



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

Compilation of procedural requirements and practice regarding the drawing of lots

Note by the Secretariat

I. Drawing of lots: process and practice of the Implementation Review Group

1. In its resolution 1/1, the Conference of the States Parties to the United Nations Convention against Corruption decided to establish 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. In its resolution 2/1, the Conference decided that this working group should prepare terms of reference for a review mechanism for consideration, action and possible adoption by the Conference at its third session.

2. In that regard, the Conference called upon States and signatory States to submit proposals to the working group for the terms of reference of the mechanism for its consideration. During the deliberations of the Conference, it emerged that selecting the States parties to be reviewed and to perform reviews in a random manner was the most objective method.

3. The terms of reference of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption are contained in the annex to resolution 3/1 and include several provisions on the drawing of lots.

4. In its resolution 4/1, the Conference endorsed the practice followed by the Implementation Review Group with regard to the procedural issues arising from the drawing of lots.

* CAC/COSP/2013/1.



A. Selection of States parties under review

5. In its resolution 3/1, the Conference decided that each review phase would be composed of two review cycles of five years each and that one fourth of the States parties would be reviewed in each of the first four years of each review cycle.

6. In accordance with paragraph 13 of the terms of reference of the Review Mechanism, the review of all States that are parties at the start of a review cycle should be completed before a new review cycle begins. In exceptional cases, 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.

7. Paragraph 14 of the terms of reference states that 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. 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 at the beginning of each review cycle. A State party selected for review in a given year may, with a reasonable justification, defer participation to the following year of the review cycle.

8. Lots were drawn at the first session of the Implementation Review Group to select the States parties to be reviewed in each of the first four years of the first review cycle. States ratifying or acceding to the Convention after the drawing of lots would be reviewed starting in the fourth year of the review cycle.

9. States parties selected to undergo review were given an opportunity to communicate their intention to defer their review prior to the drawing of lots, starting from year two. Those States parties which were in attendance at the drawing of lots were asked to confirm their readiness to undergo review or to indicate whether they wished to exercise their right to defer. When a selected State party exercised its right to defer, the States parties from the same regional group selected to be reviewed the following year were invited to indicate whether they wished to take the place of the deferring State party. If no State party volunteered to advance its review, the review of the deferring State party would be added to the reviews already scheduled for the following year.

10. For States parties exercising their right to defer their review to the following year, the selection of their reviewing States was carried out at the time of drawing of lots in that following year. In cases in which a State party volunteered to advance its review in order to take the place of a deferring State party, the drawing of lots of the reviewing States was repeated for the volunteer State.

11. In cases in which States selected for review did not confirm their readiness to undergo review, letters were sent through the Bureau of the Conference to request a response.

12. States under review were officially informed of the beginning of their reviews within one month after the drawing of lots, in accordance with paragraph 12 of the guidelines for governmental experts and the secretariat.

B. Selection of reviewing States parties

13. Paragraph 18 of the terms of reference states that each State party shall be reviewed by two other States parties, and that the review process shall actively involve the State party under review.

14. Paragraph 19 of the terms of reference indicates that one of the two reviewing States parties shall be from the same geographical region as the State party under review and shall, if possible, be a State with a legal system similar to that of 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 year of the cycle, with the understanding that States parties shall not undertake mutual reviews. The State party under review may request, a maximum of two times, that the drawing of lots be repeated. In exceptional circumstances, the drawing of lots may be repeated more than twice.

15. Lots were drawn at the beginning of each year of the review cycle to select the reviewing States parties for each State party under review. For each State party selected to be reviewed, one of the two reviewing States was selected from the same regional group and the second reviewing State was selected from a pool of all States parties. States parties undergoing review had the possibility to request that the drawing of lots be repeated for either one or both of their reviewing States.

16. Repeat drawings could be requested on the basis of unresponsiveness of one of the reviewing States parties. In such cases, the repeat drawings were provisional, with another deadline given for the unresponsive States to comply with their obligations, after which the provisional repeat drawing would be confirmed.

17. At its second session, the Implementation Review Group agreed to a request by the Russian Federation, made on the basis of its geographical reach across Asia and Eastern Europe, to mix the boxes containing the lots of States of the Group of Asia-Pacific States and the Group of Eastern European States when drawing its reviewing State party from the same geographical region.

18. According to paragraph 20 of the terms of reference of the Review Mechanism, a State party under review may defer serving as a reviewing State party that same year. That same principle, *mutatis mutandis*, shall apply to the reviewing States parties. By the end of a review cycle, each State party must have undergone its own review and performed a minimum of one review and a maximum of three reviews.

19. States parties that had been selected for review and then also selected as reviewing States could express their readiness to serve in both capacities. When States parties made use of their right to defer serving as a reviewing and reviewed State party in the same year, pursuant to paragraph 20 of the terms of reference, the drawing of lots was repeated.

20. A State whose name was drawn to perform more than one review in the same year was asked whether it was in a position to do so. If a State party was selected as a reviewer for more than one review, it had the possibility of opting out of the second or subsequent selections as a reviewer. When a State party selected to perform more than one review was not in attendance, the secretariat undertook to contact that State by the end of the session of the Group to request a decision on its

readiness to perform more than one review, and the name of a provisional reviewing State was drawn in case that decision was not communicated in time.

21. Paragraph 21 requires that each State party shall appoint up to 15 governmental experts for the purpose of the review process. The secretariat shall, prior to the drawing of lots to select the reviewing States parties, compile and circulate a list of such governmental experts, which shall include information on their professional background, their current positions, relevant offices held and activities carried out and their areas of expertise as required for the respective review cycle. States parties shall endeavour to provide information necessary for the secretariat to compile that list and keep it up to date.

22. A request by a State party to have the drawing of lots repeated because the State party or States parties selected to review it had not complied with paragraph 21 of the terms of reference constituted such an exceptional circumstance that it enabled the State under review to request a repeat drawing more than twice.

II. Drawing of lots conducted since the adoption of resolution 4/1: statistics and next steps

23. Since the drawing of lots for States parties to be reviewed in the first cycle that took place in June 2010, 23 States have become parties to the Convention. Of those, six are members of the Group of African States, 13 of the Group of Asia-Pacific States, one of the Group of Latin American and Caribbean States and three of the Group of Western European and other States. There were indications at the time of reporting that more States were in the process of ratifying or acceding to the Convention.

24. In accordance with the terms of reference, a State party selected for review in a given year may, with a reasonable justification, defer participation to the following year of the review cycle. Eleven States parties deferred their reviews from the first to the second year of the review cycle. Three States parties deferred their reviews from the second to the third year. Five States parties deferred from the third to the fourth year.

25. The total number of States under review was 27 for the first year, 41 for the second year and 35 for the third year. There were 62 States parties under review at the time of the fourth session of the Group. Two States subsequently became parties to the Convention, bringing the total of States under review in the fourth year to 64.

26. In order to ensure compliance with paragraph 20 of the terms of reference, the Group excluded States parties that had already performed two reviews from the drawing of lots at its third session. Furthermore, the Group conducted a first round of drawing of lots for reviewing States parties which included only those States parties which had never performed a review. When that complement was exhausted, those States parties which had performed one review were added to the boxes of lots.

27. At its fourth session, the Group conducted the drawing of lots to select the reviewing States for the reviews to be conducted in the fourth year of the first review cycle. The Group excluded States parties that had already performed two reviews from the drawing of lots.

28. At the time of writing, 32 States parties had performed 3 reviews, 108 States parties had performed two reviews, 18 States parties had performed one review, and nine States parties had not yet performed any reviews. Seven States that had not yet performed a review are under review themselves in the fourth year and two of them were under review in the third year.

A. States parties that had not submitted a list of governmental experts at the time of the drawing of lots

29. In accordance with paragraph 21 of the terms of reference, each State party shall appoint up to 15 governmental experts for the purpose of the review process. In its resolution 4/1, the Conference called upon States parties that had not yet done so to submit their lists of governmental experts well ahead of the drawing of lots, and reminded them to keep the lists up to date. At the time of writing of the present report, seven States parties had not yet submitted their list of governmental experts. Of those States, nearly all had recently ratified or acceded to the Convention. Notes verbales were sent to those remaining States parties with a request to submit a list of governmental experts in accordance with paragraph 21 of the terms of reference, and the secretariat undertook extensive efforts to ensure that such lists were submitted. Communication had been established with all of those States.

B. Next steps

30. At the resumed fourth session of the Group, to be held during the fifth session of the Conference, in Panama, lots will be drawn to select the reviewing States parties for the States who became party to the Convention after the fourth session of the Group. There were two such States at the time of writing. In addition, some States had expressed their wish to conduct a repeat drawing of their reviewing States owing to unresponsiveness. Among those States under review in the fourth year were States who were not present at the fourth session of the Group and were not able to exercise their right to decline serving as reviewers while undergoing their own review. Some had subsequently expressed their wish to do so in accordance with paragraph 20 of the terms of reference.

31. In line with past practice, it is recommended that, in order to comply with the requirement that all States parties perform a minimum of one review in each cycle, the drawing of lots at the resumed fourth session be initiated only with those States which have never performed a review (nine States) and, when that complement is exhausted, to add those States who have performed only one review (18 States).

32. With regard to the reviews of States that will ratify or accede to the Convention after the fifth session of the Conference, the Conference may wish to consider the way in which those reviews are to be conducted. With relation to those States which will ratify or accede to the Convention after the conclusion of the first cycle, the Conference may wish to consider in which way they will be reviewed concerning the implementation of chapters III and IV of the Convention.