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

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**Review of implementation of the United Nations
Convention against Corruption**

Draft outline of the flow of questions and the proposed thematic structure of the revised self-assessment checklist for reviewing chapters II (preventive measures) and V (asset recovery) of the United Nations Convention against Corruption

Note by the Secretariat

Summary

   The present document aims to provide the Conference with a draft outline of the flow of questions and the proposed thematic structure of the revised self-assessment checklist for reviewing chapters II and V of the United Nations Convention against Corruption, on preventive measures and asset recovery. The full self-assessment checklist is being circulated to Member States in English only (CAC/COSP/2013/CRP.6). Both documents are submitted with a view to soliciting comments to be taken into account when finalizing the revised version of the self-assessment checklist for the second cycle of the Implementation Review Mechanism for the Convention.

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   * CAC/COSP/2013/1.

Please recycle

I. Introduction

1. The Mechanism for the Review of Implementation of the United Nations Convention against Corruption has fostered dialogue and cooperation, at both the national level and internationally. On a national level, gathering the relevant information for completing the self-assessment checklist has encouraged States parties to enhance inter-agency dialogue, cooperation and coordination through the establishment of dedicated steering committees and workshops for the validation of the information. Many States parties have thus involved a wide range of stakeholders already at the early stage of completing the checklist.

2. The self-assessment process has also brought new opportunities to refine and enhance national data collection in areas directly relevant for national policy development, by making use of existing national and international research, assessments and statistics, while at the same time seeking to identify how these can be improved and complemented. If data were scattered, the process of completing the checklist provided an excellent opportunity to develop a more sustainable data collection system.

3. These positive aspects of the self-assessment process will become even more relevant when reviewing chapters II and V of the Convention in the next review cycle. Chapter II in particular will require the involvement of a broad range of Government departments and will benefit greatly from the participation of other stakeholders. At the same time, the findings of the reviews of these two chapters must be owned by a wide range of actors and will be important for development partners when they are supporting public sector reform projects that go beyond the criminal justice sector.

4. The breadth of chapters II and V and, in particular, the comprehensive scope of chapter II on prevention, has led to a dialogue on the scope of the next cycle of the Review Mechanism and whether new tools need to be developed for providing guidance to States to review chapter II effectively. In particular, based on the experience gained in reviewing chapters III and IV, the wealth of information, data and documentation generated and subject to review (and in many cases translation) has become a concern.

5. Drawing on the experience gained with the checklist in reviewing chapters III and IV, a new, revised version of the checklist is being drafted, reducing substantially the number of questions, avoiding having three strings of questions and providing guidance on the information sought for each paragraph or article in short guidance boxes. The attachment function at the level of articles and paragraphs will be removed and respondents will instead be encouraged to provide concrete citations and summaries of their relevant legislation or implementation measures. Based on feedback received in the first cycle, the checklist is expected to be made available also as a Word document and as a web-based tool to provide States parties with a choice of technology that works best for them.

6. A first draft of the full series of questions is being made available to States parties for comments (CAC/COSP/2013/CRP.6), particularly with regard to how useful the questions are in terms of soliciting the required information without placing an unnecessary burden on reviewed and reviewing States. Further guidance

is sought on the thematic clustering to ensure that this approach would not prejudice the quality and depth of the reviews.

7.   Several States parties have already approached the secretariat wanting to test the draft new version of the checklist on a voluntary basis and to provide detailed feedback on the content of the questions and guidance boxes.

8.   In order to provide States parties with an opportunity to comment on the flow of the questions, the present note sets out the structure of the proposed revised checklist, focusing on one article from each chapter to be reviewed, as well as the general information questions.

II. Structure

I.   General information

II.   Thematic areas

    A.   Prevention (arts. 5-13)

    B.   Money-laundering (arts. 14, 52 and 58)

    C.   Asset recovery (arts. 53-57 and 59)

I. General information

Focal point	Name and position
Institutions consulted	List institutions consulted

1.   Please provide information on the ratification of the United Nations Convention against Corruption in your country.

Guidance: Information sought is the date your country ratified the Convention and the date of deposit of the instrument of ratification with the Secretary-General of the United Nations. This information may be available in the report of the first review cycle, which focused on chapters III and IV of the Convention.

2.   Please briefly describe the legal and institutional system of your country.

Guidance: Information sought relates to the legal system in place in your country (common law, civil law, mixed or other system), the status of judicial decisions, the hierarchy of laws, etc.

Further information relates to the status of the Convention in your country's legal system, whether the Convention is "self-executing" and can be applied directly, or whether it needs implementing legislation.

Further information sought is the type of criminal process in your country (accusatory, inquisitory, mixed) and the structure and main phases of the criminal process.

Finally, the most important institutions responsible for the fight against corruption are of interest (mandate, staffing, structure, challenges, etc.).

3.   Please provide a list of relevant laws, policies and/or other measures that are cited in the responses to the self-assessment checklist and send them as attachments to a separate e-mail addressed to the secretariat. If available, please also provide as attachments versions in any other official language of the United Nations (Arabic, Chinese, English, French, Russian or Spanish).

4.   If applicable, please attach also by separate e-mail relevant draft bills, policies and measures that you want to be taken into account in the review.

5.   Please provide any available assessments of anti-corruption measures taken by your country.

Guidance: Information to be included here could be gap analysis reports, reports of other international and regional review mechanisms, and policy studies, both at the national and international level.

6.   Please describe the process that you used to compile the information.

Guidance: Please describe sources of information and institutions involved in completing the checklist, from both the public and private sector/civil society, consultative processes held, e.g., validation workshops, etc.

II. Thematic areas

A. Prevention (arts. 5-13)

Article 5: Preventive anti-corruption policies and practices

Paragraph 1

> 1. Each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability.

1. Please describe (cite and summarize) the applicable measure(s).

Guidance: In summarizing the implementation of this provision, you may wish to cite and describe measures that:

- Set forth the national anti-corruption strategy and action plan, if they exist
- Provide for inter-institutional policies and how they were developed, including the extent of participation of civil society, the private sector, professional associations and/or academia
- Show that national policies are implemented in accordance with the rule of law, respect the principles of proper management of public affairs and property and are implemented with integrity, transparency and accountability
- Set forth how the implementation of such policies is effectively coordinated
- Require that such policies are subject to evaluation in terms of their effectiveness

2. Please provide examples of implementation.

Guidance: Specific information sought includes:

- Progress reports concerning the implementation of the national anti-corruption strategy and/or action plan
- Other annual reports or public reports on the state of corruption prevention and detection
- Evaluation reports of the effectiveness of measures taken to prevent and detect corruption
- Studies or measurements of corruption
- Public perception surveys of the extent of corruption in various sectors
- Risk assessments of areas or sectors particularly susceptible to corruption

[…]

B. **Money-laundering (arts. 14, 52 and 58)**

Article 14: Measures to prevent money-laundering

Subparagraph 1 (a)

1. Each State Party shall:

(a) Institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions, including natural or legal persons that provide formal or informal services for the transmission of money or value and, where appropriate, other bodies particularly susceptible to money-laundering, within its competence, in order to deter and detect all forms of money-laundering, which regime shall emphasize requirements for customer and, where appropriate, beneficial owner identification, record-keeping and the reporting of suspicious transactions;

1. **Please describe (cite and summarize) the applicable policies, practices and measures.**

Guidance: Specific information sought includes:

- Information on anti-money-laundering regulatory and supervisory regimes
- List of the relevant institutions subject to the regimes
- List of relevant regulatory and supervisory authorities
- List of major relevant anti-money-laundering requirements

You may wish to include information on guidance notes (including for monitoring and detecting money-laundering), advisories, training, compliance reviews and sanctions for non-compliance, as well as whether you have conducted a money-laundering risk assessment.

[Link to StAR study: The Puppet Masters: How the Corrupt Use Legal Structures to Hide Stolen Assets and What to Do About It]

2. **Please provide examples of implementation.**

Guidance: Specific information sought includes:

- Training conducted (including for monitoring transactions and detecting suspicious ones)
- Compliance reviews (scope and frequency)
- Sanctions issued for non-compliance (statistics for the past 3 years)

If available, please provide statistical information for the past three years, including the number of suspicious transaction reports, the related underlying offences and the outcome of analysis of suspicious transaction reports, as well as information on whether those reports were referred to competent authorities for investigation/prosecution or not.

[...]

C. Asset recovery (arts. 53-57 and 59)

Article 53: Measures for direct recovery of property

Subparagraph (a)

Each State Party shall, in accordance with its domestic law:

(a) Take such measures as may be necessary to permit another State Party to initiate civil action in its courts to establish title to or ownership of property acquired through the commission of an offence established in accordance with this Convention;

1. Please describe (cite and summarize) the applicable measure(s).

Guidance: Information sought includes legislation providing legal standing of other States parties and permitting them to initiate civil action in the courts of your country to establish title to or ownership of property acquired through the commission of an offence established in accordance with the Convention.

General resources on chapter V

[Link to StAR Asset Recovery Handbook: A Guide for Practitioners]

[Link to StAR study: Barriers to Asset Recovery: An Analysis of the Key Barriers and Recommendations for Action]

[Link to StAR study: Towards a Global Architecture for Asset Recovery]

[Link to OECD and StAR study: Tracking Anti-Corruption and Asset Recovery Commitments: A Progress Report and Recommendations for Action]

[Link to Digest of Asset Recovery Cases (forthcoming)]

[Link to Settlements Study (forthcoming)]

Specific resources on article 53

[Link to OECD and StAR study: Identification and Quantification of the Proceeds of Bribery: A Joint OECD-StAR Analysis]

2. Please provide examples of implementation, including related court or other cases.

Guidance: Information sought includes cases and statistical or other evidence which clearly demonstrate that there are no obstacles to another State launching such civil litigation. Case examples where this has happened would be especially helpful. If available, please include statistics for the past three years.

[…]

Technical assistance

At the end of each article in the thematic areas, the following set of questions on technical assistance will be included:

1.   Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.

Guidance: Required actions could include the passing of a law and a time frame to do this. Related challenges could include inter-agency coordination, specificities in the legal system, competing priorities, limited capacity (e.g., technological, institution, other), limited resources for implementation (e.g., human, financial, other), lack of a policy framework, and limited expertise and skills. Please be specific, if possible, in describing the issues.

2.   Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:

Legislative assistance: Please describe the type of assistance

Guidance: The forms of legislative assistance should relate to the responses provided under this article, as well as any challenges identified for the implementation of this article. Specific forms of legislative assistance might include, e.g., model arrangements and agreements, legal drafting and/or advisory support.

Institution-building: Please describe the type of assistance

Guidance: The forms of institution-building should relate to the responses provided under this article, as well as any challenges identified for the implementation of this article. Specific forms of assistance in the area of institution-building might include, e.g., summary of good practices and lessons learned, model arrangements and agreements, on-site assistance by a relevant expert and/or mentoring, as well as the development of an action plan for implementation.

Policymaking: Please describe the type of assistance

Guidance: The forms of policymaking should relate to the responses provided under this article, as well as any challenges identified for the implementation of this article. Specific forms of assistance in the area of policymaking might include, e.g., summary of good practices and lessons learned, sensitization of decision-making bodies, on-site assistance by a relevant expert and/or mentoring.

Capacity-building: Please describe the type of assistance

Guidance: The forms of capacity-building should relate to the responses provided under this article, as well as any challenges identified for the implementation of this article. Specific forms of assistance in the area of capacity-building might include, e.g., on-site assistance by a relevant expert and/or mentoring, strengthening the operational and/or institutional capacities of relevant authorities through training and online learning, development of an action plan for implementation.

Others: Please specify

Is any technical assistance already being provided?

Guidance: If you are receiving or have received such assistance, please provide details, including on the assistance provider, description of core objectives, duration, budget, results and impact. Please include information on technical assistance being provided in the most generic way so as to also capture projects that do not directly fit into the anti-corruption category but that address aspects relevant for the implementation of the Convention against Corruption. Please also indicate whether the extension and/or expansion of such assistance would help your country to adopt the measure(s) described in the article under review.

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