



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

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Implementation Review Group

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Draft report

Addendum

III. Review of implementation of the United Nations Convention against Corruption

Drawing of lots

1. The Chair recalled that pursuant to paragraphs 14 and 19 of the terms of reference of the Review Mechanism, lots were to be drawn to determine which States parties will participate in the reviews. A State party selected for review in a given year could defer participation to the following year with a reasonable justification. In resolution 4/1, the Conference endorsed the practice followed by the Group on the drawing of lots. At its first session, the Group drew lots for States parties to be reviewed in the first cycle. In accordance with the organization of work, lots could be redrawn towards the end of the session in order to allow States under review sufficient time for consultations on whether they would like a draw to be repeated. Before proceeding with the drawing of lots for their reviewing States parties, the State party under review was asked whether it confirmed its readiness to undergo review in the third year or wished to defer until the fourth year. Three States parties informed the Group that they wished to defer their review until the following year of the cycle.

2. In order to comply with the requirement that by the end of a given cycle all States parties must have performed a minimum of one and a maximum of three reviews, it was recommended to the extended Bureau at its last meeting to leave aside States that have performed already two reviews. Only States that have performed none or one review would be placed in the boxes.

3. However, as there were only two years left in the current review cycle, States that did not perform a review this year would necessarily have to do so in the fourth year. States that were under review in year 4 and who had never performed a review would therefore not have the possibility of declining to serve as a reviewer



in accordance with paragraph 20 of the terms of reference. The difficulty was compounded by the fact that those States who had become parties to the Convention after the launch of the Mechanism would be reviewed in the fifth and last year of the cycle. Experience had shown that States gained valuable insight and experience in the review process when they served as reviewers before being reviewed, a point which was even more relevant for new Parties. Furthermore, the Group of Asian States had seen an exponential increase of States parties since the first drawing of lots, particularly among small island States. These small States may find themselves in a difficult position to perform their own reviews and to be a reviewing State party.

4. The Group agreed to initiate the drawing of lots for the States under review in year 3 only with those States that had never performed a review. If they were also under review in year 3, they could decline to serve as reviewers in accordance with paragraph 20. When the number of States who had never performed a review was exhausted, then those States who had performed one review were placed in the boxes.

5. Attention was also drawn to the updates on receipt of lists of governmental experts that were available on the UNODC website. Several updates have been received in the past weeks. At the first meeting of the session, 143 States parties had submitted their list of governmental experts. Several were present at the meeting and others had given assurances that the list was forthcoming. Seven States parties were unresponsive. While a very high number of States parties had complied with the requirement to provide their list of governmental experts before the drawing of lots, the Group expressed concern that not all had done so.

6. Several States parties that were either under review in year 3 or already selected to perform a review in year 3 declined to serve on a second review. Some States parties that were selected to be reviewed or to perform a second review accepted to serve in two country reviews. [more text to come]

7. Speakers reported on their national anti-corruption efforts, including on new legislation on access to information, money-laundering and lobbyism. Speakers also reported on institutional reform, inter-agency cooperation and the cooperation with the private sector. Several speakers also made reference to other regional and multilateral initiatives, and one speaker reported on the progress of the Open Government Partnership. Some speakers reported on practical challenges faced in international cooperation in criminal matters and urged States Parties to cooperate under the Convention and fully implement Chapter IV as an urgent priority.

8. Several states reported on measures taken in implementing the chapters on prevention and asset recovery. They stressed that the second cycle of the Review Mechanism will touch on even more complex issues than the first cycle. They emphasized the importance of preparing themselves for the second cycle well in advance, including through the Open-ended Intergovernmental Working Groups on Prevention and on Asset Recovery.

9. Speakers referred to the Mechanism as a powerful instrument to generate dialogue and cooperation. Preparing the responses to the self-assessment checklist was regarded as a good opportunity for inter-agency cooperation. Several speakers reported on their experience with multi-stakeholder approaches, in particular on the involvement of civil society and the private sector in the country reviews.

One speaker reported that the country had published the details of its focal point and encouraged all States parties to do the same. Trilateral meetings and other informal consultations at the margins of sessions of the Group and other meetings were also mentioned as a good practice.

10. The training courses organized by the Secretariat, supported by other partners, were highlighted as a very important component of the Mechanism, and the further training of experts at the regional and national levels was considered useful.

11. The Secretariat provided an oral update to document CAC/COSP/IRG/2012/4 on statistics of the different steps of the review process. Initial steps taken to prepare the States parties under review in year 3 were outlined, including the training of those focal points that had been nominated for early preparation. The updated version of the software containing the comprehensive self-assessment checklist as well as the new webpage for country reviews were demonstrated.

12. Many country reviews were not concluded within the indicative timelines contained in the Guidelines for governmental experts and the Secretariat in the conduct of country reviews. Some delegations advocated taking a more realistic approach to timelines, considering the complexity of the two Chapters under review, translation requirements and capacity issues. Others called upon countries to comply with their obligation to designate focal points and governmental experts and follow the process of the country reviews in the established timelines. The learning experience of those participating in reviews was hoped to lead to shorter timelines in future. The delays in the reviews were reported to cause problems with regard to the continuity of the review process and the responsible governmental experts and the consistency of the reports. Country visits needed to be well planned in advance and prepared to be efficient. Country review reports were to reflect the implementation of the Convention at a given time; important measures that the country under review adopts shortly before the conclusion of the review could be included for information purposes with a proviso that they were not object of the review.

13. The distribution of labour among governmental experts of the reviewing States Parties was recognized as a means to timely conclude the review. However, some speakers reported on their experience that the thorough review of both Chapters by each of the reviewing countries was valuable for the substantive quality of the review.

14. Multilingualism was highlighted as an important feature of the Mechanism that allowed the participation of all countries, and it was stressed that the six official languages should be used equally. Some speakers expressed their concern about the delays caused by translation; including in cases in which, in exceptional cases, translations from non-United Nations languages were carried out.

15. Speakers recommended to carefully collect the lessons learnt and good practices from the first review cycle to be used as a basis for the second review cycle.

Executive summary template

16. The Chair introduced the discussion on the draft executive summary template, prepared by the Secretariat pursuant to resolution 4/1 of the Conference, and

submitted to the Implementation Review Group for its consideration (document CAC/COSP/IRG/2012/2).

17. The Secretary explained that the draft template aimed at ensuring consistency in the structure of the executive summaries. He further informed the Group that the template had been used for the executive summaries that had been finalized in the last few months before the session of the Group and thus the Group could also refer to these executive summaries for a better understanding of how the proposed template would be applied.

18. In the ensuing discussion, speakers exchanged views on the structure of the proposed template and the content of its sections. Many speakers expressed satisfaction with the template prepared by the Secretariat and emphasized its usefulness in practice. A number of other speakers stressed that the template should ensure that the executive summary does not replicate the structure and content of the country review report.

19. It was stressed that the template should be fully consistent with the Terms of Reference of the Review Mechanism and resolution 4/1 of the Conference. Some speakers expressed the view that the executive summary should adopt a general approach, and avoid providing a detailed account of the implementation of each provision under review. They noted that a general wording of the template would allow for its application to both review cycles.

20. Several speakers stressed the informative value of the executive summary. They expressed the view that the executive summary should lend itself to be read as a stand-alone document and contain a reasonable amount of detail on the implementation of provisions under review. They expressed the view that such an approach would facilitate the study of the executive summary and would serve its overall usefulness.

21. The Group approved the following structure for the executive summary:

1. Introduction: Overview of the legal and institutional framework of [country under review] in the context of UNCAC implementation
2. Chapter [...]
 - 2.1 Observations on the implementation of the articles under review
 - 2.2 Successes and good practices
 - 2.3 Challenges in implementation, where applicable
 - 2.4 Technical assistance needs identified to improve implementation of the Convention
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 - 3.2 Successes and good practices
 - 3.3 Challenges in implementation, where applicable
 - 3.4 Technical assistance needs identified to improve implementation of the Convention

Thematic implementation reports

22. The Secretariat summarized the main elements of the thematic implementation reports (CAC/COSP/IRG/2012/CRP.1 and 2), which contained information on the implementation of chapters III (Criminalization and law enforcement) and IV (International cooperation) of the Convention by States parties under review in the first and second years of the first cycle of the Review Mechanism. The reports were based on information included in the review reports of nineteen States parties that had been completed, or were close to completion, at the time of drafting.¹ The reports contained implementation examples, information on successes, good practices, challenges and observations, as well as a thematic overview of the most salient technical assistance needs, where possible with a regional breakdown.

23. Speakers welcomed the thematic reports and their increasing usefulness to the Group's analytical work, in particular concerning the coverage of substantive issues and the analysis of technical assistance needs. Speakers appreciated that the Group's previous recommendations had been reflected in the reports and emphasized the usefulness of the examples on implementation and good practice as a means for information exchange. The thematic reports provided valuable information on nuances in implementation, especially for States parties participating in the Review Mechanism, and could also assist the Group in identifying specific areas that deserved enhanced attention.

24. The Group invited a discussion on particular substantive provisions of the Convention that were addressed in the reports, including illicit enrichment, bribery in the private sector, the liability of legal persons, and privileges and immunities. A number of speakers shared their countries' experiences in implementing the Convention and highlighted nuances and challenges in implementation, as well as innovative steps that had been taken and recent developments. Ancillary measures, such as asset and income disclosures in the context of illicit enrichment, were discussed. A number of speakers underscored the critical need to enhance international cooperation, in particular in the areas of mutual legal assistance, asset recovery and technical assistance. Speakers also observed a need for further cooperation and knowledge sharing on how to apply the Convention as a basis for international cooperation. In the area of technical assistance, requests for model legislation and a sharing of experiences on the verification of sworn asset declarations were noted. Reference was also made to the UNODC database of central authorities under the Conventions against Corruption, Transnational Organized Crime and the drug conventions, and to the TRACK portal, which contained specific case law on asset recovery.

25. Several speakers underscored the need for effective enforcement of existing laws against corruption, including the availability of relevant statistical information, which was noted as a challenge by some speakers. The Secretariat reported that the reviews had collected information on enforcement, where available, although comprehensive statistics did not always exist. It was suggested that this was due in part to the recent enactment of implementing legislation, insufficient capacity and the fact that some provisions were less familiar than others.

¹ 31 May 2012.

26. Several speakers recognized a need for States to fully and effectively implement all provisions of the Convention. They emphasized the importance of raising awareness of the application of its principles and sharing knowledge and information among States. In this regard, several speakers highlighted the important role of the Secretariat in enhancing knowledge of the Convention and providing technical support to assist States in addressing challenges in implementation, including through the Stolen Asset Recovery Initiative. A need for States to build cooperation and trust and to engage in direct communication to enhance international cooperation was noted. Speakers also observed that the implementation of the Convention was a gradual process and that developments and trends in implementation were already emerging during the first two years of the Review Mechanism.

27. It was recognized that the content of the thematic reports would evolve as more data was accumulated. Speakers noted that future reports could differentiate between mandatory and non-mandatory provisions, which would become more relevant in the second cycle, and that a concise summary of key observations or good practices on specific provisions of the Convention could be useful. One speaker welcomed the inclusion of more detailed implementation figures and information on how national authorities were implementing the Convention.

28. Speakers welcomed the preparation of regional addenda for its future sessions, once a critical mass of data had been accumulated, and invited a fuller discussion of the content of such addenda. The Secretariat welcomed the Group's suggestions in this regard. A renewed comprehensive thematic discussion on implementation was expected at the Group's resumed session, when full translations of the reports would also be available.
