



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

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Draft report

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Addendum

VII. Implementation review and technical assistance

1. At its 8th meeting, on 5 November 2015, the Conference of the States Parties considered agenda item 2, entitled “Review of the implementation of the United Nations Convention against Corruption”, and agenda item 3, entitled “Technical assistance”.
2. Sadiq Marafi (Kuwait), in his capacity as Vice-President of the Conference, chaired the discussion. In his introductory remarks, he recalled Conference resolution 3/1, which marked the historic adoption of terms of reference of the Implementation Review Mechanism, and resolution 4/1, endorsing the work of the Implementation Review Group. He reiterated that the purpose of the Implementation Review Mechanism was to help States parties to identify and substantiate specific technical assistance needs and to promote and facilitate the provision of such assistance. He also recalled decision 5/1, in which the Conference tasked the Group with collecting and discussing relevant information on the assessment of the performance of the Mechanism, following the completion of the first review cycle.
3. A panel discussion was held to facilitate the deliberations. Representatives of the Secretariat, the Organization for Economic Cooperation and Development (OECD), Indonesia and the Russian Federation participated.
4. The representative of the Secretariat provided an update on the outcome and schedule of reviews, as well as a brief summary of the outcome of the resumed sixth session of the Implementation Review Group and the impact of the Implementation Review Mechanism. The representative further provided an overview of the key thematic findings on implementation emerging from the first review cycle, as presented in the thematic study published by UNODC in September 2015 entitled *State of Implementation of the United Nations*



Convention against Corruption: Criminalization, Law Enforcement and International Cooperation, a summary of which had been circulated in document CAC/COSP/2013/5. The study contained an in-depth analysis of the thematic findings emerging from the 68 country reviews that had been completed at the time of the drafting of the study. It was noted that the Mechanism had prompted an evolving process of legislative change in the majority of States parties to the Convention. Combating corruption was ranked as among the highest governmental priorities in many States parties, and substantial resources were devoted to it. In some States, statutory amendments and structural changes had produced tangible results in terms of legislative and regulatory enforcement action, indictments and convictions, even in cases involving high-level public officials, as well as strong networks for international cooperation and transnational law enforcement. The Mechanism and the work of the Implementation Review Group had had a significant positive effect on States parties' efforts to implement the Convention and arrive at common standards of evaluation. Nonetheless, a certain diversity in the interpretation of provisions of the Convention and recommendations was identified in the reviews in certain areas, such as immunities for persons who self-reported the commission of offences (sometimes termed "effective regret" or "spontaneous confession" provisions). Those issues could benefit from further analysis during the Conference's consideration of the assessment of the follow-up measures taken by States to the reviews of the first cycle and the structuring of the next review cycle.

5. The representative of OECD provided an overview of the monitoring mechanism that had been established under the auspices of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, with a view to ensuring its effective implementation. The panellist focused on cross-cutting issues emerging from the reviews that were relevant to the implementation of article 16 of the Convention. He reported on challenges in implementation that were also addressed in *State of Implementation of the United Nations Convention against Corruption: Criminalization, Law Enforcement and International Cooperation* (such as the definition of "public officials", so-called "facilitation payments" and "effective regret" provisions, issues of bank secrecy and delays in international cooperation procedures).

6. The panellist from the Russian Federation shared his country's experience in the review process and discussed issues that had been analysed in the context of implementing the review recommendations. He noted the unique nature of the Mechanism, given its global and inclusive nature and taking into account the diversity of legal systems. He reported on measures taken to strengthen institutional mechanisms, the development of new treaties and arrangements on international cooperation and his country's practice of including references to the Convention in outgoing requests for international cooperation.

7. The panellist from Indonesia focused on the challenges and opportunities that his country faced in adopting the recommendations. He noted the importance of involving relevant stakeholders in all phases of the review and acknowledged the Secretariat's role in facilitating effective communication among States parties. The positive impact of the review process on States under review was noted, in particular by creating awareness and ownership by stakeholders. His country had taken steps toward legislative changes and capacity-building to address the outcomes of the review.

8. Commenting on the panel discussion, speakers welcomed the quality of the *State of Implementation of the United Nations Convention against Corruption: Criminalization, Law Enforcement and International Cooperation* and its usefulness for the analysis of substantive issues, in particular challenges and good practices in implementation.

9. Speakers welcomed the increased and focused efforts to implement the Convention, including through legislative and institutional changes. States reported on their national implementation efforts, which were also considered to be a driving force for the success of the Implementation Review Mechanism, and provided updates on domestic reform measures taken in the course of the reviews, including concrete follow-up actions to address review recommendations and enhanced enforcement action. Speakers also highlighted the importance of holding broad consultations at the national level and the significant impact of the Mechanism in raising awareness of the Convention and the review process.

10. Several speakers reported on the benefits of undergoing the review process, including with respect to the exchange of ideas and experience among States and to identifying areas for policy reform and technical assistance needs. Discussing their experiences of undergoing review, some speakers noted the need for follow-up to the first cycle of reviews, in accordance with Conference decision 5/1, and to the technical assistance needs identified. Some speakers reported on the actions that had been taken to address the technical assistance needs identified during their country reviews. One speaker reported that his country had published the full review report and had organized a country visit as a result of its full confidence in the objectivity of the review process, which had led to a rigorous national self-assessment exercise.

11. Speakers welcomed the launch of the next cycle, which would commence operation with the drawing of lots at the seventh session of the Implementation Review Group. They welcomed practical proposals to continue to improve the effectiveness of the review process, including streamlining the self-assessment checklist (by making reasonable adjustments to reduce its length, without reducing the number of the provisions under review, or considering the introduction of word limits for responses and supporting documentation), as well as extending the time frame of the second cycle, based on paragraph 47 of the terms of reference. Those steps could address delays in completing reviews and the overburdening of experts, practitioners and the secretariat, and would involve the use of existing resources. Speakers welcomed a decision by the Conference to improve the effectiveness of reviews and to take measures to guide the efficient and productive operation of the secretariat during the next review cycle, taking into account the need to ensure adequate and sustainable staffing and resources to fulfil its mandates. One speaker noted that targeted improvements could be made to enhance the analytical and guiding role of the Implementation Review Group, such as conducting the drawing of lots by the extended Bureau in an open and transparent manner. It was also noted that the Implementation Review Group or the Conference could be used as a forum for States parties to share lessons learned and provide updates on steps to implement review observations.

12. A representative of the UNCAC Coalition highlighted the damage caused by corruption and the difficulties encountered by victims in seeking effective redress, despite the fact that most States parties had legislation to implement the relevant articles of the Convention.

13. A representative of Transparency International underscored the achievements of the Implementation Review Mechanism, in particular its comprehensive scope and global reach. The speaker suggested that the Conference should call on States parties to prepare national action plans for following up on the observations emanating from the country reviews and finding ways of overcoming delays in the reviews, inter alia, through the provision of increased resources to the secretariat.

14. A representative of the Secretariat provided an overview of the technical assistance provided by UNODC that was contained in document CAC/COSP/2015/2. To respond to an increasing number of requests for technical assistance at the global, regional and national levels, UNODC had leveraged its network of regional and national anti-corruption advisers, supported by UNODC headquarters, and sought to cooperate and coordinate with other technical assistance providers. Technical assistance provided included support for ratification, the development of action plans addressing recommendations emanating from the reviews, legislative drafting assistance, capacity-building and supporting regional networks of anti-corruption agencies.

15. The representative of the Secretariat also provided an overview of the technical assistance needs identified through the Implementation Review Mechanism, as set out in document CAC/COSP/2015/4, and suggested that the Conference consider how technical assistance needs should be identified in the next cycle.

16. Speakers underlined the important role of the technical assistance provided by UNODC in support of anti-corruption efforts, and stressed the essential role of the Implementation Review Mechanism in identifying technical assistance needs. Speakers also praised the Mechanism for providing a valuable platform for peer-learning and the sharing of experiences.

17. Speakers emphasized that technical assistance should be country-led and country-based. Several speakers underlined the importance of coordination of technical assistance, in particular at the country level. Speakers encouraged the United Nations system to continue mainstreaming anti-corruption activities in the United Nations Development Assistance Framework.

18. Speakers noted the importance of bilateral and multilateral technical assistance. One speaker reported that her country had recently published a best practice guide on anti-corruption assistance delivery. The speaker underscored that technical assistance was most successful if delivered in partnership with national stakeholders and in a comprehensive manner.

19. The examples of technical assistance provided included supporting national and regional anti-corruption networks, developing technical guides on criminal justice and anti-corruption reform, enforcement and preventive mechanisms and efforts to increase transparency and bolster the role of civil society. Speakers considered that the Convention provided a useful framework for technical assistance delivery and encouraged UNODC to report regularly to donors and at the sessions of the Implementation Review Group on needs identified and technical assistance delivery.