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English only

**Implementation Review Group of the
United Nations Convention against Corruption**
Sixth session
Vienna, 1-5 June 2015

**Implementation of decision 5/1 of the Conference of the
States Parties to the United Nations Convention against
Corruption entitled “Mechanism for the Review of
Implementation of the United Nations Convention against
Corruption”**

Note by the Secretariat

I. Collection of information pursuant to decision 5/1

In its decision 5/1, entitled “Mechanism for the Review of Implementation of the United Nations Convention against Corruption”, the Conference of the States Parties to the Convention decided, inter alia, that the Implementation Review Group should begin promptly to collect and discuss relevant information in order to facilitate the assessment of the performance of the Mechanism following the completion of the first review cycle, in accordance with paragraph 48 of the terms of reference, and that the Group should include in its future sessions an agenda item allowing for the discussion of such information. The Conference further decided that in the collection of such information, future requirements for follow-up in accordance with paragraphs 40 and 41 should be taken into account.

In order to support the Implementation Review Group in collecting relevant information, the Secretariat invited Governments, in information circular CU 2014/38/DTA/CEB/CSS, to submit contributions in implementation of decision 5/1. These contributions were compiled in a conference room paper (CAC/COSP/IRG/2014/CRP.2) and presented to the Implementation Review Group at its fifth session, held in Vienna from 2 to 6 June 2014.

Following consideration of the agenda item by the Group at its fifth session, the Group requested the secretariat to provide a consolidated document that would draw on lessons learned, as well as provide ideas and suggestions for improvements, for



consideration at its resumed fifth session. Further to this request, the secretariat prepared a note entitled “Assessment of the performance of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption” (CAC/COSP/IRG/2014/12), which was presented to the Implementation Review Group at its resumed fifth session, held in Vienna from 13 to 15 October 2014. The note was based on contributions provided by States parties, past experience of the secretariat with the country review process overall, and discussions held during the Group’s fifth session. Comments provided by States focused, inter alia, on the outcome of the country review process, the thematic reports, the good practices identified during the country reviews and suggestions for the follow-up procedures for country reviews.

In order to continue facilitating the collection and discussion of relevant information in accordance with decision 5/1, the secretariat invited States parties, through information circular CU 2014/291/DTA/CEB/CSS, to provide additional comments on the performance of the Mechanism. The following States parties submitted comments on the performance of the Mechanism: Belgium, Brazil, China, Egypt, Guatemala, Morocco, Philippines and Russian Federation.

Such comments are compiled in the present conference room paper. Contributions received in a language other than English were translated and included in this paper. In order to facilitate discussion among all States parties and benefit from interpretation resources, a comprehensive oral introduction will be provided by the Secretariat at the meeting of the Implementation Review Group.

Furthermore, the secretariat prepared an updated note, also entitled “Assessment of the performance of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption” (CAC/COSP/IRG/2015/3), for consideration by the Group at its sixth session.

II. Contributions received

Belgium

1. Belgium agrees with the distinction between articles with binding and non-binding provisions. We favour a focus on the binding provisions instead of lengthy discussions on non-binding provisions.
2. Regarding the follow-up of the recommendations made, Belgium can agree with discussions on this during the Implementation Review Group. Nevertheless, the focus should be kept on the implementation of binding articles, with a view to a follow-up report. This focus might also reduce a burden for the secretariat as well.
3. Belgium would like to have more clarifications on what the Secretariat plans to do with those countries for which there are no recommendations (at the very start of the review cycle, the message was put across by the Secretariat not to make any). We would rather want to avoid a differentiated approach as to the follow-up of the review.

During the first review cycle, our national experts encountered various problems with the software applications.

Brazil

In general terms, the performance of the Mechanism is considered satisfactory, especially due to its flexible spirit and its non-intrusive, impartial and non-adversarial character, as well as to the opportunities provided by the Secretariat for the sharing of good practices and of technical assistance needs.

It would be positive to move forward with the suggestion, presented during the Reconvened 5th Session of the Implementation Review Group (IRG), of introducing some structured form of follow-up of the recommendations made in the Executive Summaries and the Self-Evaluation Reports that are made public in accordance with paragraph 38 of the Terms of Reference of the Mechanism (as an example, the other two mechanisms for reviewing the implementation of anti-corruption conventions that Brazil is a member of — the MESISIC and the OECD Working Group on Bribery in International Business Transactions — have measures of follow-up of the recommendations made in previous rounds or cycles of evaluation). The UNCAC Mechanism could also establish a procedure of that sort, a possibility that is already envisaged in articles 40 and 41 of its Terms of Reference.

Among the procedures that could be established is the periodic provision, to the Secretariat, of information on the implementation of those recommendations (which may be the most feasible option, given that the Group has more than 140 members), as well as oral interventions during a specific item of the agenda of the IRG.

Considering that some delegations have initially expressed difficulties regarding the implementation of follow-up procedures in the Reconvened 5th Session of the IRG, the Group could discuss the adoption of such procedures during the second cycle, with a view to applying them in the third, for instance.

Another positive suggestion is that, at the end of each cycle, the Secretariat prepares a document compiling the main recommendations that have been made in the Executive Summaries, ways of implementing such recommendations, main technical assistance needs at regional and global levels, as well as other highlights.

China

The Chinese Government has submitted in March 2014 to the Secretariat preliminary comments on the operation of the first review cycle of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption. Based on these comments, we would like to add the following supplementary comments:

I. The guiding principles established through the basic documents of the mechanism have ensured the smooth operation of the review mechanism of the implementation of the Convention. These principles should be adhered to.

II. As the information collected by the Secretariat during the review of the chapter on international cooperation is of considerable reference value for the cooperation between countries based on the Convention, we suggest the Secretariat to, while abiding by confidentiality provisions, organize and compile relevant information for various country's reference. For example, research on specific

topics may be conducted and discussions may be organized on extradition and legal assistance by various countries with the Convention as the legal basis.

III. On the time limit for the review of implementation of the Convention. As the State parties vary in size and national conditions, it is questionable whether the six months' time limit established through the basic documents of the mechanism is widely applicable for all the countries. In order to ensure the operability of procedures and improve the timeliness of review, we suggest that the Secretariat may, when designing the review time limit of the second cycle, establish a more reasonable review time limit based on the average time used by the countries to complete the review in the first cycle.

IV. The Implementation Review Group should strictly follow the resolutions adopted at the Conference of the State Parties and avoid the reopening of discussions on matters they are not authorized to discuss that have already been determined at the Conference of the State Parties. The decision made at the 4th Conference of the State Parties should be remembered in this regard.

V. With a view to ensure objective and neutral operation of the mechanism, the operation of the mechanism should continue to be funded with the United Nations regular budget.

Egypt

The Arab Republic of Egypt would like to emphasize its position that the review of Chapter II and V in the second cycle of the implementation review mechanism should be conducted with the same approach, pace, and formulation of self-assessment on the basis of which Chapters III and IV of the Convention were reviewed in the first review cycle.

Guatemala

With regards to the Review Mechanisms of the Implementation of the Convention of the United Nations against Corruption and its Software application, the OMNIBUS program, the Republic of Guatemala issues its comments on the operation of the Mechanism, mainly with respect to promoting and strengthening the measures for preventing and more efficiency combating corruption.

In addition, Guatemala is benefited by the support that it receives from the Mechanism, since the presentation of the implementation of the Convention is very feasible, given that it presents the implementation in questionnaire form and each question expands the vision of the definition or interpretation of the offences established by each State in accordance with its internal Legal System, thus promoting that the legal basis which frames the illegal conduct is the broadest for the judgement of the offences cited within each legal system.

In addition, the visualization of the OMNIBUS program, referring to the classification of chapters: Prevention, criminalization and law enforcement; international cooperation, asset recovery; and technical assistance and information exchange, like the Convention itself, is very useful for evaluating each by cycle.

Likewise, the Convention in question has a Technical Secretariat, which is available to any State party for any consultation or question regarding the Implementation Review Mechanism, with respect to filling in or responding to the questionnaire of the OMNIBUS program.

The Republic of Guatemala considers that the Technical Secretariat should provide, every six months, training to the people responsible for providing a response to the Implementation Review Mechanism, so that they, in addition to focal point and the Expert Evaluator, have updates regarding the operation and the purposes for filling out the mechanism.

Morocco

The experience from the review of implementation of Chapters III and IV of the United Nations Convention against Corruption (UNCAC) during the first cycle has shown that the translation process may be a direct cause of delay in the review process, which is supposed to last a maximum of six (6) months according to paragraph 25 of the Terms of Reference of the Review Mechanism. Therefore, to improve the time frames and quality of translation, the documents to be translated should be limited.

A proposal is made to adopt a mechanism of follow-up of implementation of the recommendations included in the country review reports and to allow the Secretariat of the United Nations Office of Drugs and Crime (UNODC) to request the States Parties to prepare reports on the extent of their implementation of the recommendations contained in review reports (work programme and implementation rate).

Philippines

Overall, the UNCAC Review Mechanism is viewed as an effective assessment tool which provided an opportunity for the Philippines to comprehensively assess its anti-corruption framework;

Widely concurs with the outcome of the Resumed Fifth Session of the Implementation Review Group held in Vienna on 13-15 October 2014, in particular, the need to clearly distinguish the mandatory and non-mandatory provisions of UNCAC during the second cycle as well as the submission of follow-up reports in response to the recommendations to the country reports;

Emphasizes that the Conference of Parties through the IRG are mandated to assess and adapt, where appropriate, the procedures and requirements of the follow-up to the conclusions and observations emerging from the review process;

Suggests that the Country Review Report or Executive Summary include a graph or tabular presentation of the level of compliance of the State per article of the Convention.

Russian Federation

The Russian Federation has completed work pertaining to the realization of recommendations included in the report about Russia's completion of the first review cycle of the United Nations Convention against corruption (UNCAC).

Russia's review process is assessed as the most rapid and the most qualitative one. The Secretariat of the Conference of the States Parties to the UNCAC promptly reacted to the requests of the Russian side, made in the course of the review process.

The Russian Federation supposes that at present the Review Mechanism functions in a well-organized manner, and it's not reasonable to introduce amendments into it.

The Russian Federation emphasizes the necessity to comply with the principle of the Review Mechanism that it is an intergovernmental process aimed at providing assistance to the States parties of the UNCAC in implementation of its provisions. Taking into account a voluntary nature of the review, it's considered undesirable to toughen the control over the countries' follow-up measures regarding the conclusions and commentaries made at the outcome of the countries' reviews and to set concrete time frame to react to them.

III. Participation in the revision of the self-assessment checklist for the second cycle of the Implementation Review Mechanism

Through information circular CU 2014/291/DTA/CEB/CSS, the Secretariat also solicited additional comments from States parties to be taken into account when finalizing the self-assessment checklist for the second cycle of the Implementation Review Mechanism for the Convention.

The following States parties submitted comments on the revised self-assessment checklist for reviewing Chapters II (Preventive measures) and V (Asset recovery): Armenia, Australia, Belgium, Brazil, China, Egypt, Guatemala, Israel, Italy, Jamaica, Mexico, Morocco, Panama, Philippines, Russian Federation, Serbia, United Kingdom of Great Britain and Northern Ireland, United States of America and Yemen.

Such contributions were incorporated into the draft self-assessment checklist for the second cycle of the Implementation Review Mechanism, which is presented to the Group as a conference room paper (CAC/COSP/IRG/2015/CRP.1).