

UNCAC REVIEW MECHANISM
Paper Submitted by the United States
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Overall Goals of Reviews

- Establishing Goals for Reviews: The terms of reference should establish clear goals for REVIEWS conducted by any review mechanism.
 - This is different from establishing goals for the CONFERENCE OF STATES PARTIES (COSP). The goals of the latter are established in the convention.
- Primary Goals of Reviews: The primary goals of REVIEWS conducted by the mechanism should initially be the following: (1) ensure an active and participative COSP by providing information on how particular articles and portions of the convention are being implemented; (2) nurture dialogue between countries on the successes and challenges that face them in implementing and using particular articles or portions of the convention; and (3) identify potential opportunities for support or assistance.

End-Product of Reviews

- Producing a Two-Part Written Report: To meet the three primary goals mentioned above, each review should result in a two-part report. The first part would be a factual narrative that describes what countries are doing to implement each article under review. The second part would be a set of “observations” where the reviewers would identify three things: (a) achievements and gaps in implementation, (b) potential opportunities for support or assistance, and (c) the reviewed country’s priorities for implementation.
- Constructive Observations: The “observations” will not be mandatory pronouncements on what particular countries need to do to implement the convention. Rather, they should be viewed as constructive ideas for strengthening implementation, as vehicles to identify country priorities for implementation, and as a vehicle to help the COSP identify successes and challenges in implementing specific articles or portions of the convention.

- Follow-Up: We envision that countries would periodically provide updates on the issues raised in the “observations.”

Procedures for Getting to End-Product

- Reviews by two countries: Each country would be reviewed by experts from two other countries.
- Experts: Each participating country would establish by notice to the secretariat its “pool” or “roster” of experts, for use depending on the provisions under review. They should specify the substantive expertise that the experts possess. Each participating country would be asked to nominate at least two experts.
- Starting point for reviews: Experts would begin the review process by reviewing a country’s response to the UNCAC Checklist. In the future, it is possible that the starting point could be the country’s relevant responses to the UNCAC/UNTOC Self Assessment Tool, currently being developed by UNODC.
- Articles reviewed: In its initial period of work, the mechanism should focus on the review of a subset of provisions determined by the COSP, without prejudice to the expansion of review to other provisions of the Convention in later periods of work.
- Role of secretariat: The secretariat should play a vital role in ensuring coordination and information exchange between and among countries. The secretariat can facilitate the review work of the experts, who will ultimately be responsible for conducting the various reviews. The secretariat can, among other things, help facilitate dialogue (e.g. – through conference calls, video conferences, etc.), help keep work on schedule, ensure consistency in the conducting and end result of each review, and conduct a broader analysis of information for consideration of the COSP (e.g. – as it did for information gathered pursuant to the UNCAC Checklist).
- Extent of reviews: The goal of the review is to gather sufficient information and insight to prepare a final report with observations, agreed to by the reviewed country and reviewing experts (i.e. – the “end result”). At a minimum, each country will be required to undergo a

“desktop” review by relevant reviewing experts. A desktop review could involve a dialogue facilitated by various types of communication between the reviewed country and reviewing experts, including conference calls, video conferences, face-to-face meetings, and email communications, as appropriate.

Use and Distribution of Information

- **Seek balance:** We should consider a review process that provides States Parties some confidence that they can provide candid information on implementation without fear that such information will become publicly disseminated without their consideration. At the same time, we should also consider that UNCAC processes should model the principles of the Convention, including transparency, and that global anticorruption efforts would benefit from dissemination of information regarding the successes and challenges facing countries as they implement the convention.
- **Information used in reviews:** Supplementary information could be taken from multiple sources, including civil society, and not simply from the responses to the checklist or self-assessment tool and the dialogue with representatives of the reviewed country. The reviewed country should have every opportunity to review and respond to information provided by other sources.

Relationship to Existing Review Mechanisms

- **Incorporate Information into UNCAC Reviews:** Procedures for any UNCAC review mechanism should clearly state that information gathered by other existing multilateral review mechanisms should be made available to reviewers and used as appropriate in the review process.
- **Secretariat Can Pursue Coordination:** We should ensure that UNODC actively coordinates with other existing multilateral review mechanisms.

Financing for Reviews

- **Can be adequately funded by voluntary contributions:** States Parties can and should easily provide sufficient and continual voluntary funding – free of conditions or influence -- to support a review mechanism as outlined above.