



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

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**Review of the implementation of the United Nations  
Convention against Corruption**

## **Work of the Open-ended Intergovernmental Working Group on Review of the Implementation of the United Nations Convention against Corruption**

### **Report of the Secretariat**

#### **I. Introduction**

1. Pursuant to article 63, paragraph 5, of the United Nations Convention against Corruption,<sup>1</sup> the Conference of the States Parties to the Convention against Corruption shall acquire the necessary knowledge of the measures taken by States parties in implementing the 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.

2. In its resolution 1/1, the Conference agreed that it was necessary to establish an appropriate mechanism to assist in the review of the implementation of the Convention. In that same resolution, the Conference decided to establish, within existing resources, an open-ended intergovernmental expert working group to make recommendations to the Conference on the appropriate mechanisms or bodies for reviewing the implementation of the Convention and on the terms of reference of such mechanisms or bodies. The Conference underlined that any such review mechanism should:

- (a) Be transparent, efficient, non-intrusive, inclusive and impartial;
- (b) Not produce any form of ranking;
- (c) Provide opportunities to share good practices and challenges;

\* CAC/COSP/2009/1.

<sup>1</sup> United Nations, *Treaty Series*, vol. 2349, No. 42146.



(d) Complement existing international and regional review mechanisms in order that the Conference might, as appropriate, cooperate with them and avoid duplication of effort.

3. In its resolution 2/1, the Conference considered the issue further and decided that any such mechanism should also reflect, inter alia, the following principles:

(a) Its objective should be to assist States parties in the effective implementation of the Convention;

(b) It should take into account a balanced geographical approach;

(c) It should be non-adversarial and non-punitive and should promote universal adherence to the Convention;

(d) It should base its work on clear, established guidelines for the compilation, production and dissemination of information, including addressing issues of confidentiality and submission of the outcome to the Conference, which is the competent body to take action on such outcome;

(e) It should identify, at the earliest stage possible, difficulties encountered by parties in the fulfilment of their obligations under the Convention and good practices adopted in efforts by States parties to implement the Convention;

(f) It should be of a technical nature and promote constructive collaboration, inter alia, in preventive measures, asset recovery and international cooperation.

4. Also in its resolution 2/1, the Conference decided that the Working Group should prepare terms of reference for a review mechanism for consideration, action and possible adoption by the Conference at its third session. In that regard, the Conference called upon States parties and signatory States to submit proposals to the Working Group for the terms of reference, for its consideration.

5. In that same resolution, the Conference requested the Secretariat to assist the Working Group by submitting to it background information, including terms of reference of existing review mechanisms and information on the activities undertaken pursuant to Conference resolution 1/1 to collect and analyse information on possible methods for reviewing implementation.

## **II. Consideration of appropriate mechanisms or bodies for reviewing the implementation of the United Nations Convention against Corruption and preparation of the terms of reference for such mechanisms or bodies**

6. In order to prepare for the second meeting of the Working Group in a timely manner and so as to enable the Secretariat to consolidate the responses received, on 29 April 2008 the Secretariat invited States parties to provide their views and proposals by 1 July 2008. Contributions were submitted by the following 33 States: Algeria, Austria, Brunei Darussalam, Chile, China, Croatia, Ecuador, El Salvador, Finland, France, Germany, Hungary, Indonesia, Iran (Islamic Republic of), Japan, Jordan, Kuwait, Latvia, Mali, Mauritius, Morocco, Nigeria, Norway, Panama, Peru, Slovakia, South Africa, Switzerland, Thailand, Tunisia, United Kingdom of Great Britain and Northern Ireland, United States of America and Uruguay. The

Secretariat made them available on the UNODC website (<http://www.unodc.org/unodc/en/treaties/CAC/working-group1.html>). Further, a compilation of the proposals in English were included in the background documentation for the working group (CAC/COSP/WG.1/2008/2 and Add.1-3 and Corr.1).

7. To facilitate the exchange of views and encourage discussions on proposals submitted by States as well as to enable the Secretariat to consolidate the proposals for the deliberations of the Working Group at its second meeting, informal consultations were held on 28 and 29 August 2008. The informal consultations were attended by representatives of 55 States and the European Community. At the informal consultations, the proposals were restructured under provisional headings, thus producing a consolidated version as a means of organizing and facilitating the discussions of the working group. The initial proposals remained without textual changes unless the authors requested deletions or amendments to be made to their submissions.

8. At its second meeting, held in Vienna from 22 to 24 September 2008, the Working Group considered proposals and contributions received from Governments for the terms of reference of the mechanism for the review of implementation of the Convention, basing its discussions on a conference room paper prepared by the Secretariat on the basis of the informal consultations held on 28 and 29 August 2008 (CAC/COSP/WG.1/2008/CRP.1). That conference room paper contained a consolidated version of the proposals received from States parties and signatory States contained in background papers prepared by the Secretariat (CAC/COSP/WG.1/2008/2 and Add.1-3 and Corr.1), a working document submitted by the Group of 77 and China (CAC/COSP/WG.1/2008/CRP.2) and comments submitted by Peru (CAC/COSP/WG.1/2008/CRP.3). Through its two readings of the consolidated version of the proposals, the Working Group eliminated text that was duplicative and/or subsumed in other parts, engaged in a preliminary discussion of the various issues involved and began producing a rolling text of the draft terms of reference for the review mechanism.

9. At the same meeting, the observer for the Organization for Economic Cooperation and Development (OECD) gave a brief description of the system of mutual review established pursuant to article 12 of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.<sup>2</sup> The observer for the Council of Europe presented the experience of the mechanism of the Group of States against Corruption (GRECO) for reviewing the Criminal Law Convention on Corruption,<sup>3</sup> the Civil Law Convention on Corruption<sup>4</sup> and other anti-corruption instruments of the Council of Europe. The Working Group requested the Secretariat to provide information on the funding of the implementation review mechanisms discussed in the background papers on the methods for the review of the implementation of the Convention against Corruption (CAC/COSP/2006/5) and on parameters for defining the review mechanism for the Convention (CAC/COSP/2008/10).

<sup>2</sup> *Corruption and Integrity Improvement Initiatives in Developing Countries* (United Nations publication, Sales No. E.98.III.B.18).

<sup>3</sup> Council of Europe, *European Treaty Series*, No. 173.

<sup>4</sup> *Ibid.*, No. 174.

10. Pursuant to the request made by the Working Group at its second meeting, the Secretariat prepared, for the consideration of the Working Group at its third meeting, the rolling text containing the draft elements for the terms of reference of a mechanism for reviewing the implementation of the Convention (CAC/COSP/WG.1/2008/6). Informal consultations were held in Vienna on 5 and 6 November 2008 to discuss the draft elements for a terms of reference. At its third meeting, held in Vienna from 15 to 17 December 2008, the Working Group considered the draft elements and the draft terms of reference of the mechanism for the review of implementation of the Convention (CAC/COSP/WG.1/2008/7). It requested the Secretariat to organize additional informal consultations based on the draft terms of reference prepared by the Secretariat, in order to advance its work. The informal consultations were held in Vienna on 26 and 27 February 2009. The outcome of the third meeting of the Working Group and the results of the informal consultations were reflected in the revised version of the rolling text (CAC/COSP/WG.1/2008/7/Rev.1).

11. At its fourth meeting, held in Vienna from 11 to 13 May 2009, the Working Group continued and concluded the first reading and began the second reading of the rolling text (CAC/COSP/WG.1/2008/7/Rev.1) with the purpose of reaching agreement on the terms of reference. The progress made by the Working Group at its fourth meeting were reflected in the revised version of the rolling text (CAC/COSP/WG.1/2008/7/Rev.2).

12. At its fifth meeting, held in Vienna from 25 August to 2 September 2009, the Working Group continued and completed its second reading of the rolling text. The Working Group requested the Secretariat to prepare the following documents in order to assist it and the Conference in their deliberations: a draft blueprint for country reports, draft uniform guidelines for experts reviewing implementation of the Convention and a cost estimate for different components of the review process. The documents were prepared during the course of the meeting and presented to the Working Group. The progress achieved by the Working Group in its deliberations was reflected in the rolling text of the terms of reference.

13. The Working Group submitted the rolling text in its current state (CAC/COSP/WG.1/2008/7/Rev.2) to the Conference at its third session for consideration and appropriate action.

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