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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**

**Addendum**

**Proposals and contributions received from Governments**

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\* CAC/COSP/2009/1.



## **I. Introduction**

In information circular CU 2009/145 of 25 September 2009, Member States were invited to provide comments on the recommendations of the Open-ended Intergovernmental Working Group on Review of the Implementation of the United Nations Convention against Corruption (CAC/COSP/2009/6). The present document was prepared by the secretariat on the basis of the replies received.

## **II. Proposals and contributions received from Governments**

### **Egypt (on behalf of Algeria, Indonesia, Iran (Islamic Republic of), Pakistan, Venezuela (Bolivarian Republic of) and Zimbabwe)**

[Original: English]  
[20 October 2009]

#### **Revised guidelines for governmental experts and the secretariat participating in the conduct of the country review**

##### **A. 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 review mechanism.
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 (CAC/COSP/2009/3).
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 confidential 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 against Corruption. While information generated through competent international organizations whose mandate covers 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, as required.

## **B. 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>1</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 I 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

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<sup>1</sup> United Nations publication, Sales No. E.06.IV.16.

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/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 introduced 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 overcome 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 as well as 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.

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.

#### **Annex I. 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 II. Blueprint country review report**

### **El Salvador**

[Original: English and Spanish]  
[27 October 2009]

With respect to annex I (Draft guidelines for experts reviewing implementation of the United Nations Convention against Corruption), El Salvador has no comments.

With respect to 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*]), it would be appropriate to propose the time that each stage of evaluation would take. Additionally, in paragraph 11, it seems that the action plan will always be part of the country report, contrary to the proposal contained in paragraph 21 of annex I, in which it is expressed that such action plan is given only at the request of the State under review or when necessary. Likewise, El Salvador hereby requests that it be taken into consideration that there may be countries that already have their own action plan for compliance with these and other relevant instruments to which they are also party.

## **Iran (Islamic Republic of)**

[Original: English]

[15 October 2009]

Taking into account the draft uniform guidelines prepared by the secretariat, it is clear that comments on the text would only be appropriate when the terms of reference for the United Nations Convention against Corruption review mechanism are concluded. Nonetheless, the general view of the Islamic Republic of Iran is as follows:

- (a) Uniform guidelines would be inspired by the same concepts as in the final terms of reference and shall include regulations regarding pertinent articles;
- (b) It shall have a binding nature whereby its violation may lead to consequences elaborated in the guidelines;
- (c) It would also include the secretariat;
- (d) It will be endorsed by the Conference of the States Parties.

However, flexibility might be given to specific parts of the guidelines to be adopted by the open-ended intergovernmental implementation review group.

## **Jordan**

[Original: English]

[13 October 2009]

The draft guidelines for experts reviewing the implementation of the United Nations Convention against Corruption are based on the implementation mechanism for the review of the Convention, while at the same time many issues in the review mechanism should be approved by the Conference of the States Parties first. Accordingly, the Government of Jordan believes that the review mechanism should be approved first, and then the draft guidelines should be approved, bearing in mind especially that the role of the secretariat in the review process has not been determined yet, including whether it will provide the logistical facilities or prepare the preliminary reports upon the self-assessment checklist. In summary, it would be difficult to determine the role of the secretariat in the draft guidelines before determining its role in the mechanism.

In paragraph 22, it is pointed that “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.” The experts are thus asked to comment on the report within two weeks. In this regard, the Government of Jordan suggests a timetable for the review process that gives enough flexibility to the review process experts. In making that determination, two weeks for the experts’ comments might not be sufficient and do not provide the required flexibility.

In paragraph 25, under “Country visit”, it is indicated that, “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”. Therefore, the guidelines give

only the country under review the right to decide on the country visit, while the decision for the country visit should be determined by the experts in order to continue the evaluation process, provided that the visit takes place with the consent of the country under review.

The guidelines do not determine the process of selecting the review experts, or their conditions and requirements. Also, who would select the national experts? There is also not a determination of the mechanism of selecting the national experts for evaluating other countries.

## **Norway**

[Original: English]  
[15 September 2009]

With reference to information circular CU 2009/145, Norway would like to inform the secretariat that, due to the technical nature of the draft guidance for governmental experts participating in the review process and the draft country report blueprint, its position is that these documents do not need to be negotiated by the Conference of the States Parties. The secretariat should be requested to make the necessary changes reflecting the relevant decisions made by the Conference.

As regards the content of the draft guidelines, experience from the review process in the pilot project has shown the great importance of clear deadlines and Norway is pleased to see that this has been taken into account when drafting the guidelines. However, it is concerned that the overall workload placed on the experts is too extensive and it would propose expanding and more clearly defining the role of the secretariat in the guidelines. More precisely, it suggests that the secretariat be assigned a vital role in collecting and drafting the factual as well as the “analytical” parts of the report, with the necessary input from experts. This would ensure consistency, as well as timely and adequate expert participation. Furthermore, it is concerned that bilateral communication in this process could facilitate misunderstandings and make it more difficult to execute a comprehensive review. Norway would therefore propose that all communications go through the secretariat.

As regards the draft blueprint, Norway raises the question whether it would be appropriate to include the issue of effectiveness (law enforcement etc.) as subparagraph (e) or a subcategory to (d) in the executive summary.

## **Sweden (on behalf of the States Members of the United Nations that are members of the European Union)**

[Original: English]  
[2 October 2009]

With reference to information circular CU 2009/145, the Presidency of the European Union, on behalf of the member States of the European Union, and the European Commission, on behalf of the European Community, would like to inform the Secretariat that they regard the draft guidance for governmental experts and the draft country report blueprint as technical papers drawn up by the secretariat within its mandate. Therefore, they should not be negotiated by the Conference of the

States Parties. The European Union can accept the drafts as they are. The European Union expects the papers to be adapted by the secretariat by taking into account, inter alia, experience gained during the review process.

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