



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

Distr.: General
13 October 2008

Original: English

**Open-ended Intergovernmental Working
Group on Review of the Implementation of the
United Nations Convention against Corruption**
Vienna, 15-17 December 2008

**Draft elements for the terms of reference of a mechanism
for reviewing the implementation of the United Nations
Convention against Corruption**

Note by the Secretariat

Contents

	<i>Page</i>
I. Introduction	2
II. Background	2
Ongoing initiatives	2
III. Guiding principles	5
A. Basic parameters	5
B. Relationship with the Conference of the States Parties	8
IV. Methodology	8
A. Purpose	8
B. Thematic scope of review	11
C. Procedure	13
D. Source and use of information	21
E. Reports	24
F. Miscellaneous aspects of methodology	28
V. Administration of the mechanism	29
VI. Secretariat	33
VII. Funding	35



I. Introduction

1. Pursuant to the request of the Open-ended Intergovernmental Working Group on Review of the Implementation of the United Nations Convention against Corruption, the Secretariat has prepared the following draft elements for the terms of reference of a review mechanism for reviewing the implementation of the United Nations Convention against Corruption.¹ The elements reflect the contributions made by Member States following the call by the Conference of the States Parties to the United Nations Convention against Corruption for proposals for the terms of reference of the review mechanism, as well as the discussions held during the second meeting of the Working Group in September 2008 and informal consultations.

II. Background

Ongoing initiatives

2. The preliminary results of the pilot review programme should be taken into account by the Working Group, particularly with respect to the expansion of the pilot review group to 25 per cent of the current number of States parties (Austria).

3. Through the relevant discussions and documents (and the experience gained through the pilot review programme developed by the Secretariat), a general and substantial agreement has been reached concerning the guiding principles for establishing a mechanism for reviewing the implementation of the Convention (Uruguay).

4. In particular, the review mechanism should be based on proposals and conclusions stemming from the work of the Working Group, and it should reflect the list of characteristics and principles set out in Conference resolutions 1/1 and 2/1. The review mechanism should also take into account experiences and best practices arising from the pilot review programme carried out by the United Nations Office on Drugs and Crime (UNODC) in cooperation with certain States parties and experiences and best practices gained by the existing evaluation mechanisms of other regional and international anti-corruption regimes (Germany).

5. It has been proposed that international experts should commit themselves to not disclosing any information on the review process and that, until the reports have been published, the public should not be informed about the ongoing analyses of efforts made by States to implement the Convention. That proposal was made because States reviewed under the pilot review programme proved to be much more cooperative when the public was not informed about every step taken. Nonetheless, the issue should be discussed further (Germany).

6. The results of the pilot review programme revealed that well-organized country visits brought a significant added value to the review. Thus, country visits should be aimed for whenever it is thought likely that they will bring added value to

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

the review, but should be carried out only with the consent of the State under review and without intruding on its national sovereignty (Germany).

7. Recommendations made by any mechanism in which participation is voluntary (such as the pilot review programme) should not be imposed on States parties at a later stage (Group of 77 and China).

8. The Group of States against Corruption (GRECO) of the Council of Europe, the Organization for Economic Cooperation and Development (OECD) and the Financial Action Task Force on Money Laundering all make use of recommendations, compliance indicators and lists of non-compliant States, which indicates that doing so is common practice in evaluating Governments by international entities; moreover, it has proved to help achieve progress and encourage certain difficult reforms (Latvia).

9. Experience gained from the pilot review programme has shown that site visits are useful both to the experts and the State under review, for they can provide a good opportunity to share good practices and challenges, in line with Conference resolution 1/1, paragraph 3 (c) (Norway).

10. Those States parties voluntarily participating in the pilot review programme should provide the other States parties with a summary of their responses to the questions in the checklist (Jordan).

11. The review mechanism should take into account the outcome of and lessons learned from the pilot review programme conducted by UNODC in cooperation with those States parties that volunteered to participate in the programme. It should also take into account the good practices developed to assist in reviewing the implementation of other international and regional anti-corruption instruments, in particular the Criminal Law Convention on Corruption² and the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions³ (France).

12. The terms of reference for the pilot review programme proposed by the Secretariat appear appropriate for a review mechanism that includes all States parties (France).

13. With regard to the pilot review programme, which was the subject of extensive discussions at the second session of the Conference, it is felt that, insofar as the States invited to participate in that meeting and the Secretariat regard it as a positive experience, there is no reason why it should not continue to operate until a general mechanism for reviewing the implementation of the Convention has been adopted (Uruguay).

14. It is possible that the pilot review programme will give rise to practical ideas and proposals regarding a definitive review mechanism. However, if the pilot review programme were expanded, objective criteria would have to be applied with regard to the composition of the groups in an attempt to ensure that no State considered itself excluded a priori (Uruguay).

² Council of Europe, *European Treaty Series*, No. 173.

³ *Corruption and Integrity Improvement Initiatives in Developing Countries* (United Nations publication, Sales No. E.98.III.B.18).

15. Since language was one of the major difficulties encountered by reviewing experts during the pilot review programme, the Secretariat should provide, at an early stage, the means for translating the reports and other relevant documents (Germany).

16. The issue of how the review mechanism will be funded is an important matter that needs to be addressed. The review mechanism requires adequate and dependable funding for it to be successful in carrying out its work. While pilot programmes and other ongoing activities can continue to be funded through voluntary contributions, the review mechanism should be funded from the regular budget of the United Nations (South Africa).

17. It is not enough for States to ratify the Convention and to adopt enabling legislation. States parties also need to establish a combination of appropriate internal structures and procedures, identify and train the persons responsible for implementing the Convention at the national and local levels, devote sufficient resources, network effectively (not only among the relevant authorities but also with representatives of civil society and the private sector) and raise awareness at all levels and in all relevant sectors. Achieving that can best be done through constant international dialogue and by mobilizing the necessary political will, both internationally and nationally (Finland).

18. As background information, it is noted that the Government of Uruguay has been actively involved in monitoring the implementation of the Convention since it was adopted pursuant to its Law No. 18056 of 18 November 2006 (Uruguay).

19. The International Cooperation Workshop on Technical Assistance for the Implementation of the United Nations Convention against Corruption was held in Montevideo from 30 May to 1 June 2007, and a delegation from the Advisory Board on Financial and Economic Matters of State, representing the Government of Uruguay, participated in the meeting of the Working Group that was held in Vienna on 1 and 2 October 2007 and in the regional conference on the implementation of the Convention, held in La Paz from 18 to 20 December 2007 (Uruguay).

20. The Government of Uruguay also took part in the second session of the Conference, held in Nusa Dua, Indonesia, from 28 January to 1 February 2008. On that occasion, it expressed its views on the topics under discussion and stated that, in general, it supported the position of the Group of 77 and China and, in particular, the position of the Group of Latin American and Caribbean States, which had been formulated jointly by the Latin American States present at the regional conference in La Paz and were presented in a document submitted to the Conference at its second session (Uruguay).

21. In accordance with the limits of their competence in applying the law and combating crime, the competent authorities in Kuwait consider that Conference resolution 2/1, which arose from article 63 of the Convention against Corruption and which was ratified by the Government of Kuwait in accordance with its law No. 47/2006 of 4 December 2006, only contributes to setting in motion the process of implementing the Convention so as to achieve the required purpose. It is hoped that the Government of Kuwait will adopt domestic legislation promoting the principles and objectives of the Convention in order to combat corruption in all its forms (Kuwait).

22. In view of the fact that the aims of such a review mechanism would essentially be to assist in the effective implementation of the requirements of the Convention and that those aims are entirely in harmony with the competences of the Instance centrale de prévention de la corruption (which, as stipulated in the recent decree concerning it, is responsible for coordinating and overseeing policies on the prevention of corruption, following up on their implementation, gathering and publishing information on corruption and participating in international cooperative efforts in that field), the Government of Morocco believes that it is appropriate for the international review mechanism and the Instance centrale de prévention de la corruption, once it has been fully set up, to cooperate, with respect for the separation of the competences of the two bodies. The diversity of the composition of the general assembly of the Instance centrale de prévention de la corruption, which is composed of representatives of the administration and relevant authorities from civil society organizations and the private sector, should be kept in mind. That would provide substantive capabilities for conducting the review work of the review mechanism (Morocco).

III. Guiding principles*

A. Basic parameters

23. The review mechanism should assist States parties in better meeting their obligations under the Convention, rather than serve as an instrument for interfering in the internal affairs of States parties (China).

24. Pursuant to Conference resolutions 1/1 and 1/2, the terms of reference for the mechanism should be transparent, efficient, non-intrusive, inclusive and impartial (China).

25. The importance of promoting transparency in all areas of combating corruption is underscored in the Convention, particularly in article 5. Pursuant to Conference resolution 1/1, paragraph 3 (a), transparency should also be a fundamental feature of the review mechanism, which should not produce any form of ranking and should provide opportunities for sharing good practices and challenges (Norway).

26. Furthermore, the review mechanism should provide opportunities for experts to meet and exchange views and ideas and to thus contribute to strengthening cooperation in the international fight against corruption. Thus, the review mechanism should: (a) complement existing international and regional review mechanisms in order that the Conference may, as appropriate, cooperate with them and avoid duplication of effort; (b) aim to assist States parties in the effective implementation of the Convention; (c) take into account a balanced geographical approach; and (d) be non-adversarial and non-punitive and promote universal adherence to the Convention (Norway).

* A new chapter entitled "Objective" has been proposed, to be inserted after chapter III ("Guiding principles"); it would include the current chapter IV.A ("Purpose").

27. The mechanism should not be adversarial; rather, it should promote and encourage States parties to incorporate best practices by providing encouragement instead of causing embarrassment (Brunei Darussalam).
28. The review mechanism should: (a) be based on clear guidelines for compiling, generating and transmitting information, including those on maintaining confidentiality and properly submitting findings to the Conference; (b) identify, as early as possible, the difficulties encountered and good practices adopted by States parties in an effort to implement the Convention; (c) be technical in nature and promote constructive collaboration, inter alia, in preventive measures, asset recovery and international cooperation (China). It should also take into account the diversity of judicial, political, economic and social systems and the different levels of development (Cuba).
29. The introduction of such a mechanism should be gradual and take into account the historical specificities and differences in the legal traditions of States and regions (Uruguay).
30. The work of the review mechanism should be focused and should be carried out as an ongoing process. A gradual approach should be adopted to guard against making overly hasty decisions; otherwise, the mechanism will need to be revised after a period of time (Group of 77 and China).
31. Any mechanism for reviewing the implementation of the Convention should avoid giving rise to political difficulties or any kind of selectiveness among Member States (Group of 77 and China).
32. The mechanism should be in compliance with the obligations set forth in the Convention and respect the principles of the equality and sovereignty of States (Group of 77 and China).
33. The mechanism should not be overly complex or demand too many resources. It should be transparent and participatory (Group of 77 and China).
34. The review should be holistic and systematic and provide an objective assessment of whether the States parties have implemented the Convention (South Africa).
35. The review process should be efficient, realistic and not overly burdensome to States parties (South Africa).
36. Complementing existing international and regional review mechanisms would further enhance and expedite the effectiveness of international and regional cooperation efforts among States parties. By utilizing existing regional mechanisms, unnecessary delays and misunderstandings between all parties involved could be minimized, money could be saved and speedy access to justice could be achieved, where applicable (Brunei Darussalam).
37. The global and sui generis nature of the Convention implies the need for a comprehensive approach to be adopted in establishing an effective and sufficiently comprehensive review mechanism for the implementation of the Convention (Austria).

38. The review mechanism should be based on an overview of the status of implementation of the Convention and proceed from the principle of progressive implementation with full and equal consultation among States parties (China).
39. At its first session, the Conference agreed, in its resolution 1/1, that it was necessary to establish an appropriate and effective mechanism to assist in the review of the implementation of the Convention against Corruption. Thus, the question of the need for such a review mechanism was resolved, and only the question of the modalities of such a mechanism still remains (France).
40. The review mechanism must be adopted at the third session of the Conference, in other words, four years after the Convention entered into force (France).
41. Since Conference resolution 1/1 is concerned with only one mechanism, it has to be the sole mechanism and provide for periodic reviews of the situation in each of the States parties (France). The review mechanism should assist States parties in the effective implementation of the Convention, as set out in article 63, paragraph 7, of the Convention and Conference resolution 2/1, paragraph 3 (a) (Norway).
42. The aim of the review should be to facilitate and promote the implementation of measures to prevent and combat corruption as set out in the statement of purpose (article 1) of the Convention (Latvia).
43. The review process should promote a dialogue with national authorities and experienced experts so that the assessment and conclusions are both objective and acceptable (Latvia).
44. While bearing in mind that the time frame will depend on the scope of the review mechanism, it is preferable that all States parties go through a first round of review within four years (Norway).
45. At the present stage of the debate, attention should be focused on identifying the appropriate mechanism for achieving the stated objectives.⁴ However, in addition to some shared views, that issue has also given rise to numerous differences of opinion. Those differences will need to be overcome so that a proposal may be put forward at the third session of the Conference, finally enabling the review process to begin. That process should be carried out gradually and flexibly in order to reach the required consensus (Uruguay).
46. Although the reports should not produce any form of ranking, they should contain recommendations and action plans addressed to the States under review with a view to getting them to comply with the provisions of the Convention. The recommendations and action plans should be non-punitive and should identify needs for technical assistance. They should focus on the overall objective of the review mechanism: to assist States parties in the efficient and effective implementation of the Convention and to promote universal adherence (Germany).
47. During the process of information-gathering, States under review should be provided with the opportunity to share information on difficulties encountered in the fulfilment of their obligations under the Convention and on good practices adopted in an effort to implement the Convention (Germany).

⁴ CAC/COSP/WG.1/2008/2, paras. 183-186.

48. The Conference should be the only authority competent to approve and publish reports arising from a review (Morocco).

49. The review mechanism should analyse the procedures in place for incorporating the Convention into the domestic law of States once those States have become parties to the Convention (Nigeria).

50. The review mechanism should draw the attention of the Conference and other established bodies of the Conference to the technical assistance needs of States parties (Nigeria).

B. Relationship with the Conference of the States Parties

51. The review mechanism should be subject to a periodic evaluation by the Conference in order to ensure the efficient implementation of the Convention and to overcome any difficulties encountered during implementation (Algeria).

52. The mechanism for reviewing the implementation of the Convention must operate under the guidance of the Conference and report to it (China).

53. The Conference is the sole body responsible for reviewing the implementation of the Convention. Any review mechanism that is established will therefore have to be subsidiary to the Conference. The final recommendations and decisions contained in any report on the review of the implementation of the Convention will have to be made by the Conference and not by the mechanism itself (Group of 77 and China).

54. All reports must be submitted to the Conference for its consideration. Only the Conference will be competent to approve and issue implementation review reports (Group of 77 and China).

55. The mechanism must be subject to a periodic evaluation by the Conference to assess whether the review process is fully in line with its terms of reference (Group of 77 and China).

56. The Conference should be responsible for establishing policies and priorities (Chile).

57. At each session, the Conference should review progress made during the preceding period in order to plan for the following two years (Chile).

IV. Methodology

A. Purpose

58. The objectives of the review mechanism should be the following:

(a) To ensure implementation of the five substantive chapters of the Convention on preventive measures, criminalization and law enforcement, international cooperation, asset recovery, and technical assistance and information exchange;

(b) To establish tools for the regular review of the status of implementation of the Convention by each State, accompanied by ongoing feedback to guarantee effective implementation;

(c) To involve civil society in the review mechanism for the implementation of the Convention against Corruption;

(d) To identify tools that would help in the use of information obtained from the review process to assess national progress in combating corruption within the framework of an information system;

(e) To increase the opportunities available to States for gaining access to specialized technical cooperation, on the basis of the self-assessment checklist, with a view to ensuring effective implementation (Ecuador).

59. While, for practical and resource reasons, there may be a need to limit the scope of the review or phase the process, that should not prevent the terms of reference from making clear that the long-term aim is for a wide-ranging review (United Kingdom of Great Britain and Northern Ireland).

60. The review mechanism should enable the Conference to have reliable and uniform information on the status of implementation of the Convention from each State party (France).

61. In its resolution 2/4, the Conference recognized that technical assistance was an essential element in the effective and speedy implementation of the Convention and, in its resolution 2/3, it bore in mind that the States parties are obligated to afford one another the widest measure of cooperation and assistance in the field of asset recovery. The review mechanism should therefore identify, when relevant, specific needs for technical assistance so that effective assistance can be provided to help States parties to implement the Convention. Thus, the final report could be considered a tool for accomplishing the aims contained in Conference resolutions 2/3 and 2/4. The State under review could also use the report to identify and substantiate its needs to donors and donor agencies. Moreover, the review could help donors and donor agencies in the State under review to coordinate their efforts and ensure the provision of technical assistance that adheres to aid effectiveness principles, is not duplicative of other international efforts, generates sustainable capacity-building outputs and meets the needs identified in the final report (Norway).

62. The reports and the information provided should not be used for purposes other than the promotion of the effective implementation of the Convention. In particular, they should not be used for other political or economic purposes, including trade-related purposes (Group of 77 and China).

63. The objective of the mechanism should be the promotion of the effective implementation of the Convention (in line with article 63, paragraph 7, of the Convention). However, such a mechanism must also address other important issues, such as the challenges faced in ensuring the effective recovery of assets, and address shortfalls between requested technical assistance and given technical assistance (Group of 77 and China).

64. The mechanism should assist in identifying challenges encountered by States parties in the fulfilment of their obligations under the Convention, facilitate the

sharing of information on good practices and those challenges, pursuant to Conference resolution 1/1, paragraph 3 (c), and resolution 2/1, paragraph 3 (e), and promote constructive collaboration, inter alia, on preventive measures, asset recovery and international cooperation, pursuant to Conference resolution 2/1, paragraph 3 (f) (Japan).

65. With respect to the mandate of the review mechanism, it is proposed that the review mechanism should do the following:

(a) Help States to establish effective systems for affording mutual legal assistance, with a view to facilitating judicial prosecution in cases of transborder corruption;

(b) Devise a means for helping States to recover funds transferred abroad illegally by corrupt persons;

(c) Carry out on-the-spot verifications of the effective implementation of the recommendations contained in the reports on control structures as regards corruption;

(d) Be authorized to request the assistance of the control service or services existing in the country;

(e) Verify the correct application of the provisions of the various legislative and regulatory texts relating to corruption and financial crimes in States parties;

(f) Make use of the results of the work of the International Monetary Fund in States parties relating to the correct use of the national budget, community budgets and related budgets as regards receipts and expenditure;

(g) Consider the creation of an instrument to facilitate coordination between the review mechanism and the already existing international and regional mechanisms;

(h) Make proposals and recommendations to the competent body with a view to improving good governance in Member States and facilitating the implementation of the provisions of the Convention;

(i) If necessary, propose the creation and organization, and suggest modalities for the operation, of units in Member States for combating corruption and handling all related information (Mali).

66. A database should be provided by compiling and disseminating successful practices in fighting corruption, including case laws and commentaries, especially on asset recovery, submitted by States parties and States signatories (Nigeria). With regard to the provision that any review mechanism should provide opportunities to share good practices and challenges, it is proposed that the review mechanism should include a system enabling States parties to post and access information about experiences relating to good practices, challenges, difficulties of national legislation, typical cases and any other information that might assist them in implementing the Convention effectively. Such a system could be hosted on the Secretariat's website and be designed along the lines of the portal used by public institutions in Panama to manage information on good practices (www.setransparencia.gob.pa/sibupraip) (Panama).

67. The primary goals of reviews conducted by the mechanism should initially be the following:

(a) To ensure an active and participative Conference by providing information on how particular articles and portions of the Convention are being implemented;

(b) To nurture dialogue between States on the successes and challenges that they encounter in implementing and using particular articles or portions of the Convention;

(c) To identify potential opportunities for support or assistance (United States of America).

B. Thematic scope of review

68. The work of the review mechanism should focus on the following areas:

(a) International cooperation, including the international cooperative measures included in the Convention, such as mutual legal assistance and extradition;

(b) Asset recovery, especially the implementation of measures to improve cooperation among States parties, as indicated in chapter V of the Convention;

(c) Technical assistance, especially those technical assistance projects that help to reinforce the implementation capabilities of States parties (China).

69. The process of implementation and the review of implementation should be seen as a continuous activity (Finland). The Convention is the result of a carefully balanced compromise that needs to be reflected in the review mechanism and in the selection of articles subject to review (Norway). During phase one of the review, the mechanism must focus on priority issues included in the mandatory articles of the Convention, namely, on preventive measures, criminalization and law enforcement, international cooperation and asset recovery, in order to review the status of relevant legislation in each State (the legislative process must come before implementation). Due consideration should be given to articles that are closely interlinked (Japan).

70. The Convention deals with a vast range of issues, too many for the review mechanism to tackle from the start. Some of the articles of the Convention should therefore be chosen for a first round of review (Finland). Additional review cycles might usefully focus on specific and particularly vexing issues, thus providing a gradual approach to implementation (Norway). Eventually, however, all provisions should be reviewed (Germany).

71. The mechanism should contain a balanced selection of articles from each of the chapters of the Convention. Due consideration should be given to including articles that are closely interlinked (Norway).

72. During the review process, an effort should be made to address the actual problems and challenges faced by States parties. Since the Convention was developed (in 2002 and 2003), important legal and institutional developments have taken place. Most of those developments comply, at least formally, with the legal and institutional requirements set out in the Convention. Existing challenges in the

fight against corruption are less related to the formulation of legislation and the establishment of institutions than they are to the enforcement of legislation and the efficiency of the newly created institutions and the effectiveness of activities undertaken to prevent and combat corruption (Latvia).

73. An important feature of the review mechanism could be its ability to identify common challenges and good practices. Therefore, attention should be paid to the accomplishments and outstanding issues in each State. Over time, the review mechanism should also make it possible to identify areas where improvements and training are needed. Joint events for exchanging experiences in those areas could also be organized, thus allowing States to save money and bring together leading experts from relevant national authorities and stakeholders charged with addressing the common challenges of the States parties (Latvia).

74. The review mechanism should identify weaknesses in national anti-corruption legislation and preventive policies, in line with the relevant provisions of the Convention, as well as weaknesses in international cooperation in the areas of mutual legal assistance, extradition and asset recovery, and can contribute to correcting such situations and weaknesses (Nigeria).

75. The review mechanism should maintain an ongoing dialogue with States parties and States signatories (on the premise that the self-assessment checklist has been completed) on the implementation of the Convention and on difficulties experienced in fully applying the provisions of the Convention and on any apparent violation of the Convention. Through such dialogue, the mechanism should also propose appropriate remedial measures to States parties, assist States parties in complying with their obligations and, to that end, recommend, where appropriate, the provision of technical assistance. Such dialogue is to be pursued through regular consultations and through missions arranged in agreement with the States parties concerned (Nigeria).

76. The review mechanism should compile and disseminate strategies for assisting States parties in navigating through legal procedures in cases of asset recovery and mutual legal assistance (Nigeria).

77. The first round of reviews should cover key articles of the Convention, in particular the mandatory ones (Norway).

78. In phase one, the degree to which existing legal and regulatory frameworks comply with the provisions of the Convention should be analysed (Germany).

79. In phase two, the practical implementation of the provisions should be analysed. For that purpose, more detailed questionnaires focusing on the practical implementation of the Convention should be formulated and sent to the States under review (Germany).

80. The Working Group invites the Secretariat to prepare an exhaustive questionnaire regarding all existing legislative tools and practices in each State party (Switzerland).

81. The review process should be applied to all the provisions of the Convention (in other words, a holistic approach should be adopted). The questionnaire would therefore cover chapters II-VI of the Convention (Switzerland).

82. The terms of reference for the review mechanism should set out the concrete implementation review system, in accordance with the Convention and establish a review period of two or three years. The criteria should open up an opportunity for States to communicate their opinions widely. Moreover, the terms of reference should request States to establish a performance inspection and evaluation system in the region in order to support the aforementioned review (Thailand).

83. Each review process should contain questions related to both the level of national compliance and the level of international cooperation received or provided by each State party (Peru).

C. Procedure

1. Methods of review and general comments

84. In order to identify the terms of reference, it is important to set out the structure on which the terms of reference will hang. There are several main stages in the review process. A self-assessment questionnaire should be used as the initial step for gathering information on legislation and general policies. It should consider compliance with the provisions of the Convention, in particular the mandatory provisions. The subsequent stages are the following: (a) the review process, based on adequate information provided by the self-assessment and supplemented by credible information from other sources, should include on-site visits by experts and consultations with relevant international organizations, governmental and non-governmental organizations; (b) creation of a draft report for comment by the country under review; (c) development of a final report, containing recommendations and conclusions; and (d) publication and/or follow-up on the findings of the final report. The State under review and the experts should identify issues to be discussed during the visit and decide whom to meet (e.g. relevant stakeholders including civil society representatives). The terms of reference should explicitly allow sufficient time and capacity for addressing supplementary questions in order to obtain clarification on any outstanding issues (Austria and the United Kingdom).

85. The terms of reference should explicitly allow sufficient time and capacity for addressing supplementary questions. It cannot be assumed that the self-assessment will by itself provide sufficient information for reviewers to properly review the implementation of the Convention. It is important that it be possible to ask supplementary questions throughout the review in order to get clarification on any outstanding issues (United Kingdom).

86. The review process shall envisage tools and instruments that allow the opportunity for the country already reviewed to have the developments in that country concerning implementation of specific provisions of the Convention reflected in the final report, even after its publication, on an ongoing basis, using the same panel of experts that performed the initial review (Azerbaijan).

87. A board of experts to review the implementation of the Convention should be established and should decide which provisions to include in the questionnaire and draw up a list of particularly important provisions to be reviewed in all States (details still have to be specified) (Germany).

88. States should be reviewed in the order in which they appear in a list that should be established at an early stage by the board of experts. The list should include detailed schedules, reflect a regional balance and choose States for review in a non-intrusive manner. The list should be published on the UNODC website (Germany).

89. Information on the experts and on their selection process should be made public (in accordance with the principle of transparency). The principal tasks of the board of experts should be the following: (a) to organize coordination and advisory activities with the Conference and the Secretariat on how to plan and organize the review process; (b) to cooperate with other monitoring organizations; (c) to select the States (and, if necessary, the articles of the Convention) to be reviewed; and (d) most importantly, to select experts for conducting reviews in the selected States. The selection of States and of the method for conducting the reviews should be based on the principle of non-intrusiveness and should take into account the accomplishments of other mechanisms so as to avoid duplication of work (Germany).

90. In conducting the reviews, the board of experts should establish ad hoc review groups (comprising a maximum of three experts, keeping in mind regional balance, as mentioned above), tasked with analysing the draft reports. They should act in their personal capacity, be independent and impartial, and have the appropriate professional knowledge and regional expertise. Relevant information produced by the evaluation bodies of other regional or international anti-corruption mechanisms may be taken into account, which is why cooperation groups should be established with the specific task of coordinating with such bodies (Germany).

91. The review groups should be responsible for finalizing the country reports, including the recommendations. The reports should then be discussed by the group of experts before they are submitted and discussed by the Conference. Relevant information, in particular on the selection of States and on time frames for the submission of information and the final reports, should be made public on the anti-corruption website of UNODC (according to the principle of transparency). Within six months of the establishment of the Convention review mechanism, the group of experts should adopt rules of procedure (Germany).

92. The issue of transparency relates not only to the kinds of documentation, reports or findings that will be reviewed and made public, but also to the review mechanism itself. The way in which the review mechanism is constituted is significant. The review process should also address the issue of the participation of civil society and the private sector (South Africa).

93. The terms of reference should stipulate measures for supporting States to join bilateral or multilateral agreements. Such an effort should include the exchange of information, knowledge and experience in developing measures to prevent and suppress corruption (Thailand).

94. However, given that the Conference meets biennially and deals with a wide range of issues, consideration should be given to the possibility of the Conference being assisted in that task by another organ, such as an open-ended intergovernmental expert group. Such an organ could, on an annual basis (or whenever necessary) examine the results of the review process and suggest to the

Conference corrective measures or courses of action to improve the implementation of the Convention (Uruguay).

95. The reviewers should make the report available to the State under review and transmit a copy to UNODC for use by the Conference (United Kingdom).

96. At a minimum, each State should be required to undergo a desk review by the relevant experts. A desk review could involve a dialogue between the State under review and the reviewing experts, facilitated by various means of communication, including conference calls, videoconferences, face-to-face meetings and e-mail exchanges, as appropriate (United States).

97. A decision on the number of States to be evaluated, annually or biannually, should be taken according to the availability of funding and the capacity of the Secretariat. The States will be selected randomly, as will the respective evaluators (Chile).

98. Various review methods should be used, including self-assessment surveys, peer and expert reviews and country visits, depending on the articles under review and the stage of the review process (initial or more advanced) (Chile).

99. The expert committee should prepare the terms of reference for the review mechanism and parameters or standards for review for all States. On that basis, it should design various questionnaires, each of which should cover specific articles of the Convention, beginning with key articles and covering most of the provisions and the issues addressed (Chile).

100. The questionnaires, which will be identical for all States, should be sent to all States parties to the Convention (Chile).

101. A list of those States willing to be evaluated should be drawn up. The first phase of the review process should consist of reviewing those States. A preliminary report containing background information provided by the State under review should be evaluated by the expert committee. The evaluators should not be citizens of the State under review and may not be nominated or approved by the Government of that country. The preliminary report should be submitted to the State that has been reviewed, for its consideration (Chile).

102. Finally, representatives of the Secretariat and the evaluators should meet with representatives of the State that has been reviewed (Chile).

103. During a second phase, the process should be repeated with those States that had not volunteered to be reviewed, selecting them randomly (Chile).

2. Self-assessment

104. The self-assessment checklist is the most appropriate tool for gathering information. Responses to the checklist should be submitted to the Conference through the Secretariat. Currently, the contents of the checklist deal with only the mandatory parts of the Convention. The range of issues dealt with in the checklist could be expanded by the Conference. It is important that the checklist facilitate the identification of the difficulties encountered by parties in the fulfilment of their obligations under the Convention and of specific needs for technical assistance (Japan).

105. States parties may wish to request the assistance of the Secretariat, of experts from other States parties or of other stakeholders in preparing the self-assessment (Finland and United Kingdom). It may be necessary to refine the existing self-assessment checklist to meet the purpose of demonstrating compliance (United Kingdom).

106. The preliminary outcome of the self-assessment should be discussed among the relevant authorities and by representatives of academia, civil society and the private sector, whose viewpoints usefully supplement the perspective of the authorities, providing new insight into the challenges encountered and new ideas for possible ways forward (Finland).

107. The analysis of the responses to the self-assessment checklist submitted by the States concerned should be carried out by a group of experts from other States parties, comprising at least one expert from a country in the same regional group as the State whose replies are being examined (France).

108. The self-assessment checklist is necessary, as without it there would be no effective assessment. Since the checklist is compulsory, all States have an obligation to submit their responses to it (Jordan).

109. The checklist should be extended to cover other articles of the Convention (10 articles instead of 5) (Jordan).

110. The procedures for responding to the questions in the checklist and for preparing guidelines for doing so should be simplified (Jordan).

111. Governments should be encouraged to publish their self-assessment reports (Germany).

112. To that end, it would be necessary, in addition to continuing the Secretariat's valuable work of systematizing and disseminating the information gathered from the self-assessment of the implementation of the Convention (see CAC/COSP/2008/2 and Add.1 and the document presented at the La Paz meeting⁵), to carefully analyse the responses to the checklists and to give an indication, on the issues covered, of what could constitute the most significant achievements and shortcomings regarding the fulfilment of the commitments under the Convention (Uruguay).

113. That, in turn, would entail developing a simple and fast way of providing feedback to States so that they could use that information immediately, in addition to using the self-assessment checklists in the more formal stages of the process (Uruguay).

114. The feedback could be communicated to States either by experts specifically assigned to the task or through cooperative arrangements with States volunteering to undertake such an initial feedback exercise, or both. In both cases, the feedback should be given swiftly without people needing to travel. The analysis of the responses would essentially constitute an input for other more comprehensive and participatory reviews, while also being of immediate use to the States concerned (Uruguay).

115. The checklists should cover different aspects of the Convention. As each checklist is completed, immediate feedback should be provided by designated

⁵ Ibid., paras. 182 and 191.

experts or volunteering States. That feedback should serve as a basis for the preparation of the various review stages, which may be supplemented by the application, where appropriate, of additional assistance and cooperation modalities (Uruguay).

3. Use of experts/reviewers

116. Further initiatives to broaden the scope of the information gathered should be explored: (a) the review process should be carried out by experts only. The States concerned should ensure the availability of their experts; (b) experts may take into consideration additional information related to the State under review resulting from existing international and regional review mechanisms, in order to avoid duplicating work; (c) experts should analyse all the information provided and request the State under review to provide clarification and additional information when appropriate. They may also take into account other open-source information, for example from intergovernmental and non-governmental organizations, in accordance with article 63, paragraph 6, of the Convention; and (d) experts and representatives of the States concerned are strongly encouraged to exchange information and communicate among themselves at all stages of the review process. The review teams shall decide among themselves on how to organize their work. The Secretariat will offer assistance if requested (Austria).

117. The review of implementation should be carried out by small peer review teams comprising evaluators designated by Governments. The evaluators should, as a rule, come from two countries: one from a country in the same region as the country under review and with similar systems and institutions; and the other from a country with a different system of government and different institutions (Chile).

118. Two to three international experts (one expert from a country in the same region as the State under review, one from a different region and perhaps a third expert) should be selected by the Secretariat and the board of experts to analyse the reports of the reviewing experts (also referred to collectively as “review groups”). They should enter in an active dialogue with the country under review and its national experts and request additional information if necessary. They should finalize the report in close cooperation with the national experts (phase I) (Germany).

119. Each participating State should establish, by notification to the Secretariat, a “pool” or “roster” of experts to be called upon depending on the provisions under review. The list should specify the substantive expertise that the experts possess. Each participating State should be asked to nominate at least two experts (United States).

120. Review should be conducted by experts. It is suggested that the experts be nominated by Member States and selected by the Secretariat on the basis of professional experience, knowledge of languages and specialized expertise. The Secretariat should draw up a list of experts and make that list public. The Secretariat should accept an equal number of nominations from all Member States, and the selection procedure should be transparent. The list of experts should be approved by the Conference or by other means, provided that it is duly recorded (Hungary).

121. Independent experts should analyse the information provided and identify main accomplishments and outstanding issues in a way that is comprehensive and

uniform for all States. Such experts should have the proper qualifications and have a background in the public sector, research, academia and the private sector. The added value provided by the participation of experts lies in the experts' ability to complement the official information provided by national authorities with in-depth, expert analysis and to more easily identify areas for further improvement. The experts should have sufficient understanding and time, as well as a sufficiently diverse range of information and views, to be able to provide a proper analysis and conclusions (Latvia).

122. Provision should be made available for technical assistance to be provided for the training of experts in order to increase their capacity to be able to participate in a review process (Egypt).

123. The status of implementation of the Convention by a State party will be reviewed by a team of experts consisting of representatives of the Secretariat and experts from two States parties other than the State under review (Norway).

124. The experts should be duty-bound to keep information shared in the course of a review confidential, unless otherwise agreed with the State party under review (Finland).

125. Half of the experts reviewing a State should come from the same continent as the State under review. No expert may participate in more than one review unless no other suitable candidate is available. The review should also be followed by at least one staff member of the Secretariat, whose task it would be to ensure that the rules are followed and that the same level of expectations is set for all States (Hungary).

126. Effective discussion should be encouraged, and the experience base of those working in the field of crime and prevention should be expanded (Jordan).

127. Focal points should involve an officer in the effective discussion process (Jordan).

128. Pursuant to Conference resolution 2/1, paragraph 3 (b), the mechanism should take into account a balanced geographical approach. That principle should be taken into consideration when setting up the review teams. At least one of the reviewing experts should come from a country that is in the same region and, preferably, that has a legal system similar to that of the State under review. The other expert (or experts) should come from a country in a different region. A State should not be reviewed by a State that it has evaluated or that it plans to evaluate (Norway).

129. The Secretariat is to set up the reviewing teams in consultation with the States parties and should keep in mind that perhaps not all States have the capacity to review others while being reviewed themselves (Norway).

130. The relationship between the team of experts and the State under review should be characterized by openness at all stages of the process (Norway).

131. Using the self-assessment checklist as a starting point, the experts should enter into a constructive and non-adversarial dialogue with the State under review, in line with Conference resolution 2/1, paragraph 3 (c) (Norway). The purpose of the follow-up stage should be to help the State party under review to evaluate its own progress in achieving the goals that it had set for itself (Finland).

132. The experts may ask for additional information and explanations. They may also discuss information gathered from other sources with representatives of the State under review (Norway).

133. The relationship between the team of experts and the State under review should be characterized by openness at all stages of the process (Norway).

134. Including at least one expert from the State party under review to the group of experts would increase the accuracy and efficiency of the review mechanism and would contribute to a constructive dialogue that would ensure full respect of the ownership of the review process by States, as envisaged by the Convention (Turkey).

135. A country visit would underscore the gravity of the review and also allow for more in-depth analysis than would other forms of consultation. There are options available regarding having a specific group of experts (expert group) established to perform this function or having country experts carry out a peer review. Of the two options, the Government of the United Kingdom would prefer a peer review carried out by country experts (United Kingdom).

136. Each State should be reviewed by experts from two other States (United States).

137. Experts should begin the review process by reviewing the responses provided by the State under review to the self-assessment checklist. In the future, the starting point could be the relevant responses to the self-assessment toolkit currently being developed by UNODC (United States).

138. Keeping in mind the general principles set out in Conference resolutions 1/1 and 2/1 regarding the review process and its ultimate aim of assisting States in the effective implementation of the provisions of the Convention, consideration should also be given to holding meetings that would facilitate dialogue among representatives of the State under review, representatives of other States and experts designated by the United Nations to that end. A record of such meetings should be prepared, setting out recommendations to be submitted, in due course, to the Conference, which is the body competent to approve them (Uruguay).

139. The following criteria should be taken into account in determining the composition of such meetings:

(a) Given the high number of States that have already ratified the Convention and the fact that more States are expected to do so in the future, a limit should be placed on the number of States that can participate in the meetings;

(b) The regional perspective should have a decisive influence, not only because of the costs of travel but also because of cultural affinities and similarities in the legal traditions;

(c) However, cross-cutting considerations are also important in broadening local or regional perspectives and in understanding the universality of the Convention;

(d) The results of the regional reviews could serve as background information and, if properly formatted, could even partly replace the self-assessment

checklists, which would, however, probably require individualized treatment owing to the specific nature of the Convention;

(e) The outcome of the meetings should be reflected in recommendations, adopted by consensus. The recommendations should take into account the general principles set out in Conference resolutions 1/1 and 2/1 and assist States under review in improving their rate of compliance with the Convention and in combating corruption generally;

(f) It is advisable for experts to assist by participating in meetings not only before but also during and after the process. However, their presence should in no circumstances replace that of the Member States, which have to be the main participants in the process;

(g) The meetings should promote open dialogue, mutual cooperation, exchange of views and the dissemination and transmission of good practices in connection with the issues in question (Uruguay).

4. Site visits

140. In order to improve the analysis of available information, the State under review should organize a site visit, with planning and implementation support from the Secretariat. The State under review and the experts should identify issues to be discussed during the visit and decide whom to meet, e.g. relevant stakeholders, including civil society representatives (Austria).

141. A site visit should follow, with the participation of experts designated by two States, one State being similar to that under review and the other different (in line with the peer review concept), in addition to one expert selected from among representatives of civil society (non-governmental organizations) (Chile).

142. The site visit should be non-intrusive, in line with Conference resolution 1/1, paragraph 3 (a). Thus, the programme of events scheduled during the site visit should be set up in close cooperation with the State under review (Norway).

143. A reference guide or an agreed model and methodology for how to conduct site visits should be made available (Jordan).

144. Experts should be provided with a schedule of visits and the points to be researched during the visit within a reasonable time frame (Jordan).

145. If possible, the reports should be translated into the national language of the State under review (Latvia).

146. A team of experts may carry out a site visit to the State under review, unless the State concerned has not agreed (Norway).

147. Face-to-face meetings between experts and representatives of national authorities are likely to result in a fuller and more accurate understanding of the situation in the State under review. Moreover, a site visit should allow experts to compile additional information and provide an opportunity for the reviewing and reviewed parties to clarify any misunderstandings (Norway).

148. Experience gained from the pilot review programme has shown that site visits are useful both to the experts and the State under review, for they can provide a

good opportunity to share good practices and challenges, in line with Conference resolution 1/1, paragraph 3 (c) (Norway).

149. For the visit to be carried out efficiently, all information must be made available to experts in a language that they understand; any translations needed must be provided (Norway).

Language

150. The reports should be written in one of the official languages of the United Nations (Germany).

151. The State under review should choose which of the six official languages of the United Nations is to be used in the review (Hungary).

152. Documents should be provided in the language used by the State under review and the language of the reviewer/expert (Jordan).

153. Experts should have a good command of English as it is used in conversation (Jordan).

D. Source and use of information

154. The envisaged mechanism should ensure that States parties are the only sources of information and that any information provided by them should be used only for analytical purposes and should not be disclosed to any person or entity without the prior consent of the State concerned. In addition, the use of any other source of information should be subject to the prior approval of the Conference, and the information gained from that source should not be used for any purpose other than the promotion of the effective implementation of the Convention (Algeria).

155. The review mechanism should base its reports only on information provided by the States parties (and, where appropriate, by signatory States) on the status of implementation in their respective countries (Group of 77 and China).

156. Pursuant to paragraph 9 of Conference resolution 2/1: (a) focal points with a strong expertise in anti-corruption matters should be appointed by national anti-corruption authorities; and (b) a self-assessment checklist or questionnaire should be used as an initial step for gathering information on legislation and general policies. All States parties should be requested to undertake a self-assessment of their compliance with the provisions of the Convention, in particular the mandatory ones, on the basis of the self-assessment checklist or questionnaire. The following further initiatives to broaden the scope of the information gathered should be explored: (a) the review process should be carried out by experts only, and the States concerned should ensure the availability of their experts; (b) experts may take into consideration additional information related to the State under review resulting from existing international and regional review mechanisms, in order to avoid duplicating work; (c) experts should analyse all the information provided and request the State under review to provide clarifications and additional information when appropriate; (d) States may also take into account other open-source information, for example from intergovernmental and non-governmental organizations, in accordance with article 63, paragraph 6, of the Convention;

(e) experts and representatives of the States concerned are strongly encouraged to exchange information and communicate among themselves at all stages of the review process; (f) the review teams shall decide among themselves how to organize their work; and (g) the Secretariat will offer assistance if requested (Austria).

157. The self-assessment and the dialogue among experts should be based on adequate and credible information. Such information would be provided primarily by the State party under review and be supplemented by credible information from other sources. Pursuant to Conference resolution 1/1, paragraph 3 (d), in order to ensure complementarity and to avoid any overlapping with existing review mechanisms, the information produced by such review mechanisms should be used whenever possible. Pursuant to article 63, paragraph 5, of the Convention, information provided by other sources, such as academic research, should also be used in the self-assessment and as a basis for the dialogue among experts. The State party under review would, of course, have the right to comment on information obtained from other sources (Finland).

158. With a view to preventing States parties from having to supply the same information on several occasions, in different contexts, the Conference should, with the assistance of the Secretariat, investigate ways and means of accessing relevant information that is already available, in particular by cooperating with international and regional anti-corruption organizations that have already collected data or conducted studies in that area (France).

159. The information-gathering process, based first and foremost on responses to the self-assessment checklist in its current form, should, as much as possible, limit the workload of the participating States; if necessary, however, it should allow for a greater variety of information to be gathered if the self-assessment checklist undergoes any further developments (France).

160. The Government of France proposes that the review process allow sources of information other than the responses to the self-assessment checklist to be taken into account, such as the answers already provided within the context of other international or regional anti-corruption mechanisms or data gathered in the course of site visits. Experts wishing to use such sources of information should notify the State under review, which will then be able to submit observations on the relevance of the information collected (France).

161. The team of experts should, in a transparent manner and in full openness with respect to the State under review, seek and have free access to a variety of sources of information. Access to information is essential if the review mechanism is to be an effective and functional tool to help States parties implement the Convention (Norway).

162. Sources of information should include: (a) States parties (through, for example, the checklist, dialogue with the team of experts and publicly available information provided by the Government); (b) other existing review mechanisms; (c) competent international organizations; (d) non-governmental organizations and representatives of civil society; (e) labour organizations; (f) businesses; and (g) the media (Norway).

163. Every State under review should submit to the Secretariat a complete and updated self-assessment report with answers to all questions (mandatory and

optional). Every State under review should also submit to the Secretariat the names and contact details of one or more persons designated as points of contact for communicating with the reviewing experts and the Secretariat (Germany).

164. The mechanism should provide representatives of civil society and the private sector with formal channels for making written and oral contributions to the review process, at relevant periods and during both phases (Germany).

165. It is particularly important that representatives of civil society and the private sector be consulted during the course of the reviews (Germany).

166. During the review, the reports of other intergovernmental bodies may also be taken into account (see the work of the Working Group on Bribery in International Business Transactions of the Organization for Economic Cooperation and Development and GRECO), as long as they were not published more than five years prior to the review (Hungary).

167. Any information provided by States on their commitment to the review of the implementation of the Convention can be used only for analytical purposes and cannot be disclosed to any person or entity without the prior consent of the State concerned (Group of 77 and China).

168. It is also important to allow Member States to provide the Secretariat with relevant data and information on anti-corruption efforts that have also been provided to regional and international organizations. In addition, States under review should have the opportunity to address comments and objections to reviewers; the Secretariat should include those comments and objections in the report prepared for submission to the Conference (Japan).

169. The final report should also provide background material for exchanging information on solutions adopted at the national level with a view to tracing financial flows linked to corruption, seizing assets derived from corruption and returning such assets (Norway).

170. The review mechanism can assist a State party in effectively implementing the Convention only if the team of experts is provided with adequate and reliable information about the current situation in the State under review. To ensure that the review is carried out on a sufficiently solid basis, several different sources of information should be available to the team of experts (Norway).

171. The State under review may freely comment on and express its views on the information and its sources (Norway).

172. The use of the information should be discussed. In the absence of a common position, the use of the information should be allowed provided that the concerns of the State under review are duly taken into consideration (Norway).

173. In line with the principles set out in articles 5 and 13 of the Convention, the review mechanism should allow for the active participation of civil society (Norway).

174. The information must be up-to-date and relevant and be used with the agreement of the State under review (Norway).

175. The information should be gathered accurately and in a way that minimizes the administrative burden on States as much as possible. The findings of the self-

assessment should be used as a basis for conducting a first analysis of the status of implementation in the State under review (Slovakia).

176. The review mechanism should be based on a simple system of collecting data (Slovakia).

177. On the basis of the responses to the questionnaire, each State party should be positioned according to the status of its implementation of the Convention. Existing reports and assessments, including those prepared by other bodies or in the framework of international and regional instruments, could be used as primary sources (Switzerland).

178. Each State reviewed would cooperate actively with the expert group and the Secretariat during the drafting of the review report by providing access to all available sources of information (Switzerland).

179. It may be useful for the reviewers to have access to sources of a wide range of information, including information from regional reviews, other convention reviews or civil society. The State under review would, of course, need to be informed of the sources being relied upon and have an opportunity to comment on them. The options are the following: (a) reviewers decide which sources they can rely on; (b) the State under review decides which sources can be relied on; (c) reviewers and the State under review both agree on which sources can be relied on (United Kingdom).

E. Reports

180. The publication of the reports of the States parties submitted to the envisaged review mechanism has to be subject to the prior approval of the Conference (Algeria).

181. The information gathered through the checklist and other means (e.g. country visits) should serve as a basis for the assessment and for the identification of gaps (e.g. in legislations and policies) and deficiencies in implementation. Based on a blueprint report elaborated by the Secretariat, reviewing experts should prepare a draft report, to be submitted to the State under review for comments. The final report should contain recommendations and conclusions and should be made public (Austria).

182. Wherever possible, input from representatives of the other relevant stakeholders would also be taken into consideration. The recommendations would primarily be addressed to the State party under review. Issues requiring international cooperation, however, should be addressed primarily to the Conference (Finland).

183. The recommendations should be designed to remedy gaps in implementation and address the possible need for technical assistance. They should also be used to identify priorities for further action (Finland).

184. The report and the recommendations should be addressed to the State party, while summaries of the report and the recommendations should be submitted by the Secretariat to the Conference (Finland).

185. The purpose of the final report will be to evaluate, in the light of the implementation of the Convention, the strengths and weaknesses of the mechanisms

of the State under review, to present the good practices in combating corruption adopted by that State and to identify priorities with a view to assisting in implementing the Convention more effectively, in particular through the provision of technical assistance (France).

186. The report will, if necessary, contain recommendations aimed at facilitating the implementation of the Convention by the State concerned. Should the report contain recommendations, the State under review will be required to inform the group of experts and the Conference of action taken with regard to those recommendations (France).

187. The report will be forwarded to the Conference and to the State under review, which will be free to disseminate the report should it wish to do so (France).

188. The final reports should be discussed by the board of experts, which should be composed of about 20 experts (details to be specified) from all over the world and should meet four times a year. Experience suggests that a video recording should be made of the meetings of the board of experts. During the meetings, States' good practices and the challenges faced by States in implementing the Convention should be discussed. Ideally, issues related to international cooperation and asset recovery might be discussed at those meetings (phase I) (Germany).

189. Once discussed, the reports should be presented to the Conference for adoption and then be made public on the website of UNODC (phase I) (Germany).

190. A follow-up mechanism should be established. Reviewed States should be legally obliged to implement the recommendations and action plans mentioned in the report and should prepare progress reports to be sent to the Secretariat. The progress achieved should then be discussed at the following session of the Conference (phase I) (Germany).

191. If a State has not implemented the recommendations in a satisfactory manner or is not willing to implement them, a public statement might be published (phase I) (Germany).

192. The reports of the review should be made public on the condition that the State under review agrees. The recommendations made in the report should be communicated to the Conference (Hungary).

193. Currently, UNODC has nine regional offices and one regional centre, all of which would need to be strengthened and empowered. The task of the regional offices and the centre should be to analyse reports related to the fulfilment by States parties (and signatory States, as appropriate) of their commitments. The reports should be based on information provided by States parties (and signatory States, as appropriate) through the self-assessment checklist. In drafting the report, staff at the regional office and at the regional centre should enter into a dialogue and establish a channel of communication with the States parties (and signatory States, as appropriate), which could possibly lead to country missions being conducted by one or more experts from the regional offices and the regional centre (Indonesia).

194. All reports must be submitted to the Conference for its consideration. Only the Conference will be competent to approve and issue implementation review reports (Group of 77 and China).

195. The review mechanism should base its reports only on information provided by the States parties (and, where appropriate, by signatory States) on the status of implementation in their respective countries (Group of 77 and China).
196. Each State party should submit to the Secretariat the results of the checklist, and the Secretariat should gather and analyse the information provided. Subsequently, a report should be prepared on the status of implementation, to be submitted to the Conference (Japan).
197. The States parties should discuss the report at a session of the Conference and adopt the report after it has been reviewed in the plenary (Japan).
198. A good example of how such a process works has been provided by GRECO (http://www.coe.int/t/dg1/greco/evaluations/index_en.asp). It is important to properly disseminate the reports so that all public authorities, civil society and the private sector, as referred to in the Convention, are aware of and are encouraged to take the necessary measures (Latvia).
199. All reports should be transmitted only to the States parties and should not be used for any reason other than to promote the application of the provisions of the Convention (Morocco).
200. Annual reports should be submitted to draw the Conference's attention to important issues and challenges faced by States parties in the implementation of the Convention. Annual reports could be supplemented by technical reports on key issues and themes contained in the Convention (Nigeria).
201. The experts are to write a draft report in accordance with an agreed blueprint for such reports (Norway).
202. Authorities from the State under review should then submit their comments on the draft report to the Secretariat. A constructive dialogue, facilitated by the Secretariat, should take place between the representatives of the team of experts and the State under review, with a view to agreeing on a final report (Norway).
203. The experts may include recommendations in the final report (Norway).
204. The final report, or at least a summary of the report and its recommendations, should be made public (Norway).
205. The guiding principles have been elaborated as follows: consideration should also be given to the provision of factual and accurate information from sources other than Governments, such as civil society and the private sector. The Secretariat will be responsible for collecting and analysing the information. The general public should be provided with information regarding implementation of the Convention (South Africa).
206. The responses provided by each State party should be the subject of a review report drafted by the Secretariat in close cooperation with an ad hoc expert group (Switzerland).
207. The review report on each State party would be presented at successive sessions of the Conference, in line with the measures provided for in article 63, paragraph 4, of the Convention. The report would comprise the following: (a) an objective assessment of the situation of the State party under review in relation to each chapter of the Convention; (b) areas for priority attention; and (c) concrete

suggestions for improvement, together with respective recommendations (Switzerland).

208. The presentation of review reports in a plenary meeting would be preceded by consultations between the State party under review, the expert group and the Secretariat with the aim of clarifying points of divergence on the basis of the responses provided. Any points of divergence would be reflected in the report. The technical conclusions set out in the reports could be published, subject to the agreement of the State party concerned (Switzerland).

209. The terms of reference should encourage States to periodically submit progress reports on implementation of the Convention. The reports should include information on the development of corruption prevention and suppression measures and be presented to the Conference every two or three years (Thailand).

210. The premise of the review process is that the owner of the draft report is the reviewer (United Kingdom).

211. The reviewers should prepare a draft report and submit it to the State under review for comments. The State under review should provide a clear explanation for suggested amendments to any aspects of the report so that the reviewers can consider such suggestions fairly (United Kingdom).

212. If a dispute between the reviewers and the reviewed cannot be resolved by the parties involved, it is suggested that the following options be taken into consideration: (a) arbitration, using an independent individual or body to decide on the dispute; (b) the report represents the position of the State under review, while (i) the reviewers record in an annex to the report the areas where they disagree; and (ii) the reviewers withhold endorsement of the report or the part of the report under dispute. Some record of disputes needs to be kept (United Kingdom).

213. In consultation, the reviewers and the State under review should prepare a development plan that can be used to formulate technical assistance requirements for the State under review, if appropriate (United Kingdom).

214. In order to meet the three primary goals, each review should result in a two-part report. The first part should consist of a factual narrative that describes what States are doing to implement each article under review. The second part should be a set of observations in which the reviewers identify the following: (a) achievements and gaps in implementation; (b) potential opportunities for support or assistance; and (c) priorities for the State under review with regard to implementation of the Convention (United States).

215. The observations should not be pronouncements on what particular States must do to implement the Convention; rather, they should be viewed as constructive ideas for strengthening implementation, identifying priorities for implementation and helping the Conference identify successes and challenges in implementing specific articles or portions of the Convention (United States).

216. The recommendations, to be formulated by the participants and agreed upon by consensus, should deal with suitable criteria and modalities and appropriate assistance and cooperation arrangements for achieving, in each case, the best possible implementation of the Convention (Uruguay).

F. Miscellaneous aspects of methodology

217. Keeping in mind the general principles set out in Conference resolutions 1/1 and 2/1 regarding the review process and its ultimate aim of assisting States in the effective implementation of the provisions of the Convention, consideration should also be given to holding meetings that facilitate dialogue among representatives of the State under review and other States and experts designated by the United Nations to that end. A record of such meetings should be prepared, setting out recommendations for presentation in due course to the Conference, which is the body competent to approve them (Uruguay).

218. The review meetings should cover the situation of a limited number of States within the same region (there could be between 5 and 10 cases). In each case, the review should be carried out with the participation of the State under review, one representative from each State in the other regions and experts (or from the Secretariat). The lack of adequate funding may, of course, have a bearing on the composition of the meeting (Uruguay).

219. Work should be carried out on the basis of the checklists and the initial comments. Those responsible for making the initial observations on each review should be designated from among the participants (Uruguay).

220. With regard to conducting a more in-depth review that would include lower-priority issues in each State party, Member States should establish an intergovernmental expert working group to conduct review work. The results of such a review would be reported in writing to the Conference through the Secretariat (Japan).

221. The proposal to set up a mechanism with a clear mandate to review the application of the Convention would impose an additional burden on States such as Tunisia that only recently ratified the Convention. Before thinking about setting up a mechanism, it would be preferable to provide adequate funding in order to give Member States the kind of technical assistance needed for training people in identifying and sharing best practices and in drafting appropriate professional management methods (Tunisia).

222. Once they have ratified the Convention, States need time to provide the material and human requirements needed to fulfil all the obligations incumbent upon them. During that phase, States should be given the confidence and technical and financial support needed to complete the development of anti-corruption legislation and increase the capability of the bodies responsible for applying the related legal provisions and for making the necessary organizational and administrative arrangements (Tunisia).

223. It is premature to request Member States to submit to a mechanism for reviewing the implementation of the Convention, and more thought needs to be devoted to giving States enough time to comply with the various requirements of the Convention (Tunisia).

224. The review should be conducted by experts (Hungary).

225. The State under review should choose which of the six official languages of the United Nations is to be used in the review (Hungary).

226. The first round of reviews should be made in writing, thus enabling numerous reviews to take place concurrently. The Government of Hungary maintains a flexible position (Hungary).

227. Existing assessment tools are limited in scope. The *Legislative Guide for the Implementation of the United Nations Convention against Corruption*⁶ can be utilized only for carrying out gap analyses. That means that the technical guidelines for the implementation of the Convention need to be finalized so that they can be utilized as a tool for carrying out an in-depth assessment (Indonesia).

228. With regard to the provision that any review mechanism should complement existing international and regional review mechanisms, the Government of Panama proposes the designation of an entity to liaise between the mechanism or the Secretariat and other relevant international and regional mechanisms (Panama).

229. Any such review mechanism should be of a constructive and technical nature and should promote collaboration, inter alia, for taking preventive measures, recovering assets and fostering international cooperation. Cooperation in drafting model legislation on international cooperation should be promoted. Such legislation should cover matters connected with the recovery of assets and the restitution of property where appropriate, without criminal conviction, as set out in article 54 of the Convention (Panama).

230. The Government of the United States envisions that States would periodically provide updates on the issues raised in the observations (United States).

V. Administration of the mechanism

231. Which and how many States parties are allocated seats in the envisaged review mechanism should be based on equitable geographical representation and on a balanced rotation (Algeria).

232. Any decision on the recommendations concerning the review mechanism should be taken by the participating States by consensus. It is up to the Conference to decide whether to implement any of the recommended measures (China).

233. The mechanism should be composed as follows: (a) the States parties to the Convention, represented by their relevant national authority, and at least one representative of civil society approved by the United Nations and the relevant national authority in each State; (b) at least one expert with general knowledge and one expert with specialized knowledge on each substantive chapter of the Convention, to be appointed by the relevant national authorities of States parties (Ecuador).

234. The functions of the implementation review body will be: (a) to guarantee compliance with the Convention by adapting the principles set out in the Convention to specific regional circumstances; (b) to assign to the experts with general knowledge the responsibility for undertaking regional peer reviews following instructions received to that end from the regional implementation review body; (c) to establish a standard and an exceptional methodology for carrying out

⁶ United Nations publication, Sales No. E.06.IV.16.

analyses that abide by the principles set out in Conference resolution 1/1 and to determine the review time frames; (d) to inform the States parties of the dates when they will be reviewed (Ecuador).

235. The question of whether a mechanism should be established to assist the Conference in ensuring the effective implementation of the Convention is separate from the question of how such a review mechanism should operate (France).

236. As stated in article 63, paragraph 7, of the Convention, the Conference should establish, if it deems it necessary, any appropriate mechanism or body to assist in the effective implementation of the Convention (France).

237. The establishment of a review mechanism does not preclude the setting-up of a body whose role would also be to assist in the effective implementation of the Convention (France).

238. The Government of France would agree to the establishment of a body composed of experts approved by the States parties, in addition to the mechanism described above. Such a body would familiarize itself with the final reports and prepare a summary report for the Conference containing recommendations on priorities with a view to improving the implementation of the Convention, strengthening the necessary initiatives in that area and meeting the technical assistance needs identified in the final reports (France).

239. The summary report drawn up by that body would be an official document of the Conference and, as such, would be made public (France).

240. The Secretariat has an important role to play as organizer and facilitator both before and during the site visit (Norway).

241. In order to avoid delay and ensure progress, clear timescales should be established for each stage of the process. It should be up to the Secretariat to ensure that timescales are monitored and complied with (United Kingdom).

242. A timetable has been suggested for discussion⁷ (United Kingdom).

243. Accordingly, it is suggested that a methodology should be put in place that is structured in three interlinked phases, each having its own preparatory, management and formalization processes (Uruguay).

244. The mechanism should have three major components: the Conference, the Secretariat and a board of experts for reviewing the implementation of the Convention (Germany).

245. The Conference should be responsible for establishing the mechanism, its terms of reference and its policies and priorities. In addition, the Conference should be tasked with further developing the review mechanism and should serve as a platform to share good practices, challenges and information on anti-corruption issues in the context of the implementation of the Convention. Finally, the Conference should serve as a diplomatic tool to remind States parties that they should implement the recommendations made in the final reports. The recommendations should be non-punitive, and neither the recommendations nor discussions within the Conference should produce any form of ranking (Germany).

⁷ CAC/COSP/WG.1/2008/2, para. 177.

246. A board of experts for reviewing the implementation of the Convention should be established. It should be composed of about 20 anti-corruption experts from States parties all over the world (Germany).
247. All States parties should enjoy equal footing in any review mechanism (Group of 77 and China).
248. The establishment of an open-ended intergovernmental expert working group is proposed to make individual reviews that are too difficult for the Conference to address. Such a working group would replace the current, tentative Open-ended Intergovernmental Working Group on Review of the Implementation of the United Nations Convention against Corruption as its established forum (Japan).
249. The proposed working group would meet during the Conference sessions. If necessary, the meeting could be convened annually in Vienna, giving experts from States parties the opportunity to gather and work on the reviews (Japan).
250. Since it would be quite difficult to review all States at the same time, it is proposed that a number of reviewing and reviewed States be selected from each regional group, taking care to maintain a balance among the regions (Japan).
251. Participation in the working group should be open to all the Member States, thus allowing any State to participate in the review mechanism. Closed sessions between reviewed and reviewing States could still take place with a view to ensuring that the results of reviews are based on facts and are mutually agreed upon (Japan).
252. The list of experts should be approved by the Conference or by other means, provided that it is duly recorded (Hungary).
253. The Government of Hungary suggests that half of the experts reviewing a State should come from the same continent as the State under review. No expert may participate in more than one review unless no other suitable candidate is available (Hungary).
254. A regional mechanism is thus foreseen to evaluate and analyse implementation of the Convention. However, such a regional approach should not be based on any existing regional mechanism or body, because the Convention is a global treaty that is far-reaching and broad in scope. Therefore, it is proposed that the review mechanism align itself with the current profile of the regional offices and the regional centre of UNODC (Indonesia).
255. In order to be able to analyse the information provided by States parties (and signatory States, as appropriate) the regional offices and the regional centre should be equipped with the necessary tools. At the moment, such tools can be obtained by consulting the *Legislative Guide for the Implementation of the United Nations Convention against Corruption*. The Government of Indonesia, which supports the view that the mechanism should lead a gradual process, underscores that the *Legislative Guide* should, as a matter of priority, be used to identify gaps between national legislation and the provisions of the Convention. To kick off the process, the regional offices and the regional centre should conduct gap analyses in the States covered by them. The process should be carried out with the agreement of the States concerned, in particular with regard to the substance of and analysis contained in the report (Indonesia).

256. Once reports have been compiled and agreed upon by all the States reviewed by a given regional office or by the regional centre, it is suggested that a meeting of the States parties and States signatories concerned be held to promote regional identity, participation and a sense of ownership, to share good practices and challenges and to further the regional perspective of the process. Such a meeting is considered necessary for the establishment of a culture of dialogue and for providing the opportunity to the States concerned to look into and discuss, in an open and frank manner, progress made by States in the implementation of the Convention, including in identifying good practices and meeting challenges. Such a dialogue would also enable a better understanding of the needs of States covered by a given regional office or by the regional centre. The meeting should be facilitated by staff of a regional office or the regional centre and should be open to those States covered by the office or centre hosting the meeting. The report of the meeting should be submitted to the Conference together with the reports of the States covered by the regional offices or the regional centre concerned, based on the decision of the meeting itself. Therefore, the meeting should be held before the following session of the Conference (Indonesia).

257. That would mean that the Conference would not deal with individual State reports. In any event, that would be almost impossible given that the Conference meets for only five days every two years. The Conference should focus on the regional reports submitted by States through the regional offices and the regional centre (Indonesia).

258. There would be a need to strengthen the capacity of the regional offices and the regional centre of UNODC since, currently, some regional offices may not have the expertise to undertake the proposed activities. However, such capacity-building activities should be funded from the regular budget of the United Nations (Indonesia).

259. With regard to the review mechanism on the implementation of the Convention, it is proposed that the United Nations set up teams of lead examiners comprising nationals from various States who would have the task of reviewing and assessing the implementation of the Convention by States parties. The teams of lead examiners would also make recommendations on action to be taken by States parties (Mauritius).

260. A team of lead examiners should obtain information from Member States by means of questionnaires and draw up a draft assessment report to be returned to the States under review for comments. The reports should be reviewed in the light of those comments before undergoing a thorough technical analysis by a subcommittee of experts (Mauritius).

261. Each Member State should appoint a representative who is fully acquainted with the issues pertaining to the implementation of the Convention in his or her own country. Those representatives and all the lead examiners should form the committee of experts (Mauritius).

262. A subcommittee of experts, comprised of representatives of five States parties and no more than three lead examiners, should be set up. The lead examiners on the subcommittee should be involved in assessing implementation of the Convention and in drafting the initial report on one or more of the five Member States represented in the subcommittee. At subcommittee meetings, each State party

present could express its opinion on the report presented by the lead examiners in relation to the State under review. The lead examiners should take into consideration the comments made and the discussions held by the State representatives. Should all five State representatives disagree with the findings of the lead examiners, the lead examiners would have to review their assessment (Mauritius).

263. The findings of the subcommittee of experts should then be presented to the committee of experts, which should be responsible for approving the reports (Mauritius).

264. A decision on when the next assessment should take place should be made following the approval of the review report (Mauritius).

265. A committee of experts should be established to provide advice and technical assistance to the Conference and the Secretariat regarding the organization of and cooperation in the review process. Such a committee should have between 10 and 15 members and comprise experts in the fields covered by the five main subject areas or pillars of the Convention: preventive measures, criminalization and law enforcement, international cooperation, asset recovery, and technical assistance and information exchange. The committee should gather in a plenary meeting at least once a year. Between meetings, small groups specialized in each of the five main areas of the Convention could work together with the Secretariat (Chile).

266. The experts should be nominated by the Secretariat and approved by the Conference. They should be selected from a wide range of institutions, including Governments, international organizations and universities. The selection should be based on criteria of professional excellence and should reflect regional diversity. The experts should work independently and not as representatives of their respective Governments (Chile).

267. The administration of the mechanism should contemplate a formal liaison with the existing regional review mechanisms in order to systematize the exchange of information and speed-up the preparation of reports. That process should be coordinated with the State party under review to verify the updating and the appropriateness of the information received. The relationship with existing mechanisms should foster the greatest possible complementarity for the coherent and orderly implementation of the Convention. To that end and to strengthen coordination, the possible participation by representatives of regional mechanisms, as observers, in meetings and activities should be envisaged (Peru).

VI. Secretariat

268. Pursuant to paragraph 9 of Conference resolution 2/1, the entire process should be supported by a well-resourced secretariat (Austria).

269. The Secretariat should be mandated to assist the mechanism, for example by means of the following: (a) continuing to assist States parties in preparing the self-assessment; (b) helping States parties in identifying experts for the dialogue stage of the review and otherwise facilitating initial contacts between the State party under review and the experts; (c) formulating guidelines for standard reports in order to ensure their conformity with decisions taken by the Conference; (d) providing a tentative timetable for the reviews; (e) helping the experts in preparing the report

and the recommendations; (f) helping to resolve possible questions regarding the credibility of any information submitted in the course of the review; and (g) preparing a summary of reports for consideration by the Conference (Finland).

270. UNODC staff should have the option to participate in country visits in cases in which it is clear that, following a cost-benefit analysis, such participation would add value to the process (United Kingdom).

271. The Secretariat could play a decisive role in ensuring that the review of the implementation is conducted in an efficient manner. It is thus crucial that the Secretariat be provided with adequate resources (Norway).

272. The Secretariat should act as a facilitator of the review mechanism. It should be an objective third party that ensures consistency and equal treatment of the States parties throughout the process. It should collect and distribute the findings of the self-assessments, organize site visits and assist in obtaining information and drafting reports. It should seek to ensure that the reports are impartial, streamlined and consistently worded (Norway).

273. The Secretariat should prepare a questionnaire containing questions on all the provisions (mandatory and optional) contained in the Convention (Germany).

274. The Secretariat should be principally responsible for day-to-day management. The Secretariat should, upon request, provide technical and substantive support to States under review. The Secretariat should also be responsible for coordinating activities among the different actors responsible for reviewing the Convention. To that end, States parties should submit to the Secretariat the names of one or more persons as contact points for communicating with the experts, the Secretariat and the review teams (Germany).

275. The Secretariat is requested to gather additional information from regional and international organizations that are combating corruption (Japan).

276. The Secretariat has the important tasks of receiving, analysing and reporting on information provided in responses to the checklist and by regional and international organizations. During the process, the Secretariat should analyse the status of relevant legislation in reviewed States and then examine which measures or actions should be taken, based on the results of the analysis. The Secretariat is also requested to propose technical assistance projects (according to its mandate) that would promote the ratification and implementation of the Convention (Japan).

277. Once it has accumulated information on a certain number of reviews, the Secretariat should prepare a report on the status of implementation and a report on technical assistance needs. The reports should focus not on individual States but on efforts and situations at the regional level. However, outstanding individual efforts could be mentioned in the reports. Furthermore, the report should include the outcome of the meetings of the Working Group, which will conduct in-depth individual reviews (Japan).

278. It is suggested that the experts be nominated by Member States and selected by the Secretariat on the basis of professional experience, knowledge of languages and specialized expertise. The Secretariat should draw up a list of experts and make that list public. The Secretariat should accept an equal number of nominations from all Member States, and the selection procedure should be transparent (Hungary).

279. The review should also be followed by at least one staff member of the Secretariat, whose task it should be to ensure that the rules are followed and that the same level of expectations is set for all States (Hungary).

280. The Secretariat should play a vital role in ensuring coordination and information exchange between and among States. The Secretariat could facilitate the review work of the experts, who would ultimately be responsible for conducting the various reviews. The Secretariat could, among other things, do the following: help facilitate dialogue (through conference calls, videoconferences etc.); help keep work on schedule; ensure consistency in the conduct and end product of each review; and conduct a broader analysis of the gathered information, for consideration by the Conference (as it did, for example, for the information gathered through the self-assessment checklist) (Indonesia and the United States).

281. The terms of reference should identify the secretariat of the Conference as the recipient of information relating to anti-corruption, for instance on progress on implementation, international cooperation between States with regard to corruption prevention and suppression etc. The information should be entered into a database and reported to the Conference. The database should be used as a reference for States developing corruption prevention and suppression measures (Thailand).

282. The Secretariat should be responsible for the daily administration of the review process. To that end, it should have well-defined and sufficient powers to provide the framework for the review and ensure that the review process is applied in the same way to all States parties to the Convention. Strong leadership and a small team of professionals will be required. Secretariat staff should collect information and perform other functions (Chile).

VII. Funding

283. The envisaged review mechanism should be funded from the regular budget of the Conference in accordance with the United Nations scale of assessment for States parties (Algeria).

284. Any review mechanism should be funded from the regular budget of the United Nations to ensure its efficient, continued and impartial functioning (Group of 77 and China).

285. The review mechanism should be funded by voluntary contributions. Funds need to cover the costs of interpretation services, the preparation of papers and other needs for the proposed working group, as well as the costs of individual face-to-face meetings, when necessary. Regarding the self-assessment checklist, the relevant software is available in the six official languages of the United Nations. Member States that submit information to the Secretariat should have it translated into English at their own expense (Japan).

286. States parties could and should easily provide sufficient and continual voluntary funding, free of conditions or influence, to support a review mechanism as outlined (United States).

287. While it is acceptable for the funding for the review process to come initially from the voluntary contributions of donor States, in the long term, funds should come from the regular budget of the United Nations (Chile).
