its members implement UNCAC. Where appropriate, the Initiative could also address issues not covered by UNCAC, or provisions in the UNCAC that are not mandatory.
- 2. The Initiative's Feature as a Regional Network:** The Initiative should add value to the global fight against corruption by taking advantage of its feature as a regional network, such as by addressing members' common challenges, and matters requiring regional co-operation.
- 3. Support Learning with Action and Measurable Outcomes:** The Initiative should develop a system to identify how its activities and events are used by its members in their anti-corruption efforts.
- 4. Accommodate the Diversity in Members and Stakeholders:** The Initiative should design its activities to also accommodate the different characteristics and needs of its members, and to encourage and support the participation of relevant stakeholders, including different state institutions, civil society and the private sector.
- 5. Enhance Member Ownership:** The Initiative should enhance its ownership by its members, particularly by its members playing a more prominent role in developing the Initiative's strategies and activities, and in its operation.
- 6. Avoid Duplicating Other Forums:** The Initiative should co-ordinate with other anti-corruption initiatives and design its activities with a view to avoiding unnecessary duplication while providing value-added in view of the functions and roles of other multilateral initiatives.

D. Proposals for Specific Operational Activities

1. Steering Group and Advisory Group Meetings

- (a) Chairing Steering Group meetings: One member of the Initiative will initially co-chair each Steering Group meeting with the Secretariat on a rotating and voluntary basis. Eventually, members should chair the meetings independently on a rotating basis. The Secretariat will continue to provide logistical and analytical support.
- (b) Participation in the Advisory Group: One or two members of the Initiative should attend the Advisory Group on a rotating and voluntary basis.
- (c) Participation of the business community: In line with the principle of accommodating all relevant stakeholders, the Initiative should consider increasing participation from the business community, where appropriate, given issues of confidentiality. Business organizations other than PBEC should be invited. The host country of a Steering Group

meeting could invite the local business association(s) to attend and/or include an item on the agenda for them to make a short presentation.

- (d) Participants in Steering Group meetings: For each meeting, members should, where appropriate, include in their delegations the appropriate parts of their governments depending on the topics covered. For members that have ACAs, this may require including an agency or body outside the ACA.
- (e) Frequency of meetings: Steering Group meetings should be held annually. This reduces duplication with other anti-corruption initiatives and lessens the pressure on members' resources. It also facilitates planning since the Secretariat and members generally have annual budgets.
- (f) Informal atmosphere: The meetings will continue to have an informal atmosphere to encourage open and frank discussion.

2. Country Self-Reporting

- (a) Written report format: Consistent with the principle of supporting UNCAC implementation, the written report template could be redesigned with sub-topics drawn from UNCAC and additional areas covered by the Action Plan. The template would group activities into categories. In addition, members should include in their written reports how they have used the Initiative's activities and events in their anti-corruption efforts.
- (b) Source of information: The written report should identify the source of information.
- (c) Oral reporting: Members will make 10-minute presentations on one or two issues. However, not all delegations have to report, but only if they would like to report a success story, challenge, a particular good practice etc. Members will inform the Secretariat prior to the meeting whether they wish to make a presentation and on what topic. After the presentations, if small group discussions would be useful for problem solving and sharing experiences, then the members will break into small groups for this purpose. Each small group will then report back to the plenary to ensure a full sharing of the information exchanged in the small groups so that delegations of all sizes benefit from this format.

In deciding the topics for oral reporting, members and the Secretariat will bear in mind the Initiative's strategic principles. Ideally, topics should be relevant to UNCAC implementation. They should also take advantage of the Initiative's feature as a regional network by focusing on issues or challenges that are common to a significant number of members.

3. Capacity Building Seminars

- (a) Frequency of seminars: Seminars should continue to be held back-to-back with Steering Group meetings (unless a Regional Conference takes place at the same time, in which case the Conference would replace the seminar).
- (b) Seminar topics: Members should suggest seminar topics (e.g. during Steering Group meetings) in order to enhance member ownership. The choice of topics should be guided by all of the Initiative's strategic principles described above. This suggests that the choice of topics should:
 - (i) Support UNCAC implementation, such as by targeting areas of deficiency identified in UNCAC self-assessments and future UNCAC reviews.
 - (ii) Account for diversity and differences among members. Where appropriate, the Initiative may wish to consider holding sub-regional seminars focusing on an issue that is relevant to a significant number (but not all) of the members.
 - (iii) Take advantage of the Initiative's feature as a regional network. For example, seminars

could focus on issues with an international dimension, such as transnational corruption or international co-operation in investigations and prosecutions.

- (iv) Avoid unnecessarily duplicating the efforts of other relevant organizations. Where appropriate, the Initiative could also hold joint seminars with other international organizations (e.g. APEC and UNODC) or national institutions on anti-corruption (e.g. those found in Japan, Hong Kong, Singapore, Australia, Malaysia and Philippines).
- (c) Seminar participants: Recalling the principle of accommodating the diversity in members and stakeholders, members should ensure that the appropriate entities in their governments attend the seminar. If the topic is more relevant to a body other than the ACA in a country (including the private sector or non-governmental bodies), then the other body should participate in place of or in addition to the ACA. In other words, the focal point must be prepared to forego its attendance if another agency can benefit more from the seminar.
- (d) Country-level actions: The Initiative's seminars should be guided by the principle of supporting learning with action and measurable outcomes. Ideally, the Initiative should measure how a seminar has increased members' ability to fight corruption. Where this is not possible, it should at least gather information on whether and how members apply what they learn in seminars.

Hence, each member of the Initiative that attends a seminar should, in its written report for each Steering Group meeting, describe how the knowledge acquired during the seminar has been disseminated and applied, and what was the outcome. The Secretariat could publish the reports on the internet to ensure transparency. To encourage the filing of follow-up reports, a member should be required to file a report before registering for the next training event and Steering Group meeting, unless there are extenuating circumstances.

4. Thematic Reviews

- (a) Country ownership: Thematic Reviews should be conducted only when the Steering Group decides that there is a need for such a review on a particular topic. In other words, Thematic Reviews should be demand driven.
- (b) Commitment to participate: Members should commit to active participation in a Thematic Review. This includes responding to information-gathering questionnaires and requests for information, and commenting on draft reports. Members should also commit to involving all relevant government bodies, including bodies that are not ACAs, where appropriate.
- (c) Thematic Review topics: The same principles for choosing seminar topics also apply to thematic reviews, subject to the following:
 - (i) The breadth of the topic needs to be relatively narrow. Otherwise, it would require too much time and resources.
 - (ii) The topic needs to be amenable to a review, i.e. capable of assessment.
- (d) Follow-up Actions: Thematic Reviews should also be guided by the principle of supporting learning with action and measurable outcomes. A system of follow-up and reporting would be consistent with this principle:
 - (i) Two years after a Thematic Review is concluded, members should provide to the Secretariat a written report on steps taken to implement a Thematic Review's recommendations. The Steering Group would then discuss these reports at its meeting. The Secretariat would also publish these reports.
 - (ii) Thereafter members should continue to report steps taken to implement the recommendations in the country self-reporting written report.

5. Volunteer Country Reviews (or “Scoping Exercise”): The Initiative should proceed with the two pilot country reviews as envisaged in the methodology adopted by the Initiative in 2009. As noted by the Independent Review, voluntary country reviews can identify and address deficiencies in a country’s anti-corruption framework. They can also help mobilize donor resources for technical assistance. These reviews are therefore consistent with the principles of UNCAC implementation and of supporting learning with action and measurable outcomes. When the pilot reviews are completed, members will be in a better position to assess whether their concerns about country reviews are in fact valid. After the two pilot reviews have been conducted, the Initiative can reassess the value of this activity. In the meantime, the Steering Group could consider re-naming voluntary country reviews to “voluntary country scoping exercise” to better reflect that the process is intended to support countries’ anti-corruption efforts through technical advice.

6. Regional Conferences

- (a) Frequency of conferences: Conferences should continue to be held once every three years if funding and a host member are available.
- (b) Conference topics: The same principles for choosing seminar topics also apply to conferences.

7. Stocktaking Report: The Initiative will discontinue its Stocktaking Reports. The Initiative’s other activities have now superseded the Stocktaking Report. For instance, much of the members’ anti-corruption efforts are published in the reports of the Country Self-Reporting exercise and Thematic Reviews. The Stocktaking Reports also require enormous resources from the Secretariat. Finally, Stocktaking Reports are relatively incomplete and superficial because their scope – covering all three pillars of the Action Plan – is too broad to be manageable.

8. Centers of Excellence and Inventory of Experts: Members will provide the Secretariat with a list of experts and training facilities available in their jurisdiction, based on an expanded range of expertise (e.g., money laundering). The list could then be posted on the Initiative’s website, or be made available to members upon request.

9. Raising Awareness of the Initiative: Members will take a more active role in raising awareness of the Initiative through various means:

- (a) Domestic awareness-raising: Some of the proposals above, e.g. involving other relevant government bodies in the Initiative’s events and self-reporting exercise, will help raise awareness domestically. Members could undertake to do more, such as by providing more information about the Initiative on their websites.
- (b) Awareness in other forums: Members should take a more active role in other forums, including by raising awareness of the Initiative’s activities in other relevant forums.

E. Financial Issues

1. Members that are not financially supported by the Initiative could make financial contributions to the Initiative in the form of:

- (a) Voluntary contributions to the Initiative.
- (b) Annual membership fees.

- (c) Registration fees for participants of capacity building seminars and regional conferences.
2. Members that are financially supported by the Initiative could make in-kind financial contributions, such as by:
- (a) Hosting events;
 - (b) Providing speakers at events,
 - (c) Representing the Initiative at meetings of other international bodies.
3. In light of its budgetary constraints, the Initiative should:
- (a) Design future work programs that are appropriate and feasible in light of the available financial resources;
 - (b) Seek to work with other organizations on specific activities where this would be appropriate and more cost effective;
 - (c) Prioritise the “operational activities” described in this document above.