



Conference of the States Parties to the United Nations Convention against Corruption

Distr.: Limited
1 December 2010
Original: English

Implementation Review Group of the United Nations Convention against Corruption Resumed First Session Vienna, 29 November-1 December 2010

Draft report*

I. Introduction

1. In its resolutions 1/1, 2/1 and 3/1, the Conference of the States Parties to the United Nations Convention against Corruption recalled article 63 of the Convention, in particular paragraph 7, according to which the Conference would establish, if it deemed it necessary, any appropriate mechanism or body to assist in the effective implementation of the Convention.
2. In its resolution 3/1, and in accordance with article 42 of the terms of reference of the review mechanism, the Implementation Review Group shall be an open-ended intergovernmental group of States parties, which should operate under the authority of and report to the Conference. The Conference decided that the functions of the Implementation Review Group should be to have an overview of the review process in order to identify challenges and good practices and to consider technical assistance requirements in order to ensure effective implementation of the Convention. The Conference also decided that the Implementation Review Group should hold meetings at least once a year in Vienna.
3. In the same resolution, the Conference decided that the Implementation Review Group shall be in charge of following up and continuing the work undertaken previously by the Open-ended Intergovernmental Working Group on Technical Assistance.
4. At its first session, which was held in Vienna from 28 June to 2 July 2010, the Implementation Review Group decided to hold a resumed session of three days' duration before the end of the year to consider the agenda item on technical assistance and the application of paragraph 42 of the terms of reference of the Review Mechanism, pursuant to its request that the secretariat seek a legal opinion from the Office of Legal Affairs of the Secretariat on that matter.

* The present document is being issued without formal editing.



II. Organization of the meeting

A. Opening of the meeting

5. The Implementation Review Group of the United Nations Convention against Corruption held its resumed first session in Vienna from 29 November to 1 December 2010.

6. The first meeting of the Implementation Review Group was chaired by Dominika Krois (Poland) and the second to sixth meetings were chaired by Ambassador Eugenio Curia (Argentina). In her introductory remarks, the Chair recalled the outcome of the first session of the Implementation Review Group, held from 28 June to 2 July 2010, and its intersessional meeting held on 23 August 2010. She further referred to the work of the Open-ended Intergovernmental Working Group on Technical Assistance, which had been welcomed by the Conference of the States Parties in its resolution 3/4, entitled “Technical assistance to implement the United Nations Convention against Corruption”.

7. The Representative of Chile, speaking on behalf of the Group of Latin American and Caribbean countries, welcomed the beginning of the operation of the Mechanism and the conduct of training workshops for governmental experts. While voluntary contributions for the work of the Mechanism were appreciated, the resources for the functioning of the Mechanism should be made available from the Regular Budget of the United Nations. It was considered essential to integrate technical assistance into the work of the Mechanism and to develop a concrete procedure in the framework of the Implementation Review Group to strategically prioritize and meet technical assistance needs identified through the Mechanism, in a complementary way to the provision of technical assistance at a bilateral and regional level. The speaker highlighted confidence and mutual understanding as the basic principles of the incipient work of the Mechanism and stressed that a decision on the participation of observers should offer practical solutions that would allow the Group to avail itself of the contributions of observers whose participation was relevant for the objectives of the Mechanism; such solution should be in accordance with the Rules of Procedure of the Conference and resolution 3/1 of the Conference.

B. Adoption of the agenda and organization of work

8. On 29 November, the Implementation Review Group adopted the following agenda:

1. Organizational matters:
 - (a) Opening of the resumed session;
 - (b) Adoption of the agenda and organization of work.
3. Country reviews:
 - (a) Organization and schedule of reviews.
4. Resource requirements for the Mechanism.
5. Technical assistance.

6. Provisional agenda for the second session of the Implementation Review Group.
7. Other matters.
8. Adoption of the report of the Implementation Review Group on its resumed first session.

C. Attendance

9. The following States parties to the Convention were represented at the meeting of the Implementation Review Group: Afghanistan, Algeria, Angola, Argentina, Australia, Austria, Azerbaijan, Belarus, Belgium, Benin, Bolivia (Plurinational State of), Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Canada, Chile, China, Colombia, Costa Rica, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, France, Greece, Guatemala, Guinea-Bissau, Haiti, Hungary, Indonesia, Iran (Islamic Republic of), Israel, Italy, Jordan, Kazakhstan, Kenya, Kuwait, Lebanon, Lesotho, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Mexico, Morocco, Mozambique, Namibia, Netherlands, Nicaragua, Niger, Nigeria, Norway, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, Rwanda, Sao Tome and Principe, Senegal, Sierra Leone, Singapore, Slovakia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Tajikistan, Togo, Tunisia, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Venezuela (Bolivarian Republic of), Viet Nam, Yemen and Zambia.

10. The European Union, a regional economic integration organization that is a party to the Convention, was represented at the meeting.

11. The following States signatories to the Convention were represented by observers: Czech Republic, Germany, India, Japan and Syrian Arab Republic.

12. Palestine, an entity maintaining a permanent observer mission to the United Nations, was represented.

13. At the conclusion of its first session, which was held in Vienna from 28 June to 2 July 2010, the Implementation Review Group decided that intergovernmental organizations would be invited to attend as observers the resumed first session. It was also decided that participation of intergovernmental organizations be limited to the agenda item on technical assistance scheduled for 29 November and continued in the morning of 30 November 2010.

14. The following Secretariat units, United Nations bodies, funds and programmes, institutes of the United Nations Crime Prevention and Criminal Justice Programme network, specialized agencies and other organizations of the United Nations system were represented by observers: International Narcotics Control Board, United Nations Commission on International Trade Law, United Nations Economic Commission for Africa, United Nations Development Programme and Naif Arab University for Security Sciences.

15. The following intergovernmental organizations were represented by observers: Asian-African Legal Consultative Organization, East African Community

Secretariat, International Criminal Police Organization, International Organization on Migration and Organization for Security and Co-operation in Europe.

16. The Sovereign Military Order of Malta, an entity maintaining a permanent observer office at Headquarters, was represented.

III. Technical assistance

17. The Secretary highlighted the importance of technical assistance, as an integral component of the mechanism for the review of implementation of the Convention. He further noted the usefulness of the comprehensive self-assessment checklist as a tool for the identification of technical assistance requirements, and the importance of coordination among donors, other technical assistance providers and recipient countries. He concluded by echoing the words of the Conference in endorsing a country-led and country-based, integrated and coordinated technical assistance programme delivery.

18. At its second meeting, on 18 and 19 December 2008, the Open-ended Intergovernmental Working Group on Technical Assistance had welcomed the proposal to establish, by UNODC, a directory of anti-corruption experts, in such a way that the Office and other technical assistance providers could consult it for the identification of expertise (CAC/COSP/WG.3/2008/3). This had been further considered during the Working Group's third meeting, on 3 and 4 September 2009 (CAC/COSP/WG.3/2009/3). In recalling resolution 3/4, State parties and signatories were encouraged to continue to identify and communicate to UNODC information about their anti-corruption experts. A representative of the Secretariat provided a demonstration of how States parties and signatories could upload the information of their anti-corruption experts onto the UNODC website for inclusion into the database. This option would allow countries to add, modify or delete, where necessary, the details of their own experts' information online. The Secretariat would have access to all the information provided so as to safeguard its confidentiality, and upon request, identify and screen the experts in the database with specific expertise. After seeking the consent of the identified expert, the Secretariat would put the expert into contact with the requesting technical assistance provider, and an assignment would be agreed upon on a bilateral basis between them. It was noted that the Secretariat had received to date: 45 experts from 12 countries in the Group of African States; 20 from 7 countries in the Group of Asian and Pacific States; 26 from 9 countries in the Group of Eastern European States; 24 from 8 countries in the Group of Latin American and Caribbean States; and 36 from 10 countries in the Group of Western European and Others States. The Secretariat had already received and responded to requests for use of the database.

19. A representative of the Secretariat presented a technical assistance study that had been recently completed, titled "Pilot testing the use of UNCAC assessment tools in identifying and prioritizing technical assistance: country studies from Indonesia, Kenya and Peru". The study had been conducted pursuant to resolutions 1/5, 2/4 and 3/4, with the objective to assist States parties in improving the use of UNCAC assessment tools to develop and coordinate future technical assistance initiatives so as to ensure further compliance with the Convention. She addressed the individual country studies and provided an overview of the good

practices and lessons learned. The study concluded that UNCAC assessment tools were an excellent starting point for national anti-corruption reform and technical assistance programmes to implement the Convention, but this needed to be based on a country-led and country-based, integrated and coordinated technical assistance programme delivery. Moreover, the self-assessment checklist had to be used as the basis for UNCAC assessment tools so as to avoid a duplication of efforts and provide for improved quality, focus and coordination of the provision of technical assistance.

20. A representative of the Secretariat further provided the Group with a demonstration of the legal library blueprint, which was to generate and disseminate knowledge on national legislation adopted or modified to implement the Convention, as mandated in resolution 3/4. The key objective was to collect, systematize and disseminate legal knowledge acquired as States parties submitted their responses to the self-assessment checklist. The legal library would provide updated and validated legal knowledge to help strengthen implementation of the Convention and ratification or accession by non-States parties. She informed the Group that an initial data set of the laws, regulations and administrative practices of 120 States had been collected, and a detailed analytical breakdown of how that data related to the provisions of UNCAC had been conducted. It was confirmed that the legal library would contain the text of laws in their original language and translations as officially available or provided by States. It was further mentioned that the legal library was part of a broader project known as TRACK (Tools and Resources for Anti-Corruption Knowledge), a web-based portal and collaborative forum that would collect and disseminate legal and non-legal knowledge on anti-corruption and asset recovery, providing also for case studies, best practices and policy analyses, and links to the UNODC database of asset recovery focal points and the expanded mutual legal assistance request writer tool. TRACK had the support of the World Bank, UNDP, International Association of Anti-Corruption Authorities, Asian Development Bank, Organization for Economic Co-operation and Development, Basel Institute of Governance and U4 Anti-Corruption Research Centre.

21. In accordance with paragraph 44 of the terms of reference of the mechanism for the review of implementation of the Convention, the functions of the Group were to consider technical assistance requirements in order to ensure effective implementation of the Convention. Thematic implementation reports were to serve as the basis for the analytical work of the Group. Speakers reiterated the principles of sovereign equality and territorial integrity of States and non-intervention in the domestic affairs of other States. For this reason, several speakers suggested that the technical assistance matrix be reformulated so as to not look at the technical assistance needs identified by individual States parties under each UNCAC article, but rather provide for a thematic approach with a regional focus. One speaker recommended a matrix that would focus the specific technical assistance needs (i.e. model legislation) by region. Other speakers addressed a thematic approach at the regional level so that trends could be analysed, as well as a country level approach so as to further partnerships. It was further noted by speakers that the technical assistance needs provided by States in their responses to the self-assessment checklist may change throughout the review process and the basis for identifying technical assistance needs should be the country reports and executive summaries.

22. Several speakers referred to the means of identifying technical assistance needs at the national level and how such needs were met through the delivery of technical assistance by the bilateral and multilateral donors and executing agencies, including through South-South cooperation. Sector-specific technical assistance was also a means of delivery. The representative of UNDP highlighted the different aspects of work undertaken to implement the Convention and UNDP's cooperation with UNODC, as well as the existence of established processes at the national level. Joint activities by UNDP and UNODC were referred to, in particular the training workshops for focal points and governmental experts participating in the first year of reviews and the guidance note on self assessments. He further noted that technical assistance can be multidisciplinary and highly contextualized.

23. It was noted that a key question that the Implementation Review Group and the Conference of the States Parties faced was whether and how technical assistance requirements were met, and not necessarily who was the provider of technical assistance. Related to this was the issue of helping States to identify their technical assistance needs. The identification of technical assistance needs within the context of the review process was one of the crucial aspects of the work of the Review Mechanism. Moreover, from a policymaking perspective, the Group and Conference needed to have an overview and be satisfied that needs were matched with delivery and that such delivery produced the desired result.

24. The role of UNODC as a broker, provider or both was another issue that needed to be discussed, but in the proper context. UNODC had a specific and clear mandate entrusted to it first by the Convention itself, as well as the General Assembly, and subsequently by the Conference and the Implementation Review Group. Several speakers raised the issue of coordination, underlining its importance of maximizing scarce resources and ensuring effective implementation of the Convention. It was further held that while there were some improvements, the level of knowledge of the Convention's provisions were still low. This had been also recognized by the Working Group on Technical Assistance through its mandate to impart knowledge to the staff of providers of technical assistance on the ground.

25. Speakers agreed that a workshop, similar to the one held in Montevideo in 2007, would provide insight into what bilateral and multilateral donors and other technical assistance providers were carrying out with respect to implementing the Convention and more generally, combating corruption. Some speakers also highlighted the need to incorporate civil society and academia in the technical assistance process.

26. The Implementation Review Group and Conference of the States Parties to UNCAC had the mandate and the responsibility to ensure the best possible implementation of the Convention's relevant provisions, as per Chapter VI and more specifically, articles 60 and 62. The delegation of Argentina submitted a proposal outlining issues for the Group's consideration on its role with regard to technical assistance in the context of the Mechanism. On the basis of the proposal and subsequent discussions, the Group adopted the attached recommendation.

Recommendation:

The Implementation Review Group recalled Resolution 3/1 of the third session of the Conference of State Parties to United Nations Convention against Corruption, in which it decided that the Group shall be in charge of following up and continuing

the work undertaken previously by the Open-ended Intergovernmental Working Group on Technical Assistance. It took into account that, pursuant to paragraph 11 of the Terms of Reference, one of the goals of the Mechanism for the Review of Implementation of UNCAC is to help State Parties to identify and substantiate specific needs for technical assistance and to promote and facilitate the provision of technical assistance.

The Group had in mind the functions assigned to it in paragraph 44 of the Terms of Reference, according to which the functions of the Group shall be to have an overview of the review process in order to identify challenges and good practices and to consider technical assistance requirements in order to ensure an effective implementation of the Convention.

The Group recognized the continuing and valuable role of technical assistance provided by bilateral and multilateral donors at different levels and, the importance of effectively addressing technical assistance within the Mechanism. The Group also recognized the importance of country-led and country-based integrated and coordinated programming and delivery of technical assistance as an effective means of addressing technical assistance needs of States parties under review.

In this light, the Group recommended that all States parties, where applicable, include in their responses to the comprehensive self-assessment checklists and in the country reports an identification of technical assistance requirements, preferably prioritized and related to the implementation of the provisions of the Convention examined during a given review cycle.

The Group recommended that all State Parties, where applicable, provide information on ongoing technical assistance projects related to the implementation of the Convention.

The Group decided, on the basis of the outcome of the review process and consistent with the Terms of Reference of the Mechanism, to consider priority areas for the provision of technical assistance, as well as consolidated information on trends of technical assistance required and provided.

The Group recommended that the Secretariat take into account in the thematic and regional programmes the priority areas referred to in the preceding paragraph, as well as when developing technical assistance tools.

The Group recommended that the Secretariat provide it with information on the gaps in securing funding for UNODC projects that are being implemented in accordance with the priorities set out.

The Group further recommended that, under its supervision, the Secretariat:

- (a) Promote with other bilateral and multilateral partners the use of UNCAC and its review mechanism as a tool for anti-corruption assistance programming;
- (b) Establish partnerships with bilateral and multilateral partners to ensure effective and coordinated provision of technical assistance related to the implementation of the Convention;
- (c) Develop information on experiences and lessons learned in the provision of technical assistance in anti-corruption;

(d) Include information on technical assistance aspects in the periodic training courses organized pursuant to paragraph 32 of the Terms of Reference of the Mechanism.

Consistent with the Terms of Reference, the Group reaffirmed the request contained in Resolution 3/4 of the Conference of the States Parties for UNODC to continue to provide technical assistance for the implementation of the Convention including by providing direct expertise on policy or capacity-building through the thematic programme on action against corruption and economic crime of UNODC and, where appropriate, regional programmes, using its range of technical assistance tools (legal library, Knowledge Management Consortium, roster of anti-corruption experts, national or regional workshops, etc).

Finally, the Group recommended that the Secretariat prepare a report on the implementation of these recommendations, for its consideration at each session.

V. Resource requirements for the Mechanism

27. During the Group's consideration of agenda item 4 on the resource requirements for the functioning of the Review Mechanism, the Secretary provided information on the resources and expenditures for the functioning of the Mechanism, making reference to document CAC/COSP/IRG/2010/CRP.11. He recalled resolution 64/237 of the General Assembly and provided the Group with an update on the budgetary process for 2012-2013. He further provided the Group with an update on the regular budget and on voluntary contributions received for the biennium 2010-2011, and with information on the estimated expenditures for the first months of the review cycle. He also indicated that more detailed information on expenditures will be provided to the Implementation Review Group at its second session in May 2011.

28. Speakers referred to several factors to be considered for the calculation of the resource requirements for the Mechanism for the biennium 2012-2013. This includes for example the variable number of States parties under review in a given year, the variation in the number of pages to be translated, the different language combinations, as well as the need to upgrade the self-assessment checklist software to correct technical problems encountered by its users. The Group was informed that cost estimates and, consequently, requirements for the biennium 2012-2013 were likely to be revised upwards if the current patterns of expenditures were confirmed. It was highlighted that the mobilization of funds for technical assistance to meet the needs identified by countries through the Review Mechanism needed to be addressed as a related but separate issue from the resource requirements for the functioning of the Mechanism.

VI. Provisional agenda for the second session of the Implementation Review Group

29. At its 6th meeting, on 1 December 2010, the Implementation Review Group adopted the provisional agenda for the second session of the Implementation Review Group (CAC/COSP/IRG/2010/L.3).

VIII. Adoption of the report

30. On 1 December 2010, the Implementation Review Group adopted the report on its resumed first session (CAC/COSP/IRG/2010/L.1/Add.1).
