



LATVIJAS REPUBLIKAS PASTĀVĪGĀ PĀRSTĀVniecība ANO, EDSO UN CITĀS  
STARPTAUTISKĀJĀS ORGANIZĀCIJĀS VIENĒ  
PERMANENT MISSION OF THE REPUBLIC OF LATVIA TO THE UN, OSCE AND OTHER  
INTERNATIONAL ORGANIZATIONS IN VIENNA

*Verbal Note*

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The Permanent Mission of the Republic of Latvia to the UN, OSCE and other international organizations in Vienna presents its compliments to the United Nations Office on Drugs and Crime and referring to the Note No. CU 2008/39 (A) of 29 April 2008 has the honor to forward the proposals and comments made by the Corruption Prevention and Combating Bureau of the Republic of Latvia regarding the establishing a mechanism on review of the implementation of the United Nations Convention against Corruption.

The Permanent Mission of the Republic of Latvia to the UN, OSCE and other international organizations in Vienna avails itself the opportunity to renew to the United Nations Office on Drugs and Crime the assurances of its highest consideration.



Vienna, 10 July 2008

UNODC  
Division for Treaty Affairs  
Corruption and Economic Crime Section  
Vienna

**List of characteristics and principles of the review mechanism in accordance with Conference resolutions 1/1 and 2/1:**

**1. Be transparent, efficient, non-intrusive, inclusive and impartial**

**COMMENTS:**

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 purposes of the Convention. It should provide a comprehensive analysis of the existing situation and identify accomplishments and shortfalls, not to be limited to a government reporting mechanism.

Development of the terms of reference should be transparent and inclusive – a first draft could be circulated to all Members States. The draft terms of reference could also benefit from comments of relevant international and non-governmental organizations (OECD Working Group on Bribery\*, GRECO, TI). A public consultation via Internet could also be useful. A second draft could be prepared and serve as a basis of focused and concrete discussions at the meeting on 22-24 September in Vienna. Countries should also use this opportunity to prepare appropriately their positions for the meeting, consulting experts in different substantive areas covered by the Convention.

The terms of reference should clearly set the standards against which Member States will be reviewed (the thematic scope of the review). Standards to be included in the review should be chosen in a transparent way, through consultation among Member States. Partly this issue has been addressed when developing the self-assessment checklist and may have been addressed within the pilot project, but not all Member States were involved.

The review should seek to address actual problems and challenges faced by Member States. The Convention was developed between 2002 –2003. Since then important legal and institutional developments have taken place in Member States which are formally mostly compliant with the legal and institutional requirements of the Convention. Today challenges in the area of fight against corruption are less related to legislation and establishment of institutions but more to the enforcement of legislation, efficiency of the newly created institutions and efficiency of activities taken to prevent and combat corruption. Actual challenges and problems can be determined by using official information provided by Member Countries earlier (answers to the self-assessment checklist, pilot project) and various reports in this area endorsed by Member States/prepared by international organizations based on information provided by governments (OECD, GRECO, for some countries/EU reports).

The review mechanism should involve multiple sources of information. Information should be provided by the authorities of the Member State and also other parties covered by the Convention, such as non-governmental organizations and professional associations (Art. 13 Participation of society) and the private sector (Art. 12 Private sector).

\* Further referred as OECD.

Further, it is necessary to provide an independent expert assessment. Independent experts should analyze the information provided and identify main accomplishments and shortfalls in a comprehensive and unified way for all countries. Experts are usually nominated by Member States and then selected by the Secretariat/Bureau of Member States. Such experts should have a proper qualification. They can originate from public authorities of the Member States, as well as research, academia or private companies. The added value in the participation of experts is to support the official information provided by the authorities with an in-depth expert view and analysis and allow easier to identify areas for further improvement. The experts should have sufficient understanding and time, as well as diversity of information and views to provide a proper analysis and conclusions. On-site visits could be envisaged, if Member States agree and there are sufficient resources. From experience of GRECO and OECD evaluations are usually carried out in a dialogue with participating country and results should be endorsed by the authorities. This independent assessment and "peer pressure" exercised by other Member States have proven part of the success of both GRECO and OECD mechanisms.

After adoption by Member State, each report should be made public. A good example is: [http://www.coe.int/t/dg1/greco/evaluations/index\\_en.asp](http://www.coe.int/t/dg1/greco/evaluations/index_en.asp). If possible, the reports should be translated into national language. Given the broad thematic scope of this Convention, it is important to properly disseminate the reports so that all public authorities, the society and the private sector – as mentioned in the Convention – are aware and encouraged to take necessary measures.

Another way to ensure transparency is to systematically publicize information about the review mechanism and process. Such information should be made publicly available by the Secretariat, including adopted terms of reference, the timetable of evaluation of countries, selected experts, etc.

## 2. Not produce any form of ranking

### COMMENTS:

To achieve this goal, the timetable of countries to be evaluated should be established (could be adopted by Member States/COSP) and then focus should be on specific country-by-country reviews with a comprehensive analysis, but separately of each individual country. It should be mentioned that GRECO, OECD, but also FATF use such elements as recommendations/compliance indicators/lists of non-compliant countries, so this is part of practice in international governmental evaluation mechanisms and proven to help to achieve progress and encourage certain difficult reforms.

## 3. Provide opportunities to share good practices and challenges

### COMMENTS:

Identification of common challenges and good practice could be an important feature of this review mechanism. Therefore focus should be on accomplishments and shortfalls in each individual country. Over time it should allow identifying areas were

improvement/training are needed in different countries. Further, joint exchange of experience in these areas could be organised. Such joint events could allow countries to save financial resources. It would also allow bringing together leading experts from responsible authorities/stakeholders in these areas with a significant task – to address a common challenge of the UNCAC Member States.

4. Complement existing international and regional review mechanisms in order that the Conference may, as appropriate, cooperate with them and avoid duplication of effort

COMMENTS:

The existing review mechanisms, especially GRECO and OECD, but also other UN review mechanisms, should be consulted in the development of the terms of reference.

5. Objective to assist States parties in the effective implementation of the Convention

COMMENTS:

As stated above, the review mechanism should allow identifying accomplishments (good practice) and shortfalls and invite the Member State to remedy to the shortfalls and where there is good practice– to share it with other countries.

6. Take into account a balanced geographical approach

COMMENTS:

No comments.

7. Be non-adversarial and non-punitive and promote universal adherence to the Convention

COMMENTS:

As said above, the review should be based on clear criteria, a dialogue with authority and by experienced experts so that the assessment and conclusions are both objective and acceptable.

8. Base its work on clear, established guidelines for the compilation, production and dissemination of information, including addressing issues of confidentiality and submission of the outcome to the Conference, which is the competent body to take action on such outcome

**COMMENTS:**

In the terms of reference there should be clear guidelines for provision of information, conditions of access to this information and adoption of the reports.

9. Identify, at the earliest stage possible, difficulties encountered by parties in the fulfillment of their obligations under the Convention and good practices adopted in efforts by States parties to implement the Convention

**COMMENTS:**

See above (point 1, paragraph 4).

10. Be of a technical nature and promote a constructive collaboration, inter alia, in preventive measures, asset recovery and international cooperation

**COMMENTS:**

The assessment should be objective, but it is also important that the Member States takes ownership of the reports seeking to address the problems it is facing and share the good practice with other countries. Therefore, assessments should be based on a good understanding of the situation in the country; they should be specific, technical and constructive.

The experience of GRECO and OECD shows that – in a similar mechanism – all countries are treated on an equal basis and the review has become a constructive intergovernmental process based on common values and a spirit of dialogue.