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English only

Implementation Review Group

Resumed fifth session

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**Following up on recommendations emerging from
the review process**

Working paper submitted by Switzerland



1. Follow-up on both national and multilateral levels

The conclusions of country review reports, usually in the form of recommendations, are the main outcome of peer reviews and occupy a central position in the UNCAC review process, as shown in Table 1.

Following up on recommendations is essential if the Mechanism is to produce tangible progress in the fight against corruption. So far, only limited information has been provided by States parties, on a voluntary basis, about their national follow-up activities.

The Terms of Reference contain only rudimentary follow-up procedures:

40. In the following review phase, each State Party shall submit information in its responses to the comprehensive self-assessment checklist on progress achieved in connection with the observations contained in its previous country review reports. As appropriate, States parties shall also provide information on whether technical assistance needs requested by them in relation to their country review reports have been provided.

41. The Conference, through the Implementation Review Group, shall assess and adapt, where appropriate, the procedures and requirements for the follow-up to the conclusions and observations emerging from the review process.

As the review process moves into the second cycle, the Conference may wish to provide further guidance to States parties on the follow-up to recommendations made by peer reviewers during the first cycle.

While the follow-up remains the responsibility of States parties, on-going deliberations in the IRG and Working Groups, based on the empirical evidence collected and recommendations made by peer reviewers during the first review cycle, are likely to yield further insights and lead to a common understanding on how best to address challenges identified in several States parties. Such a discussion may also contribute to enhancing the consistency of recommendations, thereby reducing the risk of double standards.

It is important to recognize that the peer reviewers (a group that comprises hundreds of government experts) may have reached different conclusions when faced with similar situations, hence the need for further discussion in the IRG or Working Groups.

As noted in the Secretariat's "overview of recommendations" report (CAC/COSP/IRG/2014/10):

"The present analysis has shown that the number and scope of recommendations made in the country review reports to address identified implementation gaps and challenges varies considerably. (...) While some degree of variance is to be expected, owing to the different degrees of implementation of the Convention (...), the recommendations made also vary to some extent across comparable situations. In this context, the Group may wish to consider how to best ensure the compatibility and consistency of the review reports."

The same standards should apply to all States parties. To ensure consistency, all States parties may wish to discuss in a multilateral setting which recommendations are most appropriate in a given situation and compatible with generally applicable standards.

Many recommendations of a general (non-country-specific) nature have already been adopted by the Conference. This body of guidance to States parties could now be further expanded taking into account the outcome of the first review cycle. The end product of the first review cycle could thus be in the form of an article-by-article compilation of recommendations, perhaps based on the legislative guide, carefully reconsidered by the competent working groups and eventually adopted by the Conference.

2. Organization of work during next review cycle

The current architecture of the UNCAC regime is well suited for the first review cycle (cf. Table 2): While the IRG deals with the two chapters currently under review (i.e. criminalization, law enforcement, international cooperation), the Working Groups on Prevention and Asset Recovery provide a space for expert discussions related to the two chapters that will only go under review in the second review cycle.

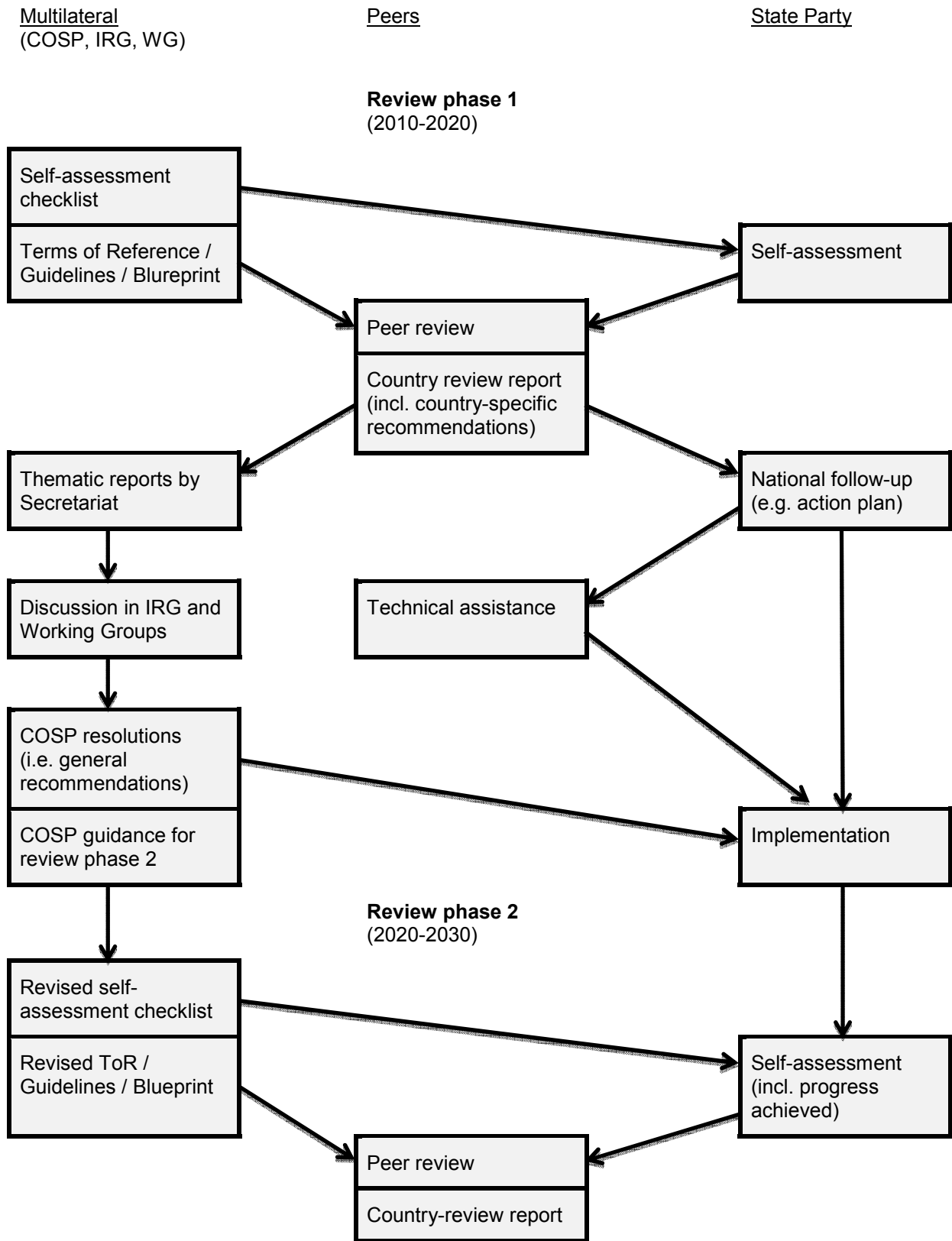
During the second review cycle, the IRG will turn its attention to the same chapters currently dealt with by the extant Working Groups. There is a risk of overlap and hence a need for closer coordination. It also remains unclear which body could be used for expert discussions on criminalization and law enforcement during the second review cycle. The mandate of the Intergovernmental Expert Meeting on International Cooperation is limited to chapter IV.

Ideally, there could be an alternation of review and expert discussions, as outlined in Table 3. This would ensure that the four chapters remain under review or discussion at all times, without overlaps. While the IRG could concentrate on the important task of steering the country-review process, other bodies could be used to discuss the substantial outcome of the previous cycle in a more systematic manner (e.g. following a multi-year workplan covering all reviewed articles).

This group discussion should also provide room for States parties wishing to share information on their national follow-up plans and activities and for a discussion on how related technical assistance needs can be best addressed. Technical assistance is best discussed in the context of planned or on-going follow-up activities.

Table 1

UNCAC implementation review and follow-up on recommendations



etc.

Table 2

Overview of extant subsidiary bodies and topics covered

Chapter II	Chapter III	Chapter IV	Chapter V
Preventive measures	Criminalization and law enforcement	International cooperation	Asset recovery

First review cycle 2010-2015		IRG	IRG	
	WG Prevention		IEM International Cooperation	WG Asset recovery

Second review cycle 2015-2020	IRG			IRG
	WG Prevention	???	IEM International Cooperation	WG Asset recovery

Table 3

Alternation of Country Reviews and Group Discussions

