



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

Views of States parties on the performance of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption

Note by the Secretariat

Summary

The present note is aimed at providing a succinct analysis of the views expressed by States parties to the United Nations Convention against Corruption on the performance of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption. It should be read in conjunction with conference room paper CAC/COSP/2021/CRP.3, which contains the views of States parties, in the form in which they were submitted to the secretariat, on the performance of the Mechanism.

I. Introduction

1. In its resolution 8/2, the Conference of the States Parties to the United Nations Convention against Corruption acknowledged that continuing the process of evaluation of the performance of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption before the completion of the second review cycle on the basis of the experiences gained in the first review cycle could significantly contribute to useful outcomes, and that that process should be started without prejudice to any subsequent continuation of such work following the completion of the second review cycle. In the same resolution, the Conference requested the Implementation Review Group to continue to collect, with the support of the secretariat, relevant information, including the views of States parties, pertaining to the performance of the Implementation Review Mechanism, with a view to continuing, at the appropriate time, the Group's assessment of the performance of the Mechanism, as provided for in paragraph 48 of the terms of reference of the Mechanism and Conference decision 5/1, and in that regard to continue to report to the Conference on progress made, bearing in mind the request in paragraph 5 of

* [CAC/COSP/2021/1](#).



Conference resolution 3/1 for the evaluation of the terms of reference at the conclusion of each review cycle.

2. In a note verbale dated 18 August 2021, the secretariat invited States parties to the Convention to submit their views, if any, on the performance of the Implementation Review Mechanism, in particular on the conduct of country reviews, the outcomes of country review processes and follow-up procedures, including views on good practices and/or challenges identified in the conduct of the country reviews, the model schedule for country reviews and the role of the secretariat as set out in the terms of reference of the Mechanism, as well as any other issues that they deemed relevant.

3. As at 7 October 2021, views had been received from the following 26 States parties: Albania, Argentina, Belarus, Bhutan, Chile, China, Cuba, Czechia, France, Italy, Madagascar, Mexico, Morocco, Myanmar, Nicaragua, Niger, Norway, Panama, Peru, Poland, Qatar, Republic of Moldova, Russian Federation, Senegal, United Arab Emirates and United States of America.

4. The present note is aimed at providing a succinct analysis of the views expressed by States parties in their responses to the aforementioned note verbale, as well as general observations, information received on reforms undertaken at the national level and comments in relation to possible ways forward following the end of the first review phase.

5. The present note should be read in conjunction with conference room paper CAC/COSP/2021/CRP.3, which contains all of the views submitted by States parties on the performance of the Implementation Review Mechanism, in the form in which they were received, including any received after 7 October 2021.

II. Summary of comments received from States parties

General observations

6. Several States parties provided information on their participation in the Implementation Review Mechanism both as States parties under review and reviewing States parties. They reaffirmed the positive role of the Mechanism in effectively promoting the implementation of the Convention and reiterated their support for it, with some States parties stressing that the Mechanism was well designed, well functioning and efficient. States parties furthermore indicated that the Mechanism provided important support for enhancing the effectiveness of anti-corruption measures of States parties and for improving compliance with the provisions of the Convention. It was also noted that the Mechanism was instrumental in strengthening institutional cooperation and coordination among law enforcement authorities at the domestic level, as well as in deepening cooperation in anti-corruption efforts at the international level. Several States parties expressed appreciation for the role of the secretariat in assisting States parties in the implementation of the Convention and in facilitating the review process and the exchange of information and good practices.

Conduct of country reviews: good practices, challenges and proposals

7. With regard to the preliminary stages of the review process, one State party proposed to modify the process for the drawing of lots to enable the selection of States parties having similar or comparable legal systems and located in the same geographical area, which would help to expedite the review process and improve the quality of observations.

8. Another State party recommended that the agenda for the initial teleconference should address all of the points of discussion between the States parties involved and that the suitability of governmental experts should be ensured.

9. Some States parties recommended that the self-assessment checklist be simplified and shortened so that it focused on the core issues of the Convention, with additional information being provided during the country visit.
10. It was further recommended that States parties under review be encouraged to cooperate with the reviewing States parties in providing legislation, rules and regulations upon request, and that experts of reviewing States parties be provided with recent reports of other review mechanisms.
11. Some States parties indicated that on-site country visits formed an important part of the review process and referred to difficulties associated with country visits held in an online or hybrid (in person and online) format. Other States parties stressed that country visits, whether online or in person, were instrumental in complementing the desk review and enabled review teams to develop a more robust understanding of challenges and best practices, while also noting that States parties under review should identify the relevant stakeholders well in advance of country visits and ensure their participation.
12. One State party indicated that the presentation of the findings from the country reviews could be improved and noted that a modern, user-friendly platform enabling searches by topic would be more efficient and useful.
13. One State party observed that, because developments subsequent to the country visit were not taken into account, that could lead to the final review report and the executive summary containing outdated information. It also indicated that clearer reasons for the choices made in identifying successes and good practices should be provided and that such choices should be informed by direct exchanges between the States parties under review and reviewing States parties.
14. One State party recommended that country review reports incorporate updated data and information on legislative advances and new institutional efforts in the implementation of the Convention, as provided by Governments, so that the reports contained the most current information.
15. One State party referred to the long periods of time that elapsed between the country visits and the preparation of the final country review reports, which, in turn, had an impact on the usefulness of the findings of the review process.
16. Some States parties recommended that the draft country review report be finalized prior to the approval of the executive summary, while another suggested that a word limit be set for country review reports.
17. Another State party recommended that detailed guidelines be developed in order to improve the quality of country review reports and to strike a balance between reports that are overly detailed and summaries that are too brief.
18. One State party listed a number of practices it had adopted both as a State party under review and as a reviewing State party, which included providing specialized training to governmental experts participating in the review, preparing its responses to the self-assessment checklist in advance of the actual start of the review and dividing the articles of the Convention among the reviewing experts in accordance with each individual's expertise.
19. One State party noted that it had benefited from the ability to draw on its responses to other review bodies when completing its response to the self-assessment checklist for the Implementation Review Mechanism.
20. Some States parties noted the importance of having a transparent multi-stakeholder consultation process, and one State party suggested that the views of civil society and private sector stakeholders should be sought through interviews and be included in the reports in order to get a more accurate picture of the problem. One State party noted that country review reports should be made public as a general rule. One State party noted that it was promoting the participation of stakeholders in the Implementation Review Group.

21. Another State party referred to the guiding principles and characteristics contained in the terms of reference of the Mechanism stating that the intergovernmental process of the Mechanism shall respect the principles of equality and sovereignty of States parties, and shall take into account the levels of development of States parties, as well as the diversity of judicial, legal, political, economic and social systems and differences in legal traditions. In referring to the section of the terms of reference relating to the review process, the same State party noted that the paragraphs specifying that the country review reports shall remain confidential, and that the State party under review is encouraged to exercise its sovereign right to publish its country review report or part thereof, among other content, were important requirements for all States parties, in particular developing countries, and should be fully respected.

Model schedule for country reviews

22. With regard to the model schedule for country reviews, many responding States parties noted that they had encountered challenges in adhering to the schedule, which they found to be unrealistic, and therefore recommended extending the time frames contained in the schedule. One State party recommended that the timeline be modified to a duration of 12 to 18 months, provided that the overall duration of the second cycle remained unchanged.

23. With specific regard to the self-assessment checklist, one State party noted that the time frame for the completion by the States parties of their responses to the self-assessment checklist was also too short. Another State party mentioned that the checklist was too comprehensive, while one State party indicated that it had not encountered any problems in completing the self-assessment checklist.

24. One State party recommended that the self-assessment checklist be simplified. In that regard, some States made reference to the technical difficulties associated with the Omnibus software.

25. One State party indicated that the process of completing the checklist required consultations with numerous institutions at the national level. Some States parties noted that the complexity of the review process, particularly the second review cycle, meant that a large volume of information needed to be gathered, systematized, translated and analysed. In that regard, some States parties suggested more frequent reporting to reviewing States parties on the progress of reviews, so as to guarantee the availability of experts from reviewing States parties.

26. It was recommended that States parties under review be urged to adhere to the review stages defined in the terms of reference and that additional ways of encouraging States parties to redouble their efforts to prevent further delays be considered, including the circulation of reminders. One State party indicated that it would be worth reconsidering whether the review phase should continue to be composed of two review cycles, and expressed the opinion that States parties would benefit from reviewing chapters II to V of the Convention within the time frame allotted for one review cycle.

Role of the secretariat

27. With regard to the role of the secretariat, most of the responding States parties expressed appreciation for the substantive and technical support provided by the secretariat in the context of the Implementation Review Mechanism, including in training and strengthening the capacities of governmental experts. In that regard, one State party noted that, since 2012, it had hosted, with the support of the United Nations Office on Drugs and Crime (UNODC), training sessions for focal points and governmental experts from different countries at the office of its Prosecutor General, in which participants had been able to exchange information, good practices and experiences with regard to their participation in country reviews. One State party noted that mock reviews carried out during the training sessions organized by the secretariat, which had covered a range of activities in the review cycle, from the desk

review phase to the on-site visit and on to the adoption of the final report, had enabled the participating experts to better understand the practical application of the provisions of the terms of reference of the Mechanism, in addition to providing an adequate setting for them to raise any doubts and concerns that might arise in the course of the actual review process.

28. It was recommended that training sessions for focal points and governmental experts, including in an online format, be continued or even be offered more frequently.

29. One State party called on the secretariat to maintain, for the purposes of the Implementation Review Mechanism, an updated list, including contact details, of national entities representing States parties.

30. Delays on the part of the secretariat had also been experienced, which could be attributed to the limited number of staff covering country reviews. The secretariat was requested to explore new strategies for moving forward with the country reviews, and to provide States parties with regular updates at the sessions of the Implementation Review Group regarding the progress made in conducting the reviews.

31. Some States parties referred to challenges associated with the translation of documents in the context of country reviews and interpretation during country visits, with one State party recommending that the procedures for the identification and selection of interpreters used during country visits be improved.

32. A number of States parties highlighted the importance of promoting synergies with other review mechanisms established under other conventions, in particular with regard to scheduling, the optimization of resources and the selection of areas under review, in order to benefit from their experiences.

33. One State party recommended that the secretariat update the Tools and Resources for Anti-Corruption Knowledge database to include the laws cited by States parties in their responses to the self-assessment checklist.

34. The secretariat was invited to pay particular attention to requests for technical assistance made by States parties.

35. One State party highlighted that technical assistance was a very important element of the Implementation Review Mechanism, as it was not a component of other review mechanisms and, in that regard, recommended that, in order to maximize the benefits of technical assistance, in addition to encouraging States parties to provide information on current technical assistance needs for the implementation of the Convention, including those identified through the review process, the following elements needed to be taken into account: (a) the taking of timely and periodic follow-up actions; (b) post-review updates; and (c) explanation of exact procedures on how to benefit from technical assistance.

36. One State party noted that the review process under the second cycle had become more intrusive and that, in particular, the formulation of the recommendations had become more rigid and prescriptive and, in some cases, either duplicated or contradicted recommendations issued in other contexts, for example, those of the Financial Action Task Force and the Group of States against Corruption. In that connection, the State party made reference to paragraph 49 of the terms of reference of the Implementation Review Mechanism, which defined the role of the secretariat.

37. One State party referred to the high level of professionalism and ethical standards of the secretariat staff, who had proved to be very helpful and instructive for the States parties, notably by promoting the exchange of best practices and respect for the legal system of each State party.

Outcomes of the country review processes and follow-up procedures: reforms undertaken at the national level

38. Regarding the follow-up after the conclusion of a review, one State party noted that challenges identified in the review process could be resolved with the technical assistance of the secretariat, as well as States parties.

39. One State party indicated that it had set up a working group that integrated all government institutions involved in the prevention of and fight against corruption, in order to expedite communication between agencies and the coordination of national responses in the course of the country review.

40. States parties noted that it was essential to follow up on the implementation of recommendations made by governmental experts of reviewing States parties, but that the Implementation Review Mechanism lacked appropriate measures to urge States parties to rectify shortcomings identified by reviewing experts. One State party suggested that the secretariat could explore different options to achieve such follow-up. For example, it could compile, and possibly publish on the UNODC website, information on the actions taken by countries to address the recommendations made in each review cycle, according to cycle, subject to the availability of resources. The State party also suggested that the meetings of the Implementation Review Group could be used as an opportunity for States parties to present information on their implementation of the recommendations emanating from both review cycles.

41. It was recommended that States parties be encouraged to implement the recommendations emanating from the country reviews and to report on such implementation during the sessions of the Implementation Review Group, and that the creation of an implementation tracker to monitor and provide transparency with respect to the implementation by States parties of obligations under the Convention be explored.

42. Some States parties indicated that the review process had promoted institutional and legal reforms at the national level. One State party gave specific examples of such reforms, which included amendments to its anti-corruption legislation to address the recommendations issued in the course of the review process, investments in capacity-building to further develop the specialized skills of staff of its anti-corruption authority, and the establishment of a dedicated division for the effective management of seized or frozen assets.

43. Another State party listed examples that ranged from amendments that had been made to its Criminal Code to address observations made on the implementation of articles 15, 16, 18 and 21 of the Convention, to the establishment of an executive office for combating money-laundering and terrorism financing, to the adoption of a number of policies, regulations and guides on preventing and combating corruption and strengthening its national anti-corruption system to bring it in line with the Convention.

44. One State party indicated that the review process had led to the adoption of a new national anti-corruption strategy and the establishment of new legal and institutional frameworks, while another State party indicated that the Implementation Review Mechanism had enabled it to make progress in legislative reforms relating to the liability of foreign officials and the statutes of limitation and penalties for corruption offences.

Other issues: follow-up to the current phase

45. It was also recommended that the Conference consider developing a follow-up mechanism, which would require fewer resources than a third review cycle, to evaluate progress made by States parties in implementing previous recommendations made in their country reviews, and that the Conference also consider establishing criteria or a threshold by which a review cycle would be considered to be concluded, using the Mechanism for the Review of the Implementation of the United Nations

Convention against Transnational Organized Crime as a basis in defining those criteria.

46. One State party suggested that, for a possible new cycle of the Implementation Review Mechanism, the system could be reconsidered, in particular with regard to the following aspects: (a) a tailor-made approach, focused on enforcement and cross-cutting issues, and challenges and remaining issues from the first and the second cycles; (b) a simplified self-assessment checklist; and (c) a unified and simplified country review report, closer to the present executive summary model.

III. Conclusion

47. The Conference may wish to consider the views expressed by the States parties in its deliberations on the assessment of the performance of the Implementation Review Mechanism and possible ways forward following the end of the first review phase.
