



Distr.: **GENERAL**

ECA/GPAD/AEGM/08/01/Info.1
August 2008

**UNITED NATIONS
ECONOMIC COMMISSION FOR AFRICA**

Original: **ENGLISH**

GOVERNANCE AND PUBLIC ADMINISTRATION DIVISION

Ad Hoc Experts Group Meeting on
Assessing the efficiency and impact of national anti-corruption institutions in Africa

Kigali, Rwanda
16-17 February 2009

AIDE MEMOIRE

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1. BACKGROUND

Corruption constitutes a major challenge to economic progress, governance and development in Africa. Corruption not only distorts economic decision-making, it also deters investment, undermines competitiveness and, ultimately, weakens economic growth. Indeed, there is clear evidence that the social, legal, political and economic aspects of development are all linked, and that corruption in any one of these sectors impedes progress in all of them. In the socio-political arena, corruption poses a major threat to social justice, political stability, the rule of law, and sustainable peace. In some cases, corruption has resulted in undermining the legitimacy of governments, eroding confidence in the political leadership, diverting public money away from development projects, reducing productivity, worsening poverty, marginalizing the poor, and spreading unrest and violence.

In Africa, unprecedented efforts have been made to raise awareness about corruption, its insidious nature and the damaging effects it has on the welfare of nations and their people. As a result, anti-corruption instruments are in place across much of African countries aimed at curbing the incidence of corruption in public and private administration systems. These instruments include laws and institutions, reforms of public expenditure management, procurement procedures, auditing and accounting functions and rules governing conflicts of interest. In the mean time, several countries have opted for or are currently considering creating an independent institution charged with the overall responsibility of combating corruption. Most of these institutions have a three-pronged anti-corruption campaign approach: prevention, investigation and prosecution. Their basic operation modalities are: (a) create a conscious society where corruption will not be condoned or tolerated by promoting ethics and anti-corruption education, in cooperation with relevant bodies; (b) prevent corruption offences and other improprieties; and (c) expose, investigate and prosecute corruption offences and impropriety, in collaboration with relevant bodies.

Despite these efforts, Africa still appears as the most corrupt region in the world. Independent studies conducted both within and outside Africa underscore the severity and magnitude of the problem on the continent. In the UNECA 2005 African Governance Report (AGR), corruption ranked amongst the three topmost national problems that were identified, besides poverty and unemployment, through the project survey. In all the 27 countries surveyed in the report, 35 per cent of the expert panels assembled to discuss the challenges of governance expressed the opinion that the executive arm of government is corrupt. The police and judiciary were severely indicted in the survey result as two of the most corrupt public institutions. In the 2007 Transparency International Corruption Perception Index, out of the 52 African countries covered by the report, 36 scored below three, indicating a high rate of corruption, while 14 scored between three and five, indicating that corruption is perceived to be a serious problem. Only two African countries scored above five, suggesting minimal levels of corruption. In its global dimension, a 2004 World Bank report estimated that public officials worldwide received more than USD1 trillion in bribes each year revealing the universal character of the problem.

On national anti-corruption initiatives, especially national anti-corruption commissions, a UNDP report on institutional anti-corruption arrangements indicates that, “anti-corruption commissions have, with one or two exceptions, been a disappointment both to the people

of developing countries and to their development partners. There are actually very few examples of successful independent anti-corruption commissions/agencies.”¹ Undoubtedly, corruption remains a major challenge in most developing countries particularly Africa, of which the current efforts and initiatives at combating it require critical analysis and interrogation with a view to reviewing, strengthening and improving on those efforts.

2. JUSTIFICATION

There are several factors that explain the inefficiency of national anti-corruption institutions in Africa. First, establishing an anti-corruption institution needs high-level political support as well as the necessary political conditions under which it can operate successfully. In Africa even if the determination to tackle corruption is strong it often diminishes as the realities of office, the vested interests in the status quo and the pressure of more immediate tasks bear on the actions of government. More than public statements and conferences condemning corruption, political will relates to the commitment of political leaders to institute action around a specific policy objective – in this case fighting corruption – and to ensure that the necessary elements for such a policy to succeed have been put in place. Without the necessary political support to provide for the resources, powers, independence and accountability mechanisms required for such an institution, it would not materialize.

Secondly, anti-corruption institutions in Africa are often established to appease international actors, as most African countries are highly aid-dependent and anti-corruption requirements have been central to aid conditionalities, as critics perceive a wide gap between governments' anti-corruption rhetoric and the impunity enjoyed by public officials.

Thirdly, although aid conditionalities have placed some constraints on executive actions, the flow of revenues from natural resources, particularly oil and diamonds, continues to be the object of extensive grand corruption in Africa with the persistence of widespread criticism across the region about the ineffectiveness of anti-corruption institutions.

Finally, one of the major challenges the African anti-corruption institutions are facing at global level is that, with the globalization of markets, the growth of multinationals and the expansion of commerce via the internet, jurisdictional problems arise in the investigation and prosecution of cases. As cases become more complex, the necessary expertise is required to allow the successful investigation and prosecution of complex corruption and bribery cases across countries.

To address the above concerns, ECA introduced in the 2008/2009 Work Program of the Governance and Public Administration Division (GPAD) a research study on “Assessing the efficiency and impact of national anti-corruption institutions in Africa.” The study is to examine the causes and effects of corruption in the African context, provide a comparative experience of anti-corruption efforts in selected African countries, underscore the strength,

¹ UNDP, Human Development Report, 2005

weaknesses, and challenges of national anti-corruption institutions, and how their capacity can be enhanced for effective performance in tackling the problem of corruption in Africa.

The study is part of a broader mandate of ECA to spur faster economic growth, promote good governance, reduce poverty and contribute towards achieving the Millennium Development Goals (MDGs) and NEPAD's objectives. The study is also in compliance with several United Nations General Assembly mandates, including the UN Convention Against Corruption (adopted by the General Assembly, in its resolution 58/4 of October 2003), as well as the African Union's (AU) Convention on Preventing and Combating Corruption (adopted by the 2nd Ordinary Session of the Assembly of the Union in July 2003). These instruments call on member States to strengthen their capacity in combating corruption, as one of the main obstacles to development and good governance.

It is in this context that ECA through its Governance and Public Administration Division is organizing an ad hoc experts group meeting on assessing the efficiency and impact of anti-corruption institutions in Africa.

3. OBJECTIVE

The main objective of the ad hoc experts group meeting is to review a draft research study entitled "**Assessing the efficiency and impact of national anti-corruption institutions in Africa.**"

Available evidence and extant studies suggest that few national anti-corruption institutions have made remarkable progress in expanding ethics and anti-corruption education, raising public awareness and closing loopholes in the working procedures of government departments and public enterprises. This is probably due to the nature of the formidable challenges that they are confronted with. The meeting is therefore designed to draw on and benefit from the experiences of the participating heads of national anti-corruption institutions, experts, plus the regional and global partner institutions invited, at exploring ways of strengthening the capacity of national anti-corruption institutions in Africa.

The study to be reviewed at the meeting, presents an in-depth survey of the scale, dimension and nature of the problem of corruption in Africa. It reviews international instruments and frameworks on anti-corruption, including among others, the United Nations Convention against Corruption, the African Union Convention on Preventing and Combating Corruption, as well as other major international, regional and sub-regional instruments to combat corruption. Specific anti-corruption governance structures and institutions, such as the Ombudsman, the Auditor-general, are also analyzed. The paper also provides a comparative analysis of anti-corruption efforts from selected multilateral institutions, their implications on governance and transparency worldwide, and the status of their implementation in Africa. The achievement made in the areas of investigation and prosecution of corruption offences is also highlighted in the study. Finally, the study deals with problems encountered in the fight against corruption and suggests measures to solve them.

4. FORMAT OF THE MEETING

The meeting will be organized in plenary sessions and working groups. Plenary sessions will afford the participants an opportunity to review and discuss general critical challenges facing the African anti-corruption institutions in their efforts to curb corruption. It will also give them the opportunity to share their professional experiences on these issues. Working groups will allow for more in-depth discussions on specific challenging issues. Two working groups will be considered as follows:

Group 1: International Instruments to combating corruption: adaptability and domestication

Group 2: Challenges of national anti-corruption institutions in Africa.

Each group will elect a Moderator and one rapporteur.

5. EXPECTED OUTCOME

After the review of the study by the experts, ECA will publish and disseminate it widely to governments, national anti-corruption institutions, regional economic communities, governmental and non-governmental organizations, civil society organizations and other stakeholders and interested groups. ECA may also organize, as a follow up to the recommendations emanating from the meeting, capacity building activities (upon request) to member States, civil society groups and Regional Economic Communities.

It is expected that the data and information provided in the study will be a valuable instrument for policy makers, researchers and scholars to:

- Improve technical capacity of anti-corruption institutions/agencies to combat corruption efficiently and effectively, both in the public and private sectors;
- Strengthen institutional capacity and regulatory frameworks of member States to fight corruption more effectively;
- Enhance public transparency, external checks and balances on government and improve efficiency and accountability in public service delivery;
- Encourage the involvement of non-state actors (media, academia, civil society, NGOs and international organizations) in the fight against corruption;

6. PARTNERSHIPS

The meeting is being organized in partnership with ECA Sub-regional Office for Eastern Africa (SRO-EA), and the UNDP Anti-corruption Office in New York.

7. PARTICIPANTS

The ad hoc expert group meeting will draw participants from a broad range of stakeholders given the ubiquity of the problem of corruption in Africa, and the need to mobilize a critical mass of stakeholders in combating it. The participants will include:

- a. Heads of national anti-corruption institutions of some selected African countries (20);
- b. Leading civil society organizations, activists and academics working on corruption issues in Africa (5);
- c. Regional and international institutions, which include the African Union Commission, the African Development Bank (AfDB), NEPAD Secretariat, Regional Economic Communities, UNDP Anti-corruption Office, New York, UNODC, UNDP Governance Centre, Oslo, OECD, and the World Bank;
- d. Other stakeholders who may wish to participate.

ECA sponsorship will be only for the first two categories of participants (Heads of national anti-corruption institutions and the CSOs and scholars invited). Other participants will have to cater for their participation at the meeting.

8. WORKING LANGUAGE

The ad hoc experts group meeting will be conducted in English only.

9. DATES AND VENUE

The meeting is scheduled to take place from 16 to 17 February 2009 in Kigali, Rwanda, at the United Nations Economic Commission for Africa Sub-regional Office for Eastern Africa (UNECA/SRO-EA).

10. CONTACTS

For more information and inquiries about the meeting, please contact:

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