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Spanish only

**Open-ended Intergovernmental
Working Group on Review of the
Implementation of the United Nations
Convention against Corruption**

Vienna, 22-24 September 2008

**Proposals and contributions received from Governments:
draft elements for the terms of reference of a mechanism for
reviewing the implementation of the United Nations
Convention against Corruption**

Consolidated Version

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I. Introduction

1. The Conference of the States Parties to the United Nations Convention against Corruption at its second session tasked the Open-ended Intergovernmental Working Group on Review of the Implementation to prepare terms of reference for a review mechanism for consideration, action and possible adoption by the Conference at its third session (resolution 2/1). In the same resolution, the Conference called upon States parties and signatory States to submit proposals for the terms of reference of the mechanism for consideration by the Working Group and requested the Secretariat to assist the Working Group in the performance of its functions. In order to prepare for the second intersessional meeting of the Working Group in a timely manner, the Secretariat invited States on 29 April 2008 to provide their views and proposals. 31 contributions were submitted by Algeria, Austria, Brunei Darussalam, Chile, China, Ecuador, El Salvador, Finland, France, Germany, Hungary, Indonesia, Iran (Islamic Republic of), Japan, Jordan, Kuwait, Latvia, Mali, Mauritius, Morocco, Nigeria, Norway, Panama, Slovakia, South Africa, Switzerland, Thailand, Tunisia, United Kingdom of Great Britain and Northern Ireland, United States of America and Uruguay. The Secretariat made them available on the UNODC web site (<http://www.unodc.org/unodc/en/treaties/CAC/working-group1.html>). Further, a compilation of the proposals in English language was prepared as part of the background documentation for the working group (CAC/COSP/WG.1/2008/2 to Add.2).

2. In order to help States prepare better for the mandated task of the working group and foster the exchange of views, the Secretariat convened open-ended informal consultations on 28 and 29 August 2008. The informal consultations were attended by representatives of 55 States and the European Community. The present document is the outcome of the informal consultations which restructured the proposals under provisional headings, thus producing a consolidated version as a means of organizing and facilitating the discussions of the working group. The initial proposals remained without textual changes unless the authors requested deletions or amendments of their submissions.

II. Consolidated proposals and contributions received from Governments: draft elements for the terms of reference of a mechanism for reviewing the implementation of the United Nations Convention against Corruption

Background

Ongoing initiatives

3. Austria, (CAC/COSP/WG.1/2008/2) para. 14: The Government of Austria would also like to point out that the preliminary results of the pilot review programme should be taken into account by the Working Group, particularly in respect to the expansion of the pilot review group to 25 per cent of the current number of States parties.

4. Uruguay, (CAC/COSP/WG.1/2008/2) para. 185: It is felt that, through the above-mentioned 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.
5. Germany, (CAC/COSP/WG.1/2008/2) para. 217: 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 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.
6. Germany, (CAC/COSP/WG.1/2008/2) para. 228: 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.
7. Germany, (CAC/COSP/WG.1/2008/2) para. 239: 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 the review, but only with the consent of the State under review and without intruding on its national sovereignty.
8. Iran (Islamic Republic of), (CAC/COSP/WG.1/2008/2) para. 270: 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.
9. Norway, (CAC/COSP/WG.1/2008/2) para. 119: Experience gained from the pilot review programme has shown that site visits are useful both to the experts and the State under review, for it can provide a good opportunity to share good practices and challenges, in line with Conference resolution 1/1, paragraph 3 (c).
10. Jordan, (CAC/COSP/WG.1/2008/2) para. 81: Those States parties voluntarily participating in the pilot review programme should provide the other States with a summary of their responses to the questions in the checklist.
11. France, (CAC/COSP/WG.1/2008/2) para. 62: The review mechanism should take into account the outcome of and lessons learned from the pilot review programme conducted by the United Nations Office on Drugs and Crime (UNODC) in cooperation with those States parties who 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 Corruption¹ and the

¹ Council of Europe, *European Treaty Series*, No. 173.

Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.²

12. France, (CAC/COSP/WG.1/2008/2) para. 63: The terms of reference for the pilot review programme proposed by the Secretariat appear appropriate for a review mechanism that includes all States parties.

13. France, (CAC/COSP/WG.1/2008/2) para. 64: The Government of France proposes that the Working Group, at its third session, to be held in Vienna from 22 to 24 September 2008, should use the proposed terms of reference for the pilot review programme as a basis for discussion.

14. Uruguay, (CAC/COSP/WG.1/2008/2) para. 204: Finally, 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.

15. Uruguay, (CAC/COSP/WG.1/2008/2) para. 205: 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 considers itself excluded a priori.

16. Germany, (CAC/COSP/WG.1/2008/2) para. 226 sentence 2: 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.

17. South Africa, (CAC/COSP/WG.1/2008/2) para. 156: The issue of how the review mechanism will be funded is also 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.

18. Finland, (CAC/COSP/WG.1/2008/2) para. 34, sentences 2-4: 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.

19. Uruguay, (CAC/COSP/WG.1/2008/2) para. 180: As background information, it is noted that the Government of Uruguay has been actively involved in monitoring

² *Corruption and Integrity Improvement Initiatives in Developing Countries* (United Nations publication, Sales No. E.98.III.B.18).

the implementation of the Convention since it was adopted pursuant to its Law No. 18056 of 18 November 2006.

20. Uruguay, (CAC/COSP/WG.1/2008/2) para. 181: 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 Open-ended Intergovernmental Working Group on Technical Assistance 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.

21. Uruguay, (CAC/COSP/WG.1/2008/2) para. 182: 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 to the Conference at its second session.

22. Kuwait, (CAC/COSP/WG.1/2008/2/Add.1) para. 1: In accordance with the limits of their competences in applying the law and combating crime, the competent authorities in Kuwait consider that resolution 2/1 of the Conference of the States Parties to the United Nations Convention against Corruption at the second session, which arose from article 63 of the United Nations Convention against Corruption³ 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.

23. Morocco, (CAC/COSP/WG.1/2008/2/Add.1) para. 30: 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 believe 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.

³ United Nations, *Treaty Series*, vol. 2349, No. 42146.

I. Guiding Principles

A. Basic Parameters

24. Algeria, (CAC/COSP/WG.1/2008/2) para. 5. The envisaged review mechanism should be impartial, transparent and respectful of the equality and sovereignty of the States parties. It should be conceived as a forum for discussion, exchange of information, promotion of best practices and identification of the problems encountered in the implementation of the Convention.
25. Austria, (CAC/COSP/WG.1/2008/2) para. 10: The Convention is a comprehensive instrument providing rules, tools and means to effectively prevent and combat corruption at the international level. Its potential needs to be fully exploited, particularly by means of a thorough and effective implementation.
26. Austria, (CAC/COSP/WG.1/2008/2) para. 15: 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.
27. China, (CAC/COSP/WG.1/2008/2) para. 18: 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.
28. China, (CAC/COSP/WG.1/2008/2) para. 19: Pursuant to Conference resolutions 1/1 and 1/2, the terms of reference for the mechanism should: (a) Be transparent, efficient, non-intrusive, inclusive and impartial; (b) Not produce any form of ranking; (c) Provide opportunities for sharing good practices and challenges; (d) Complement existing international and regional review mechanisms in order that the Conference may, as appropriate, cooperate with them and avoid duplication of effort; (e) Aim to assist States parties in the effective implementation of the Convention; (f) Take into account a balanced geographical approach; (g) Be non-adversarial and non-punitive and promote universal adherence to the Convention.
29. China, (CAC/COSP/WG.1/2008/2) para. 21: 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 facilitate constructive collaboration on preventive measures, asset recovery and international cooperation.
30. China, (CAC/COSP/WG.1/2008/2) para. 23: 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.
31. Ecuador, (CAC/COSP/WG.1/2008/2) para. 25: The characteristics of the review mechanism should be the same as those set out in Conference resolution 1/1.
32. El Salvador, (CAC/COSP/WG.1/2008/2) para. 32: The inter-institutional group responsible for monitoring anti-corruption action in El Salvador has no specific observations to make on the review mechanism under consideration. However, it

insists that the review mechanism should adhere to the characteristics and reflect the principles set out in Conference resolutions 1/1 and 2/1, which represents the consensus reached by States parties to the Convention.

33. France, (CAC/COSP/WG.1/2008/2) para. 57: 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.

34. France, (CAC/COSP/WG.1/2008/2) para. 58: The Government of France favours the establishment of a strong and effective mechanism to assist the Conference in promoting and monitoring the implementation of the Convention.

35. France, (CAC/COSP/WG.1/2008/2) para. 59: In the view of the Government of France, this entails according a prominent position to the Convention among the other existing international instruments in the area of corruption and ensuring its effective implementation.

36. France, (CAC/COSP/WG.1/2008/2) para. 60: Any unjustified delay in defining and adopting the review mechanism would be viewed as a failure by States parties to promote the application of the provisions contained in the Convention or even as demonstrating a lack of will among States parties to combat corruption.

37. France, (CAC/COSP/WG.1/2008/2) para. 61: Therefore, the Government of France believes that the review mechanism must be adopted at the third session of the Conference, in other words four years after the Convention entered into force.

38. France, (CAC/COSP/WG.1/2008/2) para. 68: 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.

39. Latvia, (CAC/COSP/WG.1/2008/2) para. 90: 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. It should provide a comprehensive analysis of the existing situation and identify accomplishments and outstanding issues; it should not be limited to being a Government reporting mechanism.

40. Latvia, (CAC/COSP/WG.1/2008/2) para. 102: The review process should be based upon clear criteria and promote a dialogue with national authorities and experienced experts so that the assessment and conclusions are both objective and acceptable.

41. Norway, (CAC/COSP/WG.1/2008/2) para. 106: The review mechanism should assist States parties in the effective implementation of the Convention, as laid out in article 63, paragraph 7, of the Convention and Conference resolution 2/1, paragraph 3 (a). In order to identify areas of compliance, specific challenges and possible needs for technical assistance, it is necessary to assess the status of implementation of the Convention in each State party.

42. Norway, (CAC/COSP/WG.1/2008/2) para. 107: The Convention sets a global standard that calls for a global review mechanism. The review mechanism should be inclusive and impartial, as laid out in Conference resolution 1/1, paragraph 3 (a),

and must apply in an equal manner to all States parties while also keeping in mind the specific situation of each State party.

43. Norway, (CAC/COSP/WG.1/2008/2) para. 110: 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.

44. Norway, (CAC/COSP/WG.1/2008/2) para. 112: 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.

45. Norway, (CAC/COSP/WG.1/2008/2) para. 113: 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 similar legal system as 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.

46. Norway, (CAC/COSP/WG.1/2008/2) para. 114: 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.

47. Norway, (CAC/COSP/WG.1/2008/2) para. 120: 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.

48. Norway, (CAC/COSP/WG.1/2008/2) para. 125: Pursuant to Conference resolution 1/1, paragraph 2 (b), the review mechanism should not produce any form of ranking.

49. Norway, (CAC/COSP/WG.1/2008/2) para. 129: The Convention is a global convention and, as such, sets a global standard. That means that a global review mechanism is needed for evaluating the status of implementation, in all States, of the same articles of the Convention. That will ensure equal treatment and consistency.

50. Norway, (CAC/COSP/WG.1/2008/2) para. 130: The Convention is the result of a carefully balanced compromise that needs to be reflected in the review mechanism. However, 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.

51. Norway, (CAC/COSP/WG.1/2008/2) para. 131: 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.

52. Norway, (CAC/COSP/WG.1/2008/2) para. 132: The first round of reviews should cover key articles of the Convention, in particular the mandatory ones.

53. Norway, (CAC/COSP/WG.1/2008/2) para. 133: 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 the next four years, in other words before the fifth session of the Conference.
54. Norway, (CAC/COSP/WG.1/2008/2) para. 142: 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.
55. Norway, (CAC/COSP/WG.1/2008/2) para. 143: The relationship between the team of experts and the State under review should be characterized by openness at all stages of the process.
56. Slovakia, (CAC/COSP/WG.1/2008/2) para. 150: The review mechanism should be based on a simple system of collecting data, preferably by involving the permanent missions of Member States and Government representatives in the anti-corruption network.
57. South Africa, (CAC/COSP/WG.1/2008/2) para. 158 (a) Transparency: the issue 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. Transparency also relates to how the review mechanism will be funded. Funding of the review mechanism should be fair and transparent.
58. South Africa, (CAC/COSP/WG.1/2008/2) para. 158 (b) Efficiency: the review should be holistic and systematic in ensuring that States parties are effectively implementing the Convention and ensuring that the mechanism is not burdensome to them. The matter is closely related to the call for the gradual development of the review mechanism.
59. South Africa, (CAC/COSP/WG.1/2008/2) para. 158 (c) Non-intrusiveness: the mechanism should not intrude in the sovereignty of States parties and in the way in which they discharge their obligations in terms of implementing the Convention.
60. South Africa, (CAC/COSP/WG.1/2008/2) para. 158 (e) Impartiality: the review mechanism must be fair and treat all States parties equally.
61. South Africa, (CAC/COSP/WG.1/2008/2) para. 158 (f) Non-production of any form of ranking: the review mechanism should only measure progress made regarding implementation of the Convention. The nature of the review must be oriented towards development, so as to assist States parties in fully implementing the Convention.
62. South Africa, (CAC/COSP/WG.1/2008/2) para. 158 (j) Non-adversarial nature: the review mechanism should not be adversarial and should not dissuade States who are not already parties from acceding to the Convention; rather, it should promote universal adherence to the Convention.
63. South Africa, (CAC/COSP/WG.1/2008/2) para. 158 (k) Non-punitiveness: the review mechanism should promote adherence to the Convention and measure progress regarding implementation of the Convention in a manner that does not penalize non-compliance.

64. South Africa, (CAC/COSP/WG.1/2008/2) para. 158 (l) Effectiveness: the review should be holistic and systematic and provide an objective assessment of whether the States parties have implemented the Convention.
65. South Africa, (CAC/COSP/WG.1/2008/2) para. 158 (m) Cost-efficiency: the review process should be efficient, realistic and not overly burdensome to States parties. The need to come up with funding, especially for developing countries, is evident.
66. South Africa, (CAC/COSP/WG.1/2008/2) para. 160 (h) The mechanism should avoid selectiveness among Member States and it should not undermine the universality of the Convention or dissuade States from acceding to it.
67. Uruguay, (CAC/COSP/WG.1/2008/2) para. 183: With regard to the mechanism for reviewing the implementation of the Convention, the Government of Uruguay pointed out, at the second session of the Conference, that such a mechanism should be transparent, efficient, non-intrusive, inclusive and impartial and supported by international cooperation, in accordance with the principles established by the Conference. The mechanism should also take into account the positions of the Groups referred to in paragraph 182 above. 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, while promoting the necessary fulfilment, within reasonable time limits, of the commitments made by States parties.
68. Uruguay, (CAC/COSP/WG.1/2008/2) para. 184: The Government of Uruguay supported the adoption of Conference resolution 2/1 on review of implementation of the Convention. The text of that resolution set out, on the basis of Conference resolution 1/1, the conclusions of the Working Group and the debates held and papers submitted to the Conference at its second session, certain general principles to guide future meetings and the formulation of a proposal to be presented at the third session of the Conference.
69. Uruguay, (CAC/COSP/WG.1/2008/2) para. 186: As a result, emphasis has been placed on the positive, balanced, equitable, non-adversarial and non-discriminatory aspects that should characterize such a mechanism, whose ultimate purpose should be to assist Member States in fulfilling their commitments under the Convention.
70. Uruguay, (CAC/COSP/WG.1/2008/2) para. 187: The Government of Uruguay believes that, at the present stage of the debate, attention should be focused on identifying the appropriate mechanism for achieving the above-mentioned objectives. 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.
71. Brunei Darussalam, (CAC/COSP/WG.1/2008/2) para. 206: Being transparent, efficient, non-intrusive, inclusive and impartial is in keeping with the spirit of the Convention. As such, any crucial decisions and resolutions governing the implementation of the articles of the Convention are to be made in a transparent and unambiguous manner, taking into consideration the views of developing countries and their different legal systems. The aim is also to maintain and enhance trust between all parties involved and to uphold the integrity of the Convention.

72. Brunei Darussalam, (CAC/COSP/WG.1/2008/2) para. 207: The review mechanism should be inclusive, which means taking into account the views and needs of all States parties, regardless of their size and stage of development. It should also be flexible, which means taking into account the unique nature and legal and political system of each State party. 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.

73. Brunei Darussalam, (CAC/COSP/WG.1/2008/2) para. 208: The use of ranking sometimes projects the idea of exclusiveness and may appear, especially to States relegated to the lower ranks, to be discriminatory and unfair, especially if a position in the lower ranks is perceived as signifying that the States in question lack commitment or are not performing adequately. It is essential that any assessment of a State party's achievements, successes and failures be made fairly by paying closer attention to the social, economic and political dynamics and context of that particular State party. Perhaps it would be most useful and beneficial to rank States in terms of their need for more guidance and assistance in fully attaining the aspirations of the Convention, for instance in the areas of economic, technical and human capacity.

74. Brunei Darussalam, (CAC/COSP/WG.1/2008/2) para. 209: All Member States would benefit from the opportunity to share best practices and challenges, as that would allow them to gain the knowledge and skills they need. Additionally, sharing information on weaknesses and failures would be useful for ensuring that similar mistakes are not repeated and for minimizing the possibility of human and financial resources being wasted. Such an information-sharing platform would also allow for the successes of States parties to be emulated and assimilated. It is hoped that such an opportunity would eventually encourage States parties to share their acquired skills and resources with States parties that have less capacity and fewer financial resources.

75. Brunei Darussalam, (CAC/COSP/WG.1/2008/2) para. 210: 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.

76. Brunei Darussalam, (CAC/COSP/WG.1/2008/2) para. 211: As a means of ensuring greater effectiveness and success in the implementation of the Convention, all States parties are required to provide the necessary assistance in accordance with their capability and means.

77. Brunei Darussalam, (CAC/COSP/WG.1/2008/2) para. 212: To ensure and maintain mutual respect and close cooperation among States parties to the Convention, it is essential that any disputes be resolved in a non confrontational manner and that States parties be encouraged to adopt best practices that have proved to be effective.

78. Brunei Darussalam, (CAC/COSP/WG.1/2008/2) para. 213: Where appropriate, a fair system of arbitration may also be introduced. The Government of Brunei Darussalam is of the view that punitive measures are not conducive to the creation of an atmosphere of trust and cooperation among States parties.

79. Brunei Darussalam, (CAC/COSP/WG.1/2008/2) para. 214: Given the nature of the Convention, the review mechanism needs to be technical. As mentioned above, the success of the Convention would be measured by the extent to which States parties are willing to work together in a constructive and collaborative manner on preventive measures, asset recovery, capacity-building and international cooperation.
80. Germany, (CAC/COSP/WG.1/2008/2) para. 217, sentence 1: 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.
81. Germany, (CAC/COSP/WG.1/2008/2) para. 225: The difficulties encountered by States parties in fulfilling their obligations under the Convention and their technical assistance needs should be identified at an early stage.
82. Germany, (CAC/COSP/WG.1/2008/2) para. 230: 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.
83. Germany, (CAC/COSP/WG.1/2008/2) para. 241: The whole process should be of a technical nature, transparent and as inclusive as possible (for example, by including the input of representatives from civil society and the private sector).
84. Germany, (CAC/COSP/WG.1/2008/2) para. 255: 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.
85. Germany, (CAC/COSP/WG.1/2008/2) para. 259: Transparency should be one of the main principles of the review mechanism. In the interest of adhering to that principle, the list of States to be reviewed, the questionnaires for both phases and the final reports should be made public on the website of UNODC. In addition, Governments should be encouraged to publish their responses.
86. Iran (Islamic Republic of), (CAC/COSP/WG.1/2008/2) (agreed by the G77 task force, hereinafter Iran) and Indonesia, para. 267: 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.
87. Iran (Islamic Republic of), (CAC/COSP/WG.1/2008/2) and Indonesia, para. 268: Any mechanism for reviewing the implementation of the Convention should avoid giving rise to political difficulties or any kind of selectiveness among Member States.

88. Iran (Islamic Republic of), (CAC/COSP/WG.1/2008/2) para. 271: The mechanism should be in compliance with the obligations set forth in the Convention and respect the principle of the sovereignty of States.
89. Iran (Islamic Republic of), (CAC/COSP/WG.1/2008/2) para. 272: The mechanism should not be overly complex nor demand too many resources. It should be transparent and participatory.
90. Japan, (CAC/COSP/WG.1/2008/2) para. 276: It is extremely difficult to review the status of implementation of all the articles of the Convention in all States parties because of the large number of articles containing comprehensive anti-corruption measures to be taken by the States and because of the large number of States that are parties to the Convention (117). Reviewing implementation requires tremendous human and financial resources.
91. Japan, (CAC/COSP/WG.1/2008/2) para. 277: As stated in Conference resolution 2/1, the review of implementation of the Convention is an ongoing and gradual process. The first step of the review must focus only on a limited number of articles of the Convention. The review of the Convention could be compared to that of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.
92. Japan, (CAC/COSP/WG.1/2008/2) para. 282: In order to fight corruption effectively, States parties shall commit themselves to the implementation process, which shall be owned by them. That ownership must be observed at each stage of the review process.
93. Japan, (CAC/COSP/WG.1/2008/2) para. 297: It is important to establish rules for every stage of the review mechanism. The guidelines must be procedural and technical and must not be binding.
94. Morocco, (CAC/COSP/WG.1/2008/2/Add.1) para. 27, sentences 2-4: It should operate in coordination with existing regional and international mechanisms, avoiding duplication of effort. Its work should be impartial, transparent and non-intrusive. All States concerned should enjoy equal footing and the mechanism should avoid ranking States on the basis of efforts made to combat corruption.
95. Morocco, (CAC/COSP/WG.1/2008/2/Add.1) para. 28, sentences 1-2: Representation within the review mechanism should be based on the principle of equitable geographical distribution among groups of States. The Conference should be the only authority competent to approve and publish reports arising from a review.
96. Morocco, (CAC/COSP/WG.1/2008/2/Add.1) para. 29: The review mechanism should operate on the basis of clearly defined objectives, drafting questionnaires to be filled in by States parties, talking with governmental and non-governmental organizations and, with the permission of the States concerned, conducting country visits. All its reports should be transmitted for approval to the Conference but they should not be circulated other than to the States parties or used for any reason other than to promote the application of the provisions of the Convention. The mechanism should aim to gradually harmonize the assessment work that it undertakes and avoid imposing upon States parties the recommendations of other States. Furthermore, the work of the mechanism should not be restricted to following up on the application

of the Convention by States parties but should also include the study and assessment of related matters concerning asset recovery and technical assistance.

97. Nigeria, (CAC/COSP/WG.1/2008/2/Add.1) para. 31 (b): Analysing the procedures in place for incorporating the Convention into the domestic law of States once these have become parties to the Convention.

98. Nigeria, (CAC/COSP/WG.1/2008/2/Add.1) para. 31 (c): Identifying weaknesses in national anti-corruption legislation and preventive policies in line with the relevant provisions of the Convention, as well as in international cooperation in the areas of mutual legal assistance, extradition and asset recovery and by contributing to correcting such situations and weaknesses.

99. Nigeria, (CAC/COSP/WG.1/2008/2/Add.1) para. 31 (d): Maintaining 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, 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 them 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.

100. Nigeria, (CAC/COSP/WG.1/2008/2/Add.1) para. 31 (f): Compiling and disseminating strategies for assisting States parties in navigating through legal procedures in cases of asset recovery and mutual legal assistance.

101. Nigeria, (CAC/COSP/WG.1/2008/2/Add.1) para. 31 (g): Drawing the attention of the Conference and other established bodies of the Conference to the technical assistance needs of States parties.

102. Nigeria, (CAC/COSP/WG.1/2008/2/Add.1) para. 31 (h): Compiling and disseminating successful practices in fighting corruption, including case laws submitted by States parties and States signatories.

103. Panama, (CAC/COSP/WG.1/2008/2/Add.1) para. 32: With regard to the reaffirmation made by the Conference in its resolution 2/1 that any review mechanism established to assist States parties in the effective implementation of the Convention should be transparent, efficient, non-intrusive, inclusive and impartial, the Government of Panama believes that each State party should establish a national mechanism permitting the participation of society in accordance with article 13 of the Convention. Such a national mechanism should consider how to ensure that the information provided is not used to produce any kind of classification or ranking.

104. United States, (CAC/COSP/WG.1/2008/2/Add.1) para. 36: The terms of reference should establish clear goals for reviews conducted by the review mechanism. That is different from establishing goals for the Conference. The goals of the latter are set forth in the Convention.

105. Chile, (CAC/COSP/WG.1/2008/2/Add.2) para. 1: Corruption has taken on global dimensions in a world economy that is becoming more integrated by the day.

The United Nations Convention against Corruption⁴ is a milestone in the fight against corruption worldwide, creating an appropriate framework for combating the phenomenon.

106. Chile, (CAC/COSP/WG.1/2008/2/Add.2) para. 2: At its first session, the Conference of the States Parties to the United Nations Convention against Corruption adopted resolution 1/1, in which it expressed its conviction that effective and efficient review of the implementation of the Convention was of paramount importance and urgent and agreed that it was necessary to establish an appropriate and effective mechanism to assist in the review of that implementation; and decided to establish an open-ended intergovernmental expert working group to make recommendations on an appropriate mechanism for reviewing the implementation of the Convention and on the terms of reference of such a mechanism.

107. Chile, (CAC/COSP/WG.1/2008/2/Add.2) para. 3: In the same resolution, the Conference underlined that the review mechanism should: (a) be transparent, efficient, non-intrusive, inclusive and impartial; (b) not produce any form of ranking; (c) provide opportunities to share good practices and challenges; and (d) complement existing international and regional review mechanisms in order that the Conference may, as appropriate, cooperate with them and avoid duplication of effort.

B. Relationship with COSP

108. Algeria, (CAC/COSP/WG.1/2008/2) para. 4, sentences 1-2: The Conference is the supreme institutional body responsible for the Convention. Any envisaged mechanism, including the review mechanism, should be subsidiary to the Conference.

109. Algeria, (CAC/COSP/WG.1/2008/2) para. 9: 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.

110. Austria, (CAC/COSP/WG.1/2008/2) para. 11: The Conference agreed, in its resolution 1/1, on the necessity of establishing an appropriate and effective mechanism to assist it in the review of the implementation of the Convention. In its resolutions 1/1 and 2/1, the Conference underlined that any mechanism established to assist the Conference in the review of the implementation of the Convention should have certain characteristics and reflect certain principles.

111. Austria, (CAC/COSP/WG.1/2008/2) para. 12: In its resolution 2/1, the Conference decided that the Working Group should prepare terms of reference for a review mechanism for consideration, action and possible adoption by the Conference at its third session.

112. China, (CAC/COSP/WG.1/2008/2) para. 16: The mechanism for reviewing the implementation of the Convention must operate under the guidance of and report to the Conference.

⁴ United Nations, *Treaty Series*, vol. 2349, No. 42146.

113. China, (CAC/COSP/WG.1/2008/2) para. 17: Prior to the establishment of the review mechanism, the Working Group should explore feasible options and report its findings to the Conference.

114. Uruguay, (CAC/COSP/WG.1/2008/2) para. 195 (h): The Conference (or a body delegated by the Conference) should formalize the recommendations arising from the review stages referred to above. That should not prevent the States parties from acting as they deem appropriate or any mechanisms for assistance from being devised with the required flexibility.

115. Uruguay, (CAC/COSP/WG.1/2008/2) para. 202: It is the responsibility of the Conference to finalize the work carried out in the two previous phases and to guide the future course of the review process.

116. Uruguay, (CAC/COSP/WG.1/2008/2) para. 203: 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.

117. Germany, (CAC/COSP/WG.1/2008/2) para. 216, sentence 1: The Conference should adopt, at its third session to be held in Doha in 2009, a resolution establishing a strong, efficient and effective mechanism mandated with reviewing the implementation of the Convention by States parties.

118. Iran (Islamic Republic of), (CAC/COSP/WG.1/2008/2) para. 262 and Indonesia: 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.

119. Iran (Islamic Republic of), (CAC/COSP/WG.1/2008/2) para. 263 and Indonesia: All reports must be submitted to the Conference for its consideration. Only the Conference will be competent to approve and issue implementation review reports.

120. Iran (Islamic Republic of), (CAC/COSP/WG.1/2008/2) para. 275: 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.

121. Japan, (CAC/COSP/WG.1/2008/2) para. 291: The Conference will contribute to the review of the status of implementation by providing assistance with respect to legislative and technical assistance, on the basis of reports provided by the Secretariat. While discussing the status of implementation, the Conference should focus on good practices and experiences in order to identify effective solutions to challenges. Member States must be allowed to clarify those challenges mentioned in the reports to the Secretariat during the Conference session.

122. Japan, (CAC/COSP/WG.1/2008/2) para. 292: Based on the discussion mentioned above, the Conference will adopt the reports submitted by the Secretariat.

123. Japan, (CAC/COSP/WG.1/2008/2) para. 298: The guidelines should, in line with Conference resolution 2/1, paragraph 3 (d), deal with the compilation, production and dissemination of information. The guidelines should also outline procedures for submitting information to the Conference and to the proposed working group on deliberation, reporting and participation.

124. Switzerland, (CAC/COSP/WG.1/2008/2) para. 300: The Working Group invites the Secretariat to prepare an exhaustive questionnaire regarding all existing legislative tools and practices in each State party.

125. Switzerland, (CAC/COSP/WG.1/2008/2) para. 301: 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.

126. Chile, (CAC/COSP/WG.1/2008/2/Add.2) para. 5 (a): The following components of the review mechanism should have the following functions: (a) *Policymaking*: the Conference (the mechanism's policymaking body) should be responsible for establishing policies and priorities for the review mechanism.

127. Chile, (CAC/COSP/WG.1/2008/2/Add.2) para. 5 (c): The following components of the review mechanism should have the following functions: (c) *Technical function*: an expert committee (the mechanism's technical body) should be established to conduct part of the review and to provide advice and technical assistance to the Conference and the Secretariat in setting up and implementing the review mechanism.

128. Chile, (CAC/COSP/WG.1/2008/2/Add.2) para. 6: The Conference should be responsible for establishing policies and priorities and also a mechanism for efficiently monitoring the review process.

129. Chile, (CAC/COSP/WG.1/2008/2/Add.2) para. 7: At each session, the Conference should review progress made during the preceding period in order to plan for the following two years.

II. Methodology

A. Purpose

130. Ecuador, (CAC/COSP/WG.1/2008/2) para. 24: The objectives of the review mechanism should be: (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.

131. Finland, (CAC/COSP/WG.1/2008/2) para. 48: The purpose of the follow-up stage is to ensure that the recommendations have been implemented as required and that they have led to the desired result. Its purpose should not be to rank States parties but, rather, to help the State party under review to evaluate its own progress in achieving the goals it had set for itself.

132. France, (CAC/COSP/WG.1/2008/2) para. 65, sentence 1: In general, the Government of France believes that the review mechanism should enable the Conference to have reliable and uniform information on the status of implementation of the Convention by each State party.

133. Norway, (CAC/COSP/WG.1/2008/2) para. 127: 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 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 meet the needs identified in the report.

134. United Kingdom, (CAC/COSP/WG.1/2008/2) para. 166: It is important that the self-assessment tool suits the purpose it was intended to serve, which is why it may be necessary to refine the existing self-assessment checklist to meet the purpose of demonstrating compliance.

135. United Kingdom, (CAC/COSP/WG.1/2008/2) para. 167 (a): There are a number of possible stages involved in the review. The key aspects on which the Government of the United Kingdom would like to comment are as follows: (a) Scope: it is suggested that the review cover compliance with a wide range of articles, including the optional provisions. If the intention is to have a transparent, non-intrusive, inclusive and impartial review mechanism that facilitates opportunities to share good practice and challenges, limiting the scope of the review to parts of the Convention also limits the ability to share good practice. 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.

136. Iran (Islamic Republic of), (CAC/COSP/WG.1/2008/2) para. 266: 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.

137. Iran (Islamic Republic of), (CAC/COSP/WG.1/2008/2) para. 274: 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 shortcomings between requested technical assistance and given technical assistance.

138. Japan, (CAC/COSP/WG.1/2008/2) para. 280: 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 resolutions 1/1, paragraph 3 (c), and 2/1, paragraph 3 (e)) and promote constructive collaboration, inter alia, in preventive measures, asset recovery and international cooperation (pursuant to Conference resolution 2/1, paragraph 3 (f)).

139. Mali, (CAC/COSP/WG.1/2008/2/Add.1) para. 19: The following proposals are made regarding the mandate. The review mechanism should: (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.

140. Mali, (CAC/COSP/WG.1/2008/2/Add.1) para. 20: Limits should be placed on the operation of the mechanism. The review mechanism should: (a) Avoid ranking States parties according to how well they implement the provisions of the Convention; (b) Not make any accusations; (c) Not include the possibility of punishment; (d) Guarantee the confidentiality of the results.

141. Morocco, (CAC/COSP/WG.1/2008/2/Add.1) para. 27, sentence 1: The review mechanism should complement the work of the Conference and its fundamental objective should be to help States to implement the Convention.

142. United States, (CAC/COSP/WG.1/2008/2/Add.1) para. 37: 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 they encounter in

implementing and using particular articles or portions of the Convention; and (c) to identify potential opportunities for support or assistance.

143. United States, (CAC/COSP/WG.1/2008/2/Add.1) para. 46, sentence 1: The goal of the review is to gather sufficient information and insight to prepare a final report (the end product), together with observations agreed to by the State under review and the reviewing experts.

B. Thematic scope of review

144. Finland, (CAC/COSP/WG.1/2008/2) para. 49: The process of implementation and the review of implementation should be seen as a continuous activity. The first review cycle should be as thorough as possible in order to identify and help respond to the challenges arising during implementation. However, resource or technical considerations might limit the review, especially since the scope of the Convention is very broad. Additional review cycles might usefully focus on specific and particularly vexing issues, thus providing a gradual approach to implementation.

145. Latvia, (CAC/COSP/WG.1/2008/2) para. 92: The terms of reference should clearly set out the criteria according to which States should be reviewed (in other words, it should set the thematic scope of the review). Criteria to be included in the review should be chosen in a transparent way, in consultation with States parties. In part, that issue was addressed while developing the self-assessment checklist and could have been addressed within the framework of the pilot review programme, but not all States parties were involved.

146. Latvia, (CAC/COSP/WG.1/2008/2) para. 93, sentences 1-4: 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.

147. Latvia, (CAC/COSP/WG.1/2008/2) para. 99: 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.

148. Norway, (CAC/COSP/WG.1/2008/2) para. 108: The mechanism should review the implementation of articles from all chapters of the Convention, including the chapter on asset recovery (see paras. 129-132 below on the scope of the mechanism), so as to reflect the carefully balanced compromise reached in the Convention.

149. Norway, (CAC/COSP/WG.1/2008/2) para. 111: Carrying out a self-assessment, by completing a checklist, should form the first step and the basis for the review mechanism. The information provided by States parties by completing the self-assessment checklist is important, which is why it is necessary to ensure that each State party completes the checklist, if needed with assistance from the Secretariat.

150. Norway, (CAC/COSP/WG.1/2008/2) para. 115: 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).

151. Norway, (CAC/COSP/WG.1/2008/2) para. 116: The experts may ask for additional information and explanations. They may also discuss information gathered from other sources (see paras. 134-139 below) with representatives of the State under review.

152. Norway, (CAC/COSP/WG.1/2008/2) para. 117: A team of experts may carry out a site visit to the State under review, unless the State concerned has not agreed.

153. Norway, (CAC/COSP/WG.1/2008/2) para. 118: 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.

154. Germany, (CAC/COSP/WG.1/2008/2) para. 219: In phase one, the degree to which existing legal and regulatory frameworks comply with the provisions of the Convention should be analysed. This should be done for all States Parties between 2010 and 2014.

155. Germany, (CAC/COSP/WG.1/2008/2) para. 220, sentences 2-5: Should it not be feasible to include questions on all the provisions of the Convention, an effort should be made to focus on the mandatory provisions of the Convention. 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 investigated in all States (details still have to be specified). Additional provisions should be selected according to the specific situation and needs of the States under review. Eventually, however, all provisions should be investigated.

156. Germany, (CAC/COSP/WG.1/2008/2) para. 235: In phase two, the practical implementation of the provisions should be analysed. This should be done for all States between 2014 and 2018.

157. Germany, (CAC/COSP/WG.1/2008/2) para. 236: For that purpose, more detailed questionnaires focusing on the practical implementation of the Convention should be formulated and sent to the States under review.

158. Japan, (CAC/COSP/WG.1/2008/2) para. 279: According to article 63 of the Convention and paragraph 1 of its resolution 1/1, the Conference agreed that it was necessary to establish an appropriate and effective mechanism to assist it in the review of the implementation of the Convention. 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).

159. United States, (CAC/COSP/WG.1/2008/2/Add.1) para. 44: At first, the mechanism should focus on reviewing a subset of provisions, to be determined by the Conference, without prejudice to the possibility of reviewing other provisions of the Convention at a later stage.

160. Thailand, (CAC/COSP/WG.1/2008/2/Add.2) para. 25: The terms of reference for the review mechanism should set out the concrete implementation review system, in accordance with the Convention and set the review period at 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.

161. Chile, (CAC/COSP/WG.1/2008/2/Add.2) para. 12 (a): The review programme should be flexible, taking into consideration that some countries have fewer resources than others and that some articles of the Convention require more time for implementation than others.

162. Chile, (CAC/COSP/WG.1/2008/2/Add.2) para. 12(c): The review process should be able to change over time.

163. Chile, (CAC/COSP/WG.1/2008/2/Add.2) para. 21: A decision of 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.

164. Chile, (CAC/COSP/WG.1/2008/2/Add.2) para. 22: The Secretariat's capacity to conduct reviews, which should be carried out each year, should be taken into consideration. To that end, information could be requested, for example, from the Working Group on Bribery in International Business Transactions of the Organization for Economic Cooperation and Development (OECD) and the committee of experts of the Mechanism for Follow-up on the Implementation of the Inter-American Convention against Corruption, since those mechanisms have experience of the quantity and quality of reviews that a secretariat is capable of undertaking and the costs involved.

C. Procedure

(Methods of review; general comments)

165. Austria, (CAC/COSP/WG.1/2008/2) para. 13(b) (vi)-(vii): Pursuant to paragraph 9 of Conference resolution 2/1, the Government of Austria would like to propose the following: ... (b) That a self-assessment checklist or questionnaire 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. Further initiatives to broaden the scope of the information gathered should be explored: ... (vi) 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); (vii) 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.

166. Finland, (CAC/COSP/WG.1/2008/2) para. 38: An effective review of implementation consists of four main steps: (a) Self-assessment by the individual State party; (b) Dialogue among experts on specific issues of concern, including both successes and challenges; (c) Formulation of the report and possible recommendations on the basis of steps (a) and (b); (d) Follow-up on successful action taken on the basis of the recommendations.

167. Germany, (CAC/COSP/WG.1/2008/2) para. 218: The review mechanism should combine self-assessments with group and expert reviews. Given the experience gained by the OECD Working Group on Bribery and GRECO, the review mechanism should be divided into two phases.

168. Germany, (CAC/COSP/WG.1/2008/2) para. 221: 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 website of UNODC.

169. Germany, (CAC/COSP/WG.1/2008/2) para. 251: Information on the experts and on their selection process should be made public (in accordance with the principle of transparency). The principle tasks of the board of experts should be: (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; (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. Cooperation groups should be established in order to coordinate with existing mechanisms.

170. Germany, (CAC/COSP/WG.1/2008/2) para. 252: States will be reviewed in the order specified by the expert group, which will be made public on the website of UNODC. 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 should be taken into account, which is why cooperation groups should be established with the specific task of coordinating with such bodies.

171. Germany, (CAC/COSP/WG.1/2008/2) para. 253: 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.

172. Germany, (CAC/COSP/WG.1/2008/2) para. 254: Information should be gathered keeping in mind the information already gathered and the experiences gained from the responses to the self-assessment checklist circulated in the first half of 2007, the related pilot review programme, other monitoring bodies and third parties. Questionnaires should be distributed to the States to be reviewed (one questionnaire for each of the two phases). The questionnaires should contain questions on the implementation of all provisions, both the mandatory and the optional ones.

173. Thailand, (CAC/COSP/WG.1/2008/2/Add.2) para. 26: 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.

174. United Kingdom, (CAC/COSP/WG.1/2008/2) para. 164: In order to identify the terms of reference, it is important to set out the structure on which the terms of reference will hang. The Government of the United Kingdom suggests that there be five key elements in the review mechanism. They are:

- (a) Creation of a self-assessment report;
- (b) The review process;
- (c) The creation of a draft report;
- (d) The development of a final report;
- (e) Follow-up on the findings of the final report.

175. United Kingdom, (CAC/COSP/WG.1/2008/2) para. 167 (e): Supplementary questions: 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.

176. United Kingdom, (CAC/COSP/WG.1/2008/2) para. 173: Sufficient time should be permitted for the States under review and reviewers to agree on the final report. The reviewers should make the report available to the State under review and provide a copy to UNODC for use by the Conference.

177. United States, (CAC/COSP/WG.1/2008/2/Add.1) para. 46, sentences 2-3: 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.

178. Chile, (CAC/COSP/WG.1/2008/2/Add.2) para. 12 (b): 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).

179. Chile, (CAC/COSP/WG.1/2008/2/Add.2) para. 13: 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.

180. Chile, (CAC/COSP/WG.1/2008/2/Add.2) para. 14: The questionnaires, which will be identical for all States, should be sent to all States parties to the Convention.

181. Chile, (CAC/COSP/WG.1/2008/2/Add.2) para. 15: 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 (see paras. 9 and 10 above). 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.

182. Chile, (CAC/COSP/WG.1/2008/2/Add.2) para. 16: A site visit should follow, with the participation of experts designated by two States, one similar to that under review and the other different (in line with the peer review concept), plus one expert selected from among representatives of civil society (non-governmental organizations).

183. Chile, (CAC/COSP/WG.1/2008/2/Add.2) para. 17: The experts should produce a report containing advice and recommendations, to which the State that has been reviewed should provide a response.

184. Chile, (CAC/COSP/WG.1/2008/2/Add.2) para. 18: Finally, representatives of the Secretariat and the evaluators should meet with representatives of the State that has been reviewed. The final report, to be finalized during that meeting, should be published on the website of the review mechanism.

185. Chile, (CAC/COSP/WG.1/2008/2/Add.2) para. 19: During a second phase, the process should be repeated with those States that had not volunteered to be reviewed, selecting them randomly.

186. Chile, (CAC/COSP/WG.1/2008/2/Add.2) para. 20: As Transparency International has recommended, it would be useful to collect background information on best practices, including legislation and administrative procedures and their dissemination through regional workshops, as already undertaken by the Secretariat.

(Self-assessment)

187. Austria, (CAC/COSP/WG.1/2008/2) para. 13 (b): [Austria would like to propose] That a self-assessment checklist or questionnaire 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.

188. Norway, (CAC/COSP/WG.1/2008/2) para. 111: Carrying out a self-assessment, by completing a checklist, should form the first step and the basis for the review mechanism. The information provided by States parties by completing the self assessment checklist is important, which is why it is necessary to ensure that each State party completes the checklist, if needed with assistance from the Secretariat.

189. Finland and United Kingdom, (CAC/COSP/WG.1/2008/2) para. 39: The self assessment stage lays the ground for the entire process. States parties are obviously in the best position to provide an overview of progress made by the relevant national authorities and by the other stakeholders in implementing the Convention. 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.

190. Finland, (CAC/COSP/WG.1/2008/2) para. 40: The self-assessment stage should not, however, remain the sole basis for reviewing implementation. 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. Opening up the discussion should also strengthen cooperation between national authorities and the other stakeholders, further improving implementation.

191. Finland, (CAC/COSP/WG.1/2008/2) para. 41: [...] self-assessment efforts may be unnecessarily constrained by a lack of awareness among the persons conducting the self-assessment of the existence of certain challenges and of the different ways in which challenges can be met. For example, they may be unaware of how a certain challenge has been met in other States parties and of the possibility of successfully adapting such approaches to their own legal, economic and social systems.

192. France, (CAC/COSP/WG.1/2008/2) para. 69 (a): The Government of France proposes that the review process ... be based first and foremost on an analysis of the responses to the self-assessment checklist submitted by the States concerned, to 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.

193. Japan, (CAC/COSP/WG.1/2008/2) para. 283: In order to carry out a review, information related to the status of implementation will be needed. States under review are requested to provide their reviewers with relevant information based on their sense of having ownership of the process. In that respect, the self-assessment checklist currently being used is a fairly useful tool for encouraging each State party

to assess itself and to identify gaps in implementation. Therefore, the use of the checklist for review purposes should be explored.

194. Japan, (CAC/COSP/WG.1/2008/2) para. 287: 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 only deal with the mandatory parts of the Convention, mentioned above. 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.

195. Jordan, (CAC/COSP/WG.1/2008/2) para. 78: The self-assessment checklist is necessary, as without it there would be no effective assessment. Since the checklist is compulsory, all States should be encouraged to submit their responses to it.

196. Jordan, (CAC/COSP/WG.1/2008/2) para. 79: The checklist should be extended to cover other articles of the Convention (10 instead of 5).

197. Jordan, (CAC/COSP/WG.1/2008/2) para. 80: The procedures for responding to the questions in the checklist and for preparing guidelines for doing so should be simplified.

198. United Kingdom, (CAC/COSP/WG.1/2008/2) para. 166: It is important that the self-assessment tool suits the purpose it was intended to serve, which is why it may be necessary to refine the existing self-assessment checklist to meet the purpose of demonstrating compliance.

199. Uruguay, (CAC/COSP/WG.1/2008/2) para. 188: With regard to the self-assessment checklist, its adoption has been recognized by many as a very positive step and an expeditious and easy-to-use means of gathering and collating information on the implementation of the Convention in each of the States parties.

200. Uruguay, (CAC/COSP/WG.1/2008/2) para. 189: While it is true that efforts have been made to rectify certain technical difficulties observed in the course of the second session of the Conference and to provide assistance to help requesting States to complete the self-assessment checklists, the importance of the review mechanism should be emphasized in an endeavour to complete the submission of information based on the first checklists and encourage the preparation of new checklists on other aspects of the Convention.

201. Uruguay, (CAC/COSP/WG.1/2008/2) para. 190: The submission of such information using checklists should be viewed as an initial phase in the review process and as a means of gathering information for subsequent review stages. It should also enable participating States parties to receive technical advice (and, where appropriate, offers of assistance) within a reasonably short period.

202. Uruguay, (CAC/COSP/WG.1/2008/2) para. 191: 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 meeting), 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.

203. Uruguay, (CAC/COSP/WG.1/2008/2) para. 192: In turn, that 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 referred to below.

204. Uruguay, (CAC/COSP/WG.1/2008/2) para. 193: 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.

205. Uruguay, (CAC/COSP/WG.1/2008/2) para. 197: The checklists should cover different aspects of the Convention. As each checklist is completed, immediate feedback should be provided by designated 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.

206. Uruguay, (CAC/COSP/WG.1/2008/2) para. 198: The information gathered should be systematized and disseminated rapidly by the Secretariat.

(Use of experts/reviewers)

207. Austria, (CAC/COSP/WG.1/2008/2) para. 13 (b) Further initiatives to broaden the scope of the information gathered should be explored:

- (i) The review process should be carried out by experts only; the States concerned should ensure the availability of their experts;
- (ii) 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;
- (iii) 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;
- (iv) Experts and representatives of the States concerned are strongly encouraged to exchange information and communicate among themselves at all stages of the review process;
- (v) The review teams shall decide among themselves on how to organize their work. The Secretariat will offer assistance if requested;

208. Finland, (CAC/COSP/WG.1/2008/2) para. 42: The self-assessment stage should be followed by a dialogue among experts focused on certain key themes. The experts, some of whom could be academic experts, could come from the State party under review or from other States parties. Such a dialogue should focus on certain

themes so as to determine which experts should be included in the dialogue; in turn, that will affect the way in which the experts prepare and conduct the dialogue.

209. Finland, (CAC/COSP/WG.1/2008/2) para. 43: The holding of a dialogue among experts (as is done, for example, in the framework of initiatives of the Organization for Economic Cooperation and Development (OECD), the Group of States against Corruption (GRECO) of the Council of Europe, and the European Union) is the single most useful part of any process for reviewing implementation. Experts representing a State party under review can provide information on what measures have been taken or are being planned and on the statutory, regulatory and institutional environments that exist in the State. The other experts involved in the dialogue may, based on their own experience, raise questions regarding the approach taken in the State party and suggest alternative approaches. The process almost inevitably gives experts representing States parties a better understanding of the overall status of implementation and of which additional measures can and should be taken. Furthermore, the exchange of information contributes to improving international cooperation against corruption and facilitates the identification of global and regional best practices.

210. Finland, (CAC/COSP/WG.1/2008/2) para. 45: 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.

211. Finland, (CAC/COSP/WG.1/2008/2) para. 51, sentences 2-3: In order for the dialogue among experts to be sufficiently open and constructive, the State party under review must participate in the dialogue voluntarily. Although some States parties have raised concerns in that connection regarding the issue of national sovereignty, the Government of Finland sees no conflict whatsoever between the form of dialogue described above and the principle of full respect for sovereignty, since it is assumed that such a dialogue will be organized at the request and with the full cooperation of the State party under review.

212. Finland, (CAC/COSP/WG.1/2008/2) para. 53: For a variety of reasons, some (perhaps even most) of the experts participating in the dialogue should come from countries with similar legal, economic and social situations. However, according to the experience of the Government of Finland, an expert representing a State with a different legal, economic and social situation may be able to provide new insight for consideration by the experts representing the State party under review. Thus, an expert group would ideally comprise experts from countries in a similar legal, economic and social situation and experts from countries in a different situation.

213. France, (CAC/COSP/WG.1/2008/2) para. 69 (b): The Government of France proposes that the review process: (b) Include in-depth dialogue between the authorities of the State under review and the experts of the review group, who will be able to carry out site visits, if necessary and if the State under review agrees, in order to gather additional information.

214. Germany, (CAC/COSP/WG.1/2008/2) para. 222: Selected experts from the States under review (“national experts”) should be tasked with answering the questions contained in the questionnaire (see para. 220 above) and with preparing a self-assessment report to be sent to the Secretariat. The Secretariat and the board of experts should provide national experts with technical or substantive support and should be responsible for coordinating the efforts of the national experts.

215. Germany, (CAC/COSP/WG.1/2008/2) para. 227: 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).

216. Germany, (CAC/COSP/WG.1/2008/2) para. 238: As in phase one, review groups should be established consisting of a maximum of three international experts that might (but need not) be the same as the reviewing experts. In any case, there should be a regional balance (Phase II).

217. Hungary, (CAC/COSP/WG.1/2008/2/Add.1) para. 2: Review should be conducted by experts. The Government of Hungary suggests 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 of the States Parties to the United Nations Convention against Corruption or by other means, provided that it is duly recorded.

218. Hungary, (CAC/COSP/WG.1/2008/2/Add.1) para. 3: 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. 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.

219. Jordan, (CAC/COSP/WG.1/2008/2) para. 82: Effective discussion should be encouraged and the experience base of those working in the field of crime and prevention should be expanded.

220. Jordan, (CAC/COSP/WG.1/2008/2) para. 83: Focal points should involve an officer in the effective discussion process.

221. Latvia, (CAC/COSP/WG.1/2008/2) para. 95: Further, it is necessary to provide an independent expert assessment. 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. Experts are usually nominated by States parties and then selected by the Secretariat. 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 an 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. Site visits could be envisaged, if States under review agree and there are sufficient resources. Experience gained by GRECO and OECD in the course of evaluations

indicates that reviews are usually carried out in a dialogue with the State under review and that the results of the review should be endorsed by that State. The independent assessment and “peer pressure” exercised by other States have proved to be part of the success of both GRECO and OECD evaluation mechanisms.

222. Norway, (CAC/COSP/WG.1/2008/2) para. 112: 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.

223. Norway, (CAC/COSP/WG.1/2008/2) para. 113: 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 similar legal system as 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.

224. Norway, (CAC/COSP/WG.1/2008/2) para. 115: 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).

225. Norway, (CAC/COSP/WG.1/2008/2) para. 116: The experts may ask for additional information and explanations. They may also discuss information gathered from other sources (see paras. 134-139 below) with representatives of the State under review.

226. Norway, (CAC/COSP/WG.1/2008/2) para. 143: The relationship between the team of experts and the State under review should be characterized by openness at all stages of the process.

227. United Kingdom, (CAC/COSP/WG.1/2008/2) para. 167 (b): Expert consultation: a review based on a self-assessment is useful for collating and receiving the views of the State under review. A review further enables a healthy exchange of best practice. As a result, the Government of the United Kingdom believes that an important element of the review should be a consultation with experts. A country visit would underscore the gravity of the review and also allow for more in-depth analysis than 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 carrying out a peer review. Of the two options, the Government of the United Kingdom would prefer a peer review carried out by country experts.

228. United Kingdom, (CAC/COSP/WG.1/2008/2) para. 179: Reviewers should act as independent experts under the Convention regardless of the State that provides them. They should review all States in accordance with the aims set out in the final terms of reference. In particular, they should pay close attention to the resolutions passed by the Conference on the aim and scope of the review and to article 1 of the Convention. They should carry out their functions in a fair and objective manner with a view to promoting constructive dialogue that will lead to the development of

a State's practice and to the implementation of the Convention. Any information provided to reviewers should be considered confidential.

229. United States, (CAC/COSP/WG.1/2008/2/Add.1) para. 41: Each State should be reviewed by experts from two other States.

230. United States, (CAC/COSP/WG.1/2008/2/Add.1) para. 42: 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.

231. United States, (CAC/COSP/WG.1/2008/2/Add.1) para. 43: 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.

232. United States, (CAC/COSP/WG.1/2008/2/Add.1) para. 46, sentences 2-3: 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.

233. Uruguay, (CAC/COSP/WG.1/2008/2) para. 194: 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, 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.

234. Uruguay, (CAC/COSP/WG.1/2008/2) para. 195: The Government of Uruguay proposes that the following criteria 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.

235. Chile, (CAC/COSP/WG.1/2008/2/Add.2) para. 5 (d): The following components of the review mechanism should have the following functions: *Peer review*: Governments should designate evaluators for conducting peer reviews among States.

(Site visits)

236. Austria, (CAC/COSP/WG.1/2008/2) para. 13 (vi): 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).

237. Finland, (CAC/COSP/WG.1/2008/2) para. 44: Although experts could carry out the dialogue by correspondence or videoconferencing, site visits to the State party under review provide the best possible opportunity for holding extensive discussions among a wide range of experts, practitioners and other stakeholders. For example, it is primarily during site visits that outside experts receive a better understanding of how legislation is applied in practice, how it is interpreted by the courts and administrative authorities, whether sufficient use is made of certain legislative articles in practice and how the authorities charged with enforcing the law actually operate. Those are all questions that are difficult for the authorities of a State party to encapsulate in a self-assessment.

238. Jordan, (CAC/COSP/WG.1/2008/2) para. 85: The importance of field visits should be emphasized; field visits should be part of the review.

239. Jordan, (CAC/COSP/WG.1/2008/2) para. 86: Care should be taken to ensure that an expert from a country in the same region and geographical environment as the State under review, or from a similar legal culture, also takes part in the site visits.

240. Jordan, (CAC/COSP/WG.1/2008/2) para. 87: A reference guide or an agreed upon model and methodology should be made available on how to conduct site visits.

241. Jordan, (CAC/COSP/WG.1/2008/2) para. 89: Experts should be provided with a schedule of visits and the points to be researched during the visit within a reasonable time frame.

242. Norway, (CAC/COSP/WG.1/2008/2) para. 117: A team of experts may carry out a site visit to the State under review, unless the State concerned has not agreed.

243. Norway, (CAC/COSP/WG.1/2008/2) para. 118: 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.

244. Norway, (CAC/COSP/WG.1/2008/2) para. 119: Experience gained from the pilot review programme has shown that site visits are useful both to the experts and the State under review, for it can provide a good opportunity to share good practices and challenges, in line with Conference resolution 1/1, paragraph 3 (c).

245. Norway, (CAC/COSP/WG.1/2008/2) para. 120: 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.

(Language)

246. Germany, (CAC/COSP/WG.1/2008/2) para. 226, sentence 1: The reports should be written in one of the official languages of the United Nations.

247. Hungary, (CAC/COSP/WG.1/2008/2/Add.1) para. 4: The State under review should choose which of the six official languages of the United Nations is to be used in the review.

248. Jordan, (CAC/COSP/WG.1/2008/2) para. 84: Documents should be provided in the language used by the State under review.

249. Jordan, (CAC/COSP/WG.1/2008/2) para. 88: Experts should have a good command of English as it is used in conversation.

D. Source and use of information

250. Algeria, (CAC/COSP/WG.1/2008/2) para. 6: 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.

251. Austria, (CAC/COSP/WG.1/2008/2) para. 13 (a): Pursuant to paragraph 9 of Conference resolution 2/1, the Government of Austria would like to propose the following: (a) That focal points with a strong expertise in anti-corruption matters be appointed by national anti-corruption authorities.

252. Austria, (CAC/COSP/WG.1/2008/2) para. 13 (b) (i)-(v): Pursuant to paragraph 9 of Conference resolution 2/1, the Government of Austria would like to propose the following: (b) That a self-assessment checklist or questionnaire 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. Further initiatives to broaden the scope of the information gathered should be explored: (i) The review process should be carried out by experts only; the States concerned should ensure the availability of their experts; (ii) 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; (iii) 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; (iv) Experts and representatives of the States concerned are strongly encouraged to exchange information and communicate among themselves at all stages of the review process; (v) The review teams shall decide among themselves on how to organize their work. The Secretariat will offer assistance if requested.

253. Finland, (CAC/COSP/WG.1/2008/2) para. 52: 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. 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.

254. France, (CAC/COSP/WG.1/2008/2) para. 65, sentence 2: Such information will enable it to identify any remaining gaps, in particular in the implementation of the mandatory provisions of the Convention, and to consider ways of remedying that situation, where applicable through the provision of technical assistance.

255. France, (CAC/COSP/WG.1/2008/2) para. 66: 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.

256. France, (CAC/COSP/WG.1/2008/2) para. 67: 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.

257. France, (CAC/COSP/WG.1/2008/2) para. 69 (c): The Government of France proposes that the review process: (c) 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.

258. Germany, (CAC/COSP/WG.1/2008/2) para. 223: The process should be inclusive and should permit third parties (in particular representatives of the judiciary, certain ministries – such as the ministries of justice and of the interior,

civil society and the private sector) to submit relevant information. In other words, formal channels for allowing third parties to submit information should be established.

259. Germany, (CAC/COSP/WG.1/2008/2) para. 224, sentences 1-2: When gathering information for the self-assessment report, national experts should also take into account existing information produced by other regional and international anti-corruption review mechanisms.⁵ The process should be coordinated by the Secretariat and the board of experts.

260. Germany, (CAC/COSP/WG.1/2008/2) para. 229, sentences 1 and 3: In order to complement existing international and regional review mechanisms and to avoid duplication of efforts, the reviewing experts should take into account information relevant to the Convention, analyses and recommendations from existing regional and international anti-corruption mechanisms. The review groups should be permitted to take that information into account but should not be bound by the conclusions reached by them.

261. Germany, (CAC/COSP/WG.1/2008/2) para. 256: 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.

262. Germany, (CAC/COSP/WG.1/2008/2) para. 257: Representatives of non-governmental organizations and other relevant third parties should be entitled to submit additional information to the Secretariat. Information related to the State under review produced by existing multilateral review mechanisms should also be consulted. Experts should aim to complement the work of existing international and regional review mechanisms so that the Conference may, as appropriate, cooperate with them and avoid duplication of effort.

263. Germany, (CAC/COSP/WG.1/2008/2) para. 260: 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.

264. Germany, (CAC/COSP/WG.1/2008/2) para. 261: It is particularly important that representatives of civil society and the private sector be consulted during the course of the reviews.

265. Hungary, (CAC/COSP/WG.1/2008/2/Add.1) para. 6: 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 of the Group of

⁵ Including information from the OECD Working Group on Bribery, GRECO, the Secretariat of the Organization of American States, the Committee of Experts of the Inter-American Convention against Corruption, the Steering Group and Secretariat both reviewing the Asian Development Bank/OECD Anti-Corruption Initiative for Asia and the Pacific, the Advisory Board and the Executive Council of the African Union Convention on Preventing and Combating Corruption and the monitoring bodies of the African Peer Review Mechanism.

States against Corruption of the Council of Europe), as long as they were not published more than five years prior to the review.

266. Indonesia, (CAC/COSP/WG.1/2008/2/Add.1) para. 11: In designing such a mechanism, which is meant to support the work of the Conference, attention should be paid to the characteristics mentioned above, according to which the mechanism should be geographically balanced, treat States equally, and be transparent and participatory. Doing so would lead to the creation of a lean and efficient mechanism. 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, for the Convention is a global treaty that is far-reaching and broad in scope. Therefore, the Government of Indonesia proposes that the review mechanism align itself with the current profile of the regional offices and the regional centre of the United Nations Office on Drugs and Crime (UNODC).

267. Iran (Islamic Republic of), (CAC/COSP/WG.1/2008/2) para. 264 and Indonesia: 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.

268. Iran (Islamic Republic of), (CAC/COSP/WG.1/2008/2) para. 265 and Indonesia: Any information provided by States on their commitment to the review of the implementation of the Convention can only be used for analytical purposes and cannot be disclosed to any person or entity without the prior consent of the State concerned.

269. Japan, (CAC/COSP/WG.1/2008/2) para. 288, sentences 2-3: 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.

270. Latvia, (CAC/COSP/WG.1/2008/2) para. 93, sentence 5: Current challenges and problems can be identified by using official information already provided by States parties (for example, responses to the self-assessment checklist and the pilot review programme) and various reports on the issue that have been endorsed by States or prepared by international organizations based on information provided by Governments (for example, reports prepared by OECD, GRECO and European Commission reports).

271. Latvia, (CAC/COSP/WG.1/2008/2) para. 94: The review mechanism should make use of multiple sources of information, including the relevant authorities of the State under review and other entities mentioned in the Convention, such as the private sector (see article 12, on the private sector) and non-governmental organizations and professional associations (see article 13, on the participation of society).

272. Nigeria, (CAC/COSP/WG.1/2008/2/Add.1) para. 31 (a): Analysing, in accordance with the rules of procedure for the Conference and pursuant to article 63, paragraph 6, of the Convention, the information provided by: States parties (through the self-assessment checklist); United Nations bodies, specialized

agencies or other competent international organizations; regional and subregional bodies; and non-governmental organizations. The information should be analysed with a view to ensuring that the provisions of the Convention are adequately implemented by States parties and that remedial measures are recommended.

273. Norway, (CAC/COSP/WG.1/2008/2) para. 128: 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.

274. Norway, (CAC/COSP/WG.1/2008/2) para. 134: The review mechanism can only assist a State party in effectively implementing the Convention 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.

275. Norway, (CAC/COSP/WG.1/2008/2) para. 135: 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.

276. Norway, (CAC/COSP/WG.1/2008/2) para. 136: The State under review may freely comment on and express its views on the information and its sources.

277. Norway, (CAC/COSP/WG.1/2008/2) para. 137: 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.

278. Norway, (CAC/COSP/WG.1/2008/2) para. 138: 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.

279. Norway, (CAC/COSP/WG.1/2008/2) para. 139: 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.

280. Norway, (CAC/COSP/WG.1/2008/2) para. 140: For the sake of efficiency and to avoid duplication, information gathered through other relevant review mechanisms could be used in the review of a State party, as per Conference resolution 1/1, paragraph 3 (d).

281. Norway, (CAC/COSP/WG.1/2008/2) para. 141: The information must be up-to-date and relevant, and be used with the agreement of the State under review.

282. Slovakia, (CAC/COSP/WG.1/2008/2) para. 147: In order to prevent the duplication of work carried out by review mechanisms set up to monitor the implementation of anti-corruption instruments adopted in other forums (such as the OECD Working Group against Bribery and GRECO), it is important to focus the review of implementation on the exchange of information about the concrete

finalized cases from the point of view of the methodology used to collect evidence both in the pretrial stage and during the proceedings before a court. In addition to holding workshops and sessions of the Conference, the Government of Slovakia would appreciate the creation of an electronic platform enabling and supporting the sharing of best practices. With such an aim in mind, the competent bodies should approach prosecutors and judges with terms of reference that include recommendations for how to structure information.

283. Slovakia, (CAC/COSP/WG.1/2008/2) para. 148: The review mechanism should focus on facilitating the exchange of information on the number of people sentenced for corruption-related offences. That could help establish a list of transnational corporations (and their statutory bodies) and representatives of the State involved in corruption cases, and to review property subject to treatment as per article 31 of the Convention.

284. Slovakia, (CAC/COSP/WG.1/2008/2) para. 149: 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.

285. Slovakia, (CAC/COSP/WG.1/2008/2) para. 150: The review mechanism should be based on a simple system of collecting data, preferably by involving the permanent missions of Member States and Government representatives in the anti-corruption network.

286. Slovakia, (CAC/COSP/WG.1/2008/2) para. 151: The review mechanism should make use of information gained on anti-corruption legislation and practice by GRECO and the OECD Working Group on Bribery, with the aim of avoiding duplication of work.

287. Switzerland, (CAC/COSP/WG.1/2008/2) para. 303: 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.

288. Switzerland, (CAC/COSP/WG.1/2008/2) para. 305: 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.

289. United Kingdom, (CAC/COSP/WG.1/2008/2) para. 167 (c): Sources of information: the issue of which information is relied on to complete the report is an important one. 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: (i) Reviewers decide which sources they can rely on; (ii) The State under review decides which sources can be relied on; (iii) Reviewers and the State under review both agree on which sources can be relied on.

290. United States, (CAC/COSP/WG.1/2008/2/Add.1) para. 47: The review process should provide States parties with some confidence that they could provide candid information on implementation without fear that such information would become publicly disseminated without their consideration. At the same time, it should also be considered that the Convention processes should model the principles of the Convention, including transparency, and global anti-corruption efforts would benefit from the dissemination of information regarding the successes and challenges encountered by States in the course of implementing the Convention.

291. United States, (CAC/COSP/WG.1/2008/2/Add.1) para. 48: Supplementary information could be taken from multiple sources, including civil society, and not simply from the responses to the checklist or the self-assessment toolkit and the dialogue with representatives of the State under review. The State under review should have every opportunity to respond to the information gathered from other sources.

292. United States, (CAC/COSP/WG.1/2008/2/Add.1) para. 49: Procedures for any review mechanism should clearly state that information gathered by other existing multilateral review mechanisms should be made available to reviewers and be used, as appropriate, in the review process.

293. Chile, (CAC/COSP/WG.1/2008/2/Add.2) para. 23: In addition, care should be taken to ensure that the new review mechanism makes full use of the information generated by other review mechanisms in which the States under review have previously taken part or are taking part, such as the Mechanism for Follow-up mentioned in paragraph 22 above, with a view to avoiding duplication of effort. Similarly, the review mechanism for the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions⁶ is rigorous, and the experience of that mechanism should be taken into account when establishing the review mechanism for the Convention against Corruption.

E. Reports

294. Algeria, (CAC/COSP/WG.1/2008/2) para. 4, sentences 3-4: 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. The role of the review mechanism regarding intergovernmental regional and international cooperation should also be subject to the prior approval of the Conference.

295. Austria, (CAC/COSP/WG.1/2008/2) para. 13 (vii): 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.

296. Finland, (CAC/COSP/WG.1/2008/2) para. 46: The report and any recommendations should be formulated by the experts in cooperation with representatives of the State party under review. Wherever possible, input from

⁶ *Corruption and Integrity Improvement Initiatives in Developing Countries* (United Nations publication, Sales No. E.98.III.B.18).

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.

297. Finland, (CAC/COSP/WG.1/2008/2) para. 47: 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.

298. Finland, (CAC/COSP/WG.1/2008/2) para. 54: The primary beneficiary of the review process is the State party under review. Consequently, 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. The Government of Finland also strongly advocates the publishing of the report and the recommendations, with the agreement of the State party under review, in order to allow for the possibility of an even wider discussion to take place. Since the Government of Finland is aware, however, that some degree of confidentiality may result in a more candid review process, it suggests that the publication could, in exceptional cases, contain only certain portions of the report.

299. France, (CAC/COSP/WG.1/2008/2) para. 69 (d): The Government of France proposes that the review process: (d) Allow for the final report to be written in two stages. During the first stage, the group of experts will, upon completion of its work and where applicable of its site visit, forward to the State under review a draft report; during the second stage, the State under review will present its comments for the preparation of the final report.

300. France, (CAC/COSP/WG.1/2008/2) para. 70: 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.

301. France, (CAC/COSP/WG.1/2008/2) para. 71: 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.

302. France, (CAC/COSP/WG.1/2008/2) para. 72: The report will be forwarded to the Conference and to the State under review, which will be free to disseminate it should it wish to do so.

303. Germany, (CAC/COSP/WG.1/2008/2) para. 231: 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 the meetings of the board of experts should be video recorded. During the meetings, States' good practices and the challenges faced by States in implementing the Convention should be discussed. In particular, issues related to international cooperation and asset recovery might be ideally discussed at these meetings (Phase I).

304. Germany, (CAC/COSP/WG.1/2008/2) para. 232: Once discussed, the reports should be presented to the Conference for adoption and then be made public on the website of UNODC (Phase I).
305. Germany, (CAC/COSP/WG.1/2008/2) para. 233: 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).
306. Germany, (CAC/COSP/WG.1/2008/2) para. 234: 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).
307. Germany, (CAC/COSP/WG.1/2008/2) para. 237: As in phase one, national experts should be selected and tasked with answering the questions, drafting a report and submitting the report to the Secretariat. That process should be inclusive: third parties (in particular, representatives of civil society and the private sector) should also be permitted to submit information. The national experts might differ from those chosen for carrying out tasks in phase one (Phase II).
308. Germany, (CAC/COSP/WG.1/2008/2) para. 238: As in phase one, review groups should be established consisting of a maximum of three international experts that might (but need not) be the same as the reviewing experts. In any case, there should be a regional balance (Phase II).
309. Germany, (CAC/COSP/WG.1/2008/2) para. 242: In close cooperation with experts from the States under review, the review groups should then finalize the reports (Phase II).
310. Germany, (CAC/COSP/WG.1/2008/2) para. 243: The reports should first be discussed by the board of experts. On the occasion of board meetings, good practices and challenges faced in the context of implementing the Convention should be shared (Phase II).
311. Germany, (CAC/COSP/WG.1/2008/2) para. 244: The final reports, including recommendations and action plans, should then be presented at the Conference for adoption. Once adopted, the reports should be published on the website of UNODC (Phase II).
312. Germany, (CAC/COSP/WG.1/2008/2) para. 245: As in phase one, a follow-up process should be established for the implementation of the recommendations and action plans. States reviewed should provide progress reports to be presented at the next session of the Conference (Phase II).
313. Germany, (CAC/COSP/WG.1/2008/2) para. 246: If a State has not sufficiently implemented the recommendations and action plans, a statement might be published (Phase II).
314. Hungary, (CAC/COSP/WG.1/2008/2/Add.1) para. 5: The reports of the review should be made public, on condition that the State under review agrees. The recommendations made in the report should be communicated to the Conference.

315. Indonesia, (CAC/COSP/WG.1/2008/2/Add.1) para. 8, sentence 7: The reports should not be used for any other political or economic purposes, including trade-related purposes.

316. Indonesia, (CAC/COSP/WG.1/2008/2/Add.1) para. 12: 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 of the centre should be to analyse reports related to fulfilling the commitments of the State parties (and signatory States, as appropriate). 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.

317. Iran (Islamic Republic of), (CAC/COSP/WG.1/2008/2) para. 263: All reports must be submitted to the Conference for its consideration. Only the Conference will be competent to approve and issue implementation review reports.

318. Iran (Islamic Republic of), (CAC/COSP/WG.1/2008/2) para. 264: 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.

319. Japan, (CAC/COSP/WG.1/2008/2) para. 284: 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.

320. Japan, (CAC/COSP/WG.1/2008/2) para. 285: 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.

321. Latvia, (CAC/COSP/WG.1/2008/2) para. 96: Once adopted by the State under review, the report should be made public. 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). If possible, the reports should be translated into the national language of the State under review. Given the broad thematic scope of the Convention, it is important to properly disseminate the reports so that all public authorities, civil society and the private sector, as mentioned in the Convention, are aware and encouraged to take the necessary measures.

322. Latvia, (CAC/COSP/WG.1/2008/2) para. 97: Another way to ensure transparency is to systematically publicize information about the review mechanism and the review process. Such information, including the adopted terms of reference, the timetable for reviewing States and the experts selected, should be made publicly available by the Secretariat.

323. Morocco, (CAC/COSP/WG.1/2008/2/Add.1) para. 29, sentence 2: All its reports should be transmitted for approval to the Conference but they should not be circulated other than to the States parties or used for any reason other than to promote the application of the provisions of the Convention.

324. Nigeria, (CAC/COSP/WG.1/2008/2/Add.1) para. 31 (e): Presenting annual reports to draw the Conference's attention to important issues and challenges faced by States parties in the implementation of the Convention. The annual report could be supplemented by technical reports on key issues and themes contained in the Convention.
325. Norway, (CAC/COSP/WG.1/2008/2) para. 109: The review process should end with a report containing appropriate recommendations, agreed upon with the State under review.
326. Norway, (CAC/COSP/WG.1/2008/2) para. 123: The experts are to write a draft report in accordance with an agreed blueprint for such reports.
327. Norway, (CAC/COSP/WG.1/2008/2) para. 124: 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.
328. Norway, (CAC/COSP/WG.1/2008/2) para. 126: The experts may include recommendations in the final report.
329. Norway, (CAC/COSP/WG.1/2008/2) para. 144: The final report, or at least a summary of the report and its recommendations, should be made public.
330. South Africa, (CAC/COSP/WG.1/2008/2) para. 158 (n): The guiding principles have been elaborated as follows: (n) Public information: 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.
331. South Africa, (CAC/COSP/WG.1/2008/2) para. 160 (l) The mechanism should submit all its reports to the Conference for its consideration and adoption. Only the Conference will be competent to approve and issue reports on review of implementation.
332. Switzerland, (CAC/COSP/WG.1/2008/2) para. 304: 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 comprising two members (representatives of the State party designated by the Secretariat in accordance with the principle of equitable geographical distribution).
333. Switzerland, (CAC/COSP/WG.1/2008/2) para. 306: The review report of 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 in the State party under review in relation to each chapter of the Convention; (b) Areas for priority attention; (c) Concrete suggestions for improvement, together with respective recommendations.
334. Switzerland, (CAC/COSP/WG.1/2008/2) para. 307: The presentation of review reports in plenary 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.

335. Switzerland, (CAC/COSP/WG.1/2008/2) para. 308: The reports would be presented in plenary no later than one year following submission of the duly completed questionnaire. The technical conclusions set out in the reports could be published, subject to the agreement of the State party concerned.

336. Thailand, (CAC/COSP/WG.1/2008/2/Add.2) para. 27: The terms of reference should encourage States to submit, periodically, 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.

337. United Kingdom, (CAC/COSP/WG.1/2008/2) para. 167 (d): Confidentiality: the issue of the confidentiality of information provided to reviewers needs to be resolved. It is suggested that reviewers should be duty-bound to keep confidential all information provided during a review.

338. United Kingdom, (CAC/COSP/WG.1/2008/2) para. 168: The draft report should be in a consistent format. The reviewers should be able to exercise some discretion with regard to the format and contents of the report, as long as the specific requirements of the Conference resolutions are complied with.

339. United Kingdom, (CAC/COSP/WG.1/2008/2) para. 170: 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 any aspects of the report on which it suggests amendments so that the reviewers can consider such suggestions fairly.

340. United Kingdom, (CAC/COSP/WG.1/2008/2) para. 171: 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: an independent individual or body decides 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; (ii) The reviewers withhold endorsement of the report or the part of the report under dispute.

341. United Kingdom, (CAC/COSP/WG.1/2008/2) para. 172: Both options have disadvantages and benefits. The Government of the United Kingdom holds no strong opinion on which option should be favoured but does take the view that some record of disputes needs to be kept.

342. United Kingdom, (CAC/COSP/WG.1/2008/2) para. 173: Sufficient time should be permitted for the States under review and reviewers to agree on the final report. The reviewers should make the report available to the State under review and provide a copy to UNODC for use by the Conference.

343. United Kingdom, (CAC/COSP/WG.1/2008/2) para. 174: The final report is owned by the State under review and the Conference. The final report should include sections highlighting the successes and challenges perceived by the reviewers. It should then be used by the State under review to develop its own strategy for developing and implementing goals for meeting its obligations under the Convention.

344. United Kingdom, (CAC/COSP/WG.1/2008/2) para. 175: 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.

345. United States, (CAC/COSP/WG.1/2008/2/Add.1) para. 38: In order to meet the three primary goals mentioned in paragraph 36 above, 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 would 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.

346. United States, (CAC/COSP/WG.1/2008/2/Add.1) para. 39: 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.

347. Uruguay, (CAC/COSP/WG.1/2008/2) para. 201: 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.

F. Methodology Miscellaneous

348. Ecuador, (CAC/COSP/WG.1/2008/2) para. 28: The experts with general knowledge appointed by each of the States parties should form the review body on the implementation of the Convention for each group of countries.

349. Ecuador, (CAC/COSP/WG.1/2008/2) para. 29: The implementation review body of each group should appoint a coordinating spokesperson, whose main functions should be to assemble the information from each State and to report at the annual meeting of the States parties on progress made by his or her respective group.

350. Jordan, (CAC/COSP/WG.1/2008/2) para. 82: Effective discussion should be encouraged and the experience base of those working in the field of crime and prevention should be expanded.

351. Jordan, (CAC/COSP/WG.1/2008/2) para. 83: Focal points should involve an officer in the effective discussion process.

352. Jordan, (CAC/COSP/WG.1/2008/2) para. 84: Documents should be provided in the language used by the State under review.

353. Jordan, (CAC/COSP/WG.1/2008/2) para. 85: The importance of field visits should be emphasized; field visits should be part of the review.

354. Jordan, (CAC/COSP/WG.1/2008/2) para. 86: Care should be taken to ensure that an expert from a country in the same region and geographical environment as

the State under review, or from a similar legal culture, also takes part in the site visits.

355. Jordan, (CAC/COSP/WG.1/2008/2) para. 87: A reference guide or an agreed upon model and methodology should be made available on how to conduct site visits.

356. Jordan, (CAC/COSP/WG.1/2008/2) para. 88: Experts should have a good command of English as it is used in conversation.

357. Jordan, (CAC/COSP/WG.1/2008/2) para. 89: Experts should be provided with a schedule of visits and the points to be researched during the visit within a reasonable time frame.

358. Latvia, (CAC/COSP/WG.1/2008/2) para. 98, sentence 3: GRECO, 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.

359. Uruguay, (CAC/COSP/WG.1/2008/2) para. 194: 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, 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.

360. Uruguay, (CAC/COSP/WG.1/2008/2) para. 199: 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.

361. Uruguay, (CAC/COSP/WG.1/2008/2) para. 200: 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.

362. Japan, (CAC/COSP/WG.1/2008/2) para. 286: 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 (see below). The results of such a review would be reported in writing to the Conference through the Secretariat.

363. Switzerland, (CAC/COSP/WG.1/2008/2) para. 302: A step-by-step approach might be considered, with the aim of ensuring that the reviews are of a good quality and that they are specific, and with a view to making the best possible use of the expertise of States parties and of the limited resources of the Secretariat.

364. Tunisia, (CAC/COSP/WG.1/2008/2) para. 310: 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.

365. Tunisia, (CAC/COSP/WG.1/2008/2) para. 311: 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.

366. Tunisia, (CAC/COSP/WG.1/2008/2) para. 312: 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.

367. Hungary, (CAC/COSP/WG.1/2008/2/Add.1) para. 2, sentence 1: Review should be conducted by experts.

368. Hungary, (CAC/COSP/WG.1/2008/2/Add.1) para. 4: The State under review should choose which of the six official languages of the United Nations is to be used in the review.

369. Hungary, (CAC/COSP/WG.1/2008/2/Add.1) para. 7: 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.

370. Indonesia, (CAC/COSP/WG.1/2008/2/Add.1) para. 18: Existing assessment tools are limited in scope. The Legislative Guide for the Implementation of the United Nations Convention against Corruption can only be utilized 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.

371. Panama, (CAC/COSP/WG.1/2008/2/Add.1) para. 33: With regard to the provision that any review mechanism should provide opportunities to share good practices and challenges, the Government of Panama proposes 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).

372. Panama, (CAC/COSP/WG.1/2008/2/Add.1) para. 34: 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.

373. Panama, (CAC/COSP/WG.1/2008/2/Add.1) para. 35: It is the view of the Government of Panama that any such review mechanism should be of a constructive and technical nature and that it should promote collaboration, inter alia, for taking preventive measures, recovering assets and fostering international cooperation. The Government of Panama proposes that cooperation in drafting model legislation on international cooperation 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.

374. United States, (CAC/COSP/WG.1/2008/2/Add.1) para. 40: The Government of the United States of America envisions that States would periodically provide updates on the issues raised in the observations.

III. Administration of the mechanism

375. Algeria, (CAC/COSP/WG.1/2008/2) para. 7: 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.

376. China, (CAC/COSP/WG.1/2008/2) para. 20: 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.

377. China, (CAC/COSP/WG.1/2008/2) para. 22: The work of the review mechanism should focus on the following areas: (a) International cooperation, including on the international cooperative measures included in the Convention, such as mutual legal assistance and extradition; (b) Asset recovery, especially on the implementation of measures to improve cooperation among States parties, as indicated in chapter V of the Convention; (c) Technical assistance, especially on those technical assistance projects that help to reinforce the implementation capabilities of States parties.

378. Ecuador, (CAC/COSP/WG.1/2008/2) para. 26: 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 appointed by the relevant national authorities of States parties; (c) A specific agency, designated by the United Nations, to administer the review mechanism, whose functions should be limited to ensuring that the States parties comply with the provisions of the Convention. To that end, such an agency should provide the necessary technical and financial resources to allow States parties to undertake projects aimed at implementing or giving effect to any of the five substantive chapters of the Convention. The agency will serve as the official seat of the review mechanism.

379. Ecuador, (CAC/COSP/WG.1/2008/2) para. 27: With regard to the agency to be designated by the United Nations, it is suggested that the areas of competence of the International Association of Anti-Corruption Authorities be examined with a view to

considering designating that association as the agency responsible for administering the review mechanism.

380. Ecuador, (CAC/COSP/WG.1/2008/2) para. 30: Accordingly, the global-level review by the agency administering the review mechanism will be conducted by group of countries, with specific information on a State party being provided to illustrate a specific situation.

381. Ecuador, (CAC/COSP/WG.1/2008/2) para. 31: 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 analyses that abide by the principles set out in Conference resolution 1/1 and determine the review time frames; (d) To inform the States parties of the dates when they will be reviewed.

382. France, (CAC/COSP/WG.1/2008/2) para. 73: It should also be pointed out that 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.

383. France, (CAC/COSP/WG.1/2008/2) para. 74: 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.

384. France, (CAC/COSP/WG.1/2008/2) para. 75: 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.

385. France, (CAC/COSP/WG.1/2008/2) para. 76: The Government of France would therefore 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.

386. France, (CAC/COSP/WG.1/2008/2) para. 77: The summary report drawn up by that body would be an official document of the Conference and, as such, would be made public.

387. Norway, (CAC/COSP/WG.1/2008/2) para. 121: The Secretariat has an important role to play as organizer and facilitator both before and during the site visit.

388. Norway, (CAC/COSP/WG.1/2008/2) para. 122: For the visit to be carried out efficiently, all information must be made available to experts in a language they understand; any translations needed must be provided.

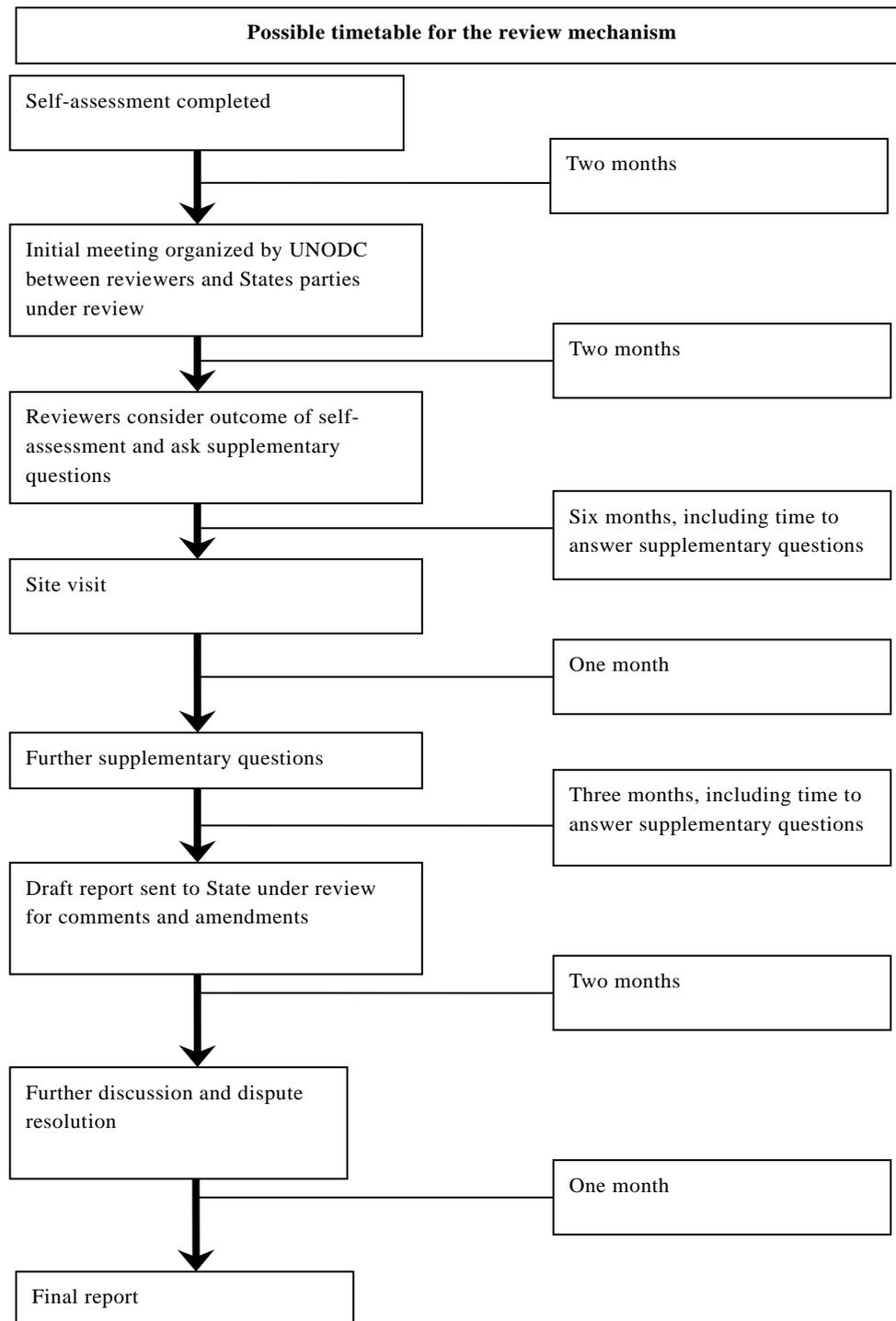
389. South Africa, (CAC/COSP/WG.1/2008/2) para. 160 (b)-(d): The review mechanism or body should have the following terms of reference: (b) The mechanism should be responsible for making recommendations regarding the

review process, including on the development of clear guidelines for the compilation, production and dissemination of information. The guidelines should also address issues of confidentiality and submission of the outcome to the Conference as the competent body to take action regarding such outcome; (c) The mechanism should further refine the information-gathering process and develop implementation tools to assist States parties in overcoming difficulties encountered in the fulfilment of their obligations under the Convention; (d) The mechanism should be responsible for undertaking the review process with the assistance of the Secretariat and the participation of States parties.

390. South Africa, (CAC/COSP/WG.1/2008/2) para. 160 (i)-(k): The review mechanism or body should have the following terms of reference: ... (i) The mechanism should make recommendations and oversee the review process in order to ensure the independence, professionalism and credibility of the process; (j) The review mechanism should also be responsible for promoting collaboration, inter alia, in preventive measures, asset recovery and international cooperation; (k) The mechanism should be composed on the basis of equitable geographical distribution.

391. United Kingdom, (CAC/COSP/WG.1/2008/2) para. 176: 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.

392. United Kingdom, (CAC/COSP/WG.1/2008/2) para. 177: A suggested timetable for discussion appears in the figure below:



393. Uruguay, (CAC/COSP/WG.1/2008/2) para. 195 (a)-(g): The Government of Uruguay proposes that the following criteria 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.

394. Uruguay, (CAC/COSP/WG.1/2008/2) para. 196: 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.

395. Germany, (CAC/COSP/WG.1/2008/2) para. 247: The mechanism should have three major components: (a) The Conference; (b) The Secretariat; (c) A board of experts for reviewing the implementation of the Convention.

396. Germany, (CAC/COSP/WG.1/2008/2) para. 248: The Conference should be responsible for establishing the mechanism, for 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.

397. Germany, (CAC/COSP/WG.1/2008/2) para. 250: A board of experts for reviewing the implementation of the Convention should be established. It should be composed of about 20 anti-corruption experts coming from States parties all over the world. They should be selected from a wide range of institutions (including Government bodies, international organizations, universities, members of civil society and the private sector) and different regions. At least one expert should be assigned to deal with each of the substantive chapters of the Convention (dealing with: preventive measures; criminalization and law enforcement; international cooperation; asset recovery; and technical assistance and information management). The experts should be nominated by the Secretariat and approved by the Conference (by a simple majority). States parties and other relevant actors should be permitted to submit proposals to the Secretariat. Experts should be selected for a maximum

term of five years, renewable once. They should act in their personal capacity and be impartial and independent from any undue influence.

398. Iran (Islamic Republic of), (CAC/COSP/WG.1/2008/2) para. 273: All States parties should enjoy equal footing in any review mechanism.

399. Japan, (CAC/COSP/WG.1/2008/2) para. 293: 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.

400. Japan, (CAC/COSP/WG.1/2008/2) para. 294: 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.

401. Japan, (CAC/COSP/WG.1/2008/2) para. 295: 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 between the regions.

402. Japan, (CAC/COSP/WG.1/2008/2) para. 296: 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.

403. Switzerland, (CAC/COSP/WG.1/2008/2) para. 309: The review process would be regular and ongoing, evolving over time. A five-year cycle might be considered.

404. Hungary, (CAC/COSP/WG.1/2008/2/Add.1) para. 2, sentence 5: The list of experts should be approved by the Conference of the States Parties to the United Nations Convention against Corruption or by other means, provided that it is duly recorded.

405. Hungary, (CAC/COSP/WG.1/2008/2/Add.1) para. 3, sentences 1-2: 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.

406. Indonesia, (CAC/COSP/WG.1/2008/2/Add.1) para. 9, sentence 2: Any such mechanism should: ... ensure that States enjoy equal footing; be transparent and participatory; comply with the obligations set forth in the Convention in a manner consistent with the principle of State sovereignty; analyse important issues such as asset recovery and shortcomings on technical assistance; be subject to periodic evaluation by the Conference; and be funded from the regular budget of the United Nations.

407. Indonesia, (CAC/COSP/WG.1/2008/2/Add.1) para. 11: In designing such a mechanism, which is meant to support the work of the Conference, attention should be paid to the characteristics mentioned above, according to which the mechanism should be geographically balanced, treat States equally, and be transparent and participatory. Doing so would lead to the creation of a lean and efficient mechanism.

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, for the Convention is a global treaty that is far-reaching and broad in scope. Therefore, the Government of Indonesia proposes that the review mechanism align itself with the current profile of the regional offices and the regional centre of the United Nations Office on Drugs and Crime (UNODC).

408. Indonesia, (CAC/COSP/WG.1/2008/2/Add.1) para. 13: 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*.⁷ 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.

409. Indonesia, (CAC/COSP/WG.1/2008/2/Add.1) para. 14: 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 take place 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.

410. Indonesia, (CAC/COSP/WG.1/2008/2/Add.1) para. 15: 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.

411. Indonesia, (CAC/COSP/WG.1/2008/2/Add.1) para. 16: If the proposal made by the Government of Indonesia is accepted, 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.

⁷ United Nations publication, Sales No. E.06.IV.16.

412. Mauritius, (CAC/COSP/WG.1/2008/2/Add.1) para. 21: With regard to the review mechanism on the implementation of the Convention, the Government of Mauritius proposes 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.

413. Mauritius, (CAC/COSP/WG.1/2008/2/Add.1) para. 22: 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 light of those comments before undergoing a thorough technical analysis by a subcommittee of experts.

414. Mauritius, (CAC/COSP/WG.1/2008/2/Add.1) para. 23: 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.

415. Mauritius, (CAC/COSP/WG.1/2008/2/Add.1) para. 24: 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 mentioned above, 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.

416. Mauritius, (CAC/COSP/WG.1/2008/2/Add.1) para. 25: The findings of the subcommittee of experts should then be presented to the committee of experts, which should be responsible for approving the reports.

417. Mauritius, (CAC/COSP/WG.1/2008/2/Add.1) para. 26: A decision on when the next assessment should take place should be made following the approval of the review report.

418. Chile, (CAC/COSP/WG.1/2008/2/Add.2) para. 9: 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. In between meetings, small groups specialized in each of the five main areas of the Convention could work together with the Secretariat.

419. Chile, (CAC/COSP/WG.1/2008/2/Add.2) para. 10: 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.

420. Chile, (CAC/COSP/WG.1/2008/2/Add.2) para. 11: 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.

IV. Secretariat

421. Austria, (CAC/COSP/WG.1/2008/2) para. 13 (b) (viii): Pursuant to paragraph 9 of Conference resolution 2/1, the Government of Austria would like to propose the following: ... The entire process should be supported by a well-resourced secretariat.

422. Finland, (CAC/COSP/WG.1/2008/2) para. 55: The Secretariat should be mandated to assist the mechanism by, for example: (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; (g) Preparing a summary of reports for consideration by the Conference.

423. Norway, (CAC/COSP/WG.1/2008/2) para. 145: 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.

424. Norway, (CAC/COSP/WG.1/2008/2) para. 146: 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.

425. South Africa, (CAC/COSP/WG.1/2008/2) para. 160 (e)-(g): The review mechanism or body should have the following terms of reference: (e) The review mechanism should be responsible for receiving any other related information submitted to it by the States parties; (f) The mechanism should be responsible for carrying out the reviews of the implementation of the Convention; (g) The Secretariat should provide the review mechanism with technical and secretarial support.

426. United Kingdom, (CAC/COSP/WG.1/2008/2) para. 169: The Secretariat should provide advice and comments when they are sought by the reviewers. The premise of the review process is that the owner of the draft report is the reviewer.

427. United Kingdom, (CAC/COSP/WG.1/2008/2) para. 178: The Secretariat should be responsible for managing the timescales of the review process. It should be actively involved in facilitating meetings and discussions between the State under review and the reviewers. It shall assist in collating the reports into a summary for use by the Conference. 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.

428. Germany, (CAC/COSP/WG.1/2008/2) para. 220, sentence 1: The Secretariat should prepare a questionnaire containing questions on all the provisions (mandatory and optional) contained in the Convention.

429. Germany, (CAC/COSP/WG.1/2008/2) para. 249: 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.

430. Japan, (CAC/COSP/WG.1/2008/2) para. 288, sentence 1: The Secretariat is requested to gather additional information from regional and international organizations that are combating corruption.

431. Japan, (CAC/COSP/WG.1/2008/2) para. 289: 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.

432. Japan, (CAC/COSP/WG.1/2008/2) para. 290: 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 still 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.

433. Hungary, (CAC/COSP/WG.1/2008/2/Add.1) para. 2, sentences 2-4: The Government of Hungary suggests 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.

434. Hungary, (CAC/COSP/WG.1/2008/2/Add.1) para. 3, sentence 3: 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.

435. Indonesia, (CAC/COSP/WG.1/2008/2/Add.1) para. 17: Strengthening the capacity and increasing the expertise of the regional offices and the regional centre would have an impact on the budget. However, such capacity-building activities should be funded from the regular budget of the United Nations.

436. United States, (CAC/COSP/WG.1/2008/2/Add.1) para. 45: 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: 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).

437. United States, (CAC/COSP/WG.1/2008/2/Add.1) para. 50: UNODC should actively coordinate with other existing multilateral review mechanisms.

438. Thailand, (CAC/COSP/WG.1/2008/2/Add.2) para. 28: 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.

439. Chile, (CAC/COSP/WG.1/2008/2/Add.2) para. 5 (b): The following components of the review mechanism should have the following functions: *Administrative function*: the Secretariat should be responsible for the daily administration of the review mechanism.

440. Chile, (CAC/COSP/WG.1/2008/2/Add.2) para. 8: 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.

V. Funding

441. Algeria, (CAC/COSP/WG.1/2008/2) para. 8: 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.

442. Iran (Islamic Republic of), (CAC/COSP/WG.1/2008/2) para. 269: Any review mechanism should be funded from the regular budget of the United Nations to ensure its efficient, continued and impartial functioning.

443. Japan, (CAC/COSP/WG.1/2008/2) para. 299: 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 mentioned above, as well as of individual face-to-face meetings when necessary. Regarding the self-assessment checklist, the relevant software is available in all the official languages of the United Nations. Member States that submit information to the Secretariat should have it translated into English at their own expense.

444. Morocco, (CAC/COSP/WG.1/2008/2/Add.1) para. 28, sentence 3: The mechanism should have an established budget guaranteeing the effectiveness, continuity and impartiality of its work and it should be subject to periodic assessment by the Conference, which will verify that the mechanism fulfils the tasks assigned to it.

445. United States, (CAC/COSP/WG.1/2008/2/Add.1) para. 51: States parties could and should easily provide sufficient and continual voluntary funding, free of conditions or influence, to support a review mechanism as outlined above.

446. Chile, (CAC/COSP/WG.1/2008/2/Add.2) para. 24: 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.
