

# ***DOHA RESOLUTIONS - UNOFFICIAL DOCUMENT***

## **Review mechanism\***

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

*Recalling* article 63, paragraph 1, of the United Nations Convention against Corruption,<sup>1</sup> which established the Conference of the States Parties to the Convention to, inter alia, promote and review the implementation of the Convention,

*Recalling also* article 63, paragraph 7, of the Convention, according to which the Conference is to establish, if it deems it necessary, any appropriate mechanism or body to assist in the effective implementation of the Convention,

1. *Takes note with appreciation* of the work of the Open-ended Intergovernmental Working Group on Review of the Implementation of the United Nations Convention against Corruption at its five intersessional meetings;

2. *Adopts*, subject to the provisions of the present resolution, the terms of reference of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption<sup>1</sup> as contained in the annex to the present resolution and appends the draft guidelines for governmental experts and the secretariat and the draft blueprint for country review reports, which will be finalized during the meetings of the Implementation Review Group;<sup>2</sup>

3. *Decides* that each review phase shall be composed of two review cycles of five years each and that one fourth of the States parties will be reviewed in each of the first four years;

4. *Decides also* to review during the first cycle chapters III (Criminalization and law enforcement) and IV (International cooperation) and during the second cycle chapters II (Preventive measures) and V (Asset recovery);

5. *Requests* the Implementation Review Group to conduct an evaluation of the terms of reference as well as the challenges encountered during the country reviews at the conclusion of each review cycle and to report to the Conference of the States Parties on the outcome of those evaluations;

6. *Decides* that a comprehensive self-assessment checklist shall be used as a tool to facilitate the provision of information on implementation of the United Nations Convention against Corruption;

7. *Requests* the Secretariat to finalize a comprehensive self-assessment checklist no later than two months after the conclusion of the third session of the Conference of the States Parties, using as a model the draft comprehensive self-assessment checklist, in consultation with States parties;

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\* The present document has not been edited.

<sup>1</sup> United Nations, *Treaty Series*, vol. 2349, No. 42146.

<sup>2</sup> See section IV.C of the terms of reference.

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8. *Also requests* the Secretariat to distribute the comprehensive self-assessment checklist to States parties as soon as possible to begin the process of information-gathering;

9. *Requests* States parties to complete and return the checklist to the Secretariat according to the time frame established in the guidelines for governmental experts and the secretariat;

10. *Decides* that the Implementation Review Group will be in charge to follow-up and continue the work undertaken previously by the open-ended intergovernmental working group on technical assistance;

11. *Underlines* that the Mechanism will require a budget which will ensure its efficient, continued and impartial functioning;

12. *Recommends* to the United Nations General Assembly to finance the staffing requirements of the Secretariat necessary to implement the Mechanism through reallocation of existing resources of the Regular Budget for the Biennium 2010-2011;

13. *Requests* the Secretary-General to propose to the Implementation Review Group for consideration and decision, at its first meeting, further means for funding the implementation of the Mechanism;

14. *Decides* that the Implementation Review Group will consider the resource requirements for the functioning of the Mechanism for the following Biennium (2012-2013);

15. *Requests* the Secretary-General to prepare for the first meeting of the Implementation Review Group a budget proposal for the Biennium 2012-2013.

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## **Annex 1**

### **Terms of reference of the mechanism for the review of implementation of the United Nations Convention against Corruption**

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## **Preamble**

1. Pursuant to article 4, paragraph 1, of the United Nations Convention against Corruption<sup>3</sup> which states that States parties shall carry out their obligations under the Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and non-intervention in the domestic affairs of other States, the Conference of the States Parties to the United Nations Convention against Corruption established the following mechanism to review implementation of the Convention.

## **I. Introduction**

2. The Review Mechanism for the Implementation of the United Nations Convention against Corruption (hereinafter “the Mechanism”) includes a review process that shall be guided by the principles contained in sections II and III and be carried out in accordance with the provisions contained in section IV. The Mechanism shall be supported by a secretariat as set out in sections V and VI and be financed in accordance with section VII.

## **II. Guiding principles and characteristics of the Mechanism**

3. The Mechanism shall:

- (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;
- (d) Assist States parties in the effective implementation of the Convention;
- (e) Take into account a balanced geographical approach;
- (f) Be non-adversarial and non-punitive and shall promote universal adherence to the Convention;
- (g) Base its work on clear, established guidelines for the compilation, production and dissemination of information, including addressing issues of confidentiality and the submission of the outcome to the Conference, which is the competent body to take action on such outcome;
- (h) Identify, at the earliest stage possible, difficulties encountered by States parties in the fulfilment of their obligations under the Convention and good practices adopted in efforts by States parties to implement the Convention;
- (i) Be of a technical nature and promote constructive collaboration, inter alia, in preventive measures, asset recovery and international cooperation;
- (j) Complement existing international and regional review mechanisms in order that the Conference may, as appropriate, cooperate with those mechanisms and avoid duplication of effort.

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<sup>3</sup> United Nations, *Treaty Series*, vol. 2349, No. 42146.

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4. The Mechanism shall be an intergovernmental process.
5. In conformity with article 4 of the Convention, the Mechanism shall not serve as an instrument for interfering in the domestic affairs of States parties but shall respect the principles of equality and sovereignty of States parties, and the review process shall be conducted in a non-political and non-selective manner.
6. The Mechanism shall promote the implementation of the Convention by States parties, as well as cooperation among States parties.
7. The Mechanism shall provide opportunities to exchange views, ideas and good practices thus contributing to strengthening cooperation among States parties in preventing and fighting corruption.
8. The Mechanism shall take into account the levels of development of States parties, as well as diversities in judicial, legal, political, economic and social systems and differences in legal traditions.
9. The review of implementation of the Convention is an ongoing and gradual process. Consequently, the Mechanism shall endeavour to adopt a progressive and comprehensive approach.

### **III. Relationship of the Mechanism with the Conference of the States Parties**

10. The review of implementation of the Convention and the Mechanism shall be under the authority of the Conference in accordance with article 63 of the Convention.

### **IV. Review process**

#### **A. Goals**

11. Consistent with the Convention in particular article 63, the purpose of the review process shall be to assist States Parties in their implementation of the Convention. In this regard, the review process shall, inter alia:
  - (a) Promote the purposes of the Convention as set-out in its article 1;
  - (b) Provide the Conference with the information on the measures taken by States Parties in implementing UNCAC and the difficulties encountered by them in doing so;
  - (c) Help States parties to identify and substantiate specific needs for technical assistance and to promote and facilitate the provision of technical assistance;
  - (d) Promote and facilitate international cooperation in the prevention of and the fight against corruption, including in the area of asset recovery;
  - (e) Provide the Conference with information on successes, good practices and challenges of States parties in implementing and using the Convention;

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(f) Promote and facilitate the exchange of information, practices and experiences gained in the implementation of the Convention.

## **B. The country review**

12. The Mechanism shall be applicable to all States parties. It shall gradually cover the implementation of the entire Convention.

13. The review of all States that are parties at the start of a review cycle should be completed before a new review cycle begins. In exceptional cases, however, the Conference may decide to launch a new review cycle before the completion of all reviews of the previous cycle. No State party shall undergo a review twice in the same review cycle, without prejudice to the right of a State party to provide new information.

14. The number of State parties from each regional group participating in the review process in a given year shall be proportionate to the size of that regional group and the number of its members that are State parties to the Convention. The selection of State parties participating in the review process in a given year of a review cycle shall be carried out by the drawing of lots at the beginning of each review cycle. A State party selected for review in a given year may defer participation to the following year of the review cycle with justifiable reason.

15. Each State party shall provide to the secretariat the information required by the Conference on its compliance with and implementation of the Convention, using the comprehensive self-assessment checklist as an initial step for that purpose. States parties shall provide complete, up-to-date, accurate and timely responses.

16. Assistance in the preparation of the responses to the checklist shall be provided by the secretariat to States parties requesting such assistance.

17. Each State party shall appoint a focal point to coordinate its participation in the review. Each State party shall endeavour to appoint as a focal point, person or persons with substantive expertise on the provisions of the Convention under review.

### **i. Conduct of the review**

18. Each State party shall be reviewed by two other States parties. The review process shall actively involve the State Party under review.

19. One of the two reviewing States parties shall be from the same geographical region as the State party under review, and shall have if possible a legal system similar to that of the State party under review. The selection of the reviewing States parties shall be carried out by the drawing of lots at the beginning of each year of the cycle on the understanding that States parties shall not undertake mutual reviews. The State party under review may request, for a maximum of two times, that the drawing of lots be repeated. In exceptional circumstances the drawing of lots may be repeated more than twice.

20. A State party under review may defer serving as a reviewing State party in that same year. That same principle, mutatis mutandis, shall apply to the reviewing

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States parties. Within a review cycle, each State party must have undergone its own review and performed a minimum of one review and a maximum of three reviews.

21. Each State Party shall appoint up to 15 governmental experts for the purpose of the review process. The Secretariat shall compile and circulate prior to the drawing of lots for the reviewing State Parties a list of such governmental experts, which will include information on their professional background, their current positions, other relevant offices and activities and areas of expertise required for the respective review cycle. States parties shall endeavour to provide information necessary for the secretariat to compile and keep the list up-to-date.

22. The Reviewing State Parties shall carry out, in accordance with the Guidelines for Governmental Experts and the Secretariat (hereinafter the Guidelines), a desk review of the response to the comprehensive self-assessment checklist by the State Party under review. Such desk review shall entail an analysis of the response focused on measures taken to implement the Convention, and successes in and challenges of such implementation.

23. In accordance with the guiding principles and in conformity with the Guidelines, the Reviewing States Parties, supported by the secretariat, may request the State Party under review to provide clarifications or additional information or to address supplementary questions related to the review. The ensuing constructive dialogue may be carried out, inter alia, by way of conference calls, video-conferences or email exchanges, as appropriate.

24. The schedule and requirements of for each country review shall be established by the secretariat in consultation with the reviewing States Parties and the State Party under review and shall address all issues relevant to the review. The reviews should ideally be designed to take no longer than six months.

25. The secretariat will develop a set of Guidelines for the Reviewing State Parties in consultation with States Parties. These Guidelines will be endorsed by the Implementation Review Group.

26. The country review shall lead to the elaboration of a Country report based on a blueprint to be developed by the secretariat in consultation with the States Parties and endorsed by the Conference to ensure consistency.

27. The review shall be carried out as follows:

(a) The desk review shall be based on the responses to the comprehensive self-assessment checklist and any supplementary information provided by the State party under review.

(b) In the context of the constructive dialogue between the governmental experts, the State party under review shall facilitate the exchange of information relevant to the implementation of the Convention.

(c) Where the State party under review is a member of an organization and/or a mechanism below, the reviewing States Parties may consider information relevant to the implementation of the UNCAC produced by:

- Competent international organizations, whose mandates cover anticorruption issues; and

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- International and regional mechanisms for combating and preventing corruption.

28. The State party under review shall endeavour to prepare their responses to the comprehensive self assessment checklist through broad consultations at the national level with all relevant stakeholders, the private sector, individuals and groups outside the public sector.

29. If agreed by the State party under review, the desk review should be complemented with any further means of direct dialogue, such as a country visit or a joint meeting at the United Nations Office in Vienna, in accordance with the Guidelines.

30. States parties are encouraged to facilitate engagement with all relevant national stakeholders in the course of a country visit.

31. The reviewing States Parties and the Secretariat shall maintain confidential all information obtained in the course of, or used in the country review process.

32. The secretariat shall organize periodic training courses for experts who participate in the review process, in order to familiarize them with the Guidelines and increase their capacity to participate in the review process.

## **ii. Outcome of the country review process**

33. The reviewing State Parties shall in accordance with the Guidelines and the Blueprint prepare a country review report with an executive summary of the report in close cooperation and coordination with the State party under review and assisted by the secretariat. The report shall identify successes, good practices and challenges and make observations for the implementation of the Convention. Where appropriate the report shall include identification of technical assistance needs for the purposes of improving implementation of the Convention.

34. The country review report including the executive summary shall be finalized upon agreement between the reviewing States Parties and the State party under review.

35. The secretariat shall compile the most common and relevant information on successes, good practices, challenges, observations and technical assistance needs contained in the country reports and include them thematically in a “Thematic Implementation Report” and regional supplementary addenda for submission to the open-ended intergovernmental Implementation Review Group.

36. The executive summaries from each finalised country review report shall be translated into the six official languages of the United Nations and made available as official documents of the Implementation Review Group only for information purposes.

37. The Country review report shall remain confidential,

38. The State Party under review is encouraged to exercise its sovereign right to publish its country review report or part of it.

39. In order to improve and strengthen cooperation and learning between States Parties they shall endeavour to make country review reports accessible to any other

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State party upon request. The requesting State party shall fully respect confidentiality of such reports.

### **iii. Follow-up procedures**

40. In the following review phase, each State party shall submit information in its responses to the comprehensive self assessment checklist on progress achieved in connection with the observations contained in its previous country review reports. As appropriate, States parties shall also provide information on whether technical assistance needs requested by it in relation to its country review report have been provided.

41. The Conference through the Implementation Review Group shall assess and adapt where appropriate the procedures and requirements for follow-up to conclusions and observations emerging from the review process.

## **C. Implementation Review Group**

42. The Implementation Review Group shall be an open-ended intergovernmental group of States Parties. It shall operate under the authority of and report to the Conference.

43. The Implementation Review Group shall hold meetings at least once a year in Vienna.

44. The functions of the Implementation Review Group shall be to have an overview of the review process to identify challenges and good practices as well as considering technical assistance requirements in order to ensure effective implementation of the Convention. The Thematic Implementation Report will serve as the basis for the analytical work of the Implementation Review Group. On the basis of its deliberations, the Implementation Review Group shall submit recommendations and conclusions to the Conference of State Parties for its consideration and approval.

## **D. The Conference of States Parties**

45. The Conference shall be responsible for establishing policies and priorities related to the review process.

46. The Conference of States Parties shall consider the recommendations and conclusions of the Implementation Review Group.

47. The Conference shall establish the phases and cycles of the review process, as well as the scope, thematic sequence and details of such review. The Review Phase will be finalized upon reviewing all the articles of the Convention in all States Parties. Each Phase will be divided into review cycles. The Conference shall determine the duration of each review cycle and decide on the number of States Parties that shall participate in each year of the review cycle, taking into account the number of States Parties to be reviewed as well as the scope applicable in the cycle.

48. The Conference of the States Parties shall endorse any future amendments to the terms of reference of the review mechanism. Following the completion of each

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review cycle, the Conference will assess the performance of the Mechanism and its terms of reference.

## **V. Secretariat**

49. The secretariat of the Conference shall be the secretariat of the Mechanism and shall perform all tasks required for the efficient functioning of the Mechanism, including providing technical and substantive support, upon request, to States parties in the course of the functioning of the Mechanism.

## **VI. Languages**

50. Arabic, Chinese, English, French, Russian and Spanish shall be the official and working languages of the Mechanism, subject to the provisions of this Section.

51. The country review process shall be conducted in any of the working languages of the mechanism. The Secretariat will be responsible for providing the required translation and interpretation into any of these languages as necessary for its efficient functioning.

52. The Secretariat shall endeavour to seek voluntary contributions to be able to provide interpretation and translation to other non-official languages, if requested by the State party under review.

53. The Executive Summaries of the country review reports as well as the Thematic Implementation Report will be official documents of the Conference and therefore translated to the six official languages.

## **VII. Funding**

54. The requirements of the Mechanism and its secretariat shall be funded from the regular budget of the United Nations.

55. The requirements set in paragraph 27 and 31 relating, inter alia, to the requested country visits, the joint meetings at the United Nations Office in Vienna, and the training of experts shall be funded through voluntary contributions which shall be free of conditions and influence.

56. The secretariat shall be responsible for preparing a biennial budget proposal for the activities of the Mechanism.

57. The Conference of States Parties shall consider the budget for the Mechanism biennially. The budget shall ensure the efficient, continued and impartial functioning of the Mechanism.

58. Adequate financial and human resources must be provided to the Secretariat to enable it to perform the functions assigned to it in the present terms of reference.

## **VIII. Participation of Signatories in the Review Mechanism**

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59. Signatory states can participate as a state under review in the review mechanism on a voluntary basis and the costs associated with such participation shall be paid from available voluntary contributions.

## **Appendix**

### **Guidelines for governmental experts and the secretariat in the conduct of country reviews**

#### **I. General guidance**

1. Throughout the review process, governmental experts and the secretariat shall be guided by the relevant provisions of the United Nations Convention against Corruption and the terms of reference of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption.
2. In particular, governmental experts shall bear in mind article 4, paragraph 1, of the Convention, which states that States parties shall carry out their obligations under the Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and of non-intervention in the domestic affairs of other States.
3. Furthermore, governmental experts shall carry out the reviews in full recognition of the purpose of the review process as specified in paragraph 11 of the terms of reference.
4. During all interactions within the review process, governmental experts shall respect the collective approach. Governmental experts are expected to act with courtesy and diplomacy, and shall remain objective and impartial. Governmental experts need to be flexible in their approach and ready to adapt to changes in schedules.
5. Governmental experts and the secretariat shall maintain the confidentiality of all information obtained in the course of, or used in, the country review process, as well as the outcome documents, as stipulated in the terms of reference. If there are serious grounds for believing that a governmental expert or a member of the secretariat has violated the obligation of confidentiality, the secretariat shall inform the Implementation Review Group.
6. It is also expected that governmental experts are not to be influenced in their assessment of the implementation of the Convention. While information generated through competent international organizations whose mandates cover anti-corruption issues and international and regional mechanisms for combating and preventing corruption is to be taken into account, governmental experts shall make their own analysis of the facts provided by the State party under review in order to present findings that are in line with all the specific requirements of the Convention provisions under review.
7. Throughout the review process, governmental experts are encouraged to contact the secretariat for any assistance required.

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## **II. Specific guidance**

### **Preparatory stage**

8. The governmental experts shall prepare themselves by:
  - (a) Studying thoroughly the Convention;
  - (b) Reading the *Legislative Guide for the Implementation of the United Nations Convention against Corruption*,<sup>4</sup> particularly those parts pertaining to the articles that are the subject of the relevant review cycle;
  - (c) Familiarizing themselves with the substantive background information contained in annex A to the present guidelines;
  - (d) Reviewing the responses provided by the State party under review in its self-assessment checklist and supplementary documentation;
  - (e) Informing the secretariat if additional information and material are required;
  - (f) Highlighting issues requiring further clarification;
  - (g) Familiarizing themselves with the issues addressed by the State party under review, and formulating questions and comments.

### **Constructive dialogue**

9. Constructive dialogue is key to the efficiency and effectiveness of the review process. In order to ensure the timely completion of the review, the time frame for the constructive dialogue is set for a period of three months as from the initial telephone conference or videoconference. During this period, various means of dialogue shall be employed and facilitated by the secretariat, including, inter alia, e-mail communications, telephone conferences or videoconferences, and meetings to be conducted upon request by the State party under review.
10. While governmental experts shall establish open lines of communication with the other members of the review team and governmental experts of the State party under review, experts shall keep the secretariat abreast of all these communications.
11. Within one month of the establishment of the review teams or of the receipt of the self-assessment checklist, governmental experts shall actively participate in a telephone conference or videoconference, to be organized by the secretariat, for the purpose of an initial introduction of the reviewing States parties, the State party under review and the staff of the secretariat assigned to the particular country review team and for general orientation, including a review of the schedule and requirements established for the review.
12. During this conference call, governmental experts shall discuss the initial analysis of the self-assessment checklist, as well as areas identified requiring further clarifications and information.

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<sup>4</sup> United Nations publication, Sales No. E.06.IV.16.

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13. Governmental experts from reviewing States parties shall take a decision on how to divide tasks and issues among themselves, taking into account their respective fields of competence.
14. Within two weeks after the telephone conference or videoconference, governmental experts shall supply the secretariat, in writing, with requests for additional information sought and specific questions to be forwarded to the State party under review, if necessary.
15. Throughout the process, governmental experts shall take note of the information and material provided by the State party under review, through the different means of communication mentioned above.
16. Within one month after the completion of the dialogue stage, governmental experts shall provide their analysis, in writing, to the secretariat. When preparing the analysis, governmental experts shall avoid duplicating texts already contained in the self-assessment checklist. They are further requested to be concise and factual and to substantiate the analysis. Objective and impersonal language will aid understanding. When abbreviations and acronyms are used, these shall be defined upon their first use.
17. In line with the structure of the country review report, as contained in the blueprint, the analysis is to include governmental experts' findings and observations.
18. The analysis is to be concise and factual and is to include solid reasoning for the conclusions drawn and observations made for each article of the Convention assessed.
19. Depending on the scope of the review cycle, governmental experts shall include findings with respect to the domestication in national law of each article of the Convention, as well as its implementation in practice.
20. Governmental experts shall further identify successful measures and good practices, as well as challenges, implementation gaps and areas where technical assistance may be required.
21. At the request of the State party under review and as required, governmental experts may also be asked to provide the State party under review with explanations on how to bridge the gaps identified so as to allow the country to fully and effectively implement the relevant articles of the Convention.
22. As required, the secretariat will organize a telephone conference or videoconference bringing together the governmental experts of the reviewing States parties and the State party under review. During the conference call, governmental experts from the reviewing States parties shall introduce their parts of the draft report and explain the findings and observations.
23. Once governmental experts' contributions from the reviewing States parties have been received, the secretariat will prepare a first draft of the country review report, based on the blueprint format. Governmental experts from the reviewing States parties will be invited to comment on the first draft report within two weeks after receiving it. The secretariat will prepare an amended version of the draft report reflecting those comments. This draft report will then be sent to the State party under review.

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24. Following comments from the State party under review, the secretariat will provide governmental experts of the reviewing States parties with the draft report incorporating these comments.

## **Finalizing the country review report**

25. Governmental experts shall thoroughly read the updated draft country review report reflecting the comments by the State party under review, in order to agree on final language to be used in the report and prepare an executive summary of the report.

26. The secretariat shall send this report and its executive summary to the State party under review for approval. In case of disagreement, there shall be a constructive dialogue between the State party under review and the governmental experts to arrive at a consensual final report and its executive summary.

## **Country visit or joint meeting in Vienna**

27. A country visit or joint meeting in Vienna shall be planned and organized by the requesting State party under review. While the Secretariat will facilitate all practical arrangements, governmental experts shall take all necessary measures from their side to participate in the country visit.

28. During the country visit or joint meeting in Vienna, governmental experts shall uphold the principles and standards outlined in the general guidance above. In particular, governmental experts shall keep in mind the following points throughout the country visit.

29. When seeking additional information and asking for clarification, governmental experts shall bear in mind the non-adversarial, non-intrusive and non-punitive character of the review and the overall goal of assisting the State party under review to reach full implantation of the United Nations Convention against Corruption.

30. Governmental experts are expected to actively and constructively participate in all meetings, including at internal debriefings at the end of each working day, or at the end of the country visit or joint meeting in Vienna.

31. Governmental experts are expected to be respectful and courteous in meetings, respecting time frames set in the programme and allowing time for all members to participate. At the same time, governmental experts are expected to be flexible, as the programme may change during the visit.

32. Questions should seek to complement information already provided by the State party under review and relate only to the review process. Governmental experts shall therefore remain neutral and not voice personal opinions during the meetings.

33. Governmental experts are expected to take notes during all meetings, which can be referred to when producing the final report. They shall share their opinions and preliminary findings during debriefings, as well as in writing within two weeks after the country visit.

34. Once comments from governmental experts of the reviewing States parties have been received, the secretariat will prepare an amended draft country review

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report, taking into account the additional information received during the meetings. Governmental experts shall comment on this draft report within two weeks after receiving it.

35. The secretariat will then follow the same procedure as outlined in paragraphs 22 to 26 above.

## **Annex A**

### **Substantive background information relevant to the articles subject to the review cycle**

*Relevant parts of the Legislative Guide for the Implementation of the United Nations Convention against Corruption and other relevant United Nations tools.*

[...]

## **Annex B**

### **Blueprint for country review reports**

**Review by [names of reviewing States] of the implementation by [name of State under review] of article[s] [number(s) of articles] of the United Nations Convention against Corruption for the review cycle [time frame]**

#### **I. Introduction**

1. The Conference of the States Parties to the United Nations Convention against Corruption was established pursuant to article 63 of the Convention to, inter alia, promote and review the implementation of the Convention.
2. In accordance with article 63, paragraph 7, of the Convention, the Conference established at its third session, held in Doha from 9 to 13 November 2009, the Mechanism for the Review of Implementation of the Convention. The Mechanism was established also pursuant to article 4, paragraph 1, of the Convention, which states that States parties shall carry out their obligations under the Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and of non-intervention in the domestic affairs of other States.
3. The Review Mechanism, of which this report forms part, is an intergovernmental process with the overall goal of assisting States parties in implementing the Convention.
4. The review process is based on the terms of reference of the Mechanism (*United Nations document symbol*).

#### **II. Process**

5. The following review of the implementation by [name of State under review] of the Convention is based on the comprehensive self-assessment checklist received from [name of State under review] and the outcome of the constructive dialogue between the experts from [names of the two reviewing States and the State under review], by means of [communication media, such as telephone conferences, videoconferences, e-mail exchanges, face-to-face meetings] and involving [names of experts involved].

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*Optional:* 6. A voluntary country visit, requested by [*name of State under review*] was conducted from [*date*] to [*date*].

OR

A joint meeting between [*name of State under review*] and [*names of reviewing States*] was held in Vienna from [*date*] to [*date*].

### **III. Executive summary**

7. [*Summary of the following:*

(a) *Findings and observations on the implementation of the articles under review by the State under review;*

(b) *Successful experiences and good practices;*

(c) *Gaps in implementation, where applicable;*

(d) *Priorities and actions, as well as technical assistance needs, identified by the State under review to improve its implementation of the Convention.]*

### **IV. Implementation of the Convention**

#### **A. Ratification of the Convention**

8. [*Name of State under review*] signed the Convention on [*date*] and ratified it on [*date*]. [*Name of State under review*] deposited its instrument of ratification with the Secretary-General on [*date*].

9. The implementing legislation – in other words, the [*title of act ratifying the Convention*] – was adopted by [*name of national legislative body*] on [*date*], entered into force on [*date*] and was published in [*name, number and date of official publication communicating adoption of the act*]. The implementing legislation includes [*summary of ratification legislation and overview of methods used to implement the Convention*].

#### **B. Legal system of [*name of State under review*]**

10. Article [*number of article*] of the Constitution states that [*discuss whether treaties are self-executing or require implementing legislation, where the Convention fits into the hierarchy of law, etc.*].

#### **C. Implementation of selected articles**

**Article** [*number of article*]

[*title of article*]

[*Text of the article, block indented*]

11. [*Reference to the relevant part of the Legislative Guide for the Implementation of the United Nations Convention against Corruption*]

**(a) Summary of information relevant to reviewing the implementation of the article**

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12. *[Information provided by the State under review through the self-assessment checklist [omnibus survey] and in the context of the constructive dialogue, as well as information available from other existing anti-corruption review mechanisms in which the State under review participates]*

**(b) Findings and observations on the implementation of the article**

13. *[Findings of the review team with regard to the implementation of the article. Depending on the scope of the review cycle, findings with respect to the way in which national law has been brought into line with the article, as well as to the implementation of the article in practice]*

14. *[Findings on the status of implementation of the article, including successful implementation and gaps in implementation]*

**(c) Successful experiences and good practices**

15. *[Successful experiences and good practices in implementing the article, where applicable]*

**(d) Identification of gaps in implementation, where applicable**

16. *[Any gaps in implementation and relevant observations]*

**(e) Priorities and actions identified by [name of State under review]**

17. *[Where applicable, priorities and actions, as well as technical assistance needs, identified by the State under review to improve implementation of the Convention]*

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## **Technical assistance to implement the United Nations Convention against Corruption**

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

*Recalling* resolutions 1/5 and 2/4 adopted by the Conference of the States Parties to the United Nations Convention against Corruption at its first and second sessions,

*Welcoming* the recommendations contained in the reports of the Secretariat on the work of the Open-ended Intergovernmental Working Group on Technical Assistance,<sup>5</sup> issued pursuant to the meetings of the Working Group held in Vienna on 18 and 19 December 2008 and 3 and 4 September 2009,

*Welcoming also* the efforts of the Secretariat to analyse the technical assistance needs identified by States parties and signatories to the United Nations Convention against Corruption<sup>6</sup> in their responses to the self-assessment checklist,

*Welcoming further* the development by the Secretariat of a computer-based information-gathering tool to produce statistics and visual aids, such as charts and other graphics, enabling the Conference to better identify technical assistance needs,

*Acknowledging* that a large number of States parties and signatories to the Convention continue to request technical assistance for the implementation of the Convention,

*Noting* that during the meetings of the Open-ended Intergovernmental Working Group on Technical Assistance, experts stressed the importance of country-based approaches to programming and delivery,

*Recognizing* the importance of coordination among donors, other technical assistance providers and recipient countries, based on the Paris Declaration on Aid Effectiveness, in order to leverage resources, increase efficiency, avoid duplication of effort and meet the development needs of recipient countries,

*Noting with appreciation* the partnership between the United Nations Office on Drugs and Crime, the International Criminal Police Organization and the Government of Austria, with the support of the European Anti-Fraud Office (OLAF) and other partners, to establish the International Anti-Corruption Academy (IACA), to serve as a centre of excellence for education, training and academic research in the field of anti-corruption,

1. *Takes note* of the recommendations of the Open-ended Intergovernmental Working Group on Technical Assistance contained in the report of the Secretariat on the work of that Working Group;<sup>7</sup>
2. *Urges* States parties and signatories to the United Nations Convention against Corruption<sup>8</sup> and other donors to generate and disseminate knowledge on the

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<sup>5</sup> CAC/COSP/WG.3/2008/3 and CAC/COSP/2009/8.

<sup>6</sup> United Nations, *Treaty Series*, vol. 2349, No. 42146.

<sup>7</sup> CAC/COSP/2009/8.

<sup>8</sup> United Nations, *Treaty Series*, vol. 2349, No. 42146.

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substantive aspects of the Convention and provide technical assistance to requesting States;

3. *Also urges* States parties and signatories to the Convention to exchange expertise, experiences and lessons learned with respect to providing technical assistance in the area of combating and preventing corruption;

4. *Encourages* States parties and signatories to the Convention to continue to identify and communicate to the United Nations Office on Drugs and Crime the relevant information about anti-corruption experts, in particular those with experience in providing technical assistance to implement the Convention, so that the Office can include those experts in its database of anti-corruption expertise for the delivery of technical assistance, as recommended by the Open-ended Intergovernmental Working Group on Technical Assistance;

5. *Endorses* country-led and country-based, integrated and coordinated technical assistance programme delivery as an effective vehicle for furthering implementation of the Convention, and encourages donors and other assistance providers to incorporate those concepts and capacity-building into their technical assistance programmes;

6. *Encourages* States, donors and other assistance providers to use the Convention and, as appropriate, other relevant international instruments as a framework for country-level dialogue to facilitate programme delivery;

7. *Urges* States and other donors to continue to provide resources for assistance efforts of the United Nations Office on Drugs and Crime in order to further implementation of the Convention, and to continue to provide coordinated assistance through other existing channels, including other relevant international and regional organizations and bilateral assistance programmes;

8. *Encourages* national, regional and international donors to accord high priority to technical assistance in order to ensure effective implementation of the Convention in a sustainable and coordinated manner;

9. *Encourages* States and the United Nations Office on Drugs and Crime to continue to develop and promote coordinated partnerships, including between the public and private sectors, in order to leverage resources for advancing technical assistance efforts;

10. *Requests* the United Nations Office on Drugs and Crime to continue to share with other possible technical assistance providers information on technical assistance needs compiled on the basis of responses to the self-assessment checklist and included in the matrix of technical assistance needs, in particular information on needs at the country level, in order to inform assistance activities in coordination with the beneficiary countries;

11. *Requests* the United Nations Office on Drugs and Crime, in providing technical assistance for the implementation of the Convention, to promote synergies with providers of assistance to combat crime, especially in the area of international cooperation in criminal matters, bearing in mind the complementarity of the

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Convention against Corruption with the United Nations Convention against Transnational Organized Crime;<sup>9</sup>

12. *Decides* to organize an expert panel during the consideration of the item on technical assistance for the implementation of the Convention against Corruption on the agenda of the Conference as an opportunity for recipient countries and technical assistance providers, including international organizations and bilateral donors, to share experiences and good practices in the delivery of technical assistance.

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<sup>9</sup> United Nations, *Treaty Series*, vol. 2225, No. 39574.

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## **Preventive measures\***

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

*Recognizing* the prominence that the United Nations Convention against Corruption<sup>10</sup> has given to the prevention of corruption by devoting its entire chapter II to measures to prevent corruption in both the public and private sectors,

*Stressing* the importance of implementing articles 5 to 14 of the Convention to prevent and fight corruption,

*Recognizing also* that the prevention of corruption is an ongoing and gradual process, and aware that anti-corruption policies ought to be embedded into broader national crime prevention and criminal justice reform strategies as well as in public sector reform plans, recognizing the importance of principles of good governance, integrity and transparency,

*Recalling* article 61, paragraph 2, of the Convention, which stresses the importance of developing and sharing best practices in the prevention of corruption,

*Recalling also* article 63, paragraph 4, of the Convention, which, inter alia, refers to the need to facilitate the exchange of information among States on successful practices for preventing corruption and the objective of the Conference of the States Parties to the Convention to promote the implementation of the Convention, inter alia through facilitating the exchange of information among States on successful practices for preventing corruption,

*Welcoming* the efforts made by States, the United Nations, other international organizations and other networks to develop appropriate policies and preventive measures, and acknowledging the need to build on such experiences with a view to developing more comprehensive, coherent, effective and efficient approaches in this field,

*Bearing in mind* the multiplicity and diversity of approaches to preventive measures, and that such approaches may require context based-, sector- or country-specific adaptation,

*Recognizing* that, while the implementation of the Convention is the responsibility of States parties, the promotion of a culture of integrity, transparency and accountability and the prevention of corruption are responsibilities to be shared by all stakeholders and sectors of society, in accordance with articles 7 to 13 of the Convention,

*Recognizing also* the role of national, regional and international donor organizations in delivering technical assistance in the prevention of corruption,

*Welcoming* the initiative of the International Criminal Police Organization, the United Nations Office on Drugs and Crime and the Government of Austria, with the support of the European Anti-Fraud Office and other partners, to work collaboratively towards the establishment of the International Anti-Corruption Academy, and *also welcoming* regional efforts to establish similar institutions,

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\* The present document has not been edited.

<sup>10</sup> United Nations, *Treaty Series*, vol. 2349, No. 42146.

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*Recalling* the numerous initiatives undertaken by different sectors of society in the margins of the second session of the Conference, particularly the declaration of the peer-to-peer media forum and the Bali Business Declaration, which contains the commitment of the private sector entities present, inter alia, to work towards the alignment of business principles with fundamental values enshrined in the Convention, develop mechanisms to review company compliance and strengthen private-public partnerships for combating corruption,

1. *Takes note with appreciation* of the work carried out by the Secretariat to gather information on national efforts to implement the United Nations Convention against Corruption, including its provisions on prevention, through a self-assessment checklist on the implementation of the Convention, as reflected in the relevant reports prepared by the Secretariat;<sup>11</sup>

2. *Decides* to establish an interim open-ended intergovernmental working group, in accordance with article 63, paragraph 7, of the Convention, and rule 2, paragraph 2, of the rules of procedure of the Conference of the States Parties, to advise and assist the Conference in the implementation of its mandate on the prevention of corruption;

3. *Also decides* that the working group shall perform the following functions:

(a) Assist the Conference in developing and accumulating knowledge in the area of prevention of corruption;

(b) Facilitate the exchange of information and experience among States on preventive measures and practices;

(c) Facilitate the collection, dissemination, and promotion of best practices in corruption prevention;

(d) Assist the Conference in encouraging cooperation among all stakeholders and sectors of society in order to prevent corruption;

4. *Decides further* that the work of the working group will be subsumed under the work of the Implementation Review Group should the latter decide to establish thematic sub-groups.

5. *Requests* the Secretariat to collect, analyse and disseminate information on good practices in the field of prevention of corruption taking into account existing expertise within the United Nations system and other relevant organizations, focusing particularly on public procurement, management of public financing, integrity and transparency in public administration, awareness raising initiatives and partnerships between the public and private sectors to prevent corruption, and to report on such efforts to the working group;

6. *Strongly encourages* States parties to integrate anti-corruption policies to promote integrity and prevent corruption in broader crime prevention, and criminal justice reform strategies, as well as in public sector reform plans;

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<sup>11</sup> CAC/COSP/2009/12 and CAC/COSP/2009/[...].

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7. *Requests* the Secretariat to collect, analyse and disseminate information on existing regulation models for the public sector, including provision addressing conflict of interest and on professional codes of conduct;

8. *Calls upon* States parties that have not done so to ensure the existence of anti-corruption bodies in accordance with article 6 of the Convention and to strengthen the capacity and independence of such bodies in dealing with the prevention of corruption, to take steps in accordance with the fundamental principles of their legal systems, to safeguard the bodies from undue influence;

9. *Calls* on all States parties who have not yet done so to inform the Secretary-General of the United Nations of the name and address of the authority or authorities that may assist other States parties in developing and implementing specific measures for the prevention of corruption;

10. *Requests* the Secretariat to collect and disseminate information on methodologies including evidence-based approaches for assessing special vulnerabilities of areas in the public sector and the corporate sector which are potentially or recurrently prone to corruption and report on such efforts to the working group;

11. *Calls upon* States parties to promote the business community's engagement in the prevention of corruption by, inter alia, developing initiatives to promote and implement public procurement reform; working with the business community to address practices that generate vulnerability to corruption; identifying elements of optimal self-regulation in the private sector;

12. *Encourages* interested States parties, representatives of private sector entities and relevant international organizations to consult and collaborate with each other in order to share best practices on the alignment of systems of public procurement with the requirements of article 9 of the Convention;

13. *Invites* States parties where appropriate to consider the use of computerized systems to govern public procurement and to track and identify suspect cases, and to consider, in accordance with the fundamental principles of their legal systems, the adoption and use of procedures to prohibit private sector entities involved in corrupt contracting practices from future participation in public tenders;

14. *Urges* States parties to raise public awareness about corruption, and laws and regulations against it as well as about the existing rights and possibilities of the general public to obtain information on the organization, functioning, and decision-making processes of their public administration; and about the responsibilities of public officials with respect to the performance of their functions, with due regard to the protection of privacy and personal data;

15. *Calls upon* States parties to enhance dialogue and synergies with other stakeholders outside the public sector in order to promote the involvement and engagement of such groups in the development and implementation of broader national policies and plans for promoting integrity and preventing corruption;

16. *Calls upon* States parties, consistent with the fundamental principles of their educational and legal systems, to promote at various levels of schooling, educational programmes that instil concepts and principles of integrity;

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17. *Requests* the Secretariat to collect information on best practices for promoting responsible and professional coverage and reporting on corruption, and report thereon to the Working Group;

18. *Calls upon* the Secretariat and national, regional, international donors and recipient countries to intensify their cooperation and coordination in the provision of technical assistance in preventing corruption;

19. *Requests* the Secretariat to strengthen its efforts to make specific information about the Convention and its prevention commitments widely available to schools of public administration, law and criminal justice schools, business schools, academies and training institutions;

20. *Requests* the Secretariat to continue its efforts to assist international organizations with their adoption and implementation of the principles of the Convention, in particular through the Institutional Integrity Initiative, and *encourages* States parties, in their capacity as States Members of public international organizations, to continue promoting and aligning anti-corruption policies and rules of these organizations with the principles of the Convention;

21. *Decides* that the interim open-ended intergovernmental working group referred to in paragraph 2 above shall meet during the sessions of the Conference and, as appropriate, shall hold at least two intersessional meetings within existing resources;

22. *Also decides* that the working group shall submit reports on all its activities to the Conference;

23. *Requests* the Secretariat to assist the working group in the performance of its functions, including by providing interpretation services in all official United Nations languages, within existing resources.



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## **Asset recovery**

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

*Bearing in mind* that the return of assets is one of the main objectives and a fundamental principle of the United Nations Convention against Corruption<sup>12</sup> and that States parties to the Convention are obligated to afford one another the widest measures of cooperation and assistance in that regard,

*Recalling* its resolutions 1/4 and 2/3, in which it established and continued the work of the Open-ended Intergovernmental Working Group on Asset Recovery, welcoming the conclusions and recommendations of the Working Group,<sup>13</sup> and noting with interest the background paper prepared by the Secretariat on the progress made on the implementation of those recommendations,<sup>14</sup>

*Acknowledging* the important progress made towards implementation of chapter V of the Convention, but recognizing that States parties continue to face challenges in asset recovery owing, inter alia, to differences in legal systems, the complexity of multi-jurisdictional investigations and prosecutions, lack of familiarity with mutual legal assistance procedures of other States and difficulties in identifying the flow of corruption proceeds, and noting the particular challenges posed in recovering the proceeds of corruption in cases involving individuals who are or have been entrusted with prominent public functions and their family members and close associates,

*Also acknowledging* the vital importance of ensuring the independence and effectiveness of authorities charged with investigating and prosecuting corruption offences and recovering the proceeds of such crimes, including by establishing the necessary legal framework and allocating the necessary resources,

*Concerned* about the difficulties, particularly practical difficulties, that both requested and requesting States face in asset recovery, taking into account the particular importance of the restitution of these assets for development,

*Calling on* all States parties, acting as both requested and requesting parties, to commit the political will to act together to recover the proceeds of corruption,

1. *Renews* the commitment of all States parties to the United Nations Convention against Corruption<sup>15</sup> to effective national action and international cooperation to recover the proceeds of corruption;

2. *Urges* States parties to take a proactive approach to international cooperation in asset recovery by making full use of the mechanisms provided in chapter V of the Convention, including by initiating requests for assistance, making spontaneous disclosures of information on proceeds of offences to other States parties and considering making requests for notifications, in accordance with article 52, paragraph 2 (b), of the Convention;

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<sup>12</sup> United Nations, Treaty Series, vol. 2349, No. 42146.

<sup>13</sup> CAC/COSP/WG.2/2009/3.

<sup>14</sup> CAC/COSP/2009/7.

<sup>15</sup> United Nations, Treaty Series, vol. 2349, No. 42146.

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3. *Calls on* States parties to give particular and timely consideration to the execution of international mutual legal assistance requests and to ensure that competent authorities have adequate resources to execute requests;

4. *Calls on* all States parties that have not yet done so to promptly designate a central authority responsible for mutual legal assistance requests and to notify the Secretary-General of the designated central authority, as required by article 46, paragraph 13, of the Convention;

5. *Encourages* States parties to promote informal channels of communication, in particular prior to making formal requests for mutual legal assistance, by, inter alia, designating officials or institutions, as appropriate, with technical expertise in international cooperation in asset recovery as focal points to assist their counterparts in effectively meeting requirements for formal mutual legal assistance;

6. *Encourages* those focal points and other relevant experts to come together, at the regional level or according to theme, to promote communication, coordination and development of best practices, including by taking advantage of existing networks<sup>16</sup> to avoid duplication;

7. *Encourages* the further development of initiatives, such as those of the International Criminal Police Organization and similar regional institutions, to provide assistance in asset recovery case development at the request of States parties;

8. *Urges* States parties to ensure that procedures for international cooperation allow for the seizure and restraint of assets for a time period sufficient to preserve assets during the pendency of foreign proceedings, and to expand cooperation in the enforcement of foreign judgements, including through awareness-raising for judicial authorities;

9. *Also urges* States parties to strengthen the capacity of legislators, law enforcement officials, judges and prosecutors on matters relating to asset recovery, and to provide technical assistance in the fields of mutual legal assistance; confiscation matters, including criminal confiscations and, where appropriate, non-conviction-based forfeiture, in accordance with national legislation; and civil proceedings;

10. *Encourages* States parties to remove barriers to asset recovery, including, inter alia, by simplifying and preventing the abuse of their legal procedures;

11. *Also encourages* States parties to limit, where appropriate, domestic legal immunities, in accordance with their legal systems and constitutional principles;

12. *Further encourages* States parties to remove additional barriers to asset recovery by ensuring that financial institutions adopt and implement effective

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<sup>16</sup> Including, but not limited to, the Camden Assets Recovery Inter-Agency Network, the Hemispheric Information Exchange Network for Mutual Assistance in Criminal Matters and Extradition of the Organization of American States, the Lausanne process, the Red Iberoamericana de Cooperación Jurídica Internacional, the International Centre for Asset Recovery, the European Judicial Network, the Rede de Cooperação Jurídica e Judiciária Internacional dos Países de Língua Portuguesa, the Global Legal Information Network and other similar networks.

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standards of customer due diligence and the identification of beneficial ownership and by establishing effective procedures for financial disclosure;

13. *Urges* further study and analysis of, inter alia, the results of asset recovery actions and, where appropriate, how legal presumptions, measures to shift the burden of proof and the examination of illicit enrichment frameworks could facilitate the recovery of corruption proceeds;

14. *Urges* States parties to document and disseminate successful asset recovery experience and to work in partnership with relevant international bodies to promote awareness of the positive development impact of asset recovery;

15. *Requests* the Working Group to consider the existing and developing body of studies for the development of best practices in asset recovery, including but not limited to, the studies of the Stolen Asset Recovery initiative;

16. *Urges* States parties to promote the use of modern information and communications technologies to expedite asset recovery operations;

17. *Decides* that the Working Group shall continue its work to advise and assist the Conference in the implementation of its mandate on the return of the proceeds of corruption and shall hold at least two meetings prior to the fourth session of the Conference, within existing resources;

18. *Requests* the Secretariat to assist, within existing resources, the Working Group in the performance of its functions, including by providing interpretation services in the six official languages of the United Nations.

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## **Venue for the fourth and fifth sessions of the Conference of the States Parties to the United Nations Convention against Corruption**

The Conference of the States Parties to the United Nations Convention against Corruption, recalling General Assembly resolution 47/202 A of 22 December 1992, on the pattern of conferences, taking into consideration rule 3, paragraph 2, and rule 6 of its rules of procedure, and welcoming the offer by the Government of Morocco to act as host to the fourth session and the Government of Panama to host the fifth session of the Conference, decides that its fourth session will be held in Morocco in 2011 and its fifth session will be held in Panama in 2013.

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