



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

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Item 2 of the provisional agenda*

Review of the implementation of the United Nations Convention against Corruption: criminalization and law enforcement and international cooperation

Action of the Implementation Review Group

Note by the Secretariat**

I. Guidelines for governmental experts and the secretariat in the conduct of country reviews

1. In its resolution 3/1, the Conference adopted the draft guidelines for governmental experts and the secretariat in the conduct of country reviews and the draft blueprint for country review reports, which would be finalized by the Group. At its first session, held from 28 June to 2 July 2010, the Implementation Review Group finalized the guidelines for governmental experts and the secretariat in the conduct of country reviews and the blueprint for country review reports and executive summaries.

2. At its first session, the Group had before it a note by the Secretariat on the guidelines for governmental experts and the secretariat in the conduct of country reviews (CAC/COSP/IRG/2010/2) and a proposal submitted by China and the Russian Federation. The note by the Secretariat had been prepared with a view to ensuring the consistency of the guidelines and the blueprint with the terms of reference adopted by the Conference in its resolution 3/1. Informal consultations were held on 29 and 30 June 2010, led by the representative of Peru, to consider the section of the draft guidelines entitled "Specific guidance".

3. In finalizing the guidelines, the understanding of the Group was that paragraphs 24-29 addressed further means of direct dialogue, which according to

* CAC/COSP/2011/1 and Corr.1.

** Late submission due to late availability of information.



paragraph 29 of the terms of reference were optional (CAC/COSP/IRG/2010/7, paras. 28 and 29).

II. Country reviews

4. At the first session of the Implementation Review Group, the selection of the States parties to be reviewed was carried out pursuant to paragraph 3 of Conference resolution 3/1 and paragraph 14 of the terms of reference of the Review Mechanism. Lots were drawn to select the States parties to be reviewed in each of the first four years of the first review cycle.

5. The Group was of the understanding that States ratifying or acceding to the Convention after the drawing of lots would be reviewed in the fifth year of the review cycle.

6. According to paragraph 14 of the terms of reference of the Review Mechanism, any State party selected for review in a given year may, with a reasonable justification, defer participation to the following year of the review cycle. The States parties selected for reviews that were in attendance were asked to indicate whether they wished to exercise that right. Selected States parties not in attendance would be notified by the secretariat of their selection and allowed a reasonable time frame for exercising 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. The Group was of the understanding that 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.

7. Also at the first session of the Implementation Review Group, lots were drawn to select the reviewing States parties for the first year of the first review cycle. 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.

8. According to paragraph 19 of the terms of reference of the Review Mechanism, 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. The Group was of the understanding that 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.

9. For States parties exercising their right to defer to the following year their participation as a State party under review pursuant to paragraph 14 of the terms of reference of the Review Mechanism, the selection of the reviewing States would be carried out at the time of drawing of lots for that year. In cases where 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.

10. The Group requested the secretariat to inform the States parties selected as reviewing States for 2010 to indicate within two weeks after the drawing of lots

their readiness to conduct the review and submit their list of governmental experts. If requested by the State party under review, the drawing of lots would be repeated.

11. The secretariat was requested to repeat, if required and as appropriate after the two-week period had expired, the drawing of lots for the reviewing States with the participation of the States parties concerned through their permanent missions.

12. The Group requested the secretariat to inform those States parties selected for review during the first year of the cycle but not present at the session that they should indicate within two weeks after the drawing of lots their readiness for such a review.

13. For the selection of the reviewing States parties, a procedure similar to that used for the selection of the States parties to be reviewed was adopted.

14. Some States parties that had been selected for review during the first year and then had also been selected as reviewing States expressed their readiness to serve in both capacities. Other 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 of the Review Mechanism. In such cases, the drawing of lots was repeated. The same procedure was followed for those States parties selected to serve as reviewing States for more than one State in the first year (CAC/COSP/IRG/2010/7, paras. 32-44).

15. At the informal briefing on 5 August 2010, the Group decided to proceed with the drawing of lots when so requested by a State party under review, on the understanding that the secretariat would convene an intersessional meeting of the Group on 23 August 2010 to consider the results of the drawing of lots. At that intersessional meeting of the Group, the Secretary provided an update on contacts with States parties that had been selected to undergo review.

16. On the basis of the information provided by the secretariat on the status of submission of the list of governmental experts of a reviewing State party, the Group agreed, at the request of the relevant State party under review, to conduct a provisional redraw for its second reviewer, on the understanding that if the reviewing State did not submit its list by a certain date the provisional reviewer selected in the redraw would take its place (CAC/COSP/IRG/2010/10, paras. 3 and 6).

17. At its resumed first session, held from 29 November to 1 December 2010, the Implementation Review Group decided that letters, signed by the President of the Conference and the other members of the Bureau, would be sent to unresponsive States via their permanent missions and copied to the Chairs of regional groups in New York. The letters would express the Group's concern but also its confidence as to the States' readiness to fulfil the procedural requirements of the review process, and would outline those requirements. The secretariat would remain available to provide assistance, if required. Each State party concerned would be requested to inform the Bureau of its decision in the shortest time possible. If no response was received by the end of January, a second letter would be sent, indicating a deadline for response. A similar procedure would be applied in the case of the State party that had not communicated the contact details of its governmental experts (CAC/COSP/IRG/2010/7/Add.1, para. 15).

18. At its second session and with a view to establishing a consistent practice for the drawing of lots at future sessions, the Group agreed that the name of a State party drawn as a reviewing State would be put back in the box to be drawn again only if the State party expressly requested it. The Group further agreed that a State party whose name was drawn to perform more than one review in the same year would be asked whether it was in a position to do so before considering the result of the draw to be final. Furthermore, the Group agreed that 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.

19. While conducting the drawing of lots for the reviewing States parties in the second year, each State party under review was first asked whether it wished to exercise its right to defer its review to the following year. It was agreed that for each redraw, States parties undergoing review had the possibility of drawing lots again to reselect either one or both of their reviewing States.

20. In the case that a State to undergo review in the second year chose to defer that review, a State in the same regional group scheduled to undergo review in the third year could volunteer to take its place.

21. The Group agreed to a request by the Russian Federation to mix the boxes containing the lots of States of the Group of Asian States and the Group of Eastern European States in drawing its reviewing State party from the same geographical region (CAC/COSP/IRG/2011/4, paras. 22-27).

22. Also at its second session, the Group considered the issue of one State party selected for review in the first year of the Mechanism that had not yet informed the Secretariat whether it was ready to undergo the review or would defer review to the second year. It was noted that, as decided by the Group at its resumed first session, a letter signed by the President of the Conference and the other members of the Bureau had been hand-delivered to the unresponsive State via its Permanent Mission to the United Nations in New York and copied to the chair of the regional group. It was decided that the Group had the responsibility to report on the matter to the Conference, identifying the State party concerned and seeking guidance on this matter and, more generally, on the issue of unresponsive States being selected as reviewing States (CAC/COSP/IRG/2011/4, para. 66).

III. Financial and budgetary matters

23. At its first session, the Implementation Review Group adopted its resolution 1/1, entitled "Resource requirements for the functioning of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption for the biennium 2012-2013".

24. The secretariat has been requested to continue submitting budgetary information to the Group. It was emphasized that this information should contain an outline of the estimated costs and information on the expenditures. At its second session, the Implementation Review Group was provided with preliminary information on actual expenditures incurred as at the end of April 2011 for the first year of the functioning of the Review Mechanism and indications with respect to estimated costs for the biennium 2012-2013 (CAC/COSP/IRG/2011/CRP.1).

IV. Technical assistance

25. At the resumed first session of the Implementation Review Group, it was noted that the Group and the Conference of the States Parties had the mandate and the responsibility to ensure the best possible implementation of the Convention's relevant provisions, in accordance with chapter VI of the Convention, specifically, articles 60 and 62. The delegation of Argentina submitted a proposal outlining issues for the Group's consideration of its role with regard to technical assistance in the context of the Mechanism. On the basis of the proposal and subsequent discussions, the Group, at its resumed first session, adopted the recommendations below (see CAC/COSP/IRG/2010/7/Add.1, paras. 26-36).

26. The Implementation Review Group recalled Conference resolution 3/1, in which the Conference decided that the Group would 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 the Convention was to help States parties to identify and substantiate specific needs for technical assistance and to promote and facilitate the provision of technical assistance.

27. The Group had in mind the functions assigned to it in paragraph 44 of the terms of reference, according to which the Group would 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.

28. 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.

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

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

31. 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 in technical assistance required and provided.

32. The Group recommended that the Secretariat take into account in the thematic and regional programmes the priority areas referred to in paragraph 31 above, including when developing technical assistance tools.

33. The Group recommended that the Secretariat provide it with information on the gaps in securing funding for projects of the United Nations Office on Drugs and Crime (UNODC) that were being implemented in accordance with the priorities set out.

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

(a) Promote with other bilateral and multilateral partners the use of the Convention and its Review Mechanism as tools 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 efforts;

(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.

35. Consistent with the terms of reference, the Group reaffirmed the request contained in Conference resolution 3/4 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 UNODC thematic programme on action against corruption and economic crime and, where appropriate, regional programmes, using its range of technical assistance tools (the legal library, the Knowledge Management Consortium, the roster of anti-corruption experts, national or regional workshops etc.).

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

37. At its second session, the Group reaffirmed the decisions on technical assistance taken at its resumed first session. Bilateral and multilateral technical assistance providers were requested to share, at the resumed second session, information on technical assistance that had already been provided, in order for the Group to begin to have an overall picture of the type of assistance delivered.

38. In order to facilitate a more strategic alignment of donor activities and assistance requests, the Chair proposed that donors and international organizations share information with the Implementation Review Group regarding ongoing technical assistance projects implemented by relevant donors in areas related to the prevention of and fight against corruption (CAC/COSP/IRG/2011/4, paras. 49, 50 and 63).

V. Other matters

39. The Implementation Review Group considered the issue of participation of observers in its meetings. At its first session, the Group requested the secretariat to seek a legal opinion on the matter from the Office of Legal Affairs

(see CAC/COSP/IRG/2010/9). At its resumed first session, the Group agreed that the final decision on the question of participation of observers in the Group would be reached by the Conference. In the interim, invitations to attend its second session would be extended as set out in the provisional agenda and annotations (CAC/COSP/IRG/2011/1), under the item on organizational matters. It was the understanding of the Implementation Review Group that that decision would not set a precedent, and at its second session the Group noted that efforts had been made before and during the second session to explore appropriate and practical solutions in that respect, to be submitted to the Conference at its fourth session for its consideration. Because the Group had not reached a consensus on all matters relating to that issue, the issue would be considered again at the Group's resumed second session so that an understanding could be reached on an appropriate proposal to be submitted to the Conference for its consideration. Furthermore, in the interim period before the Group's resumed second session, every effort would be made to continue to address the issue through informal consultations in order to come up with practical solutions. The Group also decided that invitations to the resumed second session would be extended in the manner set out in the provisional agenda and annotations under organizational matters. Moreover, it was agreed that an explanatory note would be included under the agenda item on other matters to indicate that consideration of the item on other matters would include deliberations on the issue of participation of observers (CAC/COSP/IRG/2011/4, para. 65).
