



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

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**Report on the meeting of the Open-ended
Intergovernmental Working Group on Review of the
Implementation of the United Nations Convention against
Corruption held in Vienna from 22 to 24 September 2008**

I. Introduction

1. In its resolutions 1/1 and 2/1, the Conference of the States Parties to the United Nations Convention against Corruption recalled article 63 of the United Nations Convention against Corruption,¹ in particular paragraph 7, according to which the Conference would establish, if it deemed it necessary, any appropriate mechanism or body to assist in the effective implementation of the Convention.

2. In its resolution 1/1, the Conference decided to establish, within existing resources, an open-ended intergovernmental expert working group to make recommendations to the Conference on the appropriate mechanisms or bodies for reviewing the implementation of the Convention and on the terms of reference of such mechanisms or bodies. In the same resolution, the Conference underlined that any such 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 might, as appropriate, cooperate with them and avoid duplication of effort.

3. In its resolution 2/1, the Conference decided that any such mechanism should also reflect, inter alia, the following principles: (a) its objective should be to assist States parties in the effective implementation of the Convention; (b) it should take into account a balanced geographical approach; (c) it should be non-adversarial and non-punitive and should promote universal adherence to the Convention; (d) it should base its work on clear, established guidelines for the compilation, production and dissemination of information, including addressing issues of confidentiality and submission of the outcome to the Conference, which is the competent body to take action on such outcome; (e) it should identify, at the earliest stage possible,

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



difficulties encountered by parties in the fulfilment of their obligations under the Convention and good practices adopted in efforts by States parties to implement the Convention; and (f) it should be of a technical nature and promote constructive collaboration, inter alia, in preventive measures, asset recovery and international cooperation.

4. Also in its resolution 2/1, the Conference decided that the Open-ended Intergovernmental Working Group on Review of the Implementation of the United Nations Convention against Corruption should prepare terms of reference for a review mechanism for consideration, action and possible adoption by the Conference at its third session. In that regard, the Conference called upon States parties and signatory States to submit proposals to the Working Group for the terms of reference of the mechanism for its consideration.

5. In the same resolution, the Conference requested the Secretariat to assist the Working Group by submitting to it background information, including terms of reference of existing review mechanisms and information on the activities undertaken pursuant to Conference resolution 1/1 to collect and analyse information on possible methods for reviewing implementation.

II. Organization of the meeting

A. Opening of the meeting

6. The Open-ended Intergovernmental Working Group on Review of the Implementation of the United Nations Convention against Corruption held its second meeting in Vienna from 22 to 24 September 2008.

7. The meeting of the Working Group was chaired by Horacio Bazoberry (Bolivia), Vice-President of the Conference, and by Eddy Pratomo (Indonesia), President of the Conference.

8. In her opening remarks, the Director of the Division for Treaty Affairs of the United Nations Office on Drugs and Crime (UNODC) underscored that the Convention against Corruption was a global standard in the area of international criminal law and criminal justice and was a crucial guidepost for sustainable development. Affirming that the Convention needed to be universally ratified and implemented, she stated that the role of the Conference was to assist States in such ratification and implementation. She welcomed the numerous proposals submitted by States parties and States signatories on the terms of reference for a mechanism to review the implementation of the Convention. The Director stressed that the preparation by the Working Group of such terms of reference to assist the Conference in taking a decision at its third session was of paramount importance and would enable the Conference to discharge its duties and enhance the implementation of the Convention.

9. The Secretary of the Conference noted the progress that had been achieved during the informal consultations held on 28 and 29 August 2008 in terms of consolidating the proposals submitted. He emphasized that all the proposals had been given the same weight and consideration and that the Working Group was currently in a position to undertake a drafting exercise to further refine the

consolidated version. The Secretary welcomed the observers from regional and sectoral review mechanisms who had been invited to share their experiences with the Working Group.

B. Adoption of the agenda and organization of work

10. Prior to the adoption of the agenda, clarification was requested on items 2 and 3 of the provisional agenda, which were regarded as having been drafted in general terms, and on the timetable of meetings leading up to the third session of the Conference. The Secretary replied that the provisional agenda had been prepared considerably in advance and had therefore been drafted in general terms in order to capture any discussion that might be reflected in meetings of the Working Group. With regard to the background paper prepared by the Secretariat on activities to collect and analyse information on possible methods for reviewing implementation (CAC/COSP/WG.1/2008/3), some representatives expressed the view that it would have been more appropriate to present that information in a conference room paper rather than in an official document, while other representatives noted the request to the Secretariat contained in paragraph 8 of Conference resolution 2/1.

11. On 22 September, the Working Group adopted the following agenda (CAC/COSP/WG.1/2008/1):

1. Organizational matters:
 - (a) Opening of the meeting;
 - (b) Adoption of the agenda and organization of work.
2. Consideration of proposals for terms of reference for a mechanism for reviewing the implementation of the United Nations Convention against Corruption.
3. Future course of action.
4. Adoption of the report of the Working Group on its meeting.

C. Attendance

12. The following States parties to the Convention were represented at the meeting of the Working Group: Algeria, Angola, Argentina, Australia, Austria, Azerbaijan, Belarus, Benin, Bolivia, Brazil, Bulgaria, Burkina Faso, Canada, Central African Republic, Chile, China, Colombia, Costa Rica, Croatia, Cuba, Dominican Republic, Ecuador, Egypt, El Salvador, Fiji, Finland, France, Greece, Guatemala, Indonesia, Jordan, Kuwait, Latvia, Lesotho, Lithuania, Malaysia, Mexico, Mongolia, Namibia, Netherlands, Nicaragua, Niger, Nigeria, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Republic of Korea, Romania, Russian Federation, Slovakia, South Africa, Sweden, Togo, Tunisia, Turkey, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Yemen and Zimbabwe.

13. The following States signatories to the Convention were represented by observers: Bahrain, Belgium, Czech Republic, Germany, Haiti, Iran (Islamic

Republic of), Ireland, Israel, Japan, Saudi Arabia, Singapore, Swaziland, Switzerland, Syrian Arab Republic, Thailand and Venezuela (Bolivarian Republic of).

14. The European Community, a regional economic integration organization that is a signatory to the Convention, was represented at the meeting.

15. Oman, an observer State, was also represented.

16. Palestine, an entity maintaining a permanent observer mission to the United Nations, was represented.

17. The following Secretariat units, United Nations bodies, funds and programmes, institutes of the United Nations Crime Prevention and Criminal Justice Programme network, specialized agencies and other organizations of the United Nations system were represented by observers: Department of Peacekeeping Operations of the Secretariat, Office of Legal Affairs of the Secretariat, United Nations Development Programme, United Nations Relief and Works Agency for Palestine Refugees in the Near East, International Centre for Criminal Law Reform and Criminal Justice Policy and International Narcotics Control Board.

18. The following intergovernmental organizations and other entities were represented by observers: Asian-African Legal Consultative Organization, Council of Arab Ministers of the Interior, Council of Europe, Council of the European Union, International Criminal Police Organization (INTERPOL), Organization for Economic Cooperation and Development, Organization for Security and Cooperation in Europe and Sovereign Military Order of Malta.

19. The U4 Anti-Corruption Resource Centre, an international organization, was also represented by an observer.

20. The Secretary informed the Working Group that the Secretariat had invited the African Union and the Organization of American States to send representatives to attend the current meeting. The Organization of American States had informed the Secretariat that unforeseen developments at the last minute had prevented the attendance of its representative. The African Union had not responded to the invitation.

III. Consideration of proposals for terms of reference for a mechanism for reviewing the implementation of the United Nations Convention against Corruption

21. For its consideration of agenda item 2, "Consideration of proposals for terms of reference for a mechanism for reviewing the implementation of the United Nations Convention against Corruption", the Working Group had before it the following:

(a) Proposals and contributions received from Governments for the terms of reference of a mechanism for reviewing the implementation of the United Nations Convention against Corruption: background paper prepared by the Secretariat (CAC/COSP/WG.1/2008/2 and Add.1-3 and Corr.1);

(b) Activities undertaken to collect and analyse information on possible methods for reviewing implementation: background paper prepared by the Secretariat (CAC/COSP/WG.1/2008/3);

(c) 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 (CAC/COSP/WG.1/2008/CRP.1);

(d) Position of the Group of 77 and China on the review of the implementation of the United Nations Convention against Corruption: working document submitted by the Group of 77 and China (CAC/COSP/WG.1/2008/CRP.2);

(e) Comments of Peru on the terms of reference of the future review mechanism of the United Nations Convention against Corruption (CAC/COSP/WG.1/2008/CRP.3).

22. The observer for the Organization for Economic Cooperation and Development (OECD) gave a brief description of the system of mutual review established pursuant to article 12 of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.² The first phase of the review consisted of a desk review of legislation; the second phase included a site visit to evaluate the effectiveness of implementation of legislation. The two phases culminated in a discussion of the findings and the recommendations contained in the reports, which were made public. It was noted that recommendations in the reports were powerful motivators in strengthening the fight against corruption and that, following the adoption of such recommendations, many Governments had amended legislation and increased resources. The reviewers played the central role in the process, with the secretariat participating mainly by coordinating and facilitating reviews but also by ensuring equal treatment among the different countries. The two main characteristics of the mechanism were transparency and responsibility. An important feature of the mechanism was that the reports were discussed by the entire group, thus providing all the States and experts involved with an opportunity to participate in the learning process and exchange best practices. The review process did not cease with the discussion and adoption of the report, as the implementation of the recommendations contained in each report was evaluated as part of a follow-up process.

23. The observer for the Council of Europe presented the experience of the mechanism of the Group of States against Corruption (GRECO) for reviewing the Criminal Law Convention on Corruption,³ the Civil Law Convention on Corruption⁴ and other anti-corruption instruments of the Council of Europe. GRECO, which comprised 46 States, aimed to improve the capacity of States to fight corruption by insisting on compliance with legislative and institutional arrangements, as well as practical measures. The principles of mutual evaluation and peer pressure guided the process. All member States were represented in the review mechanism and had to appoint a maximum of five experts. Equal treatment

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

³ Council of Europe, *European Treaty Series*, No. 173.

⁴ *Ibid.*, No. 174.

of States was paramount, and all States had to participate in all evaluation rounds even if they had joined GRECO at different stages in the review process. The observer reported that GRECO was in the middle of the third round of evaluations. Each round began with a questionnaire distributed to countries. Site visits were conducted by evaluating experts. Draft reports were prepared with three parts: description, analysis and recommendations. The implementation of recommendations was to be carried out within 18 months, and non-compliance procedures were foreseen.

24. The Working Group proceeded with its consideration of the proposals for terms of reference of a review mechanism for the Convention against Corruption using a conference room paper prepared by the Secretariat (CAC/COSP/WG.1/2008/CRP.1), which was a consolidated version of the proposals received from States parties and States signatories contained in the documents prepared by the Secretariat (CAC/COSP/WG.1/2008/2 and Add.1-3 and Corr.1) and in the conference room papers submitted by the Group of 77 and China (CAC/COSP/WG.1/2008/CRP.2) and Peru (CAC/COSP/WG.1/2008/CRP.3). In the first reading of the consolidated version of the proposals, the Working Group eliminated text that was repeated or subsumed in other parts.

25. In the second reading, the Working Group began to produce a rolling text of the draft terms of reference by further consolidating the proposals made. In carrying out that drafting exercise, the Working Group had an opportunity to engage in a preliminary discussion of the various issues involved. In that context, suggestions were made on restructuring the draft terms of reference.

26. It was noted that the rolling text would be made available on the UNODC website (www.unodc.org/unodc/en/treaties/CAC/working-group1.html) in all official languages of the United Nations for subsequent meetings of the Working Group. The Working Group agreed to organize further informal consultations and requested the Secretariat to prepare a working document based on the rolling text for those consultations. Depending on the outcome of the informal consultations, the Working Group might decide to continue its consideration of the terms of reference on the basis of the working document. The working document would identify identical or similar paragraphs and attempt to capture the proposals or ideas contained therein in actionable language. Nuances or variations would be reflected through text enclosed in square brackets. Where proposals were clearly different, they would be shown as options or alternatives.

27. The Working Group requested the Secretariat to provide information on the funding of the implementation review mechanisms discussed in the background papers on the methods for the review of the implementation of the Convention against Corruption (CAC/COSP/2006/5) and on parameters for defining the review mechanism for the Convention (CAC/COSP/2008/10).

IV. Future course of action

28. The Working Group agreed to defer to a future meeting its consideration of agenda item 3, entitled "Future course of action".

V. Adoption of the report

29. On 24 September 2008, the Working Group adopted the report on its meeting (CAC/COSP/WG.1/2008/L.1).
