



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

Chile, Liechtenstein, Mexico, Norway, Peru, Sweden, Switzerland and Turkey:
draft resolution**

Mechanism for the Review of Implementation of the United Nations Convention against Corruption

*The Conference of the States Parties to the United Nations Convention against
Corruption,*

Recalling article 63, paragraph 1, of the United Nations Convention against
Corruption,¹ which establishes the Conference of the States Parties to the United
Nations Convention against Corruption to, inter alia, promote and review the
implementation of the Convention,

Recalling also article 63, paragraph 7, of the Convention, according to which
the Conference is to establish, if it deems it necessary, any appropriate mechanism
or body to assist in the effective implementation of the Convention,

Bearing in mind that the review of implementation of the Convention is an
ongoing and gradual process and that it must be done in full respect for the
principles of sovereign equality and territorial integrity of States and of non-
intervention in the domestic affairs of other States,

Recalling its resolution 1/2, in which it decided that a self-assessment
checklist should be used as a tool to facilitate the gathering of information on the
implementation of the Convention,

Convinced that effective and efficient review of the implementation of the
Convention in accordance with article 63 is of paramount importance for the proper

* CAC/COSP/2009/1 and Corr.1.

** On behalf of the States members of the United Nations that are members of the European Union.

¹ United Nations, *Treaty Series*, vol. 2349, No. 42146.



identification of gaps in and challenges to implementation and for the provision of technical assistance,

Recalling its resolution 1/1, in which it agreed on the necessity of establishing an appropriate and effective mechanism to assist it in the review of the implementation of the Convention and established an open-ended intergovernmental expert working group to make recommendations to the Conference at its second session on the appropriate mechanisms or bodies for reviewing the implementation of the Convention and on the terms of reference of such mechanisms or bodies,

Recalling also its resolution 2/1, in which it agreed that the Open-ended Intergovernmental Working Group on Review of the Implementation of the United Nations Convention against Corruption would prepare terms of reference for a review mechanism for consideration, action and possible adoption by the Conference at its third session,

1. *Takes note with appreciation* of the work of the Open-ended Intergovernmental Working Group on Review of the Implementation of the United Nations Convention against Corruption at its five intersessional meetings;

2. *Adopts* the terms of reference of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption annexed to the present resolution.

Annex

Terms of reference of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption

Preamble

Pursuant to article 4, paragraph 1, of the United Nations Convention against Corruption,^a which states that States parties shall carry out their obligations under the Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and non-intervention in the domestic affairs of other States, the Conference of the States Parties to the United Nations Convention against Corruption establishes the following mechanism to review implementation of the Convention, as described below.

I. Definition

1. The Mechanism for the Review of Implementation of the United Nations Convention against Corruption (hereinafter “the Mechanism”) includes a review process that shall be guided by the principles contained in sections II and III and be carried out in accordance with the provisions contained in section IV. The Mechanism also includes an Implementation Review Group as set out in section V.

^a United Nations, *Treaty Series*, vol. 2349, No. 42146.

The Mechanism shall be supported by a secretariat as set out in section VI and be financed in accordance with section VII.

II. Guiding principles

2. The Mechanism shall:
 - (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;
 - (d) Assist States parties in the effective implementation of the Convention;
 - (e) Take into account a balanced geographical approach;
 - (f) Be non-adversarial and non-punitive and shall promote universal adherence to the Convention;
 - (g) Base its work on clear, established guidelines for the compilation, production and dissemination of information, including addressing issues of confidentiality and the submission of the outcome to the Conference, which is the competent body to take action on such an outcome;
 - (h) Identify, at the earliest stage possible, difficulties encountered by States parties in the fulfilment of their obligations under the Convention and good practices adopted in efforts by States parties to implement the Convention;
 - (i) Be of a technical nature and promote constructive collaboration, inter alia, in preventive measures, asset recovery and international cooperation;
 - (j) Complement existing international and regional review mechanisms in order that the Conference may, as appropriate, cooperate with those mechanisms and avoid duplication of effort.
3. The Mechanism shall be an intergovernmental process.
4. In conformity with article 4 of the Convention, the Mechanism shall not serve as an instrument for interfering in the domestic affairs of States parties but shall respect the principles of equality and sovereignty of States parties, and the review process shall be conducted in a non-political and non-selective manner.
5. The Mechanism shall promote the implementation of the Convention by States parties, as well as cooperation among States parties.
6. The Mechanism shall promote the principles set out in paragraph 2 and shall provide opportunities to exchange views, ideas and best practices, thus contributing to strengthening cooperation among States parties in preventing and fighting corruption.
7. Consistent with articles 12 and 13 of the Convention, the active participation of the private sector and individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, should be ensured by States parties in their implementation of the Mechanism.

8. The Mechanism shall take into account the levels of development of States parties, as well as diversities in judicial, legal, political, economic and social systems and differences in legal traditions.

9. The review of implementation of the Convention is an ongoing and gradual process. Consequently, the Mechanism shall endeavour to adopt a progressive and comprehensive approach.

III. Relationship of the Review Mechanism with the Conference of the States Parties

10. The review of implementation of the Convention and the Mechanism shall be under the authority of the Conference, in accordance with article 63 of the Convention.

11. The Conference shall be responsible for establishing policies and priorities related to the review process. Following the completion of each review cycle, the Conference shall assess the performance of the Mechanism and its terms of reference.

IV. Review process

A. Goals of the review

12. Consistent with the Convention, in particular article 63, the purpose of the review process shall be to assist States parties in their implementation of the Convention. In this regard, the review process, *inter alia*, shall:

(a) Promote the purposes of the Convention as set out in its article 1;

(b) Promote and review the implementation of the Convention, including international cooperation by States parties;

(c) Provide the Conference with information on the measures taken by States parties in implementing the Convention and the difficulties encountered by them in doing so;

(d) Help States parties to identify and substantiate specific needs for technical assistance and promote and facilitate the provision of technical assistance;

(e) Promote and facilitate international cooperation in the prevention of and the fight against corruption, including in the area of asset recovery;

(f) Identify successes and challenges of States parties in implementing and using the Convention;

(g) Promote and facilitate the exchange of information, practices and experiences gained in the implementation of the Convention.

B. Conduct of the review

13. The Mechanism shall be applicable to all States parties. It shall gradually cover the implementation of the entire Convention. Signatory States may participate in the Mechanism as a reviewed State on a voluntary basis and shall bear the costs

associated with such participation. The phases and cycles of the review process, as well as the scope, thematic sequence and details of the review, shall be established by the Conference. The Conference shall also determine the duration of each review cycle and decide on the number of States parties that shall participate in each year of the review cycle.

14. The review of all States that are parties at the start of a review cycle should be completed before a new review cycle begins. However, the Conference may decide to launch a new review cycle before the completion of all reviews of the previous cycle. No State party shall undergo a review twice in the same review cycle, without prejudice to the right of a State party to provide new information.

15. The selection of States parties participating in the review process in a given year of a review cycle shall be carried out by the drawing of lots within regional groups of the United Nations at the beginning of each review cycle. A State party selected for review in a given year may defer participation to the following year of the review cycle in exceptional circumstances. The number of States parties from each regional group participating in the review process in a given year shall be proportionate to the size of that regional group and the number of its members that are States parties to the Convention.

16. Each State party shall provide to the secretariat the information required by the Conference on its compliance with and implementation of the Convention, using the self-assessment checklist developed by the secretariat and endorsed by the Conference as an initial step for that purpose. States parties shall provide complete, up-to-date, accurate and timely responses.

17. Each State party is encouraged to engage in broad consultations on the national implementation of the Convention with the private sector and individuals and groups outside the public sector before submitting its responses to the self-assessment checklist.

18. Assistance in the preparation of the responses to the checklist shall be provided by the secretariat to States parties requesting such assistance.

19. Each State party shall appoint focal points to coordinate that State party's participation in its review. Each State party shall endeavour to appoint focal points who possess the required substantive expertise on the provisions of the Convention under review.

Country review

20. Each State party shall be reviewed by two other States parties. The review process shall actively involve the State party under review.

21. One of the two reviewing States parties shall, if possible, be a State with a legal system similar to that of the State party under review and be from the same region as the State party under review. The selection of the reviewing States parties shall be carried out by the drawing of lots at the beginning of each cycle, with the understanding that States parties shall not undertake mutual reviews. The State party under review may request, a maximum of two times, the repetition of the drawing of lots. Only in highly exceptional circumstances may the drawing of lots be repeated more than two times.

22. A State party under review may defer serving as a reviewing State party that same year. That same principle, *mutatis mutandis*, shall apply to reviewing States parties. By the end of each review cycle, each State party must have undergone its own review and have performed a minimum of one review and a maximum of three reviews.
23. Each State party shall appoint governmental experts for the purpose of the review process. At the beginning of each review cycle, States parties shall transmit to the secretariat lists of governmental experts on the different substantive areas covered by the Convention and shall endeavour to keep those lists up to date. Governmental experts shall preferably be drawn from those lists. Should that not be possible, the reviewing States parties, shall, as a matter of courtesy and in the framework of the constructive dialogue, inform the State party under review of the names and contact information of its governmental experts participating in the review.
24. Reviews shall be conducted using a set of uniform guidelines to be developed by the secretariat in consultation with States parties.
25. The reviewing States parties shall carry out, in accordance with the uniform guidelines, a desk review of the response to the self-assessment checklist by the State party under review.
26. In accordance with the guiding principles and the uniform guidelines, the reviewing States parties, supported by the secretariat, may request the State party under review to provide clarifications or additional information or to address supplementary questions related to the review. The ensuing constructive dialogue may be carried out, *inter alia*, by way of conference calls, videoconferences or e-mail exchanges, as appropriate.
27. The schedule and requirements of each country review shall be established by the secretariat in consultation with the reviewing States parties and the State party under review and shall address all issues relevant to the review.
28. As a general rule, the desk review shall be complemented with any further means of direct dialogue, such as a country visit, of which the modalities should be determined in agreement with the State party under review.
29. In the context of the constructive dialogue referred to in paragraph 26, the State party under review should facilitate access to information from all relevant sources.
30. The reviewing States parties and the secretariat shall ensure that all information obtained in the course of the review process is used only for the purposes of the review process and is not disclosed unless the State party under review gives its prior consent.
31. The report shall be prepared on the basis of a blueprint, to be developed by the secretariat in consultation with the States parties, to ensure consistency.
32. The secretariat shall organize periodic training courses for experts who participate in the review process, in order to familiarize them with the uniform guidelines and increase their capacity to participate in the review process.

C. Outcome of the country review process

33. The reviewing States parties shall, in accordance with the uniform guidelines and the blueprint, prepare a country review report in close cooperation and coordination with the State party under review and assisted by the secretariat. The report shall identify successes, good practices and challenges and make observations for the implementation of the Convention. Where appropriate the report shall include identification of technical assistance needs for the purpose of improving implementation of the Convention.
34. The country review report shall be finalized upon agreement between the reviewing States parties and the State party under review.
35. Once the country review report is finalized, the reviewed State party shall make the report public, except in exceptional circumstances. In the case that the report is not made public, the reviewed State party shall make the report accessible to all States parties, in which case the States parties shall fully respect the confidentiality of the report. The executive summaries of each finalized country review report shall be compiled and translated into the six official languages of the United Nations and be made available as a document of the Implementation Review Group.
36. The country review reports shall serve as a basis for the analytical work of the Implementation Review Group. The Implementation Review Group shall respect the confidentiality of the country review reports that are not made public.

V. Implementation Review Group

37. The [open-ended] intergovernmental Implementation Review Group shall operate under the authority of, and report to, the Conference. The rules of procedure of the Conference shall apply, mutatis mutandis, to the Implementation Review Group.
38. The functions of the Implementation Review Group shall be to have an overview of the review process with a view to ensuring coherence and consistency, identifying challenges and good practices and considering technical assistance requirements in order to ensure effective implementation of the Convention. The secretariat shall assist the Implementation Review Group by compiling analytical and thematic reports. On the basis of its deliberations, the Implementation Review Group shall submit recommendations and conclusions to the Conference for its consideration and approval.
39. The Implementation Review Group shall meet in Vienna at least once a year. The Implementation Review Group may decide on the organization of its functions, including the creation of subordinate bodies.
40. The Implementation Review Group shall be composed of [40] [60] [governmental] experts appointed by States parties on the basis of equitable geographical distribution. Each regional group shall be allotted a position on the Implementation Review Group [in proportion to its number of members and the number of States parties in the regional group].

[41. The members of the Implementation Review Group shall be elected by the Conference for [two-] [three-] [four-] year terms [for a maximum of two terms]. The Conference shall establish an appropriate rotation of the members of the Implementation Review Group to ensure that all States parties have equal standing in the Mechanism.]

42. The Implementation Review Group shall be an open-ended intergovernmental group of States parties. It shall operate under the authority of and report to the Conference. The rules of procedure of the Conference shall apply, mutatis mutandis, to the Implementation Review Group.

Follow-up procedures

43. The Conference shall determine the procedures and requirements for providing appropriate follow-up to conclusions and observations emerging from the review process.

VI. Secretariat

44. The secretariat of the Conference shall be the secretariat of the Mechanism and shall perform all tasks required for the efficient functioning of the Mechanism, including providing technical and substantive support, upon request, to States parties in the course of the functioning of the Mechanism.

VII. Languages

45. The review process shall be conducted in any of the six official languages of the United Nations.

VIII. Funding

46. The Conference shall approve the budget for the Mechanism. The budget shall ensure the efficient, continued and impartial functioning of the Mechanism.

47. Adequate financial and human resources must be provided to the secretariat to enable it to perform the functions assigned to it in the present terms of reference.