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TATWEER
National Capacity
Development in
Public Management



تطوير
تنمية القدرة الوطنية
في إدارة
مؤسسات الدولة

Anti-Corruption

مكافحة الفساد الإداري

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SYLLABUS

OVERVIEW

This course is designed to introduce participants to modern concepts, standards, and practices in the anti corruption field, especially as related to the Inspector General offices in Iraq. It aims to equip participants with essential competencies and skills to effectively implement them in their organizations. The course targets all levels of specialties in the departments of the Inspector General offices, mainly section managers, assistant managers and senior officers who are responsible for leading and directing subordinate levels. The course also targets the ordinary employees that form the four departments of the Inspector General offices, which are Investigation, Auditing, Evaluation and the Hot Line. These are usually people at levels 3-5. This is a three-day course, with approximately four hours of instruction per day. The course consists of reviewing:

1. Anti corruption theories and practices.
2. Basic definitions and concepts in the field of administrative corruption.
3. The importance of corruption types, and case studies for each of them.
4. Types of reform, and the challenges to build active and effective monitoring bodies.
5. Introduction to the Inspector General concept.
6. Responsibilities, tasks, roles and authorities of IG offices.
7. The importance of IG's three pillars (audit, inspection, and investigation).
8. Order 57 of Iraqi Inspector General, and review of its provisions.
9. The actual work process of the offices of the Iraqi Inspector General.
10. The importance of developing standards of investigation, evaluation and auditing.
11. The approaches of the international anti-corruption convention.
12. Audit techniques, types and processes.
13. Contracting and bidding types.

OBJECTIVES

- Enhance understanding of broad issues, problems, and contemporary trends in the offices of the Iraqi Inspector General.
- Examine principal functions and activities involved in fighting corruption at the occupational categories of the IG offices.
- Support the IG offices as one of the three monitoring bodies in Iraq.
- Reinforce competencies and specialized skills required to attract and motivate governmental employees to fight corruption.

COURSE ACTIVITIES

- The course will consist of lectures, discussions, and individual and/or small group activities. Case studies related to the experiences of participants will be implemented, while trying to find solutions to typical challenges in the anti corruption field.
- At the end of the course, participants will be asked to suggest solutions and work plans, in order to proceed to the advanced level of training in the areas of auditing, evaluation and investigation.

METHODOLOGY

The training course will be planned and conducted by Tatweer Project. This course will use a participatory, “hands on” approach, where the role of the trainers will be to facilitate learning by the participants. The responsibility for learning rests with the participants.

To ensure that learning takes place, a variety of training methods will be used:

- Individual assignments (e.g. reading assignments...)
- Small-group work
- Q/A discussion in plenary
- Small group work to prepare practice
- Simulated training
- Feed-back sessions following the simulated training by peers and facilitators

The training material will be distributed to the participants prior to the course. The participants are expected to study it and prepare their questions and comments before beginning the training.

To assist the participants in going through the learning process, the following reference materials will be provided:

- Proposed Communication & Leadership Advanced syllabus
- Forms

SCHEDULE

The daily schedule will include 4.5 hours of training room structured activities. Starting and ending times, as well as specific daily schedules will be discussed and finalized with the participants.

EVALUATION

1. Evaluation of Anti Corruption

The last event in the Anti Corruption course will be the evaluation. It will be done through a questionnaire, in which participants are asked to express their opinions about various aspects of the workshop, such as organization, process, facilitation, and a general assessment.

A confidence/satisfaction index will be calculated. The confidence index applies to the training objectives, acquisition of skills and knowledge, and the degree to which participants feel that they are able to apply what they learned during the training. The satisfaction index applies to the organizational and implementation aspects of the training.

The training content and process are evaluated on a continual basis, through daily evaluations of “things liked the best” and “things liked the least”. Facilitators will use the results of this evaluation during their daily meeting to integrate the feedback and adapt to the training needs of the participants.

“Where are we?” sessions will be conducted with the participants to assess the progress in content coverage, toward reaching the goals and objectives of this course.

2. Evaluation of Participants

The evaluation of learning by participants will be done through:

- 1- Questions and answers
- 2- Synthesis of sessions done by selected participants
- 3- Self-assessment following the simulated training
- 4- Peer assessment through feedback provided by other participants following the simulated training
- 5- Assessment of performance by facilitators.

Each participant will use the curriculum to plan, organize, conduct and evaluate the training through simulated training. A checklist will be used both by participants for self and peer assessment, and by the facilitators.

Course Activities Include:

1. Anti Corruption Theories and Practices:

Expectations:

The main subjects that the Anti Corruption sector intends to deliver during the three-day workshop are generally about basic concepts:

- Corruption definitions, types and solutions.
- Explaining the most common problems on the ground that lead to grand corruption.
- IG office's responsibilities, missions and organizational construction.
- The processes of auditing, evaluations and investigation that should be correctly done by the IG office, and how to avoid authority interruption with the offices of ministries.
- Breaking into groups to practice sample cases that tackle the most important issues relating to corruption and the IG office.
- Acquiring information about therapies to improve the performance inside governmental agencies.
- Avoiding going into detail about the laws of the Iraqi Inspector General. (That will be discussed at the advanced level of training)
- Learned lessons, and how they can be used on the ground.
- Laws, orders and regulations, under legislation in the Iraqi Parliament, that fight corruption, as well as others laws that the IG office and other agencies need to have enacted. (e.g. whistleblower, watchdog, electronic government, access to information
- Exchanging opinions, questions and thoughts about corruption and IG tasks and responsibilities.
- Completing evaluations and questionnaires to identify the issues that most urgently need to be fixed or discussed in the following training sessions.

The intention is to encourage participants to share in the training sessions and be more open-minded, and to know what they require during and after the training sessions.

By doing this, we elicit the participants' opinions and expectations. Eg: After the session, will you apply what you learned here? Will you just take the recommendations and material, put them aside and resume your work, even if it's not correct?

In this part, the essential point to explain is that participants have to work on their weak points. Some of them think a follow up, or monitoring process, in cooperation with Tawteer staff, should be started to evaluate the work after the training sessions, in order to determine the problems on the ground.

At the end of this slide, we try to figure out is most effective and interested people in this training session, and who are trying to avoid participation.

Agenda for Today:

- **Work on Individual Awareness:**

Individual education is the foundation for raising awareness about corruption concepts, enhancing the transparency and credibility of the structure of local government and activating the roles and tasks of Inspector General offices. The process of evaluating and monitoring in order to improve performance inside government agencies is a first step to putting an end to the grave phenomenon of corruption.

The aim of awareness-raising is to transfer a set of knowledge, ideas and positive attitudes using suitable methods and influential messages, to cause a change in peoples' attitudes and practices. Also, it is an exchange of messages and specific information between two parties. The awareness process is based on exchanging information as well as acquiring skills, changing attitudes and modifying behavior

- **Discuss Ways to Improve Our Areas:**

In return for awareness-raising, the level of employee performance is expected to be improved by exerting more effort and creating better ways to carry the tasks out effectively. This ongoing education paves the way to reach a high level of performance. It enables citizens to engage with the government and restores public confidence in government institutions.

By focusing on informing the people about the disadvantages and dangers of corruption, and by spreading correct ideas on effective practices to overcome corruption, a sound popular base will be prepared. It will be armed with strong willpower to combat corruption, and by using successful means of influencing state policy and attitudes toward this danger.

The purpose of this training session is to raise awareness of our significant role in determining the policies and the programs for fighting corruption. It is important for developing effective, practical tools for monitoring the achievements of these programs.

- **Learn Our Roles in This Process:**

The most important thing to be clarified is the role of each employee in the IG office, and the responsibilities of each one in the anti-corruption process. Focus will be on the IG office, where there are tasks and tools to fight corruption. The process needs the monitoring bodies of IG, CPI and BSA to be in coalition, with clear roles. The participants have to be aware of the main tasks they are expected to carry out in order to reduce the level of corruption. The tasks are:

1. Raising employees' awareness of rights and responsibilities.
2. Motivating employees to do their work with high performance levels.
3. Carrying out specific training for employees, so they know the laws and regulations of their ministry.
4. Evaluating, auditing and investigating to reveal corruption.
5. Reporting, recommending, and following up.

After determining these tasks, this question may be directed to the students:

Are you satisfied with the roles in the corruption-fighting process? What additional recommendations are necessary to make the roles better? (e.g. Give more responsibilities and authority to the IG office)

This is NOT about pointing fingers. The main point of the session is solely to educate about major concepts in corruption cases, as well as the IG office's role in fighting corruption. It is not to blame anyone or accuse them of corruption.

Why We Are Here

- Make the point early that yes, there is corruption, but it does not mean that it occurs at the same level everywhere.
- Identifying other corrupt countries is often an excuse for not addressing corruption in one's own.
- It is important to point out that abuse of office has been around since governments were formed, but that if it reaches endemic proportions, it can lead to the failure of the state itself.

The students may immediately ask themselves, when this slide is shown, why we are here. Why has this been the case for decades, with no firm solutions to limit corruption, which is dangerous and paralyzes both public and private sectors?

The participants have to think with this mentality, in order to establish sound thinking, and apply what they learned in their agencies.

Corruption Hurts:

Corruption exists in the Public Services Ministries of Water, Electricity, Health, and Education...etc. This means that corruption will hinder the delivering of these basic services to the public, and lead to losing money. The most corrupt countries in the world are the best examples of what extensive corruption can lead to. Its impact on the health services in Philippine is an example. Iraq must reject corrupt ministries and embrace the role of the IG office as a monitoring body for fighting corruption.

There is another subject here that needs to be explained well to the students. Most donor countries, the International Monetary Fund, UN and USAID cannot support countries that are involved with corruption and have a weak monitoring process for avoiding money loss, in addition to insurgents and militias that may control public resources. The students should be aware that the most transparent countries in the Third World will be rewarded by the donors. As part of their responsibility, they have to start improving performance, developing transparency and adopting accountability concepts for government agencies.

Corruption is everywhere:

The second issue for discussion is that currently, corruption is everywhere in the world. In the developing and transition countries, it strikes the three authorities of executive, legislative (parliament members) and judicial branches. There is an increase in the

number of corrupt politicians, parliament members, ministers and DGs. Emphasis is necessary at this time, with respect to the themes of integrity, transparency, accountability, equity and justice. It is important to accentuate these concepts, so that all Iraqis are under the rule of the law.

Participants must learn why corruption is everywhere, and how to determine the factors that cause corruption, such as power abuse, resource misuse and weakness in applying laws.

Much effort has been exerted to address corruption, but corruption is still prevalent in all sectors. The IG office has to reduce corruption from the vital sectors because of its impact regarding:

- Economy: it raises the cost of business and enterprise. It's a breach of investment laws.
- Citizens: it strengthens the repressive practices.
- Stability: it challenges democracy, rule of the law and legality.
- Sustainable development and management.

Applied Ethics

Religion:

The word "corruption" was mentioned in fifty verses of the Quran and Bible, demonstrating the types of corruption, its gravity, and the destructive results. Quran and Bible texts warn against corruption by saying "follow the straightforward path and pursue not the way that is corrupted".

Values:

Promote, develop and adopt some new themes, and other older ones, that lead to justice. For example, responsibility, accountability, transparency, integrity, conflict of interest, discretion and confidentiality of information, all serve this purpose. Values also teach against corruption.

Teachings:

Ancient civilizations in Iraq, as well as other countries in the world have emphasized ethics and morals through law and order. Death sentences were imposed on the corrupt. These teachings should be quoted and considered, due to the prevalence of corruption and its negative impact on the country.

Examples:

Previous experiences of countries fighting corruption must be taken seriously. We should consider what worked well, and use that knowledge in reducing corruption in Iraq.

It's important to review the articles and the content of the "Code of Ethics" that was issued by the CPA, which every employee has to sign before being hired. Also, it's necessary that everyone adopt and encourage these thoughts inside government agencies. Show that it's not just a pledge that needs to be signed. The IG office should be most

interested in the content of this code. It should try to conduct training sessions for the employees, making them aware of the code, and how it can improve performance.

2. Basic Definitions and Concepts in the Field of Administrative Corruption:

What is Corruption?

- What is Corruption and how can it be defined?
 1. Corruption is the decay of a system. It's bad, as opposed to good.
 2. As for the definition of administrative or public corruption, it is when state employees utilize their governmental positions to gain personal benefits that would be difficult for them to achieve through legal means.

In other words, unofficial behavior is imposed in specific circumstances. Thus, it is based on social and economic reformation that societies may be subjected to.

3. Corruption is commonly defined as:
 - “The misuse of public office for private gain”, or the more recent “the misuse of entrusted power for private benefit”.
 - More than just “stealing and bribery”
 - Public corruption: The abuse of authority by a government person
 - Private corruption: private citizens
4. Private corruption: private citizen corruption is a problem for Iraq, but today we will focus more on the government: This kind of corruption is when a citizen is corrupt and tries to offer bribes or motivate employees to use illegal ways of gaining benefit. This kind of corruption is harmful and the people that do this type of corruption are bad.

It is important to remember that corruption is a concept that is defined differently in different cultures.

Administrative corruption is one of the major problems. Experts and specialists highlight the necessity of combating and removing it, especially in developing countries. It is considered a major goal. It is worth mentioning that this corruption phenomenon is not limited to developing countries. Administrative corruption exists in developed societies as well.

There has been no consensus around the definition of administrative corruption. Some attribute this to the cultural aspect of societies and the values they hold, as well as ideology, tradition, composition of society and political and environmental beliefs. Some relate administrative corruption to the mismanagement and malfunction of the administration, a response to a need for political status or a mental or social situation.

The interest of the international community in the administrative corruption issue is not just a passing phenomenon. It is a reality, meaning that corruption hinders the growth of economic and social aspects. It also leads to violations of human rights in those countries.

Therefore, all parties, including government, private sector and non-governmental organizations, should work hard to identify effective solutions for this phenomenon

Basic Definitions:

Accountability:

- Accountability includes requiring officials to answer the questions raised by citizens about their duties and authorities.
- Accountability means controlling the performance of officials and government institutions.
- Accountability at the lower level includes the participation of citizens, with no interference from the authorities.
- Accountability is:
The commitment to be responsible for given actions or decisions. To be entrusted with raising the effectiveness of these institutions.
- Another definition for accountability is:
“Requirements that are put on the shoulder of civil society organizations, in order for them to answer any questions presented to them from citizens and beneficiaries, especially in regard to the use of power by authorities. Also important is how they deal with criticism or needs that are presented to them, as well as their readiness to accept responsibilities, liabilities, failures or the defects that affect the performance of the organization.

Transparency is:

- The principle of transparency is that nothing should be hidden from citizens in relation to general matters.
- The exposure of truths/facts and the free discussion around those facts, and the necessity to inform the members, citizens and those interested parties of the detailed truth. In addition, open discussion of the different policies and available methods should take place, as well as self-detection of organizational performance shortcomings.

The systems dealing with transparency must be based on a comprehensive disclosure of information, and the ability to access information.

Responsibility is:

- That each citizen and employee perform the necessary tasks transparently, and according to the rules and regulations regarding corruption. It's worth mentioning that with respect to responsibility, the lower level requires communication with upper levels of the system, where administrative rules operate horizontally.

Accountability and transparency are methods to detect corruption in government agencies. Accountability is considered a high value of democracy, whether it is at the general level of society, or at the interior level of an organization. Accountability, along with transparency, is considered a safety valve that confirms the democratic performance of the organization. It reflects a positive balance that is of value to society.

Therefore, accountability and transparency are not merely methods inside democratic governance, as much as they are human values of a mature, healthy society. Society needs to spread these values in an instructional way, rather than impose them as an administrative matter. We need to instill the values of transparency and accountability within the community culture through an educational method that addresses general values as a whole.

The concept of transparency is closely related to accountability. One impacts the other. When we have accountability, transparency increases, and vice versa.

The Importance of Accountability and Transparency Methodologies:

Every day, the importance of accountability and transparency increases inside government agencies and civil society organizations. There are different reasons behind this, and the reasons might differ from one organization to another, depending on the nature of the organization, its form, rules and relationships with citizens. Accordingly, we can say that each organization has its own special reasons to implement methodologies for transparency and accountability. Accountability and transparency have an impact on work, such as increasing efficiency and quality.

Accountability, Transparency, and the Process of Empowerment:

Accountability and transparency are related in terms of achieving empowerment, both for society and individuals. We should keep in mind that the philosophy of democracy in modern life is empowerment as an essential tool for achieving sustainability and continuity of the democratic process and preserving its achievements. The empowerment process is the development of capacity building for citizens to become capable of using available resources in society.

Consequently, the empowerment process is a process of assisting citizens, whatever their attitudes or affiliations (especially the poor and the marginalized), in managing society's resources. Despite having different methodologies for empowerment, implementing means of transparency and accountability can easily and quickly lead to empowering a large number of people. It also deepens the range of empowerment and changes powerful relationships inside society and organizations. From there, interest in accountability and transparency is immense.

Accountability, Transparency and Participation Process:

Without doubt, implementing accountability and transparency will help citizens in monitoring an organization's operation. Similarly, the methodologies of accountability and transparency help citizens increase their participation at work, form opinions, make decisions and confront all types of corruption, which negatively affects the progress and prosperity of the community.

Causes of Corruption:

- History:
 - Leftover attitudes from a previous time: Using means and methods that are acquired from the past. Helping clients and one's self by avoiding use of methods that lead to high performance and effectiveness. For example, using the regulations process of the ex-regime in a ministry's contracts department, even those that are corruption-prone. One example of this is avoiding the use of email for sending and receiving proposals and biddings. Another example is hiring based on favoritism and nepotism, not on merit. These bad practices are acquired from a history of doing so.
 - A centrally-planned government is more prone to corruption because one person, or a small group, makes all the decisions, often in secret.

Centralization of decision-making: If the manner of decision-making inside the ministry is characterized by centralism, without involving different levels of administrative staff in decision-making, it is a primary factor behind the spread of corruption.

These historic practices have been created during previous decades and take a long time to be defeated. They can be combated through supporting international organizations, adopting the new themes of transparency, responsibility and accountability and building strong legislative, executive and judicial authorities. Historic causes may be regarded as the main problem, because bad practices have been established and bad employees now have high positions in the three authorities. They enable the institutes and its employees to work with the same regulations and bad habits that were previously used.

Questions: What is the most common attitude acquired from history?

1. Centralization of decision-making and monopolization.
2. Complex or bad procedures and regulations. Bad habits that breed corruption
3. Bad people are not excluded and they practice corruption, without monitoring.

Low Risk – High Reward:

Corruption exists on the individual level when there is a “low level of risk and a high level of reward”

- Without laws and systems in place to catch and punish criminals fairly.
- When large amounts of money are present.

This opportunity for corruption abounds in inefficient systems governed by regulations that are vague, excessive or frequently changing. These systems facilitate the illegal gain of public money because they lack monitoring, which allows corruption to be concealed. A lack of accountability allows the system to be abused without punitive actions.

Remember that the goal of fighting corruption is to transform the equation from low risk-high reward, to high risk-low reward.

When laws and systems are in place to catch and punish criminals fairly.

The examples show the absence of adequate regulation that is supposed to be legislated by the Iraqi parliament to reduce the level of widespread corruption in agencies. For example, the laws of electronic government, access to information in the IG office, the laws of NGOs, whistleblowers, watchdogs and investments. The second issue is that there are many regulations and orders, but there is no strong executive authority to implement the rules.

When large amounts of money are present:

In Iraq, much money is expended to the ministries and institutes, but there is no work plan and schedule for expending. Consequently, the money is subject to theft. The existence of corrupt employees, without monitoring bodies, makes it less certain that the assigned money for provincial and local councils is provided. The money is for services of flues, power, and public health care, but actually nothing is achieved. This is due to the absence of planning and monitoring. All the districts and outskirts of governorates lack services. Nobody knows where the money goes, and nothing in the budget has been achieved.

Corruption Formula:

- “Corruption is: monopoly plus sole discretion minus accountability”

Or

$$C = M + D - A$$

Corruption can only exist when no competition exists (monopoly), with only a few decision-makers (discretion), and without any set of rules or oversight (accountability).

In effect, this is when an institution or person has a monopoly over goods or services, has the discretion to decide who will receive them and how much that person will get, with no accountability to any higher authority.

- When studying corruption, it is important to remember that this is a concept that is defined differently in different cultures.
- Make sure that participants feel involved in the process of defining corruption.
- There needs to be one universally accepted view of what constitutes corruption.
- The important question in defining corruption is to define what “misuse” means. In relation to what? What is the “proper use” and where can we find that definition?
- Klitgaard’s formula is useful to help frame the concept of corruption in a way that brings out the economic aspects.
- Remember Klitgaard’s formula: $C=M+D-A$ (Corruption = Monopoly + Discretion – Accountability)
- Institutions that present a high-level of discretion on the part of civil servants are high risk.
- Institutions that offer an opportunity to monopolize a public good are high risk.
- Institutions that have low levels of accountability are high risk.

Others:

Questions for Discussion:

Apart from history and opportunity, what other causes of corruption can you identify?

- Bad people.
- Economic causes.
- A country witnessing a transition period from dictatorial and centralization in decision making period to a transparent state.
- The absence of authorities in media, journalism and NGOs to participate in fighting corruption.

All these aspects should be discussed to know the effect of each on the process of corruption fighting.

Economic Reasons (Poverty, Low Wages and Crisis):

Poverty and low wages are considered part of the reason for corruption in third world countries. These conditions usually lead to inflated currency prices, increased national inflation rates, and to weakness of buying power for the national currency. This deepens the gap between expectations and the reality. Consequently, workers start conducting unethical practices to compensate for their low wages.

It is clear in governmental bodies that there is a big difference in salary levels between high-level management and subordinate employees. This can be a cause behind the spread of corruption, as small workers in the field feel the large burden of work is dumped on them. Eventually, they don’t get the salaries they deserve or any extra financial benefits. In addition, some critical circumstances in the country, such as war,

lead people to benefit from what is available in an illegal way. Look at the two examples of fuel and food. In these cases, employees who work in those fields and get the opportunity may seize it.

This situation leads the employees to perform their jobs without interest, or even in a corrupt way. This results in two negative factors for society, which directly relate to poor monitoring and internal regulations in many governmental institutions

The Cultural Factors:

Many corruption researchers relate it to cultural factors. They claim that the values that dominate work do not help in building a modern administrative system that is objective, fair and neutral. For example, devotion is to the family, the tribe, the clan or even to a religion. Any negligence in these issues is considered a social disgrace. These values widely encourage the adoption of immoral practices at work. It is noted that whenever national coherence is weak, the role of the government is weak as well. That increases the likelihood of citizens searching for a social safety substitute.

3. The importance of identifying corruption, and each one of its types:

- A. Grand Corruption
- B. Administrative Corruption
- C. Appearance of Corruption
- D. Criminal Corruption

Grand Corruption:

- Government-wide corruption
- The government sets the corruption into law by favoring one group
- The state has “seized” the market
- A group has written a law or rule that automatically favors one group
- Sets a policy that diverts money, work or contracts to a small group

“Grand” (political or “state capture”) which incorporates the misuse of political power for private gain, usually carried out by politicians or senior level officials

- Perception of levels of corruption is usually based on real experience with administrative corruption and less real experience (media based, scandals, rumors) with grand corruption.
- Ask which is most prevalent.

Grand corruption: Example

- The Parliament passes a law that only northern Iraqis can own oil companies

Administrative Corruption:

“Petty” (or administrative) corruption is carried out by “street level” or minor bureaucrats with whom the majority of citizens have contact on a daily basis.

This is where impartial, fair rules exist, but a government official implements the rule in an unfair way, or to an illegal advantage.

1. Non-Performance of Duties:

When a government official is asked to carry out an act, either routinely or specifically, and does not perform, this is non-performance.

Examples:

- Not to report a specific act (cover up)
- To fail to enforce a law (dereliction of duty)

2. Unauthorized Sale of Government Property

A government employee sells government assets without proper authority, to a person not authorized to receive them.

Example:

- A regulatory sale, like a license, or
- A property sale, like a car or furniture.

3. Misuse of Office

Using government property or position against its intended purpose, not necessarily for personal gain

Examples:

- Using their position to influence private life (e.g. using the police car to drive the family)
- Using money from a police station budget intended for vehicles, but instead buying air-conditioning for the station.

4. Bribery

This form of corruption involves the exchange of something of value for government action (or inaction).

This is the most recognizable form of corruption, but also note the distinction from graft, which is explained below.

Bribes – these are illicit payments, usually in monetary form, to public servants. Five broad categories of bribes can be distinguished:

- Bribes paid for (a) access to a scarce benefit, or (b) avoidance of a cost.
- Bribes paid for receipt of a benefit (or avoidance of a cost) that is not scarce, but where state officials must exercise discretion.

- Bribes paid, not for a specific public benefit itself, but for services connected with obtaining a benefit (or avoiding a cost), such as speedy service or inside information.
- Bribes paid to: (a) to prevent others from sharing in a benefit or (b) to impose a cost on someone else.
- Bribes paid to prevent or avoid sanctions or punitive actions – extortion.

5. Unauthorized Disclosure

Where government information is given out, or withheld, on a selective basis.

For example, the unpublished news of a large procurement is passed on to friends or family so that they can get a jump-start on the competition in preparing an offer.

This is information that the people would receive later, but it is improper to give friends more time to prepare.

Appearance of Corruption:

Definition: Where no laws are being broken

Example: A contract is awarded to the brother of the DG

A question for discussion:

- Is this kind of corruption is the most dangerous to society? Why?
- Why is the appearance of corruption harmful?

This kind of corruption is the most dangerous to society. It doesn't break the law and no article is available to fight this kind of corruption.

Appearance of Corruption Types

- Special Treatment
- Conflict of Interest
- Self-Dealing
- Two Hats
- Friends or Family
- Graft
- Favoritism
- Nepotism
- Cronyism
- Patronage

➤ Special Treatment

This is something of value, in exchange for speeding up or the “special handling” of a government service that is otherwise entitled.

This is sometimes called “legal corruption”, as the public had a right to that service anyway. It is well proven that this slows down the speed of government, rather than

speeding up. It only creates an incentive for the government to impose other “false” obstacles that need “grease” to move. (Fixers, greasing the gears... etc.)

➤ Conflict of Interest

Definition: a conflict between a person’s private interests and public obligations.

- 1- Self Dealing: an official makes a decision that benefits him/her.
- 2- Two hats: where the official has two jobs and makes the decision from one job that benefits the second, private sector job.
- 3- Friends or family: steering a decision to a friend or family member.

➤ Graft:

The contribution of a gift or money to an official.

Question: If the gift resulted in special favors or actions, is this “Bribery”?

➤ Favoritism:

Definition: a display of partiality towards a person or group.

➤ Nepotism:

Promoting and preferring the interests of the family. This takes the form of nepotism through extended family relations, or use of social networks

➤ Cronyism:

Favoritism of friends

➤ Patronage:

Favoritism of party colleague

Criminal Corruption

Definition: Corruption that is illegal, even outside the government sector. Actions that society, throughout history, has decided is wrong.

- Theft
- Embezzlement
- “Color of Law”

Theft:

Taking property or money that does not belong to you, or in other words, illegitimate acquisition of state or personal assets through the misuse of power. This includes, but is not limited to: privatization of public enterprises, equipment, financial sources, uncontrolled utilization of the funds of enterprises, obtaining credits without payments, etc.

Embezzlement:

- Definition: being entrusted with property or money and then retaining or keeping it.
- If a government official is given control over money and steals it, then it is embezzlement.
- There is a slight difference between theft and embezzlement, but note that the person was trusted with the money, as opposed to a thief, who merely took the opportunity.

“Color of Law”

- Committing a crime while using an office or position as an entry or cover.
- Example: Using a badge to gain access to a marketplace’s moneybox, and then taking it.
- Setting up a fake checkpoint.

4. Types of Reforming and the Challenges to Build Active and Effective Monitor Bodies:

All these aspects should be discussed in order to understand the effect of each on the process of corruption fighting.

Political Accountability:

- Political Competition: Getting to political positions must be based on merit principles to select the most qualified people, who will represent the public and work to fight corruption. Competition is the criteria and legal right that each politician has, which enables him/her to participate in the election process. This will create fairness and justice among politicians, and trustworthy people will occupy these positions.
- Transparency in Party Financing: The second issue that should be taken into consideration is that funding resources that support politicians in their campaigns must be known, independent and have no conflict of interest with the person they support. Many cases of corruption were found through promises made by politicians to private companies, to award them contracts in oil, health, civil works and electricity. Iraq is a real example in that during and after the ex-regime, Iraq witnessed illegal funding to politicians and parties, by which they achieved unfair market advantage.
- Disclosure of Parliament votes: This is also part of the transparency process. It is to declare the numbers of voters and the way of voting, or to make a decision, for example, to hire someone for a political position. It’s important to know that public hearing sessions should be adopted in the parliament, to make the public aware of the most important cases. This is a step to fight corruption and to avoid ambiguity in the decision making process.
- Asset Declaration: all the parliament members, ministers and DGs must disclose their properties, belongings and the personal assets, in order to avoid making illegal fortunes. Monitoring committees, independent media and strong judiciary systems must be available to track and prevent embezzlement by officials.

- Conflict of Interest Rules: Use official power to achieve unfair advantage, or personal benefit, through manipulation of regulatory and legislative means. The lack of separation between public and private sectors. It's worth mentioning that most officials and politicians have to sign a pledge to prevent them from these practices.

Students must be encouraged to adopt and support these thoughts, to ensure independent and transparent politicians and parliament members, and to prevent corruption on a grand level. The IG office has to be aware of its responsibilities in this field to track and monitor the ministers and DGs, to limit corruption.

Institutional Restraints:

Independent and Effective Judiciary: Reforming also must include the judiciary system providing independent and qualified judges, that are hired based on their good reputations and merit. The system must be able to track and prosecute corruption cases raised by CPI, BSA and IG offices. This system must separate the budget and independent hiring process from Ministry of Justice, to ensure an honest and impartial system, and also to avoid any pressure that could be applied by the ministry. The system must be effective in considering the recommendations and proposals to revise or to enact laws.

Legislative Oversight: To encourage and support legislative committees monitoring and enacting strong laws for tackling corruption, which paralyzes the private and public sectors. Civil society should also be a partner in monitoring the legislative process and in delivering proposals to the parliament for its consideration.

Independent Prosecution: This system should also be effective and transparent, because it's part of the justice system, which is responsible for fighting corruption. The prosecutors should be independent, effective and honest. Selection must be based on merit. This system is to represent the public's interest and to track grand corruption, which threatens the infrastructure and economy of the country.

Independent Enforcement: This means an independent executive authority, which is supposed to be effective and transparent, to implement decisions. The participants should be asked their opinions with respect to the questions below:

- Are the commissioners and police staff independent?
- Are appointments to be based on merit?
- Is the appointee protected from removal without relevant justification?
- Is the public aware of police and defense policies?
- Does civil society have a role in supporting police and defense systems?
- In the last three years, have police officers suspected of corruption been prosecuted or dismissed?
- Have corruption cases been exposed in the executive systems?
- Which legislative instruments can be used by police for investigation of cases of corruption/ bribes? Is the law upheld by the police?

- Are the executive systems independent, and not infiltrated by insurgents and militias?
- What are the students' recommendations to fix and reform these systems?

Civil Society Participation

The civil society is a network of voluntary, non-governmental organizations formed by individuals in society, to achieve one mission. That mission is to contribute to society's development and raise the standard of living for citizens. These non-governmental/civil society organizations fill the domain between the family and the state.

The important role of civil society organizations in fighting corruption:

- Civil society organizations have a decisive role in assigning policies and programs to fight corruption.
- Civil society organizations have the power to diagnose and specify points and reasons for corruption.
- Civil society organizations are considered an effective and influential instrument in observing and executing programs to fight corruption.
- Civil society organizations have the ability to gather experiences and resources that can be used in fighting corruption.
- Civil society organizations have credibility in defending the welfare of the country.
- Civil society organizations can advocate, so that decision makers work on issuing and activating needed laws to confront corruption.
-

The civil society is represented by the parts below:

1. Freedom of Information:

- Is there a law guaranteeing freedom of speech and of the press?
- Is there censorship of the media?
- Is there a spread of media ownership?
- Do any publicly-owned media regularly cover the views of government critics?
- Have journalists investigating cases of corruption been physically harmed in the last five years?
- Do the media carry articles on corruption?
- Do media licensing authorities use transparent, independent and competitive criteria and procedures?
- Are libel laws or other sanctions (e.g. withdrawing of state advertising) used to restrict reporting of corruption?

Through answering these questions the importance of the media will be shown and how it is effective to fight corruption.

2. Public Hearings of Laws:

The process of providing data to the public, whether voluntarily or as a result of legal obligation means transparent government. Thus, the more citizens get involved, the better, because officials will be better informed, especially with regard to the decisions that concern them. (e.g. delivery service)

NGOs should be authorized to attend and participate in public hearing laws in the parliament. They have the authority to advocate passing laws on corruption. This will build a strong civil society and effective laws to fight corruption. Here are some questions for participants of these sessions?

- Are there public hearing of laws in the Iraqi parliament?
- Do NGOs interact with parliament members in Public Hearings of Laws?
- In the last three years, what kind of laws have NGOs helped to enact?
- Are there proposals delivered by NGOs that have been taken into parliament's consideration in these sessions?
- Has work been scheduled between the parliament and the NGOs from these sessions?

3. Role of Media/NGOs:

Media training helps to create a cadre of journalists working on identifying governance practices, good and bad alike, to objectively extract and evaluate useful lessons for each assembly. Strong media can help increase transparency, and build an aware community that participates in local governance.

The anti-corruption diagram shows the categories which the government has to work on, and that should be reformed in order to limit corruption. Students have to realize that if there is a strong public sector, private sector, independent judiciary system and civil society; politicians will support efforts to build an efficient country that fights corruption.

Competitive Private Sector:

1. Economic Policy Reform:

It takes governmental reforms of the economy to enable the private sector to participate effectively and have an influential role in investment. Government should be supportive of these reforms and of privatization. For example, it should support international investors entering the local market, the building of a free, open market, in addition to activating the role of the local investor. Additionally, new legislations should be enacted in Parliament for the Iraqi economy. Focus should be on investment reform of economic policy, in order to strengthen the Iraqi market, such as enacting special laws of Iraqi banks, investments by international banks, or the laws of oil and investment and so on. Here are some questions for the

students, to determine the impact of economic policy on the country, and whether or not there is a need for reform:

- 1 -Is the current Iraqi economic policy convincing?
- 2 -Is there a private sector partner for the government? If so, is it supported?
- 3 -Are there any economic laws enacted in the last three years by Parliament to support the Iraqi economy?
- 4 -Do you believe that the existence of international investors and international banks is important for creating a competitive economic policy?
- 5 -What are your proposals for supporting the economy?

2. Competitive Monopolies

There is something very important and essential about creating economic and competitive markets, via prevention of monopolies by the state or the private sector. The state, through institutions and ministries, is working in the public sector, where government can transfer investment and commercial work, for example, to governmental companies, and preclude the private sector from this process. That, in turn, leads to the weakness of the private sector. Administrative corruption within state institutions exists due to the absence of a real competitor. The resulting unemployment paralyzes the society. For example, state control over the electricity sector and the absence of real competition to rectify the situation, leads to problems in the health of the state. This is true in oil as well, which prompts investors to stay away from these fields. Thus, the weakness of the services provided to citizens, the spread of corruption in these sectors, the absence of responsibility and accountability, in addition to the disinclination of donor countries are the end result...

During the meeting, some questions will be directed to the participants:

1. Are there monopolies by the state toward the private sector?
2. What sectors are monopolized by the state, without competition?
3. Do you think the state is successful in providing services to citizens in these monopolized sectors?
4. Is there an alternative mechanism to prevent monopoly?

3. Regulatory Simplification for Entry: (Regulations, clear, transparent and non-complex, founded companies for the purpose of competition).

It is important to consider the laws and regulations concerning establishment of companies that operate in the competitive private sector. The work must support the founding of profit-companies, based on honest competition and managed according to the laws of Iraqi companies.

The main purpose of this process is to support the Iraqi economy, and secondly, to provide legal areas that allow companies to work in the fields of construction, investment, trade electricity and health. Many of the companies now in Iraq have established recently approved standards and regulations, where obstacles that existed in the past were lifted.

It is necessary to mention that companies are established to compete with the public sector to provide services to citizens, not to fight the state or paralyze it in various areas.

Questions for discussion:

- 1- Do you think that companies in Iraq are transparent, and have been registered for the competition?
- 2- Do you believe that private companies are inefficient in compliance to the standards and foundations established by the laws of Iraq with respect to private foundations?
- 3- Are the current laws established to create a spirit of competition, or just to make the private sector under government control?
- 4- What laws should be added to your existing laws? For example, do you support the enactment of the founding of foreign - local companies? Do you support the employment of local hands, instead of relying on international ones?

4. Transparency in Corporate Governance:

The principle exists in Iraqi law to avoid administrative corruption, but it must be supported by management in the private sector. There must be firms that are transparent and free from conflicts of interest, where the founders of the parties and their reformers personally lead to job creation, where the great opportunities exist for other companies without leading to administrative corruption.

There is no doubt that the application of accountability and transparency will lead to the strengthening of the state's participation in the process of control companies, as well as helping the mechanisms of accountability and transparency. This will lead to corporate survival, increased participation in the work area, opinion and decision-making. It will face all forms of corruption that negatively impact the growth and progress of society.

5. Collective Business Associations:

The fight against corruption must support occupational associations that are part of the private sector, or are a separate entity from government work. Along with the citizens that deliver services (e.g. trade unions, doctors, engineers and agricultural associations), they work in the service of the citizens, to raise awareness among professional groups, about their rights and duties. We must work to strengthen this sector, which forms a significant part of society, and can be effective through pressure on the state to raise the living standards, change government policy through periodic meetings, and employ strikes and peaceful demonstrations to force the government to accept its role as a partner.

Public Sector Management:

1. Merit-Base to Hire the Employees:

Many considerations must be taken, which are essential to developing the public sector and to fighting against administrative corruption. Corruption is a major threat to the state and its facilities. The use of merit-base is a sure method to fight corruption effectively. It is better to appoint people based on their experience and capabilities, away from their affiliations, sectarian and loyalties. The merit-base depends on a competition and reward

concept to create opportunity, as well as to support the principle of responsibility at work. By doing so, we create an efficient public sector, based on the concept of hiring only qualified people. DGs and ministers must be involved, and hire people based on their qualifications.

Also important is the principle of institutional assessment, which includes the evaluation of overall performance of an institution in general, and an employee in particular. It measures the progress of work and the effectiveness of an employee in a position. This impacts possible promotion or assignment to a different position. In many public sector institutions, the evaluation of the staff-efficient is based on standards unrelated to efficiency, integrity and competition, which creates a weakness and corruption.

2. Adequate Pay:

- Low salaries create strong motivation to earn income through corruption. This is, however, not the sole cause. Many examples from different countries in the world demonstrate that raising salaries alone does not prevent corruption. Corruption exists even in the wealthy countries, which reveals that need is not the only motivation.
- The grade of salaries must be adequate for the positions, and this must be evaluated by an employee's experience.

3. Monetized wages :

Wages must be cash, and one must take into account that the wages should be one standard for all staff who have the same job tasks. For example, an employee in the Ministry of Commerce is given half cash salary and the remainder in the form of food, or an employee in the Ministry of Oil is given half cash salary and the remainder in form of oil. This will create inequality of opportunity and unfairness in salaries, which leads to one type of administrative corruption.

4. Service Delivery:

One important aspect of the public sector must be improved, and that is the delivery of public services in electricity, health, water and sewage, education, and telecommunication. When or not the public sector is efficient and strong is indicated by citizen satisfaction with these services.

In many countries of the world, the public sector is considered a real competitor to the private sectors in providing services with high quality and low profit. The most important institutions that provide services to the citizens are the service ministries. Local and provincial councils must work together (transparently) to serve citizens through development plans, the annual shared mechanism for delivery of better services. They must also take into consideration complaints and proposals submitted by citizens.

5. Decentralization with Accountability:

Accountability includes requiring officials to answer questions raised by citizens about duties and authorities granted to the officials.

Responsibility means to control the performance of officials and governmental institutions.

Centralization in decision-making creates an incompetent public sector. The absence of accountability makes every employee not responsible and unaccountable for carrying out his or her tasks.

The causes above lead to improper work, where decisions serve the interests of few individuals. These decisions are not accounted for.

How is the Public Sector Responsible?

1. Institutional corruption:

- a) Poor rules or procedures: The laws or policies are ineffective within the ministry or institution. For example, procedures that the ministry routinely uses are bad, this then leads to a series of complications and, ultimately, a weak institution, incapable of functioning properly.

Question: Do you think that your ministry's current policies are successful in serving citizens? Are these policies and procedures updated, in order to advance the service level?

- b) No rules to prevent corruption: It means the absence of laws that prevent administrative corruption. For example, there are no clear rules to combat corruption, or there are no laws to identify the types of corruption, or there are some laws fighting only the corrupt, while there is many administrative staff corrupted by bribery and theft. Examples are abuse of power, negligence at work or using the post for private interests.
- c) Complex procedures can breed corruption: Routine and complex procedures are matters that must be solved by the ministry to combat corruption. A schedule for each task undertaken by the ministry should be identified with a series of references. This is to avoid delay due to partisan interests.
There are some questions to be directed to the trainees:
 - Are the plans fully explained regarding tasks to be carried out by each sector in the ministry?
 - Are citizens aware of the steps undertaken by the institution during implementation of this transaction? Is there a guide to indicate these steps within each ministry?
 - Is there a bulletin board for the tasks that are suppose to be carried out by the ministry during this period, as well as the reasons for the tasks?
 - Can citizens know the reasons behind the lack of service?
- d) No control of individuals: The people in the institution are corrupt, irresponsible, and unaccountable, plus their roles are not clear. This leads to disorder and a lack of control for staff or individuals to the absence of basic axes of accountability.

2. Systemic Corruption:

- a) Poor relationships between groups and individuals: It means weak relations between the institutions of civil society, unions, federations and peaceful gatherings aimed to fight corruption and build strong governmental institutions through ongoing monitoring and encouraging transparency in the work. These groups, through its relationship with citizens, can demonstrate peacefully in urging the government to reform.

The weak relationship between individuals and these groups creates a strong chance for the appearance of corruption. In this way, an individual would not know how to influence the government, which is weak because of poor oversight. Consequently, the relationship between individuals and these groups should be promoted. It helps a qualified citizen be a good observer of administrative corruption cases.

Question: Do you support the work of organizations, unions and groups in Iraq? Has there been corrective action implemented by the government as a result of pressure from these unions?

- b) Poor relationship between individuals: If an individual is unaware or uninterested in what's happening around him/her, that individual is unable to address administrative corruption. For instance, a citizen's opinion is that corruption is widespread and that it cannot be corrected by an individual. That is due to the impossibility of change. This leads to poor relations between individuals and citizens, because there is no consensus to fight corruption.

Question: Are there strong relations between the Iraqi citizens with others to combat corruption? Is there a mechanism to regulate this work?

- c) The system has faults in reporting, laws or rules. For example, the system of the state is operated inefficiently and far away from the mechanisms of fighting administrative corruption. Also, the laws and regulations are applied routinely. Some of them encourage corruption to spread. Also, there are no laws regulating the reporting of cases of corruption, or state protection of whistle-blowers.
- d) The system has been corrupted from above: This means that the parliamentary and presidential systems are administratively corrupted. Representatives of the politicians are corrupt as well, and they prefer private interest to public ones. Reaching the legislative seats is not based on competence and integrity. This means that the leadership pyramid in the country is corrupt and consequently, the legislative and executive authorities are not strong.

3. Individual Corruption:

- a) Bad examples from predecessors: This means continuing on with corrupt administrative officials' behavior. The practice of this is abundant in Iraq because the corrupt employee is not punishable. He/she has an important position and uses it to obtain profits in illegal ways. It enables a high standard of living, more so than the honest employee.
- b) Bad people: Those who represent the poor class of society, trying to bribe or motivate an administrative employee to be corrupt, without any demand of a bribe. An example of this: A person gives a sum of money to the employee in public, believing that the employee will pay special attention to his/her transaction.
- c) Bad training – Ignorance: This means that the employee is unaware and he/she accepts bribery from a citizen. The employee considers them as an incentive or assistance to achieve the work.
Employees must continuously be trained about corruption, in order to recognize cases to be reported.

Question:

Is there continuous training for the staff to distinguish cases of administrative corruption?

- d) Opportunity: Low risk of punishment and high reward:
This means the money is largely available in a specific institution or ministry, and there is no specific work schedule or time-plan for disbursement of the funds. This leads to the availability of money to steal, because surveillance is weak, along with the absence of punishment. For example, the funds available to local and municipal councils to provide water, sewage and fuel do not exist because of abuse of these funds.

Fixing One Leg Will Not Solve Anything: These Parts Must Work Together:

The main purpose of the symposium is to point out the causes of administrative corruption, diagnosis it and then implement reform. Reform is a large, comprehensive series of stages. It is done after diagnosing and targeting the main aspects, which constitute the system or state, ministries and institutions, or individuals who represent other people or society. The main point is that we could be more effective in fighting corruption, through a strong state system, transparent government, efficient ministries and institutions, and an organizational structure to combat corruption. Also, it is important to have aware individuals (employees, citizens), that can be a strong hand in fighting corruption.

These three aspects represent a triangle of the state, the individual and the ministries. Since this triangle is interconnected, in some cases, the loss of one triangle piece means the whole thing will be incomplete. The same happens when reform is applied on one side. This does not solve the problem. For example, if reform includes changing policies of employees in the important places and neglects the raising of awareness against administrative corruption or weak government, it is ineffective.

Here are some questions:

1. Which aspect has priority to reform?

2. Is the State unable to reform individuals and institutions?
3. Can the current Iraqi Constitution organize these reforms properly, and ensure the desired results?

Practical Solutions for Individuals:

- Know the laws: Every citizen, employee and person in society should be aware of the law, specifically legislation to fight administrative corruption. They should know the tasks that must be carried out in order to inform people about corruption, as well as recommendations to reduce corruption.

For example: Employees and citizens should be aware of the laws of integrity, the Inspector General, civic laws and the laws of the fiscal audit board

- Be able to identify corruption and “close calls”:
General and specific concepts of corruption must be known to the public, in order to recognize cases of administrative corruption. Prior corruption cases may have had a negative effect on public perception, but avoid assuming the worst when interpreting people’s behavior. For example, a delay may occur when completing a transaction with a client. It may be justified and have nothing to do with administrative corruption.
- Who to Talk To? Know the specialized bodies.
These bodies are interested in investigating cases of corruption. Also, it’s important to know about priority cases that should be solved right away. The bodies are:
 - Iraqi government.
 - BSA (Board Supreme Audit)
 - CPI (Commission of public Integrity).
 - Tip Lines (Parliamentarians, Politicians)
 - Inside the Ministry (Office of the Inspector General and general managers)
- Encourage government reform that adheres to your values.
This means encouraging governmental reforms that include all public services, institutions and ministries that are directly in touch with the citizenry. They tend to be more corrupt than others. These reforms should be based on international standards, such as the criteria of religion and ethics. The examples given are from societies that have experience in reform.

Iraqi Government, AC Structure and Process Flow:

Inspector General: This is an independent office with power to fight corruption by raising awareness of employees and checking adherence to the laws and orders of the institutes. This office is authorized to receive the complaints from employees and citizens, and then send non-binding recommendations to the minister.

- Board Supreme Audit: An independent office with a split budget and work, with direct

contact with the parliament. Its authority is auditing the financial ministries and government institutions, to avoid corruption and ensure that work is performed efficiently and economically.

- Commission of Public Integrity: An independent body responsible for scrutinizing Parliament activities. Its authorities are investigation, inspection and auditing, based on laws that are enacted by parliament.

Encouraging Government Reform:

- Employees and citizens, as part of the state and society, must have an impact through their views, recommendations and effective participation in the fight against corruption. They also should know that reform is part of their duty.
- Government should be responsive to the advice and recommendations, which are provided by the public, society and media. This compliance must be based on openness to other opinion, as mentioned above.

What the Laws Should Do:

Laws that contribute to anti-corruption policies should do the following:

- Criminalize corrupt activities
- Enable tracing, seizure, freezing and forfeiture of illicit earnings from corruption
- Require public officials to regularly declare assets
- Identify, prevent or resolve conflicts of interests
- Protect whistle-blowers
- Improve access to information (allowing citizens to obtain information from the state)
- Regulate implementation of constitutional right of freedom of expression and association
- Define basic principles for decision-making in public administration (objectivity, impartiality, equality, obligation to justification, right to appeal)
- Enhance transparency in public procurement

The existing laws in Iraq are inadequate to effectively fight administrative corruption. Consideration must be taken for new legislation, and parliament urged to enact laws and mechanisms to fight corruption as a first step in the process. The laws which must be legislated to fight corruption need to:

1. Look at the laws that criminalize corruption. They must fight the lack of accountability and transparency; they must punish those who are culpable.
2. Consider laws that follow sources of funds, their legitimacy and how they are used, for example, the funds used to support the parties during the presidential and parliamentary elections
3. Enact laws on disclosure of assets for ministers, the president and other officials. Information should be available to the public and the media, for the purpose of preventing illegal gains.

4. Emphasize conflict of interest laws, obligations and commitments that are signed by an employee, before an appointment, to avoid the use of power for personal benefit. An example the minister has a private company founded by him/her and is awarding contracts without competition.
5. Protecting an informer is a fundamental part of the law that has not yet been enacted by the Iraqi parliament. The law must be completed. The purpose of it is to create forces capable of informing about corruption cases, which is a link between them, the state and controlling bodies.
6. The text of the law, and access to information, should be available to the public. Sufficient information about the functions of government and the budget should be available as well. An example is a citizen aware of what is happening in the governorates. Local councils maintain monthly and annual reports. They should be issued by the council, to make the public aware of achievements.
7. Laws are needed that emphasize the peoples' right to express opinions and criticism of government through peaceful demonstrations. They may demand, for example, corrections with regard to reform and fighting corruption
8. Put emphasis on principles that provide integrity, probity, and equality, regardless of sex, caste or clan. Support laws that lead to clear and transparent decisions.
9. Modernize procurement and government contracts and tenders. For example, use computer systems and networks to issue and receive bidding. To avoid corruption, use modern procurement programs that allow correct performance.

5. Introduction to the Inspector General Concepts.

Definition: An independent office, with a split budget, should be available in each ministry to track and monitor performance. This should be in accordance with its policies and regulations. The main task for this office is to make employees aware of the rights and responsibilities, performance evaluations, auditing and investigation, and all records of the institutes and ministries with respect to corruption cases.

Question:

- The IG office in Iraq has a split budget and its chairman is appointed by the parliament, or the IG's commission.
- It is the IG office's responsibility to train and make employees aware of the ministries and institutes role in working effectively.

The office has to:

1. Identify waste, fraud, abuse, and inefficiency in their ministry's programs. This includes projects and programs, ministerial and institutional, where the Office of the Inspector General has to continuously evaluate and disclose flaws,

errors, waste and the consumption of optimal and efficient sources. The evaluation will be through comparison of achievements with policies. This will measure efficiency and economic achievement.

Example: Check if the policy of the Electricity Ministry is efficient in delivering services to the public, or if there is a better /alternative policy to raise the level of services.

2. Report their findings and recommendations to their ministry, legislative body, and public:

Submit recommendations and suggestions to the minister's office, public and the media about the general administration of the institution. This is not to intervene and enforce the ministries to adopt a particular policy, and leave others in procurement contracts and bids. It is about whether the procedures involving procurement contracts and bids are identical to the regulations for the ministry to prevent an imbalance in performance.

Example: The IG's office doesn't have the authority to determine the quantity and the type of CDs or TVs that the ministry wants to buy. It can, however, check the process of purchasing, and whether it has been done according to regulations. For example, issues such as receiving more than one offer, evaluation committees to determine which one is suitable, invoices for purchasing, and the quantity that exists, as mentioned in the contract.

6. Responsibilities, Tasks, Roles and Authorities of IG Offices.

How do Inspectors General Carry Out This Mission?

They conduct audits, investigations, inspections and evaluations of the ministry's programs: Among the most important things that the IG office has to do are audits, investigations, inspections and evaluations to the programs of the ministries. They should report to the minister about these programs, and track these recommendations.

Example: Under an IG Order, this office can take allegations and complaints, from the hotline, by employees and clients of the ministry and start to investigate the corruption cases. They make the report, with appropriate recommendations, to the minister. These are not necessarily followed by the minister but if the minister rejects reasonable recommendations, the IG has the right to follow up on why they were rejected

Review existing or proposed laws and regulations relating to their ministry's programs and operations:

The IG office also has to check if the current laws, orders and regulation are appropriate to implement, with minimum of waste to the assets and resources. It also has the right to raise proposals that should be enacted to improve performance.

Example: Laws are effective in reducing the level of corruption inside ministries. The procurement orders and purchasing processes are sufficient to ensure a minimum amount of waste and fraud. If it's necessary, propose laws to reduce corruption. On example is

to curb investment opportunities in some public services sectors run by other companies, as a way to reduce the risk of corruption.

Avoid leadership that doesn't promote economy, efficiency and integrity:
Through training, employees deliver the recommendations and monthly and weekly reports to monitor the performance and achievement of each department.

Inform the ministry of program-related problems, as well as the progress of corrective actions:

The most important issue that the IG's office has is to determine the defects/gaps, then report them to the minister, along with corrective actions.

7. Order 57 of the Iraqi Inspector General and Reviewing for its Provisions.

Viewing the Main Articles of the Order

- Each ministry will have an Office of Inspector General

Each ministry has an Inspector General Office, with tasks and budget separate from the ministry. The main function of this office is supervisory, making recommendations and reports about the nature of achievement and performance. It should not interfere with administrative and operational works of the ministry, but, for example, can assess the performance of Ministry of Health or Electricity over a full year, in terms of accomplishments, procurement, tenders, contracts, employment, etc.

- IGs are appointed by the Prime Minister, with advice by CPI

The appointment of the IG chairman is done by the Prime Minister, with the knowledge that this may be revised. The appointee must be independent, and not under the influence of the prime minister's cabinet. The IG office observes the ministries, so its recruitment must be done by the Iraqi Parliament, with the acquaintance of CPI.

- IG's report to the ministry
IG's presence will be felt through reports and recommendations relative to programs and policies. They must be implemented by the ministry.
- IGs must report allegations of corruption by the minister to the Commission on Public Integrity.

The Inspector General must raise reports concerning job performance and programs to the media and to CPI. The reason for this is to enlighten people about the work that has been done, or is under way. This point goes to the integrity and transparency of the IG offices and the ministries.

Question: Does the ministry issue monthly and biannual reports to the media, public and CPI? Do you regard this as necessary?

- Removal by the minister only for cause.

The removal or exclusion must be done by the minister. It should be based on complaints about the Inspector General, in relation to corruption or administrative delinquency committed by the IG chairman.

Question: Can the Minister dismiss the Inspector directly, or is it done by raising a complaint to the Prime Minister? After the complaint, an investigative committee would be formed to look into the allegations, then report to the minister and the prime minister. Then, a decision will be made to remove the IG chairman or not.

Responsibilities:

- Audit all records and activities of the ministry:
Auditing events and records for all the activities of the ministry related to purchasing, expenditures supplying and management, etc. The purchasing process to buy specific equipment for the Ministry of Health, checking the purchasing process and compliance with the regulations that are stipulated by ministry law are all examples of this.
Checking the records and activities, in some cases, are the result of an allegation. The IG office takes this allegation and, after checking its accuracy, starts an audit to define the errors and defects.

For example: A complaint is delivered to the hot line about the committee responsible for the opening of tenders. The complaint is about an illegal way of receiving tenders. After checking the accuracy of the information, the committee must determine the problem, if any. Then, a report is written about the process to the minister, who either sues the delinquents, or resumes the work of these committees, because the allegation was false.

- Conduct administrative investigations within the ministry:

Investigations measure the administrative performance for the staff and each employee. The investigation is related with attendance, delinquency to do the tasks, recruitment by using merit base, responsibility, accountability and transparency as part of administrative tasks that must be adopted by the employee. This means fully controlled programs to the ministry.

- Receive and access complaints of waste, fraud, mismanagement, and abuse of power.

The Office of the IG has the authority to receive complaints, or allegations of embezzlement possibly committed by an employee. It should open an investigation and give reports to the minister. At that point, either there will be punishment, or the investigation will be stopped, due to insufficient evidences. It's worth mentioning that the IG is not allowed to interfere in decision-making.

- Conduct follow-up inquires to assure adequacy of corrective actions.

The IG is required to follow up the recommendations submitted by his/her office to the minister. This is to see if the recommendations have been applied or not. If they weren't applied, inquiry should be made as to why.

For example: Recommendations are given to the Minister of Electricity to change the procedure for opening and closing bids received by email. The IG office has to follow up on corrective actions, and has the authority to inquire why this action was rejected. It should determine if there was a reasonable cause for rejection.

Responsibility (continued)

- Provide evidence of criminal acts to appropriate authorities
Appropriate evidence needs to be relevant and competent (information comes from a source that has credible information) and have first hand knowledge. There must be a witness.
 - 1) Full knowledge of the case and its dimensions
 - 2) Witness coming forward to give true testimony
 - 3) Importance of the issue
- Review legislation, rules, policies, and training programs to ensure they are designed to prevent fraud and abuse

IG office has the authority to review the legislation and programs of each of the ministries. It should ensure that the legislation contains terms and provisions to prevent corruption and to punish the guilty. Also, the IG has the right to make recommendations on whether such legislation is effective in preventing fraud and abuse of power

- Recommend non-binding remedial actions to the minister:

The IG office has the authority to review legislation and programs related to each ministry, in order to make sure they contain articles to prevent administrative corruption. Strict laws, which emphasize punishment for the corrupt, should be monitored to see if such legislation is effective in preventing fraud and abuse of power.

According to oversight operations, the issues transferred to the office for auditing and investigation, recommendations are given to the minister's office, taking into consideration that they are non-binding.

- Train the ministry's employees in prevention of fraud, and cooperate with the Commission on Public Integrity and the courts.
Cooperate when working directly with CPA and the courts. Understand what the actual needing are.

Powers Established Within the Offices of the Inspector General:

- Full and unrestricted access to all offices within the ministry:
This means, according to law 57, that the IG is authorized to access the departments and offices of ministries, to conduct inspections, audits and investigation. This does not mean, however, that the IG can prosecute employees or interfere with work. They cannot falsely accuse employees of negligence, because this will create a sense of apprehension for all employees. That employee must be aware that the IG office is available to raise performance standards, not to chase staff or falsely accuse them of anything. Staff members must be aware that the IG office is not the police. They cannot pursue and arrest people, as is now prevalent within Iraqi ministries.
- Authority to subpoena witnesses and obtain documents:
Based on allegations and complaints that are submitted by the clients and employees, the IG office is authorized to subpoena witnesses, whatever their positions happen to be. That goes for a minister, as well as the lowest position. The purpose of the investigation is to check the accuracy of the allegations, and to come out with a final report. The report shows the range of the damage, and puts forth recommendations and solutions. Also, the IG can check all documents belonging to the ministry, to determine if there are defects or errors.
- Access to the head of any governmental entity, when necessary:
IG has the right of access to any political entity, to determine corruption cases. It can access them even if the recommendations are rejected by the minister for no reasonable cause. That is part of the corrective, follow up process.

- Authorize employees of the ministry to report waste, fraud, mismanagement, and illegal acts:
Each employee has the right to report corruption, including bribery, power abuse, waste, fraud, theft and administrative delinquency. They may register a confidential complaint by hotline, or a direct complaint. We must also clarify that it's not possible for employees to use this right to report other staff members due purely to personal animosity. Note that there is full protection to the complainants, according to the Iraqi IG law.

Resource Allocation:

- These are received from the ministry's annual budget and are adequate to accomplish their mission:

To receive adequate resources, the inspector general needs to show how resources will be used, types of audits planned, the programs to review, planned evaluations and inspections and new initiatives.

The request submitted to the ministry from the Inspector General contains annual tasks and missions which will be applied. This includes recruitment, procurement and operations departments of investigation, inspection and auditing and the appropriate budget for these tasks. For example, how many computers are required to be purchased this year, how many employees are supposed to be hired and what is the budget required for the purpose of professional training for the staff?

- Establish appropriate levels of responsibility (organizational structure)
Establish an organizational structure that is appropriate for the mission. You must ask yourself several questions: Can it be stream-lined? Is there an appropriate number of both administrative and professional staff to carry out the mission, if needed?

This means an organizational construction for the IG office, which allows it to perform its duties efficiently. That is done by developing institutional planning for each section, based on current and future requirements. This includes sections of Inspector General Office, which are the auditing, inspection, investigation, hotline and employment sections.

- Obtain the services of subject matter experts to assist in performing selected reviews or studies

Instead of hiring certain subject matter experts for just one or two audits/ inspections / evaluations, it may be more cost efficient to contract some to work on a regular basis.

It's worth mentioning that borrowing investigators and auditors of the ministry is not allowed. The reason for this is simple. Those employees can not work for both the ministry and the IG office. They must be independent and far from the influences of the ministries. The IG office is allowed to hire experts outside the ministry to assist in achieving the tasks.

Maintenance of Records

- Audit and investigative records shall not be made public:

We must recall that the audited or investigative records should not be made public, or used to expose staff members before an investigation is complete. Results and recommendations to the Legal Board and the minister should be considered. Some of the reports should be directed to the public ministry to be aware of the ministry work.

- Names and identities of complainants shall not be disclosed to the public without consent:

According to the law, the complainant or the person who inform about grave corruption cases inside the Ministry must be protected, as it must warn against false and unfounded allegations which are intended to offend others.

- Confidentially of information must be maintained:

The received information about salaries, complainants, addresses ...etc. must not be exposed due to the importance of information confidentially and jeopardize employee.

- Protect the privacy of individuals:

The accused must enjoy all of his/her rights. This means that the employee can practice all his duties assigned by law. He/she must be protected, because the accused is innocent until convicted.

Report Requirements:

- Report findings and recommendations:
Reporting findings to the minister is very important in fighting corruption. The minister needs to know not only if there are problems, but how to fix them. The key to success is to correct the problems that are identified. Remember, though, it is the minister that needs to make the correction. The IG only reports problems and recommends potential solutions.

- ❖ Report potentially criminal investigative issues
- ❖ Report issues to the ministry, such as abuse, or deficiencies relating to the administration of programs and operations

Potential corruption cases should be studied before making allegations.

Examples:

- ❖ Informing about embezzlement, potential theft, etc.
- ❖ Informing about abuse of resources that belong to the ministry

Another example: Informing about the ministry program to deliver electricity by visible wires. This method is not efficient. Electricity wires must go underground, in order to avoid sabotage by terrorists.

- Issue an annual report to the minister and legislative bodies:

Issuances of annual reports are very important. These annual reports can be used by the minister and legislative body to determine how well the ministry is working. It may help determine budget levels and resources within the ministry.

The annual report is to clarify the work of the ministry, and to discover defects in its departments. For example, it is important to deliver the recommendations to the minister about amending the annual budget with respect to creating new departments in the ministry.

Standards:

- Audits and investigations must follow generally accepted professional standards
 - ❖ Standards provide a framework for conducting high quality work: To provide a framework for the mission, clarify the nature of the investigation, in accordance with the time, location and the number of the staff to accomplish the tasks.
 - ❖ Standards provide professionalism: Apply the standards of integrity, ethics and justice. Provide legal and financial experts to do the tasks effectively and professionally.

We have a book which includes these types of standards. We will try to print parts of it to use as handouts

Quality Reviews:

- Audits and investigative reports are subject to quality assurance reviews by the Board of Supreme Audit every 3 years
- Quality reviews are provided to the minister and Governing Council with oversight authority
- Quality review reports shall be made available to the public
- Quality reviews provide assurance that audits and investigations are efficient and effective

Quality reviews are good. They identify problems within an office, so improvements can be made.

While quality reviews are done by the BSA, your own IG community can do reviews of each of the IG offices, in order to identify problems and make improvements. While no one likes to be reviewed, we must remember the importance of moving forward and constantly improving. These types of reviews, both by BSA and the IG community, can make your organization be more efficient and effective.

One of the most important tasks performed by the Office of the Inspector General is to measure the quality of work performed. This is done through professionally prepared reports, to be monitored and audited later by the BSA, which is responsible for monitoring the performance of IG offices. Other kinds of reports must be publicly published to show the process of auditing, evaluation and investigations. Those are the basic tasks of the IG. It's worth mentioning that quality of performance includes indicators both financial and administration.

Example: The purchase of equipment and electrical wires are a huge budget item for the Ministry of Electricity. The IG office's role is to monitor and evaluate this work for purchase terms. It must check the operation financially, to verify that ministry procurement policies were followed. (e.g. availability of receipts signed by the purchase committees and that materials are purchased correctly)

Additional Activities

- Serve as an extension of the minister's eyes, ears, and conscience
- Independent and objective fact-finding
- Opportunity to ensure and improve operational and financial benefits to the ministry

- Ability to develop relationships with Inspectors General
- Confidential channel for passing information

Actions are essential for supplementing the performance report and recommendations submitted to the ministry. The report, together with the ministry, will help development future performance. The report must be independent, impartial, helpful in discovering the truth, and give practical recommendations about shortcomings. There is also the benefit of learning from the experience of other offices of the Inspector General with respect to auditing and investigation.

In the name of common interests, the IG office must be flexible and cooperative in transferring information to other offices.

For example:

- 1- The Ministry of Electricity is installing power lines in collaboration with the Baghdad Public Service Directorate (Amanat Baghdad). During this work, the telephone cabinet installation by the Ministry of Communications is being cross cut with power lines installation. If the IG office of the Ministry of Communications discovers power line theft by the Ministry of Electricity, they must submit a report to the IG office at the Ministry of Electricity. This action is considered a mutual exchange of information, in order to take corrective action.
- 2- If the IG office at the Ministry of Trade has information about illegal buying of Ministry of Health medicines in the commercial markets, they must inform the Office of the Inspector General at the Ministry of Health. This type of corruption is the result of warehouse employees collaborating with smugglers.
- 3- The main purpose of actions implemented by the Inspector General is to improve performance in the ministry. It works to create a network of cooperation among the ministries for providing efficient services to the citizen. The Inspector General's office is a focal point for awareness and control of performance, identifying errors, working on taking corrective initiatives that must be submitted to the minister for the purpose of considering, advancement and raising the standard of ministry policies to the required level.

Question to You:

Why is an Inspector General important to control, waste, abuse and fraud?

According to CPA #57, the IG office is independent and non- aligned. That authorizes the office to monitor and determine defects in ministry policies and programs. Auditing, evaluation and investigation are necessary to limit waste, fraud and manipulation of assets, as well as reducing abuse of power, theft and embezzlement of public money.

Example: Monitoring work is under way in the Ministry of Health. This includes checking the civil works in a project, verifying there are correct employment procedures and optimum use of employee potential, seeing if there is an excess of workers, checking if construction material is used economically (without manipulation of quantities in the warehouses) and correcting anything that may adversely affect performance. All these steps represent the work of the IG office in preventing corruption inside big projects. Remember that the IG is not allowed to interfere in the purchase process or estimation the quantities of workers and materials in the project. These are part of the ministries and various committees inside the ministries are to do these tasks.

It's worth mentioning that efficient work leads to economic work, which is the main goal of developed countries. Efficient, economic work leads to fewer defects and optimum utility of resources, which helps eliminate fraud and waste.

Appearance, Credibility, and Eliminating Conflict of Interest :

The essential basics for the success of the Inspector General's office are that it must be transparent, sincere and independent in achieving its work. It must be politically unbiased because most of its work is of a supervisory nature. The commitment signed by an employee before being hired is called the "code of conduct". It states that the employee must be independent and transparent, in order to ensure success at work and no conflict of interest.

Example: Some people are punished unfairly and others have their inappropriate behavior tolerated because they are related to, or friends with, decision makers.

- IG's should be free from undue influence or attempts to control them

As mentioned earlier, Inspector Generals should not be inappropriately influenced. They must positively affect governmental and political bodies to improve production, administrative and financial performance.

Ethics codes must be clarified to the trainees. They should be aware of the basic principles that an IG employee should have, ones that only employees at the Inspector General's office have. They should know that their work is based on the principle of conclusion, as part of the investigation and audit. There must be qualified, capable employees to make recommendations far from the pressures of partisanship and sectarianism.

- An IG not only looks at the ministry's policies and procedures, but whether those policies and procedures ensure efficient delivery of services.

The Inspector General, by auditing, inspecting and investigating, can evaluate the work of the ministry, to see if it is in accordance with the law. If there are mistakes, they must be corrected before influencing the use of resources.

For example, the financial and administrative policies of the Ministry of Trade are not efficient in providing good service to citizens, with respect to food arrival. This involves delays in ports. In this case, the Inspector General must monitor the administrative and financial policies that led to the mentioned shortcomings. What would be a successful policy for faster delivery of food?

8. The importance of the three pillars of the IG (Audit, Inspection and Investigation).

Capabilities, Roles and Principles:

WHAT IS AN AUDIT?
WHAT IS AN INSPECTION?
WHAT IS AN INVESTIGATION?

Audit is:

A formal examination of an organization's programs, activities or financial situation that conforms to established professional standards:

For example, auditing the procurement records of the ministry for the following:

1. Procurement conditions.
2. Quantity purchase matching expenses
3. Existence of a committees to monitor and approve the purchase process
4. Ensuring basic competition among companies when awarding the contract.

Avoid interruption when estimating the quality and quantity of the purchase. Review the procedures to check if it was done according to the policies.

Question: You find, during the audit of a construction project, that the reinforcement bar that's being used is inefficient. Should your report recommend not using this type of bar anymore, and advise to buy different, specific type of bar instead? Or should you write a report showing the disadvantages of this type of bar, which has led to cracking and damages, and recommend replacing it with no specific type? (It's not the IG's responsibility to recommend what type of bar to use, is it?) In your opinion, who should recommend what type of bar should be the replacement? Does Iraqi law allow you to influence what type of product is used?

Also: A methodological examination or review.

- Types of audits:
 - ❖ Financial
 - Financial Statement (not IG appropriate)

Financial audits should not be conducted by the IG office, but may be done by the BSA. That types of audit review financial entries, in order to render an opinion on the financial statements of business or government entities.

These audits provide reasonable assurance about whether the financial statements of an entity fairly present the financial position, operation results, and cash flow.

- Financial Related (IG appropriate)
Financial Related are audits determining whether (1) financial information is presented in accordance with the established criteria (2) the entity has followed specific financial compliance requirements (3) the entity's internal control structure over financial reporting and safeguarding assets is followed.

Also the financial auditing is to check:

- The payroll structure and annual needs of the ministries, and whether they need additional staff. Also to check if they use merit-base in hiring process.
- The manner of governmental purchasing, and the policies and regulations.
- If the annual budget is active, and the expenditures of the ministry are done according to the plan.

For example, the failure to maintain or repair a building will have financial consequences. In assessing financial issues, it's important to look into the failure to assess revenues, costs and deterioration of assets. Another example would be an audit of a payroll system or accountability over oil production.

- ❖ Performance (IG appropriate)
This is an impartial assessment that provides objective information about program performance, activities, and function, in order to provide recommendations for improvements. A commonly recognized purpose of performance is to add value by finding ways to improve government operations and results.
- Economy and Efficiency Audits
These types of audits determine if the entity is using its resources economically and efficiently. It determines the cause of inefficiencies or uneconomical practices, and whether the entity has complied with the laws and regulations
- Program Audits
Look at the extent to which the desired results established by the legislature or other governing bodies, are being achieved.

Why Conduct Audits?

- Save money.
- Improve performance or service. (e.g. suggestions that could improve the electricity service level by providing generators in a big district. They would be run by the ministry to ensure the delivery of power.
- Improve controls to reduce risk and waste.
- Increase compliance.
- Detect fraud.

Program audits must be done, for example:

- To assess whether the objective of a program is proper or relevant.
- To assess the effectiveness of the program.
- To identify factors inhibiting satisfactory performance
- To determine whether management has considered better alternatives for carrying out programs.

Key Concept to Remember:

Auditors Must Be Independent:

- 1) What is the meaning of the Inspector General as an office within the ministry, and how does it function?
- 2) Why is the Inspector General required to be independent? Is it part of his work?
- 3) What are the risks if the Inspector General is not independent, and what are the other characteristics should a good Inspector General have?
- 4) Is it permitted for the Inspector General to borrow inspectors from other departments within the ministry, in order to accomplish certain tasks? Is it OK to send staff to assist another ministry with their tasks?
- 5) Should the Inspector General urge employees to commit to the pledge they signed before their employment, specifically the ones on neutrality and probity.
- 6) Do you have information on the laws and regulations that provide probity and independence in the performance of work? Do you support those laws, or do you think that they hinder your work?
- 7) Should the Inspector General be permitted to use his/her authority to interfere with the decision-making process within ministries?
- 8) What are the tasks performed by the IG in the course of auditing? What are the most common ones?
- 9) Is overlapping authority allowed between IG departments? Do you find that overlapping is required to enhance performance, as long as it isn't random?

The Purpose of the Inspectors General:

- To conduct audits and investigations
- To promote economy, efficiency, and effectiveness

- To identify and prevent waste, fraud, and abuse
- To keep senior management and the minister informed

Auditing is Viewed as Serving Two Alternative Roles:

- Accountability
- Assistance

Ask the class if anyone can tell you the meaning of accountability, as an auditor

Accountability:

Accountability is when auditors report on the performance of a program, activity, or function to an outside party of representatives, the public.

Ask the class if anyone can tell you the meaning of assistance, as an auditor.

Assistance:

Is the role served if auditors report to those responsible for managing the program, activity, or function? Here is where the auditor becomes the eyes and ears of the minister.

Question:

Do you support these two concepts? Do they work out in your office? Are there any rules that clarify these concepts? Do you support new legislation to adopt these concepts, or are the old ones sufficient?

Performance Audits Assist Management by Looking Into:

- Economy
- Efficiency

The audit by the IG office of ministry programs and policies promotes both economy and efficiency. These two areas measure the extent of the benefit and influence of the programs. These two indicators are the basis of work and they should be taken into the calculation when performed work is evaluated. These criteria help prevent waste, negligence, fraud, theft, and bribery, in addition to enhancing work performance within the required specifications. Here under are the definitions of the two terms:

(Students should discuss the difference between the two terms ahead of time)

Economy:

Checking if operation costs are as low as possible.

Efficiency:

Determining if resources are being used in the best possible way.

An audit can determine whether the audited program is acquiring, using and protecting its resources in an economical manner. If it isn't, an audit can identify the causes, as well as whether or not the organization has complied with laws and regulations.

Economy/ efficiency audits may consider whether the entity is

- Following sound procurement practices
- Acquiring the appropriate type, quality, and amount of resources at appropriate cost.
- Properly protecting / maintaining its resource.
- Avoiding duplicating work by employees
- Avoiding overstaffing and employee idleness

Activities Not Compatible With IG Activities

The main activities that should **not** be implemented by the IG are listed below:

- IGs should not make management decisions:

Decision-making concerning management of ministries is not under IG office authority. They can only determine the defects and weak points of performance. The Inspector General must report recommendations and solutions, then implement a follow-up process.

- IGs should not audit their own work

Another important legal issue, with respect to the Inspector General of Iraq, is that they must be removed from the auditing of their own work, because that creates a conflict of interest. As mentioned in order 57, there are various committees from the Iraqi parliament and BSA to monitor the performance of IG offices. The main task of these committees is to supervise, audit and investigate the financial and administrative responsibilities in IG offices.

- IGs do not perform routine clerical functions

It should be noted that IG offices should not do routine clerical functions of the ministry, or assist with financial or administrative issues by lending employees from IG offices to the ministries. The IG office must be independent and separate from administrative matters carried out by the ministry.

Question: What are other things that must **not** be done by the IG office?

More Examples:

1. Promoting sectarianism or partisanship inside the ministry
2. Prosecuting employees. (The IG office is not a policing agency and doesn't have the

right to put people in jail)

3. Interfering in determining the annual budget of the ministry

4. Prevent the staff from registering complaints to the legal committee of the ministry.

Types of Areas That Could Be Audited

- **Cash Management:**

Cash management refers to the cash relationships between the ministry and the banks, as well as the relationship between the ministry and others. This includes how to conduct financial matters, inside and outside the ministry, including whether they were made under the prescribed specifications or not. Was the cash policy of the ministry observed and are there methods to find out any mistakes? Cash management auditing includes loans and grants to the ministry from banks, institutes and donor countries, for example, to find ways to improve work performance.

- **Equipment Accountability:**

Equipment accountability checks that government equipment works properly, is legal and whether or not there is abuse of government property. For example, making sure the cars that belong to the ministry are not used by the families of employees, or to carry goods for private business.

- **Contracting Procedures:**

One of the most important things that should be checked is the documentation, methods and procedures for contracting. This aspect of the contract is complex. The most common cases of corruption involve documentation, large amounts of money and weak monitoring. This can create corrupted and uncontrolled administrators. So this type of surveillance is important. Many cases of manipulation in the process of contracting procedures have been registered like taking some money from clients or contractors to illegally to be awarded contracts from the ministry.

- **Contract Management:**

It is important to check the management contract, which includes a series of stages and processes to be followed during the contract. The contract auditing must include legal and financial parts. Are there cases of manipulation or corruption? Does the management successfully meet the required level?

- **Maintenance Management:**

Maintenance includes the repair and maintenance of ministry equipment, machines and property. It checks if things are used for the longest possible period, and whether the maintenance process meets conditions and regulations set by the ministry.

- Supply Management:

Includes warehouse management, materials and content of their operations and input and the output of the materials and how the matching between these processes, policies and mechanisms of the ministry. It must be emphasized here that monitoring is to check the process of supplying, for goods and material, is done according to the regulations not more and avoid interruption to estimate the type of the material which is not IG office responsibilities.

- Property Management:

This includes checking the physical and intellectual property of the ministry. Physical property means buildings, institutions, furniture, vehicles, communication, equipment... etc. Intellectual property of the ministry means copyright of books or sources for research, as well as documents and information posted on the internet. The purpose of the audit is to identify cases of administrative corruption, theft or misappropriation of property.

- Payroll:

Auditing the methods of payment and spending the salaries must be done according to the regulations of the ministry. Currently the Iraqi Government is facing a dangerous problem which is people registering false names to receive salaries from ministries. This costs the government enormous sums of money.

- Disbursements:

Auditing includes determining how money is spent and whether or not ministries apply their regulations and policies or not. Auditing is to determine if there is manipulation the set budget, to check if there are committees to follow the disbursements process, and if there is documentation of the expenditures. The Inspector General has no right to intervene in estimating the quantity of disbursements, but has the right to audit whether or not the money is spent properly.

Question: What are the most common types of audits, where corruption and manipulation have been detected due to a large number of complaints?

What is an Inspection?

These questions need to be addressed by the students:

Q1. What is the meaning of inspection and evaluation? Is this process a part of your job? Where do you find yourself in this mission? Is it necessary to implement this on occasion, or should it be done continuously? Are there some actions, such as this, that the ministry should discontinue?

Q2. Give some example cases of evaluation. Is this process useful in determining defects, or is it just a routine?

Q3. What are the steps and criteria that should be followed?

Primary Types of Inspections

- To provide factual and analytical information:

The purpose of the evaluation is to build a database. The database should show the nature and process of policies, based on statistics and surveys. It should ensure the safety of operations. Based on analytical information, corrective action and recommendations can be specified to improve performance and management.

- Monitor Compliance:

After gathering analytical information, a report must be made, with full details describing both performance, as well as corrective actions to fix the problems. After that, the second stage is to monitor the range of response by the ministries. This determines whether or not the ministries are serious about adopting these actions. Compliance is a part of the solutions that must be emphasized. It's worth mentioning that a series of operations follows the compliance steps.

- Measure Performance:

Evaluation is a method for measuring performance and efficiency, for a special case and a specific period of time. Comprehensive assessments for the programs and policies must be done through financial and administrative auditing by specialized committees.

Example: A project to build medicine storage for the Ministry of Health. Some anonymous information is collected about the names of people receiving daily wages. In this case, a quick analysis must be done to substantiate the accuracy of this information. This is followed by a visit to the site, and a request for a list of workers that are currently working. After that, there is a comparison of the information, including daily details of the work. This can identify if there is something wrong with the program, and

if so, recommend corrective action for the future. This case is a real example, where the evaluation targeted a special case, in a limited time.

- Identify Best Practices:

After the collection of analytical information, and the diagnosis for corrective actions have been made, what must be avoided is subsequent action that is inappropriate. It is important to specify the future policies that must be adopted, keeping in mind the time factor, and to study specific examples, to identify good practices.

Example: Based on information from the parents of students, an evaluation must be done to assess the performance of teachers in schools. This is to see if private lessons are being given in mathematics, with the intention of privately benefitting a few students. In this case, the IG office must send inspectors to visit the schools, in order to study the issue of private instruction. For example, what are the reasons a teacher has chosen this path, which is illegal. After checking the accuracy of the information, a report must be made, specifying any wrong actions that may have been carried out by teachers, or even the students themselves

Here, the purpose of the inspection is to identify problems, and then improve performance by providing solutions. In the previous example, sessions for students were started during the holidays, for the purpose of increasing student skill and comprehension. Because of the recommendations, there may also be an increase in the payroll of the teachers.

The evaluation is implemented in two ways:

- Without informing to the institute that must be evaluated ahead of time: Surprise site visits are possible. In order to know the extent of achievement during this phase, a quick survey is conducted and information collected. For example, Trading Ministry stores can be assessed to see if things are done in accordance with the conditions and regulations of the ministry.

- Have prior knowledge of the evaluation: This type of evaluation is done with the knowledge of the institution, in order to monitor its performance. It is part of a series of periodic surveillance that must be implemented by the IG office.

- Conduct Special Studies:

This is part of the evaluation. The study must include a particular topic, then verify if there are defects in the performance of this subject.

What is an Investigation?

Investigation:

- An investigation is an official inquiry into an allegation of misconduct.
- Allegations can be received from hotlines, a walk-in, or from the CPI

Investigation is one of the main tasks carried out by the IG offices. It determines corruption cases, as classified by Iraqi Civil Law. This includes bribery, embezzlement, theft, wasting public money and other actions which have a direct, adverse impact on ministry operations. An investigation looks into allegations from an employee or citizen, to ensure that the ministry is free from administrative corruption.

The investigative stage begins when a complaint is registered via hotline, or the IG's office directly. The IG's office then carries out an analysis to examine the accuracy of these complaints, before starting the second stage, which is an official investigation. The second stage may require subpoena access documents, in order to determine the cases of theft, bribery and other problems. That could be a for the purpose of lifting recommendations and punishing the delinquents.

Example: Receiving an allegation that the cars of the Interior Ministry are registered as scrap, while selling their parts outside the ministry. Many employees are allegedly involved in the case. How do you gather information to start the investigative process, call witnesses, examine documents and then forward recommendations to the decision-makers about the case? What are the corrective actions that should be adopted?

It's necessary for independent economists and financial experts to be part of the investigation at certain stages.

Levels of Investigations:

- Informal investigation, if warranted, may move to the next level. Subsequent to initial fact-gathering, a determination needs to be made if the allegations meet threshold that triggers a formal investigation.

An informal investigation is the first step in the investigation process. It's necessary to support the allegation made by a citizen or ministry employee. An analysis is made to assess the credibility and the priority of the allegation. This task must be done by the Hot Line Department, which is an independent department inside the IG office. This office has the authority to decide which cases are the most important, and which ones to disregard.

Example: The Hot Line Department of each ministry receives 200 allegations a day through the land telephone, 100 through e-mail and 50 through direct complaints. It is impossible to move a case to the Investigation Department, unless it has been determined that the case is a priority. This is to avoid time, cost and potential waste. The IG may receive complaints about an employee taking a bottle of water or a pen home. These allegations may be neglected, in order to focus on other, more serious complaints, such as grand corruption. When something like grand corruption occurs, it needs to be detected immediately.

- **Formal Investigation**
After identifying an issue of waste, fraud or abuse, the IG's office may expand its review to include expanded interviews and/or detailed examination of data records to draw conclusions.

We can regard this as the second part of the investigation process. It is based on the first part and includes actions taken by the investigator in order to identify corruption, and specify the suspects. The tasks may require access to documents that are used in the crime, subpoenas of the witnesses, visits to crime venues and a meeting with the employees there. All these tasks must be carried out by a legal, financial and professional staff, due to the importance of this process. The next step is to issue a detailed recommendation about the case, as well as how to deal with the offenders, according to Iraqi Civil Law.

Steps in an Investigation:

- **Receive and document IG complaint:**

The hotline is authorized to receive and document complaints that come in via telephone, fax or direct allegation, for the purpose of starting the investigation process.
- **Analyze issues and allegations:**

After determining the allegations are important and from a reliable source, the analyzing process must begin. It is based on evidence and witnesses, and according to the priorities approved by the Inspector General.
- **Identify elements of allegations**

The elements of the allegation are important in determining whether or not to start an investigation. The informer must be reliable, with a sense of patriotism. They must not be acting out of hatred and resentment, or have an involvement with the corruption case at hand.
 - Who?
 - What do they do?

- What policies, rules, and procedures are applied?
- What is the law or the applied criteria in the process of investigation? Are the applications of financial and legal rules and regulations correct? Is the investigation based on fear? Is the IG office a police office, with the goals of putting ministry employees in jail?

Make a Plan:

Many steps should be followed in order to have success. Making a plan is one of these steps. The plan, which is the compressive framework for the tasks and achievements of the IG office, must be determined by time and location, and provided to any project inside the institute.

- Determine resources:

This means estimating and determining the resources required to achieve the project. It must provide human resources to form the departments of auditing, evaluation, investigation, as well as the Hotline Department inside the IG office. Financial resources must also be provided to facilitate programs related to the IG office. All these resources must be given according to need. There should be enough to complete the tasks well, while avoiding problems due to inaccurate resource estimation. These estimations must be based, as we mentioned, on the needs and tasks of a split budget. This situation doesn't currently exist. The IG office shouldn't share a budget with the ministry. It's worth noting that among the most important recommendations raised to the Iraqi parliament is to revise the order related to the budget. The intention is to assign a separate budget to each IG office, allowing it to do its tasks independently.

Example: The IG office in the Ministry of Oil has to determine the number of employees that are required for the departments of auditing, evaluation, investigation and hotline. Depending on the cases of administrative corruption, an increase in these cases may lead to an increase in the number of staff, with a high budget to monitor and evaluate the process. These resources vary from ministry to ministry.

- Identify experts, if needed:

As part of the IG office's plan, a budget will be developed that allows the IG to hire local experts, specializing in law, management and the economy. The idea is to utilize their auditing and investigative experience. Contracts may be for short-term, with wages

Example: The IG office may need to hire local investigation experts and, for a period of time, a specialist in supply management to investigate grand corruption cases. Potentially, many employees are involved. The IG office, in this case, has the authority to hire independent experts who are not influenced by any ministry.

- Is there travel involved?

The plan must also include the expenditures, modes and places of travel required to achieve IG tasks. Experts must be sent to places where corruption (e.g. bribery, embezzlement, public money waste) exist, in order to meet with employees and witnesses. The budget must ensure these expenditures.

Example: Corruption is found in the Ministry of Oil- Basra Marketing Directorate. It is related to the smuggling of products through the Iraqi border to the adjacent countries. The IG office in this case must assign investigators to look into the smuggling cases, then submit a detailed report to the minister.

■ Determine a timeline:

The plan must be determined by the timeline of the monitoring process. The timeline is an important factor in the success of any program of the IG office. Without correctly determining this factor, the plan may not succeed.

Example: There is smuggling of food items from the Ministry of Trade warehouse, so a time must be set to:

1. Subpoena witnesses, access the documents and gather information from employees.
2. Report the recommendation and the corrective actions.
3. Follow up the recommendations in both cases of approval and disapproval. Ultimately, the time factor is necessary in making a finding.

■ Determine if subpoenas are required :

Subpoenas and the ways to do that are necessary to be determined and must be included in the set plan because it's a part of IG office's tasks and to complete investigation process. To get useful information, the law authorizes the IG office to subpoena witnesses from in and outside the ministry, even if they are in high positions.

Gather, Analyze and Protect Evidence:

With the issue of proving administrative corruption cases, various information, witnesses and/or documents are used. Much information is analyzed for the purpose of finding causes that led to the commission of administrative corruption. This evidence must be protected until the completion of the investigation. The collection of evidence may be through the following methods:

■ Interview witnesses:

It is the prerogative of the Office of the Inspector General to summon government employees, regardless of their rank, for the purpose of getting information concerning the case. The witness enjoys full immunity.

■ Collect documents:

Another power given to the Office of the Inspector General is the access to all documents, records and financial assets for the purpose of completing an investigation. This is done while maintaining the confidentiality of the information contained in these sources and non-disclosure of the contents. That is in order to avoid harming the integrity of the process of the investigation.

Example: The arrival of information concerning the procurement of civilian or military aircraft, unfit for use. In spite of the ministry being informed, it is not their task to be the Inspector General. Do the documents found regarding the purchase conform to the laws and regulations of the ministry or not?

■ Collect physical evidence:

Part of the investigation is to collect physical evidence that leads to administrative corruption: fingerprints, tools used in the crime, stolen items, previous crimes, falsified documents or door locks broken for the purpose of later theft. Once tangible evidence points to administrative corruption and how it was committed, that evidence is sufficient to find default and negligence. Preserving the secrecy of the investigation is important during this stage.

■ Consult with the ministry's Legal Department:

After all the actions mentioned above, the case is ready for transmission to the judiciary. Before this process, however, the Legal Office of the Inspector General is consulted. That is for the purpose of auditing the legal process. Is there a legal issue in the investigation process? This is where the legal consultant from the Office of the Inspector General gives his/her views and recommendations on the issue, before transmission to the judiciary. It's worth mentioning that the Legal Office of the Office of Inspector General has the right to examine a decision of the judiciary, and attend trials for the ministry.

Question: What is the role of the Legal Office in the Office of the Inspector General?
Does it have a significant role in cases referred by the Department of Investigation?
Does it have an advice and guidance role after transmission to the court?

Write A Report

A detailed report is written after completion of the investigation processes. The report must be based on the regulation and articles of the law. It should describe the whole case and include all documents, physical evidence and statements of witnesses. The IG office has the authority to recommend closing the case for lack of evidence, or if the allegations are illusory or based solely on hatred or partisanship. The accused has the right to appeal to the legal council of the ministry if he/she feels the allegations are unconvincing. He/she also has the right to know the result of the grievance before bringing the case to court.

■ Substantiate or not substantiate allegations:

The report that must be submitted contains information that either certifies the allegations which initiated the investigation, or state that the allegations were not proven, thus closing the issue. The IG Office has the authority to determine which allegations have priority with respect to starting an investigation.

■ Recommendations:

Recommendations are part of the reports. The reports are supposed to reach the ministers for the purpose of correcting mistakes through corrective actions, which will in turn reduce the spread of administrative corruption. The recommendations are not binding for the minister, but the IG recommendations must be followed up. In cases where the recommendation is accepted, the resulting consequences should be known. In cases where the recommendations were rejected, a query must be made about the reason for rejection by the minister or general managers, and whether the rejection was a result of logical reasoning. The IG can also inform the Parliament, the Prime Minister, Cabinet and its Legal Council, as well as the CPI. It may explain the reason for the rejection of recommendations, and suggest other solutions.

Conclude the Case:

This is the final step in the investigation process and refers to completion of the case. The ministry will have two choices: either work on the case or reject the recommendations. One way or the other, concluding the case is important for the IG office.

Typical Allegations

The most common types of allegations are received by the hotline, and other methods of communication:

- Misuse of resources:

Resources can be categorized into two types: financial resources and human resources. Misuse leads to damage, so allegations or complaints regarding resources are of great importance.

Example: A large number of laborers are hired for a project, more than originally planned. This is for the purpose of helping relatives, or getting money from the hired workers. It is a misuse of resources, and a waste of government money.

- False claims:

This comes from a complaint from a citizen or employee. It is motivated by hatred, hypocrisy, poor relationships among staff members, or between an employee and a citizen for the purpose of getting rid of an employee. These types of allegations should be ignored because they are a waste of time and effort.

- Time and attendance:

Allegations about staff attendance must be done in accordance with specific laws of the ministry. There are typical cases, such as repetitive employee absence without the knowledge and/or consent of the ministry. The absent are still paid, which means that there is something wrong in the process. These types of allegations must be given high importance.

- Abuse of authority

These are allegations regarding employees who abuse their authority, or personally benefit by soliciting bribes to receive their services.

Example: Officers in a police station using their power illegally to provide services to citizens for money, such as transit from one place to another through checkpoints. They may also ignore violations of the law committed by citizens that have paid them.

- Conflict of interest:

These allegations concern persons whose work illegally conflicts with their personal interests. For example, they may award a contract to their own company, or a partner. Another example is an employee that is responsible for evaluating bid offers, who improperly assesses the offers of his/her relatives or buys materials from shops belonging to relatives.

- Travel impropriety:

These are allegations about sending personnel to training outside the country to represent the ministry. In this case, the people were nominated based because of nepotism, not because of their competence.

Example: Sending staff of the ministry for courses on electronic networks, but nominating members who don't specialize in this field. They may be from different departments of the ministry, but not the IT department. The trip is inappropriate because it is not in line with the objectives of the organization.

- Preferential treatment in hiring:

Allegations from the hotline state that some employees have been recruited based on religious or sectarian reasons inside the ministry, not on merit, education level, experience or efficiency. Ministries indicate that thousands of employees were not hired due to preferential treatment toward specific religious sects.

- Procurement issues:

These are allegations that goods have been purchased that are not compliant with the specifications listed in ministry regulations. Also, perhaps the purchasing has been done individually, without a committee. These are violations, but the IG office is not allowed to intervene. Determining the quantity and quality of the purchased material is not their responsibility. There are special committees inside the ministry responsible for these things. The IG's job is to check whether the purchasing is done according to regulations.

- Overpayment:

This refers to the amounts paid by the state, via checks or cash. As a result of weak monitoring or misuse of power, illegal amounts have been given to undeserving government employees or citizens. Employees may be tempted to accept bribes, in order ensure that their transactions are easier and faster.

Example: What happens in a bank when employees try to collect bribes to cash amounts of money? If the client is willing to pay a bribe, what motivates the bank employee not to do this as a routine part of their job?

- Product substitution:

This is where materials and properties of the ministry are replaced with different materials or properties of less quality and efficiency. The substituted products don't conform to specifications set by the ministry, but certain individuals profit from the difference in price. These certain individuals may include the suppliers or the employees. Many ministries in Iraq are unable to reduce this kind of corruption, which costs the budget an enormous amount of money.

Example: The person responsible for a ministry warehouse replaces, without the knowledge of the ministry, all the computers, furniture and coolers with different, cheaper, low-quality ones. This is done for selfish reasons, such as illegal profit.

- Bid rigging:

This when an employee discloses information about the bidding of a contract to provide computers, vehicles and furniture for the ministry. The reason for this is to gain illegal benefits. The employees of a bidding department can manipulate the conditions and articles of a bid to be beneficial to a particular contractor, as well as to him/herself. Iraqi ministries are susceptible to these kinds of cases.

Example: For a contract to supply agricultural equipment, an employee who has a responsible position manipulates the type and number of equipment. The substituted

product is less efficient and doesn't match the terms of the ministry contract. This is done to illegally benefit from the price difference.

Making the Iraqi Inspectors General A Positive Influence

Developing Efficient Working Relationships:

Something that must be taken into consideration is the network between government institutions and the offices of the Inspector General. On one hand, there must be separation between the IG offices and the legislative and executive authorities. On the other hand, it is part of the IG mission to develop these relationships as a way of improving performance. Partnerships and networks mean the sharing of policies and programs for surveillance, improving performance, initiating or legislating laws, and professional training courses for the governmental employees. All these areas will improve performance, create highly capable employees and build constructive relations.

- Management involvement:

The IG must not be misunderstood as someone that has the authority to interfere with the tasks and missions of a ministry. The IG office must not impede ministry work or make the ministry waste time and/or effort. The role of the IG is to make a positive intervention, to make management more efficient and to ensure a transparent, efficient ministry. Management is an important part of applying the laws, programs and policies of the ministries. It includes two types: administration management and financial management. The IG's office has to improve performance in these areas by using ongoing monitoring. It also needs to train employees about strategic planning and institutional assessment, budgets, and financial and leadership efficiency. These are the administrative functions that ensure good management of a ministry.

- Awareness of management's priorities:

The IG office must be aware of programs and policies inside the ministries, as well as administration priorities that must be developed. The management priorities are contract management, institutional assessment and strategic planning.

- Extensive and open communication

Solid relationships with the staff of a ministry must be built to specify the needs of the ministry, access information and exchange ideas and experiences. Extensive, open relationships help complete the work more easily, and the IG must be a useful, available resource about how to apply the law correctly.

- Seek agreement on audit approach:

The auditing approaches that are used to monitoring performance must be consistent with the ministry's policies and laws. If these approaches don't match, new ones must be developed.

Example: Are the approaches used in auditing a ministry compatible with the ministry's policies? Do these approaches work to keep the Ministry's public money safe from fraud and waste? If the approaches are not successful in monitoring administrative performance, these approaches are not appropriate and must be revamped, in order to reduce the risk of corruption.

Example: To implement international auditing standards, hire international experts to deliver staff training inside the agencies.

- Obtain management input on recommendations:

The Inspector General must be in contact with the administrative departments of the ministry. They must actively involve them by sharing recommendations that will be reported to the minister and DGs. The IG must know the needs of these sections, as well as their proposed ideas for developing the work. Recommendations may be based on these ideas.

Example: The Office of the Inspector General makes a special report on the performance of the ministry's Human Resource Department. This report must include relevant recommendations and opinions.

GLOSSARY OF TERMS

Term	Definition
Code of Ethics	A set of standards of honesty, objectivity, diligence and loyalty. Rules, guidelines and values that govern ethical business behavior in a company, profession, or organization regarding its employees, interactions among the employees, and interactions between the employees and the general public
Accountability	Individual or departmental responsibility to perform a certain function. Accountability may be dictated or implied by law, regulation, or agreement. For example, an auditor will be held accountable to financial statement users, relying on the audited financial statements, for failure to uncover corporate fraud.
Monopoly	A monopoly is a situation in which no competition exists and authority is controlled by one party
Discretion	Discretion is a situation in which there are only a few decision-makers in the government agencies. It leads to authoritarianism and disrespect for the opinion of others.
Asset declaration	Asset declaration is a measure whereby public officials (and sometimes members of the judiciary and the legislature) are required to periodically declare their personal income and wealth for scrutiny by a state authority. It often also includes the income and assets of family members.
Merit-base recruitment	Merit-based recruitment incorporates the principle of equal opportunity, to ensure that the most capable person is selected for a position on the basis of merit. It refers to the right of every individual to be given fair consideration for any job for which they are qualified.
Grand corruption	Government-wide corruption, where the government can set the corruption into law by favoring one group. The state has “seized” the market. For example, a group has written a law or rule that automatically favors one group. It sets a policy that diverts money, work or contracts to a small group.
Appearance of corruption	Where no laws are actually being broken, but they appear to be. Example: At the airport, you wait in line for hours, while some people approach the guard and are let into the gate area immediately.
Access to information law	Knowledge of what government institutions do is fundamental to the power of the people to hold

	government accountable. Information is the prerequisite for effective civil society participation and for monitoring government activities. Free access to information enables citizens, the media and law-enforcement agencies to uncover cases of corruption and maladministration
Evaluation	A process that reviews, studies, or analyzes programs and activities. It provides information for decision-making and to make recommendations for improvements
Auditing	An examination of records, or financial accounts, to check their accuracy. Audit means to go through the process of examining and verifying a company's financial and administrative records and supporting documents.
Allegation	An accusatory statement or report, that may or may not be true.
Conflict of interest	A situation in which someone in a position of trust, such as a lawyer, insurance adjuster, politician, corporate executive, medical research scientist or physician, has competing professional or personal interests. Such competing interests can make it difficult to fulfill his or her duties impartially.
Embezzlement	The act of dishonestly appropriating goods, usually money, by one to whom they have been entrusted. For instance, a clerk or cashier can embezzle money from his or her employer, or a civil servant can embezzle funds from the government. Embezzlement may range from the very minor, involving only small amounts, to the immense, involving large sums and sophisticated schemes.
Job description	A written document that describes the duties, responsibilities and authorities of a particular job. It can also include qualifications and performance standards.
Reform	To make changes for improvement, in order to remove abuse and injustices, and to raise the level of performance for all the categories of the state. Reforms can be political, private, public and/or in the judiciary system.



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Anti-Corruption

Background and Practical Solutions



Expectations



- Provide you with the Anti-Corruption basic terms and definitions so that you can identify corruption
- Learn the theories and solutions for corruption that are being adopted worldwide
- Discuss how the theories apply to everyday situations in government



Agenda for Today

- Work on Individual Awareness
- Discuss ways to improve our areas
- Learn the role of ourselves in the process

Not about finding corruption or pointing fingers



Why are we here?



- Corruption is everywhere
Every part of government has some element of corruption, from education to oil to computers to HR



Applied Ethics



Starting Points:

Religion

Values

Teachings

Examples

All show the path of “right and wrong”



What is Corruption?



- “The abuse of given authority for private gain”
- More than just “stealing and bribery”
- Public Corruption: The abuse of authority by a government person
- Private Corruption: Private citizens – a problem for Iraq, will focus more on the Government today



Basic Definitions



- Transparency
- Responsibility
- Accountability



Basic Definitions



Transparency is the quality of being clear, honest and open. As a principle, transparency implies that civil servants, managers and trustees have a duty to act visibly, predictably and understandably. Sufficient information must be available so that other agencies and the general public can assess whether the relevant procedures are followed, consonant with the given mandate.



- **Responsibility:**

The commitment of every employee to perform the tasks entrusted to him for the purpose of increasing the effectiveness of government institutions.

- **Accountability:**

Is the obligation to demonstrate and take responsibility for performance in light of agreed expectations. There is a difference between responsibility and accountability: responsibility is the obligation to act; accountability is the obligation to answer for an action.



Causes of Corruption #1



- History

Leftover attitudes from a previous time

A centrally-planned government is more prone to corruption because one person or a small group makes all the decisions, often in secret



Causes of Corruption #2



- Low Risk – High Reward
Corruption exists on the individual level when there is a “low level of risk and a high level of reward”
- Without laws and systems in place to catch and punish criminals fairly
- When large amounts of money are present



Causes of Corruption #3



- Corruption also happens when there is no competency and the decision is taken by a few decision-makers without any sets of rules or oversight.



Discussion #1



- Apart from History and Opportunity, what other causes of corruption can you identify?



Internationally Recognized Solutions



1. Political Accountability
2. Stronger Citizen Groups
3. Strong Private Sector (Competition)
4. Restraints on Power
5. Informed and Aware Public Sector



Institutional Restraints:

- Independent and Effective Judiciary
- Legislative Oversight
- Independent Prosecution , Enforcement

Political Accountability

- Political Competition
- Transparency in Party Financing
- Disclosure of Parliament votes
- Asset Declaration
- Conflict of Interest Rules

Anti-Corruption

Civil Society Participation

- Freedom of Information
- Public Hearings of Laws
- Role of Media/NGOs

Public Sector Management

- Meritoric Civil Service
- Adequate Pay
- Monetized Wages
- Service Delivery
- Decentralization with Accountability

Competitive Private Sector

- Economic Policy Reform
- Competitive Monopolies
- Regulatory Simplification for Entry
- Transparency in Corporate Governance
- Collective Business Associations



Political Accountability

- Political Competition
- Transparency in Party Financing
- Disclosure of Parliament votes
- Asset Declaration
- Conflict of Interest Rules



Institutional Restraints

- **Independent and Effective Judiciary**
- **Legislative Oversight**
- **Independent Prosecution**
- **Independent Enforcement**



Civil Society Participation

- **Freedom of Information**
- **Public Hearings of Laws**
- **Role of Media/NGOs**



Competitive Private Sector

- **Economic Policy Reform**
- **Competitive Monopolies**
- **Regulatory Simplification for Entry**
- **Transparency in Corporate Governance**
- **Collective Business Associations**



Public Sector Management

- **Meritoric Civil Service**
- **Adequate Pay**
- **Monetized Wages**
- **Service Delivery**



How is the Public Sector Responsible?



Individual Corruption

- Bad examples from predecessors
- Bad people
- Bad training - Ignorance
- Opportunity: Low Risk of punishment and High Reward

Institutional Corruption

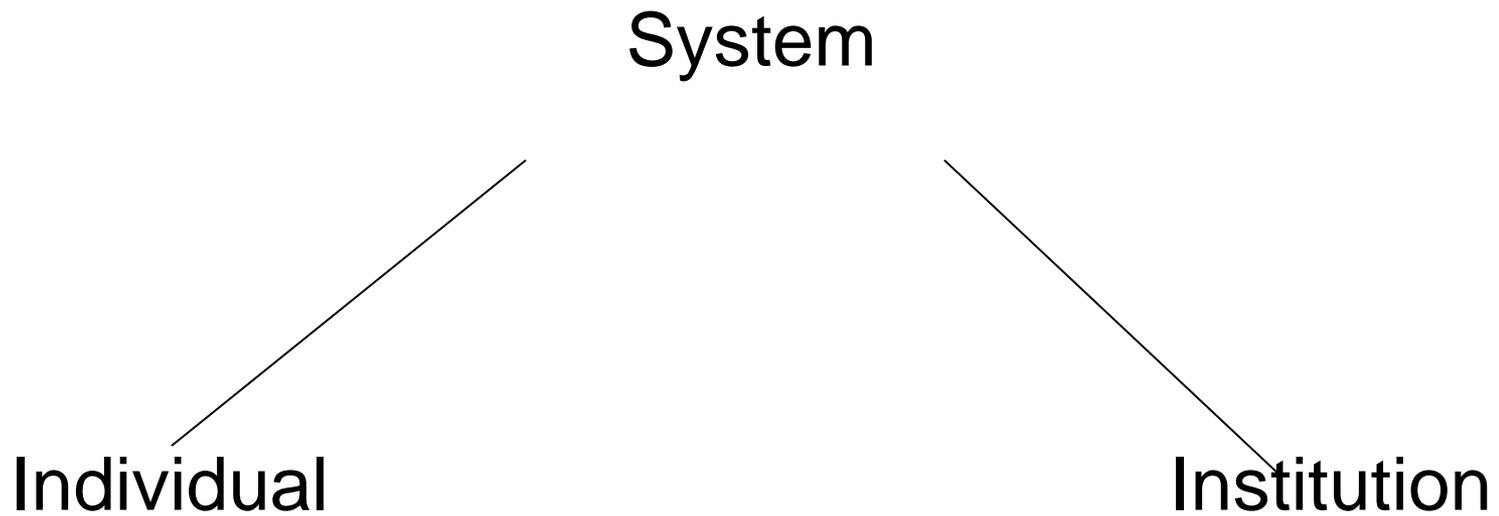
- Poor rules or procedures:
- No rules to prevent corruption
- Complex procedures that breed corruption
- No controls of individuals

Systemic Corruption

- Poor relationships between groups and individuals
- Poor relationship between Individuals
- The system has faults in reporting, laws or rules
- The system has been corrupted from above



Fixing one leg will not solve anything: These parts must work together





Practical Solutions for Individuals



- Know the rules
- Be able to identify corruption and “close-calls”
- Know who to talk to in Iraq



Discussion #2



- What other things might a government employee do to tackle corruption?



Identifying Corruption



- In our effort to identify and tackle corruption, we should know it when we see it
- Too often, “corruption” is misidentified or wrongly labeled
- Often we say “corruption” against people or things we do not like.
- Iraq’s Laws on Corruption



Types of Corruption



- A. Grand Corruption
- B. Administrative Corruption
- C. Appearance of Corruption
- D. Criminal Corruption



A. Grand Corruption: Definition



- Government-wide corruption
- Takes place at the policy formulation end of politics. It refers not so much to the amount of money involved as to the level at which it occurs - where policies and rules may be unjustly influenced
- The state has “seized” the market
- Sets a policy that diverts money, work or contracts to a small group



B. Administrative Corruption Types



1. Unauthorized Sale of Government Property
2. Misuse of Office
4. Bribery
5. Unauthorized Disclosure



C. Appearance of Corruption



- When there is no law-breaking
- Example: “At the airport, you wait in line for hours while some people approach the guard and are let into the gate area immediately”



Discussion #3



- Why is the appearance of corruption harmful?



C. Appearance of Corruption Types



1. Special Treatment
2. Conflict of Interest
 - Self-Dealing
 - Two Hats
 - Friends or Family
3. Graft
4. Favoritism
 - Nepotism
 - Cronyism
 - Patronage



D. Criminal Corruption



- Definition: Corruption that is illegal even outside the government sector. Actions that society through history has agreed that is wrong.
 1. Theft
 2. Embezzlement
 3. “Color of Law”



Discussion #4



Is there any other type of corruption that you can think of? What category should they be in?



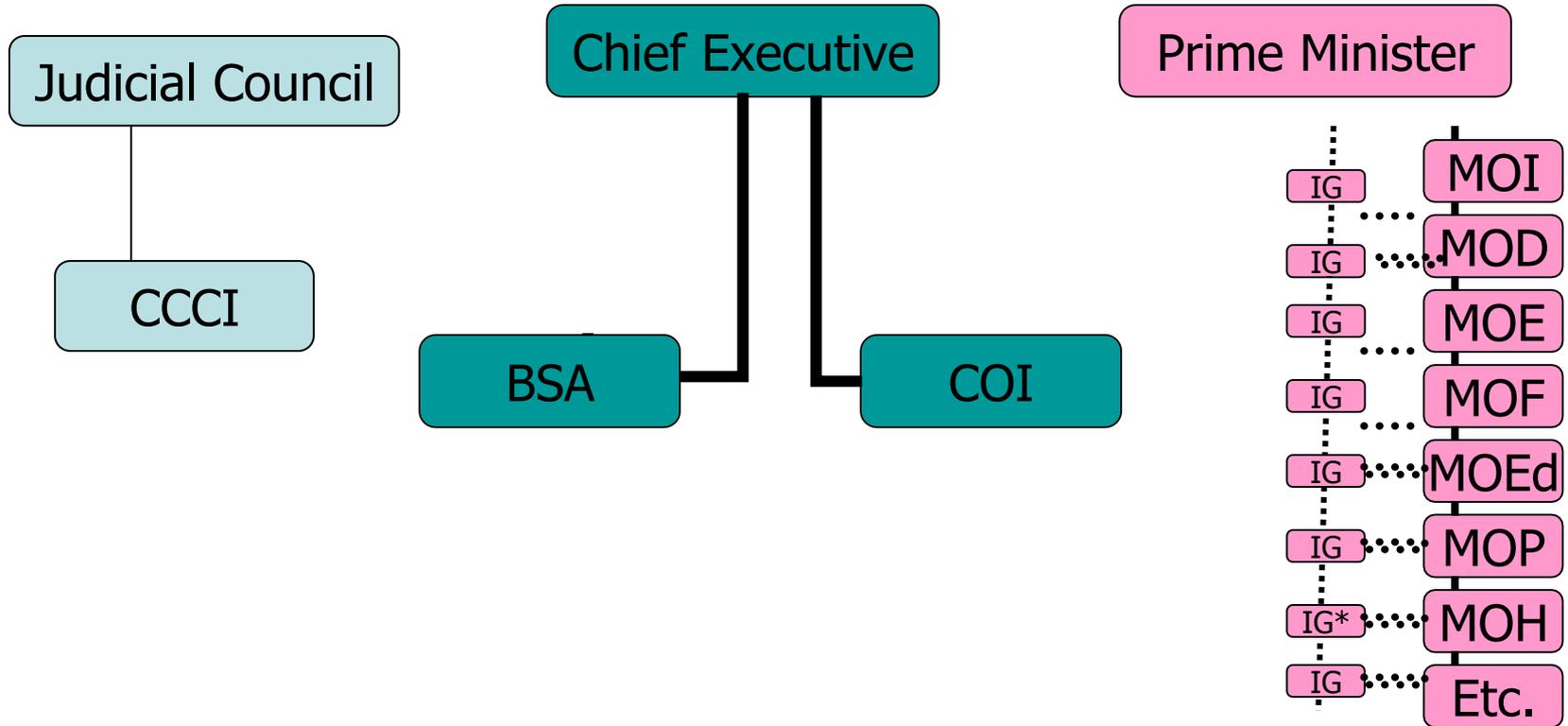
Who to Talk To?



- Iraq's Anti-Corruption System
 - IG
 - BSA
 - COI
 - NGOs

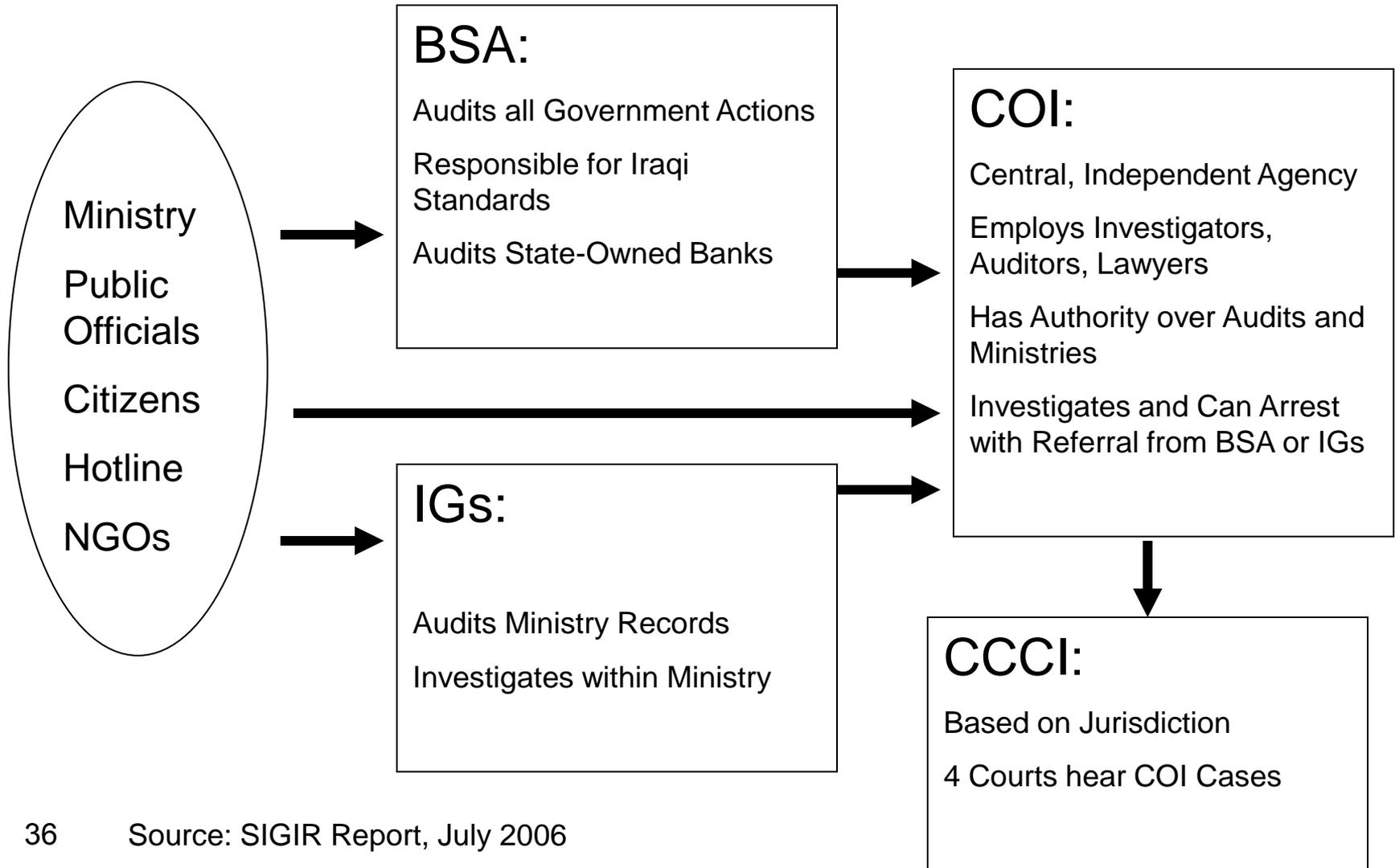


Iraqi Government A-C Structure





Process Flow





What the Laws Should Do



Laws that contribute to anti-corruption policies may comprise those that:

- Criminalize corrupt activities
- Enable tracing, seizure, freezing and forfeiture of illicit earnings from corruption
- Require public officials to regularly declare assets
- Identify, prevent or resolve conflicts of interests
- Protect whistle-blowers
- Improve access to information (allowing citizens to obtain information from the state)
- Regulate implementation of constitutional right of freedom of expression and association
- Define basic principles for decision-making in public administration (objectivity, impartiality, equality, obligation to justification, right to appeal)
- Enhance transparency in public procurement



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New Inspectors General Training Symposium



Inspectors General Concepts



- What is the mission and role of an Inspector General?
 - ◆ Identify waste, fraud, abuse, and inefficiency in their ministry's programs
 - ◆ Report their findings and recommendations to their ministry, legislative body, and the public



Inspectors General Concepts



- How do Inspectors General carry out this mission?
 - ◆ Conduct audits, investigations, inspections and evaluations of the ministry's programs
 - ◆ Review existing or proposed laws and regulations relating to their ministry's programs and operations
 - ◆ Inform the ministry of program-related problems and the progress of corrective actions



Inspectors General Concepts



- Responsibilities
 - ◆ Audit all records and activities of the ministry
 - ◆ Conduct administrative investigations within the ministry
 - ◆ Receive and access complaints of waste, fraud, mismanagement, and abuse of power
 - ◆ Conduct follow-up inquiries to assure adequacy of corrective actions



Inspectors General Concepts



- **Responsibility** (continued)
 - ◆ Provide evidence of criminal acts to appropriate authorities
 - ◆ Review legislation, rules, policies, and training programs to ensure they are designed to prevent fraud and abuse
 - ◆ Recommend non-binding remedial actions to the minister
 - ◆ Train the ministry's employees in prevention of fraud, and
 - ◆ Cooperate with the Commission on Public Integrity and the courts



Inspectors General Concepts



- CPA #57 establishes the Iraqi Inspector General (IG) System
 - ◆ Each ministry will have an Office of Inspector General
 - IGs are appointed by the Prime Minister, with an opinion on qualifications by CPI
 - IGs report to the ministry
 - IGs must report allegations of corruption by the minister to the Commission on Public Integrity
 - Removal by the Prime Minister only for cause



Inspectors General Concepts



- Powers Established Within the Offices of the Inspector General
 - ◆ Full and unrestricted access to all offices within the ministry
 - ◆ Authority to subpoena witnesses, obtain documents
 - ◆ Access to the head of any governmental entity, when necessary
 - ◆ Request to the ministry employees to report waste, fraud, mismanagement, and illegal acts



Inspectors General Concepts



- Resource Allocation
 - ◆ Receive from the ministry's annual budget adequate funding resources to accomplish their mission
 - ◆ Establish appropriate levels of responsibility (organizational structure)
 - ◆ Obtain qualified services of subject matter experts to assist in performing selected reviews or studies



Inspectors General Concepts



- Quality Reviews
 - ◆ Audits and Investigative reports are subject to quality assurance reviews by the Board of Supreme Audit every 3 years
 - ◆ Quality reviews are provided to the minister and Governing Council with oversight authority
 - ◆ Quality review reports shall be made available to the public
 - ◆ Quality Reviews provide assurance that audits and investigations are efficient and effective



Inspectors General Concepts



- Maintenance of Records
 - ◆ Audit and Investigative records shall not be made public
 - ◆ Names and identities of complainants shall not be disclosed to the public without consent
 - ◆ Confidentiality of information must be maintained
 - ◆ Protect the privacy of individuals



Inspectors General Concepts



- Additional Activities
 - ◆ Serve as an extension of the minister's eyes, ears, and conscience of the Minister
 - ◆ Independent and objective fact-finder
 - ◆ Opportunity to ensure and improve operational and financial benefits to the ministry
 - ◆ Ability to develop relationships among Inspectors General



Inspectors General Concepts



- Reporting Requirements
 - ◆ Report findings and recommendations
 - ◆ Report potentially criminal investigative issues
 - ◆ Report to the Minister identified issues, abuses, or deficiencies relating to administration of programs and operations
 - ◆ Issue Annual Report to the minister and legislative bodies



Inspectors General Concepts



- Standards
 - ◆ Audits and Investigations must follow generally accepted professional standards
 - Standards provide a framework for conducting high quality products
 - Standards provide professionalism



Inspectors General Concepts



- Question to you:

Why is an Inspector General important to control, waste, abuse and fraud?



Inspectors General Concepts



- Appearance, credibility, and eliminating conflict of interest
- IG's should be free from undue influence at attempts to control
- An IG not only looks at the ministry's policies and procedures, but whether those policies and procedures ensure efficient delivery of services.



- Capabilities, Roles and Principles



Capabilities, Roles and Principles



- WHAT IS AN AUDIT?
- WHAT IS AN INSPECTION?
- WHAT IS AN INVESTIGATION?

Let's discuss each of these roles



Auditing and Evaluation

IG offices



Roles and Responsibilities



- According to order 57, that has been enacted by the CPA, IG offices have established as integrated part to BSA, COI and to be part of the monitoring elements to develop and improve the performance of Iraqi ministries through the responsibilities of auditing, investigation and reporting.
- The concept of auditing and evaluation for the IGOs are quoted from the examples of US and Hong Kong and it's new nascent with responsibility and authorities which are quite different form that are given to BSA and with a new organizational structure as shown in the next slide.



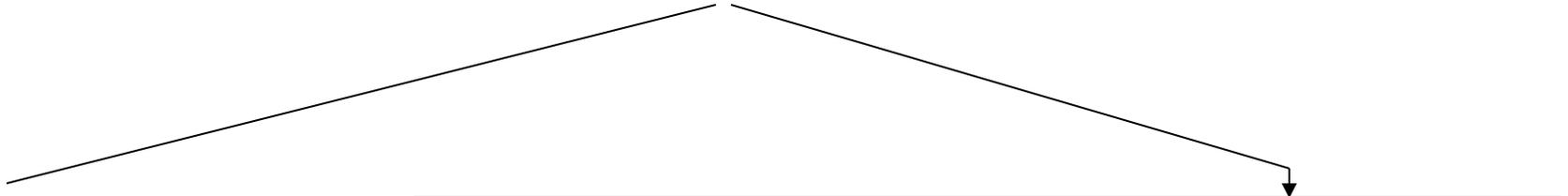
Organization Structure



Inspector General (IG)



**Assistant IG for
Audit and Inspection**



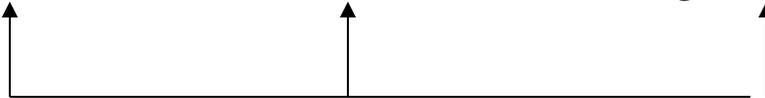
**Director of
Inspection**

Director of Audit

**Director of
Performance**

**Director of Contract
Auditing**

**Director of
Accountancy
and Financial**



Staff of Auditing

**Staff of
Accounting**



Terms and Definitions



- **Audit evidence:** records, statements of fact or other information, which are relevant to the **audit criteria** and verifiable
- Note Audit evidence may be qualitative or quantitative.
- **Audit findings:** results of the evaluation of the collected **audit evidence** against **audit criteria**.



Terms and Definitions



- **Technical expert:** person who provides specific knowledge or expertise to the **audit team**
- NOTE 1 A technical expert does not act as an **auditor** in the audit team.

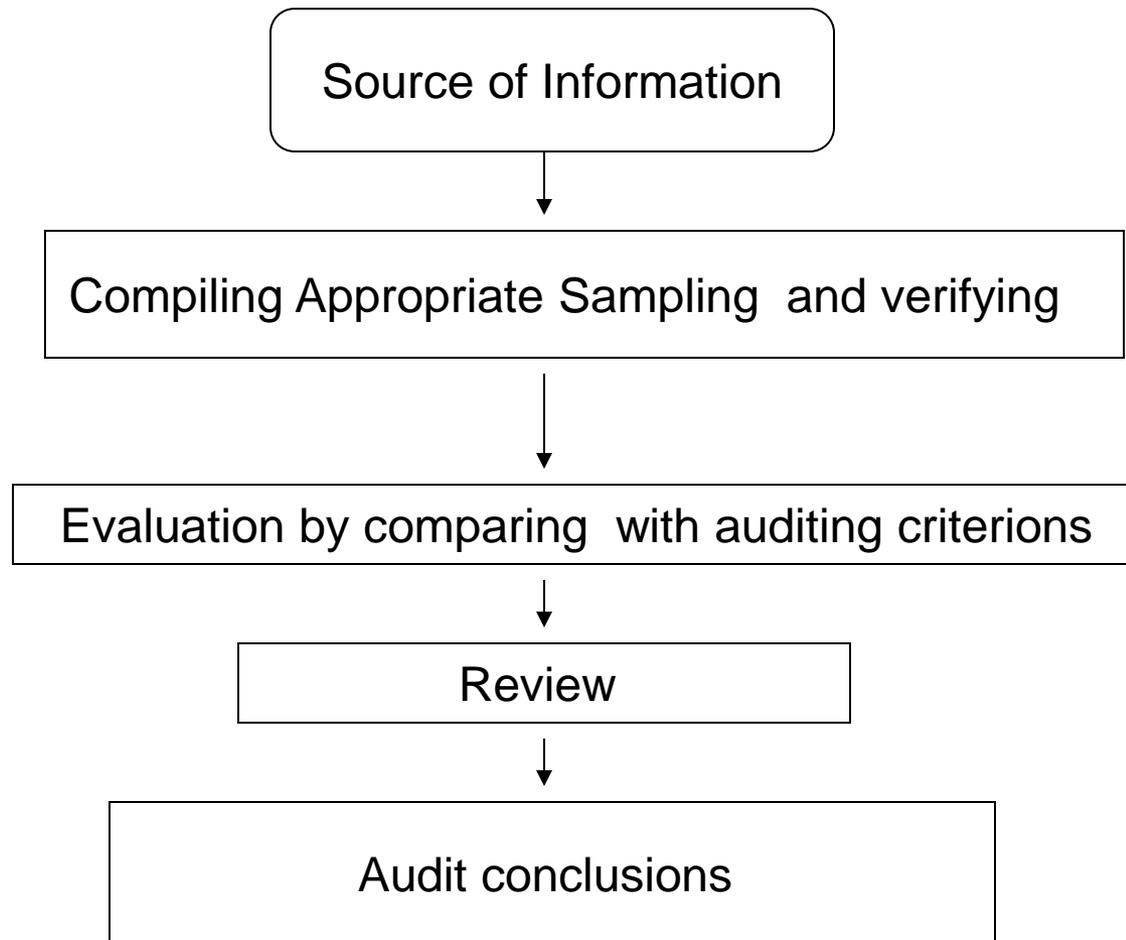
- **Audit program:** set of one or more **audits** planned for a specific time frame and directed towards a specific purpose
- Note An audit program includes all activities necessary for planning, organizing and conducting the audits.



Works to be implemented by auditing team



- Plan to show the tool which audit team work with





Source information to facilitate the mission of auditing team



- **Sources of information**
- The sources of information chosen may vary according to the scope and complexity of the audit and may include
- the following:
 - a) interviews with employees and other persons;
 - b) observations of activities and the surrounding work environment and conditions;



Auditing Types



- Performance auditing
- Programs, quality and production Auditing
- Internal Control Auditing.
- Contract and bidding Auditing.
- Fraud Auditing
- Organizational construction Auditing
- Financial Auditing



Auditing Program Management

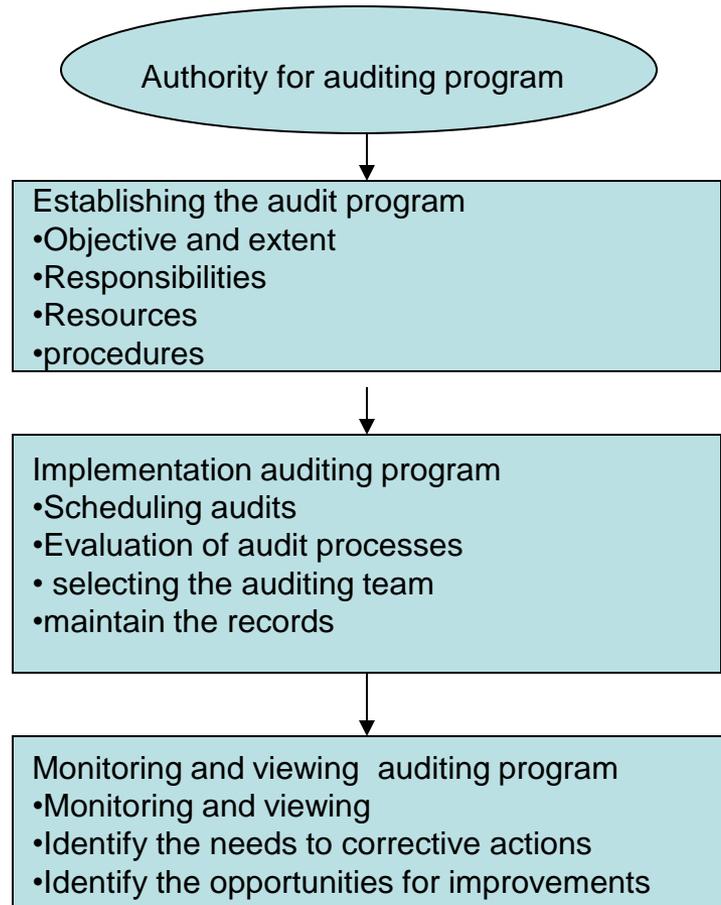


- Establishing an audit program - Plan
- Implementation audit program - Achievement
- Monitoring and viewing auditing program - Check

Next diagram will explain the roles and missions that should be done to achieve the auditing according to the volume, nature and the complexity of the multi-goal institute that will audit.



Auditing Program Management





Audit Activities



- **Initiate the audit**
 - Appointing the audit team leader
 - Defining audit objectives, scope and criteria.
 - Determining the feasibility of the audit
 - Selecting the audit team
 - Establishing initial contact with the auditee
- **Conducting document review**
 - Reviewing relevant management system documents, including records, and determining their adequacy with respect to audit criteria
- **Preparing for the on-site audit activities**
 - Preparing the audit plan
 - Assigning work to audit team
 - Preparing work documents



Audit Activities



- **Conducting on-site audit activities**
- Conducting opening meeting
- Communication during the audit
- Roles and responsibilities of guides and observes
- Collecting and verifying information
- Generating audit findings
- Preparing audit conclusions
- Conducting closing meeting
- **Preparing, approving, and distributing the audit report.**
- Preparing the audit report
- Approving and distributing the audit report
- **Completing the audit**
- **Conducting audit Follow up**



Questions



- What are the goals behind auditing
- Final report of the auditing
- Features of auditors



The auditing goals



- **Defining audit objectives, scope and criteria**
- Within the overall objectives of an audit program, an individual audit should be based on documented
- objectives, scope and criteria.
- The audit objectives define what is to be accomplished by the audit and may include the following:
 - a) determination of the extent of conformity of the auditees' management system, or parts of it, with audit criteria;
 - b) evaluation of the capability of the management system to ensure compliance with statutory, regulatory and
 - contractual requirements;
 - c) Evaluation of the effectiveness of the management system in meeting its specified objectives;
 - d) identification of areas for potential improvement of the management system.



Features of auditor



- The following principles relate to auditors.
- a) **Ethical conduct:** *the foundation of professionalism*
- Trust, integrity, confidentiality and discretion are essential to auditing.
- b) **Fair presentation:** *the obligation to report truthfully and accurately*
- Audit findings, audit conclusions and audit reports reflect truthfully and accurately the audit activities.
- Significant obstacles encountered during the audit and unresolved diverging opinions between the audit team
- and the auditee are reported.
- c) **Due professional care:** *the application of diligence and judgment in auditing*
- Auditors exercise care in accordance with the importance of the task they perform and the confidence placed
- in them by audit clients and other interested parties. Having the necessary competence is an important factor.
- Further principles relate to the audit, which is by definition independent and systematic.



Features of auditor



- ethical, i.e. fair, truthful, sincere, honest and discreet;
- b) open-minded, i.e. willing to consider alternative ideas or points of view;
- c) diplomatic, i.e. tactful in dealing with people;
- d) observant, i.e. actively aware of physical surroundings and activities;
- e) perceptive, i.e. instinctively aware of and able to understand situations;
- f) versatile, i.e. adjusts readily to different situations;
- g) tenacious, i.e. persistent, focused on achieving objectives;
- h) decisive, i.e. reaches timely conclusions based on logical reasoning and analysis; and
- i) self-reliant, i.e. acts and functions independently while interacting effectively with others.



Capabilities, Roles and Principles



- What is an investigation?



Capabilities, Roles and Principles



- An investigation is an official inquiry into an allegation of misconduct.
- Allegations can be received from hotline, walk-in, and from the CPI.



Capabilities, Roles and Principles



- What is an investigation?



Capabilities, Roles and Principles



- An investigation is an official inquiry into an allegation of misconduct.
- Allegations can be received from hotline, walk-in, and from the COI.



Capabilities, Roles and Principles



◆ Levels of investigations

- Informal Investigation, then, if warranted move to next level
- Formal Investigation



Capabilities, Roles and Principles



Steps in an Investigation

- Receive and document IG complaint
- Analyze for issues and allegations
- Identify elements of allegations
 - ◆ Who?
 - ◆ What do they do?
 - ◆ What policies, rules, and procedures are applied?



Capabilities, Roles and Principles



- Make a plan
 - ◆ Determine resources
 - ◆ Identify experts, if needed
 - ◆ Is there travel involved
 - ◆ Determine timeline
 - ◆ Determine if subpoenas are required



Capabilities, Roles and Principles



- Gather, analyze and protect evidence
 - ◆ Interview witnesses
 - ◆ Collect documents
 - ◆ Collect physical evidence
- Consult with Ministry's Legal Department



Capabilities, Roles and Principles



- Write report
 - ◆ Substantiate or not substantiate allegations
 - ◆ Recommendations
- Conclude Case



Capabilities, Roles and Principles



- Possible Sources of IG Complaints
 - ◆ Walk-in
 - ◆ Call-in
 - ◆ Write-in
 - ◆ In the news



Capabilities, Roles and Principles



Typical Allegations

- Misuse of resources
- False claims
- Time and attendance
- Abuse of authority
- Conflict of interest
- Travel impropriety
- Preferential treat in hiring
- Non-compliance with regulations and instructions
- Falsifying official documents.
- Procurement Issues
 - ◆ Overpayments
 - ◆ Product substitution
 - ◆ Bid rigging



Capabilities, Roles and Principles



- How to making the Iraqi Inspector General Office of Positive Influence
 - ◆ Developing Efficient Working Relationships
 - Awareness of management's priorities
 - Extensive and open communication
 - Seek agreement on audit approach
 - Obtain management input on recommendations



Capabilities, Roles and Principles



◆ Developing Standards

- Code of Ethics
 - ◆ Integrity
 - ◆ Independence, Objectivity, Impartiality
 - ◆ Competence
 - ◆ Professional development



Capabilities, Roles and Principles



- ◆ Developing Standards (continued)
 - Auditing and Investigative Standards
 - ◆ General Standards
 - ◆ Field work Standards
 - ◆ Reporting Standards



Capabilities, Roles and Principles



- In Summary
 - ◆ IG Independence is key to success
 - ◆ Audits/inspections assist management in improving operations
 - ◆ Investigations is an official inquiry into possible misconduct
 - ◆ Positive working relationships with your minister and senior management is essential
 - ◆ Standards set the expectations for quality work

United Nations Convention against Corruption

Preamble

The States Parties to this Convention,

Concerned about the seriousness of problems and threats posed by corruption to the stability and security of societies, undermining the institutions and values of democracy, ethical values and justice and jeopardizing sustainable development and the rule of law,

Concerned also about the links between corruption and other forms of crime, in particular organized crime and economic crime, including money-laundering,

Concerned further about cases of corruption that involve vast quantities of assets, which may constitute a substantial proportion of the resources of States, and that threaten the political stability and sustainable development of those States,

Convinced that corruption is no longer a local matter but a transnational phenomenon that affects all societies and economies, making international cooperation to prevent and control it essential,

Convinced also that a comprehensive and multidisciplinary approach is required to prevent and combat corruption effectively,

Convinced further that the availability of technical assistance can play an important role in enhancing the ability of States, including by strengthening capacity and by institution-building, to prevent and combat corruption effectively,

Convinced that the illicit acquisition of personal wealth can be particularly damaging to democratic institutions, national economies and the rule of law,

Determined to prevent, detect and deter in a more effective manner international transfers of illicitly acquired assets and to strengthen international cooperation in asset recovery,

Acknowledging the fundamental principles of due process of law in criminal proceedings and in civil or administrative proceedings to adjudicate property rights,

Bearing in mind that the prevention and eradication of corruption is a responsibility of all States and that they must cooperate with one another, with the support and involvement of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, if their efforts in this area are to be effective,

Bearing also in mind the principles of proper management of public affairs and public property, fairness, responsibility and equality before the law and the need to safeguard integrity and to foster a culture of rejection of corruption,

Commending the work of the Commission on Crime Prevention and Criminal Justice and the United Nations Office on Drugs and Crime in preventing and combating corruption,

Recalling the work carried out by other international and regional organizations in this field, including the activities of the African Union, the Council of Europe, the Customs Cooperation Council (also known as the World Customs Organization), the European Union, the League of Arab States, the Organisation for Economic Cooperation and Development and the Organization of American States,

Taking note with appreciation of multilateral instruments to prevent and combat corruption, including, inter alia, the Inter-American Convention against Corruption, adopted by the Organization of American States on 29 March 1996,¹ the Convention on the Fight against Corruption involving Officials of the European Communities or Officials of Member States of the European Union, adopted by the Council of the European Union on 26 May 1997,² the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, adopted by the Organisation for Economic Cooperation and Development on 21 November 1997,³ the Criminal Law Convention on Corruption, adopted by the Committee of Ministers of the Council of Europe on 27 January 1999,⁴ the Civil Law Convention on Corruption, adopted by the Committee of Ministers of the Council of Europe on 4 November 1999,⁵ and the African Union Convention on Preventing and Combating Corruption, adopted by the Heads of State and Government of the African Union on 12 July 2003,

Welcoming the entry into force on 29 September 2003 of the United Nations Convention against Transnational Organized Crime,⁶

Have agreed as follows:

Chapter I

General provisions

Article 1 *Statement of purpose*

The purposes of this Convention are:

- (a) To promote and strengthen measures to prevent and combat corruption more efficiently and effectively;
- (b) To promote, facilitate and support international cooperation and technical assistance in the prevention of and fight against corruption, including in asset recovery;
- (c) To promote integrity, accountability and proper management of public affairs and public property.

¹ See E/1996/99.

² *Official Journal of the European Communities*, C 195, 25 June 1997.

³ See *Corruption and Integrity Improvement Initiatives in Developing Countries* (United Nations publication, Sales No. E.98.III.B.18).

⁴ Council of Europe, *European Treaty Series*, No. 173.

⁵ *Ibid.*, No. 174.

⁶ General Assembly resolution 55/25, annex I.

Article 2
Use of terms

For the purposes of this Convention:

(a) “Public official” shall mean: (i) any person holding a legislative, executive, administrative or judicial office of a State Party, whether appointed or elected, whether permanent or temporary, whether paid or unpaid, irrespective of that person’s seniority; (ii) any other person who performs a public function, including for a public agency or public enterprise, or provides a public service, as defined in the domestic law of the State Party and as applied in the pertinent area of law of that State Party; (iii) any other person defined as a “public official” in the domestic law of a State Party. However, for the purpose of some specific measures contained in chapter II of this Convention, “public official” may mean any person who performs a public function or provides a public service as defined in the domestic law of the State Party and as applied in the pertinent area of law of that State Party;

(b) “Foreign public official” shall mean any person holding a legislative, executive, administrative or judicial office of a foreign country, whether appointed or elected; and any person exercising a public function for a foreign country, including for a public agency or public enterprise;

(c) “Official of a public international organization” shall mean an international civil servant or any person who is authorized by such an organization to act on behalf of that organization;

(d) “Property” shall mean assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to or interest in such assets;

(e) “Proceeds of crime” shall mean any property derived from or obtained, directly or indirectly, through the commission of an offence;

(f) “Freezing” or “seizure” shall mean temporarily prohibiting the transfer, conversion, disposition or movement of property or temporarily assuming custody or control of property on the basis of an order issued by a court or other competent authority;

(g) “Confiscation”, which includes forfeiture where applicable, shall mean the permanent deprivation of property by order of a court or other competent authority;

(h) “Predicate offence” shall mean any offence as a result of which proceeds have been generated that may become the subject of an offence as defined in article 23 of this Convention;

(i) “Controlled delivery” shall mean the technique of allowing illicit or suspect consignments to pass out of, through or into the territory of one or more States, with the knowledge and under the supervision of their competent authorities, with a view to the investigation of an offence and the identification of persons involved in the commission of the offence.

Article 3
Scope of application

1. This Convention shall apply, in accordance with its terms, to the prevention, investigation and prosecution of corruption and to the freezing, seizure, confiscation and return of the proceeds of offences established in accordance with this Convention.

2. For the purposes of implementing this Convention, it shall not be necessary, except as otherwise stated herein, for the offences set forth in it to result in damage or harm to state property.

Article 4
Protection of sovereignty

1. States Parties shall carry out their obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.

2. Nothing in this Convention shall entitle a State Party to undertake in the territory of another State the exercise of jurisdiction and performance of functions that are reserved exclusively for the authorities of that other State by its domestic law.

Chapter II

Preventive measures

Article 5
Preventive anti-corruption policies and practices

1. Each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability.

2. Each State Party shall endeavour to establish and promote effective practices aimed at the prevention of corruption.

3. Each State Party shall endeavour to periodically evaluate relevant legal instruments and administrative measures with a view to determining their adequacy to prevent and fight corruption.

4. States Parties shall, as appropriate and in accordance with the fundamental principles of their legal system, collaborate with each other and with relevant international and regional organizations in promoting and developing the measures referred to in this article. That collaboration may include participation in international programmes and projects aimed at the prevention of corruption.

Article 6
Preventive anti-corruption body or bodies

1. Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies, as appropriate, that prevent corruption by such means as:

(a) Implementing the policies referred to in article 5 of this Convention and, where appropriate, overseeing and coordinating the implementation of those policies;

(b) Increasing and disseminating knowledge about the prevention of corruption.

2. Each State Party shall grant the body or bodies referred to in paragraph 1 of this article the necessary independence, in accordance with the fundamental principles of its legal system, to enable the body or bodies to carry out its or their functions effectively and free from any undue influence. The necessary material resources and specialized staff, as well as the training that such staff may require to carry out their functions, should be provided.

3. Each State Party shall inform the Secretary-General of the United Nations of the name and address of the authority or authorities that may assist other States Parties in developing and implementing specific measures for the prevention of corruption.

Article 7
Public sector

1. Each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, endeavour to adopt, maintain and strengthen systems for the recruitment, hiring, retention, promotion and retirement of civil servants and, where appropriate, other non-elected public officials:

(a) That are based on principles of efficiency, transparency and objective criteria such as merit, equity and aptitude;

(b) That include adequate procedures for the selection and training of individuals for public positions considered especially vulnerable to corruption and the rotation, where appropriate, of such individuals to other positions;

(c) That promote adequate remuneration and equitable pay scales, taking into account the level of economic development of the State Party;

(d) That promote education and training programmes to enable them to meet the requirements for the correct, honourable and proper performance of public functions and that provide them with specialized and appropriate training to enhance their awareness of the risks of corruption inherent in the performance of their functions. Such programmes may make reference to codes or standards of conduct in applicable areas.

2. Each State Party shall also consider adopting appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to prescribe criteria concerning candidature for and election to public office.

3. Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties.

4. Each State Party shall, in accordance with the fundamental principles of its domestic law, endeavour to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest.

Article 8
Codes of conduct for public officials

1. In order to fight corruption, each State Party shall promote, inter alia, integrity, honesty and responsibility among its public officials, in accordance with the fundamental principles of its legal system.

2. In particular, each State Party shall endeavour to apply, within its own institutional and legal systems, codes or standards of conduct for the correct, honourable and proper performance of public functions.

3. For the purposes of implementing the provisions of this article, each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, take note of the relevant initiatives of regional, interregional and multilateral organizations, such as the International Code of Conduct for Public Officials contained in the annex to General Assembly resolution 51/59 of 12 December 1996.

4. Each State Party shall also consider, in accordance with the fundamental principles of its domestic law, establishing measures and systems to facilitate the reporting by public officials of acts of corruption to appropriate authorities, when such acts come to their notice in the performance of their functions.

5. Each State Party shall endeavour, where appropriate and in accordance with the fundamental principles of its domestic law, to establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials.

6. Each State Party shall consider taking, in accordance with the fundamental principles of its domestic law, disciplinary or other measures against public officials who violate the codes or standards established in accordance with this article.

Article 9
Public procurement and management of public finances

1. Each State Party shall, in accordance with the fundamental principles of its legal system, take the necessary steps to establish appropriate systems of procurement, based on transparency, competition and objective criteria in decision-making, that are effective, inter alia, in preventing corruption. Such systems, which may take into account appropriate threshold values in their application, shall address, inter alia:

(a) The public distribution of information relating to procurement procedures and contracts, including information on invitations to tender and relevant or pertinent information on the award of contracts, allowing potential tenderers sufficient time to prepare and submit their tenders;

(b) The establishment, in advance, of conditions for participation, including selection and award criteria and tendering rules, and their publication;

(c) The use of objective and predetermined criteria for public procurement decisions, in order to facilitate the subsequent verification of the correct application of the rules or procedures;

(d) An effective system of domestic review, including an effective system of appeal, to ensure legal recourse and remedies in the event that the rules or procedures established pursuant to this paragraph are not followed;

(e) Where appropriate, measures to regulate matters regarding personnel responsible for procurement, such as declaration of interest in particular public procurements, screening procedures and training requirements.

2. Each State Party shall, in accordance with the fundamental principles of its legal system, take appropriate measures to promote transparency and accountability in the management of public finances. Such measures shall encompass, inter alia:

(a) Procedures for the adoption of the national budget;

(b) Timely reporting on revenue and expenditure;

(c) A system of accounting and auditing standards and related oversight;

(d) Effective and efficient systems of risk management and internal control; and

(e) Where appropriate, corrective action in the case of failure to comply with the requirements established in this paragraph.

3. Each State Party shall take such civil and administrative measures as may be necessary, in accordance with the fundamental principles of its domestic law, to preserve the integrity of accounting books, records, financial statements or other documents related to public expenditure and revenue and to prevent the falsification of such documents.

Article 10 *Public reporting*

Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes, where appropriate. Such measures may include, inter alia:

(a) Adopting procedures or regulations allowing members of the general public to obtain, where appropriate, information on the organization, functioning and decision-making processes of its public administration and, with due regard for the protection of privacy and personal data, on decisions and legal acts that concern members of the public;

-
- (b) Simplifying administrative procedures, where appropriate, in order to facilitate public access to the competent decision-making authorities; and
 - (c) Publishing information, which may include periodic reports on the risks of corruption in its public administration.

Article 11

Measures relating to the judiciary and prosecution services

1. Bearing in mind the independence of the judiciary and its crucial role in combating corruption, each State Party shall, in accordance with the fundamental principles of its legal system and without prejudice to judicial independence, take measures to strengthen integrity and to prevent opportunities for corruption among members of the judiciary. Such measures may include rules with respect to the conduct of members of the judiciary.
2. Measures to the same effect as those taken pursuant to paragraph 1 of this article may be introduced and applied within the prosecution service in those States Parties where it does not form part of the judiciary but enjoys independence similar to that of the judicial service.

Article 12

Private sector

1. Each State Party shall take measures, in accordance with the fundamental principles of its domestic law, to prevent corruption involving the private sector, enhance accounting and auditing standards in the private sector and, where appropriate, provide effective, proportionate and dissuasive civil, administrative or criminal penalties for failure to comply with such measures.
2. Measures to achieve these ends may include, inter alia:
 - (a) Promoting cooperation between law enforcement agencies and relevant private entities;
 - (b) Promoting the development of standards and procedures designed to safeguard the integrity of relevant private entities, including codes of conduct for the correct, honourable and proper performance of the activities of business and all relevant professions and the prevention of conflicts of interest, and for the promotion of the use of good commercial practices among businesses and in the contractual relations of businesses with the State;
 - (c) Promoting transparency among private entities, including, where appropriate, measures regarding the identity of legal and natural persons involved in the establishment and management of corporate entities;
 - (d) Preventing the misuse of procedures regulating private entities, including procedures regarding subsidies and licences granted by public authorities for commercial activities;
 - (e) Preventing conflicts of interest by imposing restrictions, as appropriate and for a reasonable period of time, on the professional activities of former public officials or on the employment of public officials by the private sector after their resignation or retirement, where such activities or employment relate directly to the functions held or supervised by those public officials during their tenure;

(f) Ensuring that private enterprises, taking into account their structure and size, have sufficient internal auditing controls to assist in preventing and detecting acts of corruption and that the accounts and required financial statements of such private enterprises are subject to appropriate auditing and certification procedures.

3. In order to prevent corruption, each State Party shall take such measures as may be necessary, in accordance with its domestic laws and regulations regarding the maintenance of books and records, financial statement disclosures and accounting and auditing standards, to prohibit the following acts carried out for the purpose of committing any of the offences established in accordance with this Convention:

- (a) The establishment of off-the-books accounts;
- (b) The making of off-the-books or inadequately identified transactions;
- (c) The recording of non-existent expenditure;
- (d) The entry of liabilities with incorrect identification of their objects;
- (e) The use of false documents; and
- (f) The intentional destruction of bookkeeping documents earlier than foreseen by the law.

4. Each State Party shall disallow the tax deductibility of expenses that constitute bribes, the latter being one of the constituent elements of the offences established in accordance with articles 15 and 16 of this Convention and, where appropriate, other expenses incurred in furtherance of corrupt conduct.

Article 13
Participation of society

1. Each State Party shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption. This participation should be strengthened by such measures as:

- (a) Enhancing the transparency of and promoting the contribution of the public to decision-making processes;
- (b) Ensuring that the public has effective access to information;
- (c) Undertaking public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including school and university curricula;
- (d) Respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption. That freedom may be subject to certain restrictions, but these shall only be such as are provided for by law and are necessary:
 - (i) For respect of the rights or reputations of others;

(ii) For the protection of national security or *ordre public* or of public health or morals.

2. Each State Party shall take appropriate measures to ensure that the relevant anti-corruption bodies referred to in this Convention are known to the public and shall provide access to such bodies, where appropriate, for the reporting, including anonymously, of any incidents that may be considered to constitute an offence established in accordance with this Convention.

Article 14

Measures to prevent money-laundering

1. Each State Party shall:

(a) Institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions, including natural or legal persons that provide formal or informal services for the transmission of money or value and, where appropriate, other bodies particularly susceptible to money-laundering, within its competence, in order to deter and detect all forms of money-laundering, which regime shall emphasize requirements for customer and, where appropriate, beneficial owner identification, record-keeping and the reporting of suspicious transactions;

(b) Without prejudice to article 46 of this Convention, ensure that administrative, regulatory, law enforcement and other authorities dedicated to combating money-laundering (including, where appropriate under domestic law, judicial authorities) have the ability to cooperate and exchange information at the national and international levels within the conditions prescribed by its domestic law and, to that end, shall consider the establishment of a financial intelligence unit to serve as a national centre for the collection, analysis and dissemination of information regarding potential money-laundering.

2. States Parties shall consider implementing feasible measures to detect and monitor the movement of cash and appropriate negotiable instruments across their borders, subject to safeguards to ensure proper use of information and without impeding in any way the movement of legitimate capital. Such measures may include a requirement that individuals and businesses report the cross-border transfer of substantial quantities of cash and appropriate negotiable instruments.

3. States Parties shall consider implementing appropriate and feasible measures to require financial institutions, including money remitters:

(a) To include on forms for the electronic transfer of funds and related messages accurate and meaningful information on the originator;

(b) To maintain such information throughout the payment chain; and

(c) To apply enhanced scrutiny to transfers of funds that do not contain complete information on the originator.

4. In establishing a domestic regulatory and supervisory regime under the terms of this article, and without prejudice to any other article of this Convention, States Parties are called upon to use as a guideline the relevant initiatives of regional, interregional and multilateral organizations against money-laundering.

5. States Parties shall endeavour to develop and promote global, regional, subregional and bilateral cooperation among judicial, law enforcement and financial regulatory authorities in order to combat money-laundering.

Chapter III

Criminalization and law enforcement

Article 15

Bribery of national public officials

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) The promise, offering or giving, to a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties;

(b) The solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.

Article 16

Bribery of foreign public officials and officials of public international organizations

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the promise, offering or giving to a foreign public official or an official of a public international organization, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties, in order to obtain or retain business or other undue advantage in relation to the conduct of international business.

2. Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the solicitation or acceptance by a foreign public official or an official of a public international organization, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.

Article 17

Embezzlement, misappropriation or other diversion of property by a public official

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally, the embezzlement, misappropriation or other diversion by a public official for his or her benefit or for the benefit of another person or entity, of any property, public or

private funds or securities or any other thing of value entrusted to the public official by virtue of his or her position.

Article 18
Trading in influence

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) The promise, offering or giving to a public official or any other person, directly or indirectly, of an undue advantage in order that the public official or the person abuse his or her real or supposed influence with a view to obtaining from an administration or public authority of the State Party an undue advantage for the original instigator of the act or for any other person;

(b) The solicitation or acceptance by a public official or any other person, directly or indirectly, of an undue advantage for himself or herself or for another person in order that the public official or the person abuse his or her real or supposed influence with a view to obtaining from an administration or public authority of the State Party an undue advantage.

Article 19
Abuse of functions

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the abuse of functions or position, that is, the performance of or failure to perform an act, in violation of laws, by a public official in the discharge of his or her functions, for the purpose of obtaining an undue advantage for himself or herself or for another person or entity.

Article 20
Illicit enrichment

Subject to its constitution and the fundamental principles of its legal system, each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, illicit enrichment, that is, a significant increase in the assets of a public official that he or she cannot reasonably explain in relation to his or her lawful income.

Article 21
Bribery in the private sector

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally in the course of economic, financial or commercial activities:

(a) The promise, offering or giving, directly or indirectly, of an undue advantage to any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting;

(b) The solicitation or acceptance, directly or indirectly, of an undue advantage by any person who directs or works, in any capacity, for a private sector

entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting.

Article 22

Embezzlement of property in the private sector

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally in the course of economic, financial or commercial activities, embezzlement by a person who directs or works, in any capacity, in a private sector entity of any property, private funds or securities or any other thing of value entrusted to him or her by virtue of his or her position.

Article 23

Laundering of proceeds of crime

1. Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) (i) The conversion or transfer of property, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the predicate offence to evade the legal consequences of his or her action;

(ii) The concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of crime;

(b) Subject to the basic concepts of its legal system:

(i) The acquisition, possession or use of property, knowing, at the time of receipt, that such property is the proceeds of crime;

(ii) Participation in, association with or conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the offences established in accordance with this article.

2. For purposes of implementing or applying paragraph 1 of this article:

(a) Each State Party shall seek to apply paragraph 1 of this article to the widest range of predicate offences;

(b) Each State Party shall include as predicate offences at a minimum a comprehensive range of criminal offences established in accordance with this Convention;

(c) For the purposes of subparagraph (b) above, predicate offences shall include offences committed both within and outside the jurisdiction of the State Party in question. However, offences committed outside the jurisdiction of a State Party shall constitute predicate offences only when the relevant conduct is a criminal offence under the domestic law of the State where it is committed and would be a criminal offence under the domestic law of the State Party implementing or applying this article had it been committed there;

(d) Each State Party shall furnish copies of its laws that give effect to this article and of any subsequent changes to such laws or a description thereof to the Secretary-General of the United Nations;

(e) If required by fundamental principles of the domestic law of a State Party, it may be provided that the offences set forth in paragraph 1 of this article do not apply to the persons who committed the predicate offence.

Article 24
Concealment

Without prejudice to the provisions of article 23 of this Convention, each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally after the commission of any of the offences established in accordance with this Convention without having participated in such offences, the concealment or continued retention of property when the person involved knows that such property is the result of any of the offences established in accordance with this Convention.

Article 25
Obstruction of justice

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) The use of physical force, threats or intimidation or the promise, offering or giving of an undue advantage to induce false testimony or to interfere in the giving of testimony or the production of evidence in a proceeding in relation to the commission of offences established in accordance with this Convention;

(b) The use of physical force, threats or intimidation to interfere with the exercise of official duties by a justice or law enforcement official in relation to the commission of offences established in accordance with this Convention. Nothing in this subparagraph shall prejudice the right of States Parties to have legislation that protects other categories of public official.

Article 26
Liability of legal persons

1. Each State Party shall adopt such measures as may be necessary, consistent with its legal principles, to establish the liability of legal persons for participation in the offences established in accordance with this Convention.

2. Subject to the legal principles of the State Party, the liability of legal persons may be criminal, civil or administrative.

3. Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offences.

4. Each State Party shall, in particular, ensure that legal persons held liable in accordance with this article are subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions.

Article 27
Participation and attempt

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as a criminal offence, in accordance with its domestic law, participation in any capacity such as an accomplice, assistant or instigator in an offence established in accordance with this Convention.

2. Each State Party may adopt such legislative and other measures as may be necessary to establish as a criminal offence, in accordance with its domestic law, any attempt to commit an offence established in accordance with this Convention.

3. Each State Party may adopt such legislative and other measures as may be necessary to establish as a criminal offence, in accordance with its domestic law, the preparation for an offence established in accordance with this Convention.

Article 28
Knowledge, intent and purpose as elements of an offence

Knowledge, intent or purpose required as an element of an offence established in accordance with this Convention may be inferred from objective factual circumstances.

Article 29
Statute of limitations

Each State Party shall, where appropriate, establish under its domestic law a long statute of limitations period in which to commence proceedings for any offence established in accordance with this Convention and establish a longer statute of limitations period or provide for the suspension of the statute of limitations where the alleged offender has evaded the administration of justice.

Article 30
Prosecution, adjudication and sanctions

1. Each State Party shall make the commission of an offence established in accordance with this Convention liable to sanctions that take into account the gravity of that offence.

2. Each State Party shall take such measures as may be necessary to establish or maintain, in accordance with its legal system and constitutional principles, an appropriate balance between any immunities or jurisdictional privileges accorded to its public officials for the performance of their functions and the possibility, when necessary, of effectively investigating, prosecuting and adjudicating offences established in accordance with this Convention.

3. Each State Party shall endeavour to ensure that any discretionary legal powers under its domestic law relating to the prosecution of persons for offences established in accordance with this Convention are exercised to maximize the effectiveness of law enforcement measures in respect of those offences and with due regard to the need to deter the commission of such offences.

4. In the case of offences established in accordance with this Convention, each State Party shall take appropriate measures, in accordance with its domestic

law and with due regard to the rights of the defence, to seek to ensure that conditions imposed in connection with decisions on release pending trial or appeal take into consideration the need to ensure the presence of the defendant at subsequent criminal proceedings.

5. Each State Party shall take into account the gravity of the offences concerned when considering the eventuality of early release or parole of persons convicted of such offences.

6. Each State Party, to the extent consistent with the fundamental principles of its legal system, shall consider establishing procedures through which a public official accused of an offence established in accordance with this Convention may, where appropriate, be removed, suspended or reassigned by the appropriate authority, bearing in mind respect for the principle of the presumption of innocence.

7. Where warranted by the gravity of the offence, each State Party, to the extent consistent with the fundamental principles of its legal system, shall consider establishing procedures for the disqualification, by court order or any other appropriate means, for a period of time determined by its domestic law, of persons convicted of offences established in accordance with this Convention from:

(a) Holding public office; and

(b) Holding office in an enterprise owned in whole or in part by the State.

8. Paragraph 1 of this article shall be without prejudice to the exercise of disciplinary powers by the competent authorities against civil servants.

9. Nothing contained in this Convention shall affect the principle that the description of the offences established in accordance with this Convention and of the applicable legal defences or other legal principles controlling the lawfulness of conduct is reserved to the domestic law of a State Party and that such offences shall be prosecuted and punished in accordance with that law.

10. States Parties shall endeavour to promote the reintegration into society of persons convicted of offences established in accordance with this Convention.

Article 31

Freezing, seizure and confiscation

1. Each State Party shall take, to the greatest extent possible within its domestic legal system, such measures as may be necessary to enable confiscation of:

(a) Proceeds of crime derived from offences established in accordance with this Convention or property the value of which corresponds to that of such proceeds;

(b) Property, equipment or other instrumentalities used in or destined for use in offences established in accordance with this Convention.

2. Each State Party shall take such measures as may be necessary to enable the identification, tracing, freezing or seizure of any item referred to in paragraph 1 of this article for the purpose of eventual confiscation.

3. Each State Party shall adopt, in accordance with its domestic law, such legislative and other measures as may be necessary to regulate the administration by

the competent authorities of frozen, seized or confiscated property covered in paragraphs 1 and 2 of this article.

4. If such proceeds of crime have been transformed or converted, in part or in full, into other property, such property shall be liable to the measures referred to in this article instead of the proceeds.

5. If such proceeds of crime have been intermingled with property acquired from legitimate sources, such property shall, without prejudice to any powers relating to freezing or seizure, be liable to confiscation up to the assessed value of the intermingled proceeds.

6. Income or other benefits derived from such proceeds of crime, from property into which such proceeds of crime have been transformed or converted or from property with which such proceeds of crime have been intermingled shall also be liable to the measures referred to in this article, in the same manner and to the same extent as proceeds of crime.

7. For the purpose of this article and article 55 of this Convention, each State Party shall empower its courts or other competent authorities to order that bank, financial or commercial records be made available or seized. A State Party shall not decline to act under the provisions of this paragraph on the ground of bank secrecy.

8. States Parties may consider the possibility of requiring that an offender demonstrate the lawful origin of such alleged proceeds of crime or other property liable to confiscation, to the extent that such a requirement is consistent with the fundamental principles of their domestic law and with the nature of judicial and other proceedings.

9. The provisions of this article shall not be so construed as to prejudice the rights of bona fide third parties.

10. Nothing contained in this article shall affect the principle that the measures to which it refers shall be defined and implemented in accordance with and subject to the provisions of the domestic law of a State Party.

Article 32

Protection of witnesses, experts and victims

1. Each State Party shall take appropriate measures in accordance with its domestic legal system and within its means to provide effective protection from potential retaliation or intimidation for witnesses and experts who give testimony concerning offences established in accordance with this Convention and, as appropriate, for their relatives and other persons close to them.

2. The measures envisaged in paragraph 1 of this article may include, inter alia, without prejudice to the rights of the defendant, including the right to due process:

(a) Establishing procedures for the physical protection of such persons, such as, to the extent necessary and feasible, relocating them and permitting, where appropriate, non-disclosure or limitations on the disclosure of information concerning the identity and whereabouts of such persons;

(b) Providing evidentiary rules to permit witnesses and experts to give testimony in a manner that ensures the safety of such persons, such as permitting testimony to be given through the use of communications technology such as video or other adequate means.

3. States Parties shall consider entering into agreements or arrangements with other States for the relocation of persons referred to in paragraph 1 of this article.

4. The provisions of this article shall also apply to victims insofar as they are witnesses.

5. Each State Party shall, subject to its domestic law, enable the views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings against offenders in a manner not prejudicial to the rights of the defence.

Article 33

Protection of reporting persons

Each State Party shall consider incorporating into its domestic legal system appropriate measures to provide protection against any unjustified treatment for any person who reports in good faith and on reasonable grounds to the competent authorities any facts concerning offences established in accordance with this Convention.

Article 34

Consequences of acts of corruption

With due regard to the rights of third parties acquired in good faith, each State Party shall take measures, in accordance with the fundamental principles of its domestic law, to address consequences of corruption. In this context, States Parties may consider corruption a relevant factor in legal proceedings to annul or rescind a contract, withdraw a concession or other similar instrument or take any other remedial action.

Article 35

Compensation for damage

Each State Party shall take such measures as may be necessary, in accordance with principles of its domestic law, to ensure that entities or persons who have suffered damage as a result of an act of corruption have the right to initiate legal proceedings against those responsible for that damage in order to obtain compensation.

Article 36

Specialized authorities

Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies or persons specialized in combating corruption through law enforcement. Such body or bodies or persons shall be granted the necessary independence, in accordance with the fundamental principles of the legal system of the State Party, to be able to carry out their

functions effectively and without any undue influence. Such persons or staff of such body or bodies should have the appropriate training and resources to carry out their tasks.

Article 37

Cooperation with law enforcement authorities

1. Each State Party shall take appropriate measures to encourage persons who participate or who have participated in the commission of an offence established in accordance with this Convention to supply information useful to competent authorities for investigative and evidentiary purposes and to provide factual, specific help to competent authorities that may contribute to depriving offenders of the proceeds of crime and to recovering such proceeds.

2. Each State Party shall consider providing for the possibility, in appropriate cases, of mitigating punishment of an accused person who provides substantial cooperation in the investigation or prosecution of an offence established in accordance with this Convention.

3. Each State Party shall consider providing for the possibility, in accordance with fundamental principles of its domestic law, of granting immunity from prosecution to a person who provides substantial cooperation in the investigation or prosecution of an offence established in accordance with this Convention.

4. Protection of such persons shall be, *mutatis mutandis*, as provided for in article 32 of this Convention.

5. Where a person referred to in paragraph 1 of this article located in one State Party can provide substantial cooperation to the competent authorities of another State Party, the States Parties concerned may consider entering into agreements or arrangements, in accordance with their domestic law, concerning the potential provision by the other State Party of the treatment set forth in paragraphs 2 and 3 of this article.

Article 38

Cooperation between national authorities

Each State Party shall take such measures as may be necessary to encourage, in accordance with its domestic law, cooperation between, on the one hand, its public authorities, as well as its public officials, and, on the other hand, its authorities responsible for investigating and prosecuting criminal offences. Such cooperation may include:

(a) Informing the latter authorities, on their own initiative, where there are reasonable grounds to believe that any of the offences established in accordance with articles 15, 21 and 23 of this Convention has been committed; or

(b) Providing, upon request, to the latter authorities all necessary information.

Article 39

Cooperation between national authorities and the private sector

1. Each State Party shall take such measures as may be necessary to encourage, in accordance with its domestic law, cooperation between national investigating and prosecuting authorities and entities of the private sector, in particular financial institutions, relating to matters involving the commission of offences established in accordance with this Convention.

2. Each State Party shall consider encouraging its nationals and other persons with a habitual residence in its territory to report to the national investigating and prosecuting authorities the commission of an offence established in accordance with this Convention.

Article 40

Bank secrecy

Each State Party shall ensure that, in the case of domestic criminal investigations of offences established in accordance with this Convention, there are appropriate mechanisms available within its domestic legal system to overcome obstacles that may arise out of the application of bank secrecy laws.

Article 41

Criminal record

Each State Party may adopt such legislative or other measures as may be necessary to take into consideration, under such terms as and for the purpose that it deems appropriate, any previous conviction in another State of an alleged offender for the purpose of using such information in criminal proceedings relating to an offence established in accordance with this Convention.

Article 42

Jurisdiction

1. Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when:

- (a) The offence is committed in the territory of that State Party; or
- (b) The offence is committed on board a vessel that is flying the flag of that State Party or an aircraft that is registered under the laws of that State Party at the time that the offence is committed.

2. Subject to article 4 of this Convention, a State Party may also establish its jurisdiction over any such offence when:

- (a) The offence is committed against a national of that State Party; or
- (b) The offence is committed by a national of that State Party or a stateless person who has his or her habitual residence in its territory; or
- (c) The offence is one of those established in accordance with article 23, paragraph 1 (b) (ii), of this Convention and is committed outside its territory with a

view to the commission of an offence established in accordance with article 23, paragraph 1 (a) (i) or (ii) or (b) (i), of this Convention within its territory; or

(d) The offence is committed against the State Party.

3. For the purposes of article 44 of this Convention, each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when the alleged offender is present in its territory and it does not extradite such person solely on the ground that he or she is one of its nationals.

4. Each State Party may also take such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when the alleged offender is present in its territory and it does not extradite him or her.

5. If a State Party exercising its jurisdiction under paragraph 1 or 2 of this article has been notified, or has otherwise learned, that any other States Parties are conducting an investigation, prosecution or judicial proceeding in respect of the same conduct, the competent authorities of those States Parties shall, as appropriate, consult one another with a view to coordinating their actions.

6. Without prejudice to norms of general international law, this Convention shall not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

Chapter IV

International cooperation

Article 43

International cooperation

1. States Parties shall cooperate in criminal matters in accordance with articles 44 to 50 of this Convention. Where appropriate and consistent with their domestic legal system, States Parties shall consider assisting each other in investigations of and proceedings in civil and administrative matters relating to corruption.

2. In matters of international cooperation, whenever dual criminality is considered a requirement, it shall be deemed fulfilled irrespective of whether the laws of the requested State Party place the offence within the same category of offence or denominate the offence by the same terminology as the requesting State Party, if the conduct underlying the offence for which assistance is sought is a criminal offence under the laws of both States Parties.

Article 44

Extradition

1. This article shall apply to the offences established in accordance with this Convention where the person who is the subject of the request for extradition is present in the territory of the requested State Party, provided that the offence for which extradition is sought is punishable under the domestic law of both the requesting State Party and the requested State Party.

2. Notwithstanding the provisions of paragraph 1 of this article, a State Party whose law so permits may grant the extradition of a person for any of the offences covered by this Convention that are not punishable under its own domestic law.

3. If the request for extradition includes several separate offences, at least one of which is extraditable under this article and some of which are not extraditable by reason of their period of imprisonment but are related to offences established in accordance with this Convention, the requested State Party may apply this article also in respect of those offences.

4. Each of the offences to which this article applies shall be deemed to be included as an extraditable offence in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them. A State Party whose law so permits, in case it uses this Convention as the basis for extradition, shall not consider any of the offences established in accordance with this Convention to be a political offence.

5. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention the legal basis for extradition in respect of any offence to which this article applies.

6. A State Party that makes extradition conditional on the existence of a treaty shall:

(a) At the time of deposit of its instrument of ratification, acceptance or approval of or accession to this Convention, inform the Secretary-General of the United Nations whether it will take this Convention as the legal basis for cooperation on extradition with other States Parties to this Convention; and

(b) If it does not take this Convention as the legal basis for cooperation on extradition, seek, where appropriate, to conclude treaties on extradition with other States Parties to this Convention in order to implement this article.

7. States Parties that do not make extradition conditional on the existence of a treaty shall recognize offences to which this article applies as extraditable offences between themselves.

8. Extradition shall be subject to the conditions provided for by the domestic law of the requested State Party or by applicable extradition treaties, including, inter alia, conditions in relation to the minimum penalty requirement for extradition and the grounds upon which the requested State Party may refuse extradition.

9. States Parties shall, subject to their domestic law, endeavour to expedite extradition procedures and to simplify evidentiary requirements relating thereto in respect of any offence to which this article applies.

10. Subject to the provisions of its domestic law and its extradition treaties, the requested State Party may, upon being satisfied that the circumstances so warrant and are urgent and at the request of the requesting State Party, take a person whose extradition is sought and who is present in its territory into custody or take other appropriate measures to ensure his or her presence at extradition proceedings.

11. A State Party in whose territory an alleged offender is found, if it does not extradite such person in respect of an offence to which this article applies solely on the ground that he or she is one of its nationals, shall, at the request of the State Party seeking extradition, be obliged to submit the case without undue delay to its competent authorities for the purpose of prosecution. Those authorities shall take their decision and conduct their proceedings in the same manner as in the case of any other offence of a grave nature under the domestic law of that State Party. The States Parties concerned shall cooperate with each other, in particular on procedural and evidentiary aspects, to ensure the efficiency of such prosecution.

12. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State Party to serve the sentence imposed as a result of the trial or proceedings for which the extradition or surrender of the person was sought and that State Party and the State Party seeking the extradition of the person agree with this option and other terms that they may deem appropriate, such conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 11 of this article.

13. If extradition, sought for purposes of enforcing a sentence, is refused because the person sought is a national of the requested State Party, the requested State Party shall, if its domestic law so permits and in conformity with the requirements of such law, upon application of the requesting State Party, consider the enforcement of the sentence imposed under the domestic law of the requesting State Party or the remainder thereof.

14. Any person regarding whom proceedings are being carried out in connection with any of the offences to which this article applies shall be guaranteed fair treatment at all stages of the proceedings, including enjoyment of all the rights and guarantees provided by the domestic law of the State Party in the territory of which that person is present.

15. Nothing in this Convention shall be interpreted as imposing an obligation to extradite if the requested State Party has substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on account of that person's sex, race, religion, nationality, ethnic origin or political opinions or that compliance with the request would cause prejudice to that person's position for any one of these reasons.

16. States Parties may not refuse a request for extradition on the sole ground that the offence is also considered to involve fiscal matters.

17. Before refusing extradition, the requested State Party shall, where appropriate, consult with the requesting State Party to provide it with ample opportunity to present its opinions and to provide information relevant to its allegation.

18. States Parties shall seek to conclude bilateral and multilateral agreements or arrangements to carry out or to enhance the effectiveness of extradition.

Article 45
Transfer of sentenced persons

States Parties may consider entering into bilateral or multilateral agreements or arrangements on the transfer to their territory of persons sentenced to imprisonment or other forms of deprivation of liberty for offences established in accordance with this Convention in order that they may complete their sentences there.

Article 46
Mutual legal assistance

1. States Parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by this Convention.

2. Mutual legal assistance shall be afforded to the fullest extent possible under relevant laws, treaties, agreements and arrangements of the requested State Party with respect to investigations, prosecutions and judicial proceedings in relation to the offences for which a legal person may be held liable in accordance with article 26 of this Convention in the requesting State Party.

3. Mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes:

- (a) Taking evidence or statements from persons;
- (b) Effecting service of judicial documents;
- (c) Executing searches and seizures, and freezing;
- (d) Examining objects and sites;
- (e) Providing information, evidentiary items and expert evaluations;
- (f) Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records;
- (g) Identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes;
- (h) Facilitating the voluntary appearance of persons in the requesting State Party;
- (i) Any other type of assistance that is not contrary to the domestic law of the requested State Party;
- (j) Identifying, freezing and tracing proceeds of crime in accordance with the provisions of chapter V of this Convention;
- (k) The recovery of assets, in accordance with the provisions of chapter V of this Convention.

4. Without prejudice to domestic law, the competent authorities of a State Party may, without prior request, transmit information relating to criminal matters to a competent authority in another State Party where they believe that such information could assist the authority in undertaking or successfully concluding

inquiries and criminal proceedings or could result in a request formulated by the latter State Party pursuant to this Convention.

5. The transmission of information pursuant to paragraph 4 of this article shall be without prejudice to inquiries and criminal proceedings in the State of the competent authorities providing the information. The competent authorities receiving the information shall comply with a request that said information remain confidential, even temporarily, or with restrictions on its use. However, this shall not prevent the receiving State Party from disclosing in its proceedings information that is exculpatory to an accused person. In such a case, the receiving State Party shall notify the transmitting State Party prior to the disclosure and, if so requested, consult with the transmitting State Party. If, in an exceptional case, advance notice is not possible, the receiving State Party shall inform the transmitting State Party of the disclosure without delay.

6. The provisions of this article shall not affect the obligations under any other treaty, bilateral or multilateral, that governs or will govern, in whole or in part, mutual legal assistance.

7. Paragraphs 9 to 29 of this article shall apply to requests made pursuant to this article if the States Parties in question are not bound by a treaty of mutual legal assistance. If those States Parties are bound by such a treaty, the corresponding provisions of that treaty shall apply unless the States Parties agree to apply paragraphs 9 to 29 of this article in lieu thereof. States Parties are strongly encouraged to apply those paragraphs if they facilitate cooperation.

8. States Parties shall not decline to render mutual legal assistance pursuant to this article on the ground of bank secrecy.

9. (a) A requested State Party, in responding to a request for assistance pursuant to this article in the absence of dual criminality, shall take into account the purposes of this Convention, as set forth in article 1;

(b) States Parties may decline to render assistance pursuant to this article on the ground of absence of dual criminality. However, a requested State Party shall, where consistent with the basic concepts of its legal system, render assistance that does not involve coercive action. Such assistance may be refused when requests involve matters of a *de minimis* nature or matters for which the cooperation or assistance sought is available under other provisions of this Convention;

(c) Each State Party may consider adopting such measures as may be necessary to enable it to provide a wider scope of assistance pursuant to this article in the absence of dual criminality.

10. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for investigations, prosecutions or judicial proceedings in relation to offences covered by this Convention may be transferred if the following conditions are met:

(a) The person freely gives his or her informed consent;

(b) The competent authorities of both States Parties agree, subject to such conditions as those States Parties may deem appropriate.

11. For the purposes of paragraph 10 of this article:

(a) The State Party to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State Party from which the person was transferred;

(b) The State Party to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State Party from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States Parties;

(c) The State Party to which the person is transferred shall not require the State Party from which the person was transferred to initiate extradition proceedings for the return of the person;

(d) The person transferred shall receive credit for service of the sentence being served in the State from which he or she was transferred for time spent in the custody of the State Party to which he or she was transferred.

12. Unless the State Party from which a person is to be transferred in accordance with paragraphs 10 and 11 of this article so agrees, that person, whatever his or her nationality, shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in the territory of the State to which that person is transferred in respect of acts, omissions or convictions prior to his or her departure from the territory of the State from which he or she was transferred.

13. Each State Party shall designate a central authority that shall have the responsibility and power to receive requests for mutual legal assistance and either to execute them or to transmit them to the competent authorities for execution. Where a State Party has a special region or territory with a separate system of mutual legal assistance, it may designate a distinct central authority that shall have the same function for that region or territory. Central authorities shall ensure the speedy and proper execution or transmission of the requests received. Where the central authority transmits the request to a competent authority for execution, it shall encourage the speedy and proper execution of the request by the competent authority. The Secretary-General of the United Nations shall be notified of the central authority designated for this purpose at the time each State Party deposits its instrument of ratification, acceptance or approval of or accession to this Convention. Requests for mutual legal assistance and any communication related thereto shall be transmitted to the central authorities designated by the States Parties. This requirement shall be without prejudice to the right of a State Party to require that such requests and communications be addressed to it through diplomatic channels and, in urgent circumstances, where the States Parties agree, through the International Criminal Police Organization, if possible.

14. Requests shall be made in writing or, where possible, by any means capable of producing a written record, in a language acceptable to the requested State Party, under conditions allowing that State Party to establish authenticity. The Secretary-General of the United Nations shall be notified of the language or languages acceptable to each State Party at the time it deposits its instrument of ratification, acceptance or approval of or accession to this Convention. In urgent

circumstances and where agreed by the States Parties, requests may be made orally but shall be confirmed in writing forthwith.

15. A request for mutual legal assistance shall contain:

(a) The identity of the authority making the request;

(b) The subject matter and nature of the investigation, prosecution or judicial proceeding to which the request relates and the name and functions of the authority conducting the investigation, prosecution or judicial proceeding;

(c) A summary of the relevant facts, except in relation to requests for the purpose of service of judicial documents;

(d) A description of the assistance sought and details of any particular procedure that the requesting State Party wishes to be followed;

(e) Where possible, the identity, location and nationality of any person concerned; and

(f) The purpose for which the evidence, information or action is sought.

16. The requested State Party may request additional information when it appears necessary for the execution of the request in accordance with its domestic law or when it can facilitate such execution.

17. A request shall be executed in accordance with the domestic law of the requested State Party and, to the extent not contrary to the domestic law of the requested State Party and where possible, in accordance with the procedures specified in the request.

18. Wherever possible and consistent with fundamental principles of domestic law, when an individual is in the territory of a State Party and has to be heard as a witness or expert by the judicial authorities of another State Party, the first State Party may, at the request of the other, permit the hearing to take place by video conference if it is not possible or desirable for the individual in question to appear in person in the territory of the requesting State Party. States Parties may agree that the hearing shall be conducted by a judicial authority of the requesting State Party and attended by a judicial authority of the requested State Party.

19. The requesting State Party shall not transmit or use information or evidence furnished by the requested State Party for investigations, prosecutions or judicial proceedings other than those stated in the request without the prior consent of the requested State Party. Nothing in this paragraph shall prevent the requesting State Party from disclosing in its proceedings information or evidence that is exculpatory to an accused person. In the latter case, the requesting State Party shall notify the requested State Party prior to the disclosure and, if so requested, consult with the requested State Party. If, in an exceptional case, advance notice is not possible, the requesting State Party shall inform the requested State Party of the disclosure without delay.

20. The requesting State Party may require that the requested State Party keep confidential the fact and substance of the request, except to the extent necessary to execute the request. If the requested State Party cannot comply with the requirement of confidentiality, it shall promptly inform the requesting State Party.

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21. Mutual legal assistance may be refused:
- (a) If the request is not made in conformity with the provisions of this article;
 - (b) If the requested State Party considers that execution of the request is likely to prejudice its sovereignty, security, *ordre public* or other essential interests;
 - (c) If the authorities of the requested State Party would be prohibited by its domestic law from carrying out the action requested with regard to any similar offence, had it been subject to investigation, prosecution or judicial proceedings under their own jurisdiction;
 - (d) If it would be contrary to the legal system of the requested State Party relating to mutual legal assistance for the request to be granted.
22. States Parties may not refuse a request for mutual legal assistance on the sole ground that the offence is also considered to involve fiscal matters.
23. Reasons shall be given for any refusal of mutual legal assistance.
24. The requested State Party shall execute the request for mutual legal assistance as soon as possible and shall take as full account as possible of any deadlines suggested by the requesting State Party and for which reasons are given, preferably in the request. The requesting State Party may make reasonable requests for information on the status and progress of measures taken by the requested State Party to satisfy its request. The requested State Party shall respond to reasonable requests by the requesting State Party on the status, and progress in its handling, of the request. The requesting State Party shall promptly inform the requested State Party when the assistance sought is no longer required.
25. Mutual legal assistance may be postponed by the requested State Party on the ground that it interferes with an ongoing investigation, prosecution or judicial proceeding.
26. Before refusing a request pursuant to paragraph 21 of this article or postponing its execution pursuant to paragraph 25 of this article, the requested State Party shall consult with the requesting State Party to consider whether assistance may be granted subject to such terms and conditions as it deems necessary. If the requesting State Party accepts assistance subject to those conditions, it shall comply with the conditions.
27. Without prejudice to the application of paragraph 12 of this article, a witness, expert or other person who, at the request of the requesting State Party, consents to give evidence in a proceeding or to assist in an investigation, prosecution or judicial proceeding in the territory of the requesting State Party shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in that territory in respect of acts, omissions or convictions prior to his or her departure from the territory of the requested State Party. Such safe conduct shall cease when the witness, expert or other person having had, for a period of fifteen consecutive days or for any period agreed upon by the States Parties from the date on which he or she has been officially informed that his or her presence is no longer required by the judicial authorities, an opportunity of leaving, has nevertheless remained voluntarily in the territory of the requesting State Party or, having left it, has returned of his or her own free will.

28. The ordinary costs of executing a request shall be borne by the requested State Party, unless otherwise agreed by the States Parties concerned. If expenses of a substantial or extraordinary nature are or will be required to fulfil the request, the States Parties shall consult to determine the terms and conditions under which the request will be executed, as well as the manner in which the costs shall be borne.

29. The requested State Party:

(a) Shall provide to the requesting State Party copies of government records, documents or information in its possession that under its domestic law are available to the general public;

(b) May, at its discretion, provide to the requesting State Party in whole, in part or subject to such conditions as it deems appropriate, copies of any government records, documents or information in its possession that under its domestic law are not available to the general public.

30. States Parties shall consider, as may be necessary, the possibility of concluding bilateral or multilateral agreements or arrangements that would serve the purposes of, give practical effect to or enhance the provisions of this article.

Article 47

Transfer of criminal proceedings

States Parties shall consider the possibility of transferring to one another proceedings for the prosecution of an offence established in accordance with this Convention in cases where such transfer is considered to be in the interests of the proper administration of justice, in particular in cases where several jurisdictions are involved, with a view to concentrating the prosecution.

Article 48

Law enforcement cooperation

1. States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offences covered by this Convention. States Parties shall, in particular, take effective measures:

(a) To enhance and, where necessary, to establish channels of communication between their competent authorities, agencies and services in order to facilitate the secure and rapid exchange of information concerning all aspects of the offences covered by this Convention, including, if the States Parties concerned deem it appropriate, links with other criminal activities;

(b) To cooperate with other States Parties in conducting inquiries with respect to offences covered by this Convention concerning:

(i) The identity, whereabouts and activities of persons suspected of involvement in such offences or the location of other persons concerned;

(ii) The movement of proceeds of crime or property derived from the commission of such offences;

(iii) The movement of property, equipment or other instrumentalities used or intended for use in the commission of such offences;

(c) To provide, where appropriate, necessary items or quantities of substances for analytical or investigative purposes;

(d) To exchange, where appropriate, information with other States Parties concerning specific means and methods used to commit offences covered by this Convention, including the use of false identities, forged, altered or false documents and other means of concealing activities;

(e) To facilitate effective coordination between their competent authorities, agencies and services and to promote the exchange of personnel and other experts, including, subject to bilateral agreements or arrangements between the States Parties concerned, the posting of liaison officers;

(f) To exchange information and coordinate administrative and other measures taken as appropriate for the purpose of early identification of the offences covered by this Convention.

2. With a view to giving effect to this Convention, States Parties shall consider entering into bilateral or multilateral agreements or arrangements on direct cooperation between their law enforcement agencies and, where such agreements or arrangements already exist, amending them. In the absence of such agreements or arrangements between the States Parties concerned, the States Parties may consider this Convention to be the basis for mutual law enforcement cooperation in respect of the offences covered by this Convention. Whenever appropriate, States Parties shall make full use of agreements or arrangements, including international or regional organizations, to enhance the cooperation between their law enforcement agencies.

3. States Parties shall endeavour to cooperate within their means to respond to offences covered by this Convention committed through the use of modern technology.

Article 49

Joint investigations

States Parties shall consider concluding bilateral or multilateral agreements or arrangements whereby, in relation to matters that are the subject of investigations, prosecutions or judicial proceedings in one or more States, the competent authorities concerned may establish joint investigative bodies. In the absence of such agreements or arrangements, joint investigations may be undertaken by agreement on a case-by-case basis. The States Parties involved shall ensure that the sovereignty of the State Party in whose territory such investigation is to take place is fully respected.

Article 50

Special investigative techniques

1. In order to combat corruption effectively, each State Party shall, to the extent permitted by the basic principles of its domestic legal system and in accordance with the conditions prescribed by its domestic law, take such measures as may be necessary, within its means, to allow for the appropriate use by its competent authorities of controlled delivery and, where it deems appropriate, other special investigative techniques, such as electronic or other forms of surveillance

and undercover operations, within its territory, and to allow for the admissibility in court of evidence derived therefrom.

2. For the purpose of investigating the offences covered by this Convention, States Parties are encouraged to conclude, when necessary, appropriate bilateral or multilateral agreements or arrangements for using such special investigative techniques in the context of cooperation at the international level. Such agreements or arrangements shall be concluded and implemented in full compliance with the principle of sovereign equality of States and shall be carried out strictly in accordance with the terms of those agreements or arrangements.

3. In the absence of an agreement or arrangement as set forth in paragraph 2 of this article, decisions to use such special investigative techniques at the international level shall be made on a case-by-case basis and may, when necessary, take into consideration financial arrangements and understandings with respect to the exercise of jurisdiction by the States Parties concerned.

4. Decisions to use controlled delivery at the international level may, with the consent of the States Parties concerned, include methods such as intercepting and allowing the goods or funds to continue intact or be removed or replaced in whole or in part.

Chapter V

Asset recovery

Article 51 *General provision*

The return of assets pursuant to this chapter is a fundamental principle of this Convention, and States Parties shall afford one another the widest measure of cooperation and assistance in this regard.

Article 52 *Prevention and detection of transfers of proceeds of crime*

1. Without prejudice to article 14 of this Convention, each State Party shall take such measures as may be necessary, in accordance with its domestic law, to require financial institutions within its jurisdiction to verify the identity of customers, to take reasonable steps to determine the identity of beneficial owners of funds deposited into high-value accounts and to conduct enhanced scrutiny of accounts sought or maintained by or on behalf of individuals who are, or have been, entrusted with prominent public functions and their family members and close associates. Such enhanced scrutiny shall be reasonably designed to detect suspicious transactions for the purpose of reporting to competent authorities and should not be so construed as to discourage or prohibit financial institutions from doing business with any legitimate customer.

2. In order to facilitate implementation of the measures provided for in paragraph 1 of this article, each State Party, in accordance with its domestic law and inspired by relevant initiatives of regional, interregional and multilateral organizations against money-laundering, shall:

(a) Issue advisories regarding the types of natural or legal person to whose accounts financial institutions within its jurisdiction will be expected to apply enhanced scrutiny, the types of accounts and transactions to which to pay particular attention and appropriate account-opening, maintenance and record-keeping measures to take concerning such accounts; and

(b) Where appropriate, notify financial institutions within its jurisdiction, at the request of another State Party or on its own initiative, of the identity of particular natural or legal persons to whose accounts such institutions will be expected to apply enhanced scrutiny, in addition to those whom the financial institutions may otherwise identify.

3. In the context of paragraph 2 (a) of this article, each State Party shall implement measures to ensure that its financial institutions maintain adequate records, over an appropriate period of time, of accounts and transactions involving the persons mentioned in paragraph 1 of this article, which should, as a minimum, contain information relating to the identity of the customer as well as, as far as possible, of the beneficial owner.

4. With the aim of preventing and detecting transfers of proceeds of offences established in accordance with this Convention, each State Party shall implement appropriate and effective measures to prevent, with the help of its regulatory and oversight bodies, the establishment of banks that have no physical presence and that are not affiliated with a regulated financial group. Moreover, States Parties may consider requiring their financial institutions to refuse to enter into or continue a correspondent banking relationship with such institutions and to guard against establishing relations with foreign financial institutions that permit their accounts to be used by banks that have no physical presence and that are not affiliated with a regulated financial group.

5. Each State Party shall consider establishing, in accordance with its domestic law, effective financial disclosure systems for appropriate public officials and shall provide for appropriate sanctions for non-compliance. Each State Party shall also consider taking such measures as may be necessary to permit its competent authorities to share that information with the competent authorities in other States Parties when necessary to investigate, claim and recover proceeds of offences established in accordance with this Convention.

6. Each State Party shall consider taking such measures as may be necessary, in accordance with its domestic law, to require appropriate public officials having an interest in or signature or other authority over a financial account in a foreign country to report that relationship to appropriate authorities and to maintain appropriate records related to such accounts. Such measures shall also provide for appropriate sanctions for non-compliance.

Article 53

Measures for direct recovery of property

Each State Party shall, in accordance with its domestic law:

(a) Take such measures as may be necessary to permit another State Party to initiate civil action in its courts to establish title to or ownership of property

acquired through the commission of an offence established in accordance with this Convention;

(b) Take such measures as may be necessary to permit its courts to order those who have committed offences established in accordance with this Convention to pay compensation or damages to another State Party that has been harmed by such offences; and

(c) Take such measures as may be necessary to permit its courts or competent authorities, when having to decide on confiscation, to recognize another State Party's claim as a legitimate owner of property acquired through the commission of an offence established in accordance with this Convention.

Article 54

Mechanisms for recovery of property through international cooperation in confiscation

1. Each State Party, in order to provide mutual legal assistance pursuant to article 55 of this Convention with respect to property acquired through or involved in the commission of an offence established in accordance with this Convention, shall, in accordance with its domestic law:

(a) Take such measures as may be necessary to permit its competent authorities to give effect to an order of confiscation issued by a court of another State Party;

(b) Take such measures as may be necessary to permit its competent authorities, where they have jurisdiction, to order the confiscation of such property of foreign origin by adjudication of an offence of money-laundering or such other offence as may be within its jurisdiction or by other procedures authorized under its domestic law; and

(c) Consider taking such measures as may be necessary to allow confiscation of such property without a criminal conviction in cases in which the offender cannot be prosecuted by reason of death, flight or absence or in other appropriate cases.

2. Each State Party, in order to provide mutual legal assistance upon a request made pursuant to paragraph 2 of article 55 of this Convention, shall, in accordance with its domestic law:

(a) Take such measures as may be necessary to permit its competent authorities to freeze or seize property upon a freezing or seizure order issued by a court or competent authority of a requesting State Party that provides a reasonable basis for the requested State Party to believe that there are sufficient grounds for taking such actions and that the property would eventually be subject to an order of confiscation for purposes of paragraph 1 (a) of this article;

(b) Take such measures as may be necessary to permit its competent authorities to freeze or seize property upon a request that provides a reasonable basis for the requested State Party to believe that there are sufficient grounds for taking such actions and that the property would eventually be subject to an order of confiscation for purposes of paragraph 1 (a) of this article; and

(c) Consider taking additional measures to permit its competent authorities to preserve property for confiscation, such as on the basis of a foreign arrest or criminal charge related to the acquisition of such property.

Article 55

International cooperation for purposes of confiscation

1. A State Party that has received a request from another State Party having jurisdiction over an offence established in accordance with this Convention for confiscation of proceeds of crime, property, equipment or other instrumentalities referred to in article 31, paragraph 1, of this Convention situated in its territory shall, to the greatest extent possible within its domestic legal system:

(a) Submit the request to its competent authorities for the purpose of obtaining an order of confiscation and, if such an order is granted, give effect to it; or

(b) Submit to its competent authorities, with a view to giving effect to it to the extent requested, an order of confiscation issued by a court in the territory of the requesting State Party in accordance with articles 31, paragraph 1, and 54, paragraph 1 (a), of this Convention insofar as it relates to proceeds of crime, property, equipment or other instrumentalities referred to in article 31, paragraph 1, situated in the territory of the requested State Party.

2. Following a request made by another State Party having jurisdiction over an offence established in accordance with this Convention, the requested State Party shall take measures to identify, trace and freeze or seize proceeds of crime, property, equipment or other instrumentalities referred to in article 31, paragraph 1, of this Convention for the purpose of eventual confiscation to be ordered either by the requesting State Party or, pursuant to a request under paragraph 1 of this article, by the requested State Party.

3. The provisions of article 46 of this Convention are applicable, *mutatis mutandis*, to this article. In addition to the information specified in article 46, paragraph 15, requests made pursuant to this article shall contain:

(a) In the case of a request pertaining to paragraph 1 (a) of this article, a description of the property to be confiscated, including, to the extent possible, the location and, where relevant, the estimated value of the property and a statement of the facts relied upon by the requesting State Party sufficient to enable the requested State Party to seek the order under its domestic law;

(b) In the case of a request pertaining to paragraph 1 (b) of this article, a legally admissible copy of an order of confiscation upon which the request is based issued by the requesting State Party, a statement of the facts and information as to the extent to which execution of the order is requested, a statement specifying the measures taken by the requesting State Party to provide adequate notification to bona fide third parties and to ensure due process and a statement that the confiscation order is final;

(c) In the case of a request pertaining to paragraph 2 of this article, a statement of the facts relied upon by the requesting State Party and a description of

the actions requested and, where available, a legally admissible copy of an order on which the request is based.

4. The decisions or actions provided for in paragraphs 1 and 2 of this article shall be taken by the requested State Party in accordance with and subject to the provisions of its domestic law and its procedural rules or any bilateral or multilateral agreement or arrangement to which it may be bound in relation to the requesting State Party.

5. Each State Party shall furnish copies of its laws and regulations that give effect to this article and of any subsequent changes to such laws and regulations or a description thereof to the Secretary-General of the United Nations.

6. If a State Party elects to make the taking of the measures referred to in paragraphs 1 and 2 of this article conditional on the existence of a relevant treaty, that State Party shall consider this Convention the necessary and sufficient treaty basis.

7. Cooperation under this article may also be refused or provisional measures lifted if the requested State Party does not receive sufficient and timely evidence or if the property is of a *de minimis* value.

8. Before lifting any provisional measure taken pursuant to this article, the requested State Party shall, wherever possible, give the requesting State Party an opportunity to present its reasons in favour of continuing the measure.

9. The provisions of this article shall not be construed as prejudicing the rights of bona fide third parties.

Article 56
Special cooperation

Without prejudice to its domestic law, each State Party shall endeavour to take measures to permit it to forward, without prejudice to its own investigations, prosecutions or judicial proceedings, information on proceeds of offences established in accordance with this Convention to another State Party without prior request, when it considers that the disclosure of such information might assist the receiving State Party in initiating or carrying out investigations, prosecutions or judicial proceedings or might lead to a request by that State Party under this chapter of the Convention.

Article 57
Return and disposal of assets

1. Property confiscated by a State Party pursuant to article 31 or 55 of this Convention shall be disposed of, including by return to its prior legitimate owners, pursuant to paragraph 3 of this article, by that State Party in accordance with the provisions of this Convention and its domestic law.

2. Each State Party shall adopt such legislative and other measures, in accordance with the fundamental principles of its domestic law, as may be necessary to enable its competent authorities to return confiscated property, when acting on the request made by another State Party, in accordance with this Convention, taking into account the rights of bona fide third parties.

3. In accordance with articles 46 and 55 of this Convention and paragraphs 1 and 2 of this article, the requested State Party shall:

(a) In the case of embezzlement of public funds or of laundering of embezzled public funds as referred to in articles 17 and 23 of this Convention, when confiscation was executed in accordance with article 55 and on the basis of a final judgement in the requesting State Party, a requirement that can be waived by the requested State Party, return the confiscated property to the requesting State Party;

(b) In the case of proceeds of any other offence covered by this Convention, when the confiscation was executed in accordance with article 55 of this Convention and on the basis of a final judgement in the requesting State Party, a requirement that can be waived by the requested State Party, return the confiscated property to the requesting State Party, when the requesting State Party reasonably establishes its prior ownership of such confiscated property to the requested State Party or when the requested State Party recognizes damage to the requesting State Party as a basis for returning the confiscated property;

(c) In all other cases, give priority consideration to returning confiscated property to the requesting State Party, returning such property to its prior legitimate owners or compensating the victims of the crime.

4. Where appropriate, unless States Parties decide otherwise, the requested State Party may deduct reasonable expenses incurred in investigations, prosecutions or judicial proceedings leading to the return or disposition of confiscated property pursuant to this article.

5. Where appropriate, States Parties may also give special consideration to concluding agreements or mutually acceptable arrangements, on a case-by-case basis, for the final disposal of confiscated property.

Article 58

Financial intelligence unit

States Parties shall cooperate with one another for the purpose of preventing and combating the transfer of proceeds of offences established in accordance with this Convention and of promoting ways and means of recovering such proceeds and, to that end, shall consider establishing a financial intelligence unit to be responsible for receiving, analysing and disseminating to the competent authorities reports of suspicious financial transactions.

Article 59

Bilateral and multilateral agreements and arrangements

States Parties shall consider concluding bilateral or multilateral agreements or arrangements to enhance the effectiveness of international cooperation undertaken pursuant to this chapter of the Convention.

Chapter VI

Technical assistance and information exchange

Article 60
Training and technical assistance

1. Each State Party shall, to the extent necessary, initiate, develop or improve specific training programmes for its personnel responsible for preventing and combating corruption. Such training programmes could deal, inter alia, with the following areas:

(a) Effective measures to prevent, detect, investigate, punish and control corruption, including the use of evidence-gathering and investigative methods;

(b) Building capacity in the development and planning of strategic anti-corruption policy;

(c) Training competent authorities in the preparation of requests for mutual legal assistance that meet the requirements of this Convention;

(d) Evaluation and strengthening of institutions, public service management and the management of public finances, including public procurement, and the private sector;

(e) Preventing and combating the transfer of proceeds of offences established in accordance with this Convention and recovering such proceeds;

(f) Detecting and freezing of the transfer of proceeds of offences established in accordance with this Convention;

(g) Surveillance of the movement of proceeds of offences established in accordance with this Convention and of the methods used to transfer, conceal or disguise such proceeds;

(h) Appropriate and efficient legal and administrative mechanisms and methods for facilitating the return of proceeds of offences established in accordance with this Convention;

(i) Methods used in protecting victims and witnesses who cooperate with judicial authorities; and

(j) Training in national and international regulations and in languages.

2. States Parties shall, according to their capacity, consider affording one another the widest measure of technical assistance, especially for the benefit of developing countries, in their respective plans and programmes to combat corruption, including material support and training in the areas referred to in paragraph 1 of this article, and training and assistance and the mutual exchange of relevant experience and specialized knowledge, which will facilitate international cooperation between States Parties in the areas of extradition and mutual legal assistance.

3. States Parties shall strengthen, to the extent necessary, efforts to maximize operational and training activities in international and regional organizations and in the framework of relevant bilateral and multilateral agreements or arrangements.

4. States Parties shall consider assisting one another, upon request, in conducting evaluations, studies and research relating to the types, causes, effects

and costs of corruption in their respective countries, with a view to developing, with the participation of competent authorities and society, strategies and action plans to combat corruption.

5. In order to facilitate the recovery of proceeds of offences established in accordance with this Convention, States Parties may cooperate in providing each other with the names of experts who could assist in achieving that objective.

6. States Parties shall consider using subregional, regional and international conferences and seminars to promote cooperation and technical assistance and to stimulate discussion on problems of mutual concern, including the special problems and needs of developing countries and countries with economies in transition.

7. States Parties shall consider establishing voluntary mechanisms with a view to contributing financially to the efforts of developing countries and countries with economies in transition to apply this Convention through technical assistance programmes and projects.

8. Each State Party shall consider making voluntary contributions to the United Nations Office on Drugs and Crime for the purpose of fostering, through the Office, programmes and projects in developing countries with a view to implementing this Convention.

Article 61

Collection, exchange and analysis of information on corruption

1. Each State Party shall consider analysing, in consultation with experts, trends in corruption in its territory, as well as the circumstances in which corruption offences are committed.

2. States Parties shall consider developing and sharing with each other and through international and regional organizations statistics, analytical expertise concerning corruption and information with a view to developing, insofar as possible, common definitions, standards and methodologies, as well as information on best practices to prevent and combat corruption.

3. Each State Party shall consider monitoring its policies and actual measures to combat corruption and making assessments of their effectiveness and efficiency.

Article 62

Other measures: implementation of the Convention through economic development and technical assistance

1. States Parties shall take measures conducive to the optimal implementation of this Convention to the extent possible, through international cooperation, taking into account the negative effects of corruption on society in general, in particular on sustainable development.

2. States Parties shall make concrete efforts to the extent possible and in coordination with each other, as well as with international and regional organizations:

(a) To enhance their cooperation at various levels with developing countries, with a view to strengthening the capacity of the latter to prevent and combat corruption;

(b) To enhance financial and material assistance to support the efforts of developing countries to prevent and fight corruption effectively and to help them implement this Convention successfully;

(c) To provide technical assistance to developing countries and countries with economies in transition to assist them in meeting their needs for the implementation of this Convention. To that end, States Parties shall endeavour to make adequate and regular voluntary contributions to an account specifically designated for that purpose in a United Nations funding mechanism. States Parties may also give special consideration, in accordance with their domestic law and the provisions of this Convention, to contributing to that account a percentage of the money or of the corresponding value of proceeds of crime or property confiscated in accordance with the provisions of this Convention;

(d) To encourage and persuade other States and financial institutions as appropriate to join them in efforts in accordance with this article, in particular by providing more training programmes and modern equipment to developing countries in order to assist them in achieving the objectives of this Convention.

3. To the extent possible, these measures shall be without prejudice to existing foreign assistance commitments or to other financial cooperation arrangements at the bilateral, regional or international level.

4. States Parties may conclude bilateral or multilateral agreements or arrangements on material and logistical assistance, taking into consideration the financial arrangements necessary for the means of international cooperation provided for by this Convention to be effective and for the prevention, detection and control of corruption.

Chapter VII

Mechanisms for implementation

Article 63

Conference of the States Parties to the Convention

1. A Conference of the States Parties to the Convention is hereby established to improve the capacity of and cooperation between States Parties to achieve the objectives set forth in this Convention and to promote and review its implementation.

2. The Secretary-General of the United Nations shall convene the Conference of the States Parties not later than one year following the entry into force of this Convention. Thereafter, regular meetings of the Conference of the States Parties shall be held in accordance with the rules of procedure adopted by the Conference.

3. The Conference of the States Parties shall adopt rules of procedure and rules governing the functioning of the activities set forth in this article, including

rules concerning the admission and participation of observers, and the payment of expenses incurred in carrying out those activities.

4. The Conference of the States Parties shall agree upon activities, procedures and methods of work to achieve the objectives set forth in paragraph 1 of this article, including:

(a) Facilitating activities by States Parties under articles 60 and 62 and chapters II to V of this Convention, including by encouraging the mobilization of voluntary contributions;

(b) Facilitating the exchange of information among States Parties on patterns and trends in corruption and on successful practices for preventing and combating it and for the return of proceeds of crime, through, inter alia, the publication of relevant information as mentioned in this article;

(c) Cooperating with relevant international and regional organizations and mechanisms and non-governmental organizations;

(d) Making appropriate use of relevant information produced by other international and regional mechanisms for combating and preventing corruption in order to avoid unnecessary duplication of work;

(e) Reviewing periodically the implementation of this Convention by its States Parties;

(f) Making recommendations to improve this Convention and its implementation;

(g) Taking note of the technical assistance requirements of States Parties with regard to the implementation of this Convention and recommending any action it may deem necessary in that respect.

5. For the purpose of paragraph 4 of this article, the Conference of the States Parties shall acquire the necessary knowledge of the measures taken by States Parties in implementing this Convention and the difficulties encountered by them in doing so through information provided by them and through such supplemental review mechanisms as may be established by the Conference of the States Parties.

6. Each State Party shall provide the Conference of the States Parties with information on its programmes, plans and practices, as well as on legislative and administrative measures to implement this Convention, as required by the Conference of the States Parties. The Conference of the States Parties shall examine the most effective way of receiving and acting upon information, including, inter alia, information received from States Parties and from competent international organizations. Inputs received from relevant non-governmental organizations duly accredited in accordance with procedures to be decided upon by the Conference of the States Parties may also be considered.

7. Pursuant to paragraphs 4 to 6 of this article, the Conference of the States Parties shall establish, if it deems it necessary, any appropriate mechanism or body to assist in the effective implementation of the Convention.

Article 64
Secretariat

1. The Secretary-General of the United Nations shall provide the necessary secretariat services to the Conference of the States Parties to the Convention.

2. The secretariat shall:

(a) Assist the Conference of the States Parties in carrying out the activities set forth in article 63 of this Convention and make arrangements and provide the necessary services for the sessions of the Conference of the States Parties;

(b) Upon request, assist States Parties in providing information to the Conference of the States Parties as envisaged in article 63, paragraphs 5 and 6, of this Convention; and

(c) Ensure the necessary coordination with the secretariats of relevant international and regional organizations.

Chapter VIII

Final provisions

Article 65

Implementation of the Convention

1. Each State Party shall take the necessary measures, including legislative and administrative measures, in accordance with fundamental principles of its domestic law, to ensure the implementation of its obligations under this Convention.

2. Each State Party may adopt more strict or severe measures than those provided for by this Convention for preventing and combating corruption.

Article 66

Settlement of disputes

1. States Parties shall endeavour to settle disputes concerning the interpretation or application of this Convention through negotiation.

2. Any dispute between two or more States Parties concerning the interpretation or application of this Convention that cannot be settled through negotiation within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.

3. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Convention, declare that it does not consider itself bound by paragraph 2 of this article. The other States Parties shall not be bound by paragraph 2 of this article with respect to any State Party that has made such a reservation.

4. Any State Party that has made a reservation in accordance with paragraph 3 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 67

Signature, ratification, acceptance, approval and accession

1. This Convention shall be open to all States for signature from 9 to 11 December 2003 in Merida, Mexico, and thereafter at United Nations Headquarters in New York until 9 December 2005.

2. This Convention shall also be open for signature by regional economic integration organizations provided that at least one member State of such organization has signed this Convention in accordance with paragraph 1 of this article.

3. This Convention is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations. A regional economic integration organization may deposit its instrument of ratification, acceptance or approval if at least one of its member States has done likewise. In that instrument of ratification, acceptance or approval, such organization shall declare the extent of its competence with respect to the matters governed by this Convention. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

4. This Convention is open for accession by any State or any regional economic integration organization of which at least one member State is a Party to this Convention. Instruments of accession shall be deposited with the Secretary-General of the United Nations. At the time of its accession, a regional economic integration organization shall declare the extent of its competence with respect to matters governed by this Convention. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

Article 68

Entry into force

1. This Convention shall enter into force on the ninetieth day after the date of deposit of the thirtieth instrument of ratification, acceptance, approval or accession. For the purpose of this paragraph, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.

2. For each State or regional economic integration organization ratifying, accepting, approving or acceding to this Convention after the deposit of the thirtieth instrument of such action, this Convention shall enter into force on the thirtieth day after the date of deposit by such State or organization of the relevant instrument or on the date this Convention enters into force pursuant to paragraph 1 of this article, whichever is later.

Article 69

Amendment

1. After the expiry of five years from the entry into force of this Convention, a State Party may propose an amendment and transmit it to the Secretary-General of the United Nations, who shall thereupon communicate the proposed amendment to the States Parties and to the Conference of the States

Parties to the Convention for the purpose of considering and deciding on the proposal. The Conference of the States Parties shall make every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted and no agreement has been reached, the amendment shall, as a last resort, require for its adoption a two-thirds majority vote of the States Parties present and voting at the meeting of the Conference of the States Parties.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote under this article with a number of votes equal to the number of their member States that are Parties to this Convention. Such organizations shall not exercise their right to vote if their member States exercise theirs and vice versa.

3. An amendment adopted in accordance with paragraph 1 of this article is subject to ratification, acceptance or approval by States Parties.

4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party ninety days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment.

5. When an amendment enters into force, it shall be binding on those States Parties which have expressed their consent to be bound by it. Other States Parties shall still be bound by the provisions of this Convention and any earlier amendments that they have ratified, accepted or approved.

Article 70
Denunciation

1. A State Party may denounce this Convention by written notification to the Secretary-General of the United Nations. Such denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.

2. A regional economic integration organization shall cease to be a Party to this Convention when all of its member States have denounced it.

Article 71
Depositary and languages

1. The Secretary-General of the United Nations is designated depositary of this Convention.

2. The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF, the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Convention.

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