

Note:

By the same resolution by the third session of the Conference of the States Parties to the United Nations Convention against Corruption, held in Doha, Qatar, from 9 to 13 November 2009 which adopted terms of reference of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption, draft guidelines for governmental experts and the secretariat and a draft blueprint for country review reports, were submitted for finalization to the Implementation Review Group of the Mechanism.

In order to finalize these two documents, the Secretariat was requested to prepare a document which would clearly indicate where changes to the draft guidelines and blueprint that were included in the note by the Secretariat entitled “Recommendations of the Open-ended Intergovernmental Working Group on Review of the Implementation of the United Nations Convention against Corruption (CAC/COSP/2009/6)” were made by a proposal from Egypt, Pakistan, Iran (Islamic Republic of), Venezuela, Zimbabwe, Algeria and Indonesia. This document is attached.

## 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.

#### II. Specific guidance

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### **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>b</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.
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.

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

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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.

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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.

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.~~

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~~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.~~

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### **Optional: 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 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.

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## **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 self-assessment checklist [omnibus survey] 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].

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

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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.]

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### **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].

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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].

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#### **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.].

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

Article [number of article]

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[title of article]

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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**

12. [Information provided by the State under review through the self-assessment checklist 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]

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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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[Where agreed, an action plan formulated on the basis of the findings and recommendations contained in the report on the implementation of the Convention and of the priorities and technical assistance needs that have been identified, if any]¶

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the experts are expected to

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Within one month of the establishment of the review teams, the experts are expected to actively participate in a telephone conference or videoconference to be organized by the Secretariat.

10. During that conference, the experts are expected to discuss the initial analysis of the self-assessment checklist and areas identified as requiring further clarification and information.

11. Experts are further expected to take a decision on how to allocate tasks and issues among the members of the review team, taking into account the experts' respective fields of competence.

12. Within two weeks after the telephone conference or videoconference, the experts are expected to request the Secretariat in writing for any additional information sought and specific questions to be forwarded to the State under review.

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phase should last no more than

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Secretariat and be conducted through various means

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the focal points appointed by the State

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communication.

15. Throughout the process, the experts are expected to take note of the information and material provided, including that provided by e-mail and during telephone conferences, videoconferences and face-to-face meetings.

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16. Within one month of the end of the dialogue phase, the experts are expected to provide their analysis in writing to the Secretariat. In

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shall contain the experts' findings, observations and recommendations.

18. The analysis

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report shall be concise, factual and

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recommendations suggested

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has been brought in line with

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will also be expected to

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and to make observations on any gaps in

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in identifying possible components for a national action plan that would

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, including possible areas that would benefit from the provision of technical assistance

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Once the experts' contributions have been received, the Secretariat will prepare a first draft implementation review report, based on the draft blueprint. The experts will be invited to comment on the first draft report within two weeks of receiving it.

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The Secretariat will prepare a version of the draft report that has been amended to reflect further comments from the experts. That draft report will be sent to the State under review.

24. Once comments from the State under review have been received, the Secretariat will provide the experts and the State under review with the draft report incorporating those comments.

[Optional: C. Country visit

25. As part of the constructive dialogue, the State under review may decide, in consultation with the experts and on the basis of the draft report, to complement and extend the constructive dialogue by requesting a country visit. Such a visit may be carried out in order to enhance the analysis of information provided and/or to assist the State under review in identifying priorities and actions, as well as technical assistance, necessary for improving implementation of the Convention, thus facilitating the State's efforts to develop a national action plan.

26. If it is decided that a country visit will be carried out, the State under review will plan and organize the visit. While the Secretariat will facilitate all practical arrangements, including tickets and accommodation, the experts will be expected to take all necessary measures from their side to participate in the country visit, i.e. ensure they have the required vaccinations and prophylactics, as well as the necessary visa.

27. During the country visit, the experts are specifically encouraged to uphold the principles and standards outlined in section I of these guidelines. In particular, the following shall be kept in mind throughout the country visit:

(a) When seeking additional information and asking for clarification, the experts are to bear in mind the non-adversarial, non-intrusive and non-punitive character of the review and that the overall goal is to assist the State under review in fully implementing the Convention;

(b) The experts are expected to actively and constructively participate in all meetings, including internal debriefings at the end of each working day and at the end of the country visit;

(c) The experts are expected to be respectful and courteous in meetings by abiding to time frames set in the programme and allowing time for all members of the review team to participate. At the same time, experts are asked to be flexible since the programme may change during the visit;

(d) The experts are encouraged to respect the collective approach of the review team and the State under review, and to be courteous towards other members of the review team;

(e) Questions should seek to complement information already provided by the State under review and only relate to the process of reviewing the implementation of the Convention. The experts should, therefore, remain neutral and avoid voicing personal opinions during meetings;

(f) The experts are expected to take notes during all meetings and to be able to refer to those notes when producing the final report. They are expected to share their opinions and preliminary findings during debriefings and in writing within two weeks after the end of the country visit.

28. Once the experts' comments have been received, the Secretariat will prepare an amended draft report, taking into account the additional information received during the country visit. The experts

will be invited to comment on that draft report within two weeks of having received it.

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5. Each State party shall be reviewed by two other States parties. The review process shall actively involve the State under review. As an initial step, each State party shall provide the Secretariat with the information required by the Conference on compliance with and implementation of the Convention, using the self-assessment checklist developed by the Secretariat.

6. The review team shall carry out a desk review of the responses provided by the State under review to the self-assessment checklist. That desk review shall include an analysis of the responses focused on the identification of normative gaps, as well as of technical assistance and capacity-building needs.

7. Throughout the review process, members of the review team shall engage in a constructive dialogue by discussing preliminary findings, requesting clarifications or additional information and addressing additional questions related to the review. Such a dialogue should be conducted by way of conference calls, videoconferences and e-mail exchanges, as required and facilitated by the Secretariat.

8. All States parties are subject to review through the mechanism, which will gradually cover the implementation of the entire Convention. Phases and cycles of the review process, as well as the scope, thematic sequence and details of such review, have been established by the Conference. The Conference has also established the number of States parties participating in each year of the review cycle.

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11. The action plan contained in the annex to the present report is based on the constructive dialogue [*optional:* and on the outcome of the country visit].

