



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

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Review of the implementation of the United Nations Convention against Corruption

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

Note by the Secretariat

At its meeting held in Vienna from 25 August to 2 September 2009, the Open-ended Intergovernmental Working Group on Review of the Implementation of the United Nations Convention against Corruption requested the Secretariat to develop, for consideration by the Conference of the States Parties to the United Nations Convention against Corruption, at its third session, draft uniform guidelines for experts reviewing implementation of the United Nations Convention against Corruption.¹ The Working Group also requested the Secretariat to develop a draft blueprint for country reports, with a view to ensuring consistency among the reports drafted by different States (CAC/COSP/2009/2, paras. 2 and 11). The draft guidelines for experts reviewing implementation of the Convention are contained in annex I to the present note and the draft blueprint is contained in annex II.

* CAC/COSP/2009/1.

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



Annex I

Draft guidelines for experts reviewing implementation of the United Nations Convention against Corruption

I. General guidance

1. Throughout the review process, the experts shall be guided by the principles of both the United Nations Convention against Corruption² and the review mechanism.
2. In particular, the experts are requested to 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, the experts are expected to carry out the reviews in full recognition of the purpose of the review process, as specified in paragraph 11 of the terms of reference (CAC/COSP/2009/3), which is to assist States parties in their implementation of the Convention.
4. In all interactions during the review process, the experts are expected to respect the collective approach of the review team. Experts are to act with courtesy and diplomacy and to remain objective and impartial. They need to be flexible in their approach and ready to adapt to changes in the review process and schedules.
5. It is expected that the experts will respect the confidential nature of the evaluation, documents and information provided.
6. It is also expected that the experts will make an independent assessment of the implementation of the Convention. While information generated through other anti-corruption bodies is to be taken into account, the experts are expected to make their own analysis of the facts provided in order to present findings that are in line with all the specific requirements of those provisions of the Convention which are under review.
7. Throughout the review process, the experts are encouraged to contact the Secretariat for any assistance as required.

II. Specific guidance

A. Preparatory stage

8. The experts are expected to prepare themselves for the review process by doing the following:
 - (a) Studying thoroughly the Convention;

² United Nations, *Treaty Series*, vol. 2349, No. 42146.

(b) Reading the *Legislative Guide for the Implementation of the United Nations Convention against Corruption*,³ 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 I to the present guidelines;

(d) Reviewing the responses provided by the State party under review in the self-assessment checklist and accompanying documentation, in particular the information pertaining to those articles that are the subject of the relevant review cycle;

(e) Taking note of other sources of information, in particular information emanating from other anti-corruption review bodies;

(f) Informing the Secretariat of the need for additional information and material, if that is the case;

(g) Highlighting issues requiring further clarification;

(h) Familiarizing themselves with the issues addressed by the State party under review and formulating questions and comments.

B. Constructive dialogue

9. 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.

13. Constructive dialogue is key to the efficiency and effectiveness of the review process. In order to ensure the timely completion of the review, the constructive dialogue phase should last no more than three months, starting with the telephone conference or videoconference. During that period, dialogue shall be facilitated by the Secretariat and be conducted through various means, including e-mail, telephone conference, videoconference and face-to-face meetings.

14. While the experts are encouraged to establish open lines of communication with the other members of the review team and the focal points appointed by the State under review, experts are also urged to keep the Secretariat abreast of all communication.

³ United Nations publication, Sales No. E.06.IV.16.

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.
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 preparing the analysis, the experts are asked to avoid duplicating text 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. Abbreviations and acronyms shall be spelled out when first used.
17. In line with the structure of the draft blueprint on review of the implementation of the Convention, the country report shall contain the experts' findings, observations and recommendations.
18. The analysis contained in the report shall be concise, factual and include solid reasoning for the conclusions drawn and recommendations suggested for each article of the Convention under review.
19. Depending on the scope of the review cycle, the experts will be expected to include findings with respect to the way in which national law has been brought in line with each article of the Convention and to the implementation of the articles in practice.
20. The experts will also be expected to identify any successful measures and good practices and to make observations on any gaps in implementation.
21. At the request of the State under review and as required, the experts may also be asked to assist the State under review in identifying possible components for a national action plan that would allow the State to fully and effectively implement the Convention, including possible areas that would benefit from the provision of technical assistance.
22. 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.
23. 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.

29. The Secretariat will prepare an amended version of the draft report reflecting additional comments from the experts. That draft will be sent to the State under review.

30. Following comments from the State under review, the Secretariat will provide the experts and the State under review with the draft report incorporating those comments.]

D. Finalizing the report on the implementation of the Convention

31. As required, the Secretariat will organize a telephone conference or videoconference to bring together the review team and the experts from the State under review. During that conference, the experts will be expected to briefly introduce their parts of the report and be able to explain the findings, observations and recommendations contained in them.

32. The experts will also be expected to have thoroughly read the most recent draft of the report on the implementation of the Convention, in which the comments by the State under review have been reflected, in order to be able to agree on the wording to be used in the final version of the report.

[Annex I

Substantive background information relevant to the articles under review

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

[Annex II

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]]

Annex II

Draft blueprint: 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, a mechanism for review of the 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 mechanism is based on guiding principles contained in Conference resolutions 1/1 and 2/1. In order to achieve its goal, self-assessment, peer and group review methods to review the implementation of the Convention are combined in the mechanism.
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.

II. Process

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

[*Optional*: 10. A country visit was conducted from [*date*] to [*date*].]

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].

III. Executive summary

[*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

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

13. The implementing legislation, in other words the [*title of act ratifying the Convention*], was adopted by Parliament 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*]

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

C. Implementation of selected articles

Article [number of article]. [Title of article.]

[Text of the article, block indented]

[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

[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

[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 of the Convention, as well as to the implementation of the article in practice]

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

(c) Successful experiences and good practices

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

(d) Identification of gaps in implementation, where applicable

[Any gaps in implementation and relevant observations]

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

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

Annex

Action plan

[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]