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Ad Hoc Experts Group Meeting on
Deepening the Judiciary's Effectiveness in Combating Corruption

Addis Abba, Ethiopia
19-21 November 2007

AIDE MEMOIR

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1. BACKGROUND AND JUSTIFICATION

The ECA research-based work on governance, the African Governance Report (AGR), has amply demonstrated that corruption remains a major obstacle to sustainable development and to the creation of a conducive environment for business in Africa. Both, the expert panel and the household surveys of the AGR have underlined the crucial role of the judiciary as the main organ to promote and protect citizens' rights. However, results of the research show clearly that in most countries the judiciary does not have the human, material and financial capacities to deal adequately with corruption and sometimes, it is itself a source of corruption. As a way of recommendation, AGR stresses the need to deepen legal and judicial effectiveness in many African countries in order to enhance its autonomy from outside pressure or interference, including from the executive.

In addition, during the fourth African Development Forum (ADF IV) on governance in October 2004, participants widely agreed on the importance of reinforcing the judiciary and its independence in order to effectively combat corruption. The ADF-IV Consensus Statement recognizes the importance of an independent judiciary (both politically and financially) and calls upon the judiciary to adopt both short and long term measures to address corruption.

To address the above concerns, the Economic Commission for Africa (ECA) introduced in the 2006/2007 Work Program of the Governance and Public Administration Division (GPAD) a technical publication on "Deepening the judiciary's effectiveness in combating corruption." The publication analyzes practical modalities and suggests appropriate mechanisms for the judiciary to combat corruption in Africa.

The publication is part of a broader mandate of ECA to promote good governance to spur faster economic growth, 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.

2. OBJECTIVE

The main objective of the ad hoc experts group meeting is to allow experts from the judiciary, anticorruption and international organization working on corruption issues to review and discuss the draft document entitled "Deepening the judiciary's effectiveness in combating corruption", with a view to strengthen national mechanisms and institutions in the fight against corruption.

The experts will have the opportunity to first, review and examine national anticorruption strategies and action plans and their effectiveness in combating corruption. Secondly, examine the level of implementation, at country level, of already adopted international

instruments against corruption (i.e. UN Convention Against Corruption, AU Convention on Preventing and Combating Corruption, the Bangalore Principles of Judicial Conduct, the Rule of Law Initiative on anti-corruption).

Experts will also, through the meeting, share their experiences, best practices and lessons and will propose practical modalities to enhance the role of the judiciary and anticorruption agencies in combating corruption more efficiently at both national, subregional and regional levels. Based on their discussions, the experts will draw up specific policy recommendations, programs and action plans to curb the raising incidence of corruption in Africa, in a permanent and sustained manner, so as to promote socioeconomic development for the benefit of all.

3. THE CONTEXT

Corruption is by far one of the most pressing issues of the decade. It has been given attention by the United Nations, the mass media, some scholars and by most politicians running for offices who make the promises to stop perpetrators on track. It is a violation of societal norms and laws by a person or group of persons in the course of performing a legitimate occupation or financial activity within a state or parastatal agency. Corruption destroys rational decision making processes and stifle initiatives, as decision makers become shortsighted and lose the confidence of the people they serve.

It is generally accepted that corruption appears above all wherever: a) decision-makers have a monopoly on powers susceptible to misuse or have broad discretionary powers of indeterminable scope that might make them corruptible or encourage the extortion of bribes; b) internal and external (political) accountability or supervision and control mechanisms are too weak or the corresponding institutions have themselves been; and c) there are no incentives to ethical behavior.

In order to stimulate the debate on the above issues, ECA prepared a technical paper that was primarily submitted to an ad hoc experts group meeting in Addis Ababa from 14-15 December 2006. The meeting involved anticorruption commission/agency officials and other officials from eight African countries, who are tasked with the preparation and implementation of projects or programs in the areas of anticorruption or who raise awareness on the topic of corruption prevention at the level of policy dialogue. These experts recommended that following their review of the paper, this one be then submitted to another ad hoc expert group meeting comprising judiciary and legal affairs officers for them to provide their views/inputs into the paper before it is finalized and disseminated.

The paper analyzes the role of the judiciary in selected African countries to combating corruption and through best practices it provides specific recommendations on how to strengthen its crucial role as the custodian of basic rights and freedoms of citizens. The experts will therefore consider practical modalities to enhance the role of the judiciary in combating corruption and draw specific policy recommendations, programs and action plans for the judiciary to curb the raising incidence of corruption in Africa, in a sustained manner, so as to promote socioeconomic development for the benefit of all.

In addition, the study is looking at the role of the judiciary in combating corruption from two different perspectives: on the one hand, it looks at the role of the judiciary as the main

actor in combating corruption, on the other, it looks at the challenges of combating corruption within the judiciary itself.

While the paper does not suggest that there are easy solutions or models that can be applied to fight corruption, it however, identifies government activities that are most prone to corruption and highlights both substantive laws and administrative procedures that are relevant at combating corruption.

4. EXPECTED OUTCOME

After the meeting, ECA will publish the document and disseminate it widely to governments, regional economic communities, governmental and non-governmental organizations, civil society organizations and other stakeholders and interested groups. ECA may organize capacity building and follow up activities (upon request) to member states and/or regional economic communities.

It is expected that the document will:

- Strengthen institutional capacity and regulatory frameworks that the judiciary, policy makers and other stakeholders should focus their actions in order to fight corruption more effectively;
- Improve technical capacity of the judiciary to combat corruption efficient and effectively, both within and outside the judiciary;
- Enhance the involvement of non-state actors (media, academia, civil society, NGOs and international organizations) in the fight against corruption;
- Enhance public transparency, external checks and balances on government and improve efficiency and accountability in public service delivery;
- Increase capacity of the judiciary to monitor and evaluate corruption crimes so as to promote accountability in the civil service and assure compliance with ethics.

5. FORMAT OF THE MEETING

The meeting will be organized in plenary sessions. This will afford the participants an opportunity to review and discuss among themselves critical challenges facing the Judiciary in Africa to combat corruption. It will also give them the opportunity to present and share their professional experiences on this issue.

6. PARTNERSHIPS

The meeting is being organized in partnership with United Nations Office on Drugs and Crime (UNODC), the African Union Commission (AUC) and the African Development Bank (AfDB).

7. PARTICIPANTS

Since this is a regional issue, GPAD intends to invite a representative number of officials from the judiciary, law enforcement agencies, anticorruption commissions, and relevant international organizations drawn on the basis of a linguistic and geographic balance, best practice, post conflict and active involvement in the fight against corruption criteria. To this end, the Division plans to invite a total of 26 experts as follows:

North Africa, 3: Egypt, Morocco and Sudan;

West Africa, 4: Burkina Faso, Ghana, Nigeria and Sierra Leone;

Central Africa, 3: Cameroon, Chad and Gabon

East Africa, 4: Ethiopia, Kenya, Rwanda and Tanzania;

Southern Africa, 4: Mauritius, Namibia, South Africa and Zambia

Anticorruption agencies, 5: Cameroon, Madagascar, Ghana, Tanzania and Zambia

Regional economic communities: COMESA, ECOWAS, UMA, ECCAS, SADC, EAEC

International organizations, 3: African Union, Transparency International, United Nations Office on Drug and Crime, International Judicial Integrity Group.

8. WORKING LANGUAGES

The workshop will be conducted in both English and French, with simultaneous interpretation. Background documents will be available in both languages.

9. DATES AND VENUE

The meeting is scheduled to take place in Addis Ababa, Ethiopia, at the United Nations Conference Centre (UNCC), from 19 to 21 November 2007.

10. CONTACTS

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