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English only

Implementation Review Group**Eighth session**

Vienna, 19-23 June 2017

Briefing for non-governmental organizations in accordance with resolution 4/6 of the Conference of the States Parties to the United Nations Convention against Corruption entitled “Non-governmental organizations and the Mechanism for the Review of Implementation of the United Nations Convention against Corruption”**Summary**

At its fourth session, the Conference of the States Parties to the United Nations Convention against Corruption adopted resolution 4/6 entitled “Non-governmental organizations and the Mechanism for the Review of Implementation of the United Nations Convention against Corruption”. In this resolution, the Conference decided that briefings for non-governmental organizations would be convened on the margins of the sessions of the Implementation Review Group (herein after Group) on the outcomes of the review process, including technical assistance needs identified. These briefings would be conducted by the secretariat in cooperation with a member of the bureau and would be based on the reports of the Group, thematic implementation reports and regional supplementary addenda.

The Conference requested States parties and signatories to use the briefings and to draw on the discussions and proposals of its fourth session to continue constructive dialogue on the contribution of non-governmental organizations to the Mechanism. The Conference also encouraged non-governmental organizations to report to it and/or the Group, as appropriate, individually or collectively, on their activities and contributions to the implementation of the recommendations and conclusions of the Group approved by the Conference, including those related to meeting technical assistance needs and advancing capacity to effectively implement the Convention. The briefings would serve to further promote constructive dialogue with non-governmental organizations dealing with anti-corruption issues and help to build confidence in the role and contributions that NGOs can make to the review process. The first briefing for non-governmental organizations in accordance with Conference resolution 4/6 was held on the margins of the third session of the Group on 20 June 2012, the second briefing was held on the margins of the fourth session of the Group on 30 May 2013, the third briefing was held on the margins of the fifth session of the Group on 5 June 2014, and the fourth briefing for held on the margins of the sixth session of the Group on 4 June 2015.



The sixth briefing for non-governmental organizations was held on the margins of the eighth session of the Group on 22 June 2017 and was chaired by the Vice-President of the Conference, Andres Lamoliatte (Chile). The Chair delivered introductory remarks, welcoming the decision taken by the Conference to involve non-governmental organizations in the work of the Mechanism.

At the start of the briefing, the secretariat recalled resolution 4/6 and reminded participants to respect its terms. The invitations to the relevant non-governmental organizations contained specific language on expectations and the contributions to be made. A copy of resolution 4/6 was attached to the invitation, in order to fully ensure compliance with its terms. The briefing was to be structured in such a way as to allow participants from non-governmental organizations to make their contributions at the outset. Several non-governmental organizations confirmed their attendance by the deadline and written comments from non-governmental organizations were received in accordance with resolution 4/6 and made available for the briefing. The programme for the briefing was contained in document CAC/COSP/IRG/2017/CRP.6. Three panel discussions were organised in order to facilitate contributions.

The secretariat provided an introduction to the work of the Group and an oral update on the assessment of the performance of the Mechanism, outcome of the reviews, an analysis of technical assistance needs emerging from the country reviews and an overview of the financial and budgetary matters of the Mechanism.

Noting that the briefing should provide an opportunity for non-governmental organizations to make contributions on their activities, the Chair opened the floor for interventions.

In commending the secretariat for the organisation of the meeting, several speakers emphasized the importance of transparency in the review mechanism and the Implementation Review Group. They noted that non-governmental organizations were still not attending to the sessions of the Group and expressed the view that the lack of direct engagement had an adverse impact on the process. Some speakers urged Governments to strengthen their anti-money laundering efforts, in particular when addressing grand corruption.

A panel discussion entitled “Realising potential: taking the Review Mechanism to the next level” was held and moderated by Juanita Olaya, UNCAC Coalition.

Drago Kos, Chair of the OECD Working Group on Bribery, noted that subsequent to receiving a letter from a non-governmental organisation, the OECD Working Group had revised the procedures for sharing information about its meetings more broadly in a bid to enhance the Working Group’s transparency. However, he also pointed out that one reason why the meetings of the Working Group were not open was that often discussions related to ongoing cases, which naturally made the discussions highly sensitive and unsuitable for a wider audience. The importance was to strike a balance between the need for confidentiality and the need for transparency. The panellist also spoke of the importance to look at gender dimensions of corruption.

Francisco Távara, Supreme Court Justice of Peru, outlined how results could not be achieved without transparency and the participation of non-governmental organizations. The panelist spoke of how his country, having undergone the review process for the Inter-American Convention, had been criticized by civil society consulted for the slow progress in fighting corruption. Similar criticism had been echoed in the OECD review of Peru. In seeking to use this criticism in a constructive manner, the panelist informed the briefing that Peru had sought to address these concerns and that, while progress had been made, efforts continued. In order to enhance the transparency of the review mechanisms, the panelist suggested that the draft report be made available and that the institutions involved in the review process be made public in advance of the country visit.

Veronica Cretu, Open Government Partnership (OGP), made a presentation on the OGP and how States and civil society interacted in that forum in order to enhance

transparency in the government. The OGP process relied on national resources, which was both its strength and its weakness. The fundamental idea would be to jointly create a national action plan together with civil society with a commitment to have a permanent dialogue mechanism. The government was then expected to produce a self-assessment report as were the civil society counterparts, as to how the commitment had been implemented. While in some countries maintaining the dialogue and working in a transparent manner proved relatively easy, for others the OGP partnership and process was a considerable learning experience.

Gillian Dell from Transparency International (TI), presented the TI publication on the comparison of the existing six anti-corruption peer review mechanisms, namely, the Mechanism for the Review of Implementation of the United Nations Convention against Corruption (IRM), the Organisation for Economic Cooperation and Development Working Group on Bribery (OECD) and the Istanbul Action Plan, the Council of Europe Group of States against Corruption (GRECO), the Inter-American Convention against Corruption (MESICIC) and the Financial Action Task Force (FATF). The panellist noted how amongst the various peer review mechanisms the level of transparency varied greatly, as did the inclusion of civil society in the actual reviews. The IRM fared relatively well regarding rendering information and documentation public in relation to the meetings of the Group. The Istanbul Action Plan was considered the ‘gold standard’ in terms of civil society involvement and the FATF had been assessed as the most secretive process.

David Banisar, Article 19, highlighted how the idea of public participation and access to information had started through the World Earth summit in 1992, when these ideas, together with the rule of law were deemed fundamental for sustainable development. This view was again reflected in the process surrounding the formulation of the Sustainable Development Goals (SDGs), where civil society was heavily involved. The panellist believed that there was more openness at the global level, which could be a good source of inspiration for the Group. The panellist also noted that while 71 States parties to the Convention had chosen to make their country review reports public, at least 110 countries have access to information laws which could imply that such information should be in the public domain.

The moderator noted positively that an increasing number of States parties were involving external stakeholders, and as that the number of countries adhering to the OGP was increasing. However, more transparency and accountability was still needed. This was echoed by several speakers who noted the importance of making the IRM country review reports public. The moderator called on States with good experiences in including civil society in their reviews to share those experiences.

A second panel entitled, “Effective, accountable and transparent asset return: The need for guiding principles” was moderated by Susan Hawley from Corruption Watch. This panel was a follow up to Resolution 6/3 of the Conference of States Parties to the UNCAC and the Addis Ababa Action Agenda which call for the development of good practices in asset return.

Phil Mason, of the United Kingdom Department for International Development emphasized the link between returning assets and facilitating development in countries to which assets are returned. He explained that civil society and citizens from both requesting and requested States had a shared responsibility that returned assets do not fall back into corruption. He recalled that the International Expert Meeting on the Management and Disposal of Recovered and Returned Stolen Assets, including in support of sustainable development, convened by UNODC, and the Governments of Ethiopia and Switzerland in February 2017, recognised that asset recovery is not an end in itself but a process to secure these assets for sustainable development. He outlined useful principles to returning assets such as codifying good practices, and explained that it is not about conditionality but recognising that both the requesting and requested States have an interest in accountability of asset returns.

Salome Steib from the Swiss Agency for Development and Cooperation recalled relevant efforts such as the Addis Ababa Action Agenda for development, Goal 16(4) of the Sustainable Development Goals as well as other international fora that contributed to the asset recovery agenda. The speaker further described her Government's experience in asset recovery, highlighting different models used in returning assets and lessons learned. These included amongst others the utility of monitoring, transparency and accountability mechanisms, such as setting up funds for returned assets, boards to oversee the funds, involvement of civil society in monitoring of funds, and administrative agreements with third parties.

Ladidi Bara'atu Mohammed, of the Nigerian Ministry of Justice, gave a presentation which highlighted the process from the point of view of a requesting State. Following an overview of asset recovery cases and challenges encountered in terms of international cooperation in returning assets, she described mechanisms being put in place to address them. The speaker described domestic efforts to ensure civil society engagement in the asset recovery process including a recent whistle blower policy developed in conjunction with civil society. In terms of monitoring returned assets by third parties, she cautioned that monitoring mechanisms should involve all agencies instrumental for returns and should take into account the specificities of each country's authorities. She assured participants of her Government's full commitment to ensure that returned assets are used in the most appropriate manner.

Cynthia Gabriel from C4 Malaysia outlined practical issues to recovering assets and highlighted the difficulty of recovering assets for the benefit of victims and citizens. She proposed potential solutions to address these challenges such as standards for accountability and transparency, use of special accounts or trust funds for returned funds or a structured mechanism to deal with grand corruption cases.

Lilia Carasciuc, from Transparency International Moldova emphasized the need for adherence to principles of asset recovery and ensuring that returned money is used for the benefit of victims. She further underlined various measures to address challenges in asset returns such as transparency, the need for strong professional Non-Governmental Organisations, backed by international organisations, and greater understanding of who exactly is a victim.

In concluding, panellists noted that the upcoming seventh session of the Conference of the States Parties to the UNCAC presented an opportunity to build upon this discussion.

During the ensuing discussion, some speakers noted that limited access to information and data made the contributions of civil society to this process difficult. Others emphasized the need for further information concerning past asset returns in order to draw concrete lessons for future recoveries. An example presented of assets returned in the absence of enabling legislation was noted as a positive practice by some speakers.

A third panel discussion entitled "Are global standards effective in fighting money laundering" was moderated by Bettina Hörtnner from Transparency International Austria.

Laure Brillaud, Transparency International EU and author of the report "Under the shell: Ending money laundering in Europe", highlighted how recent international money laundering scandals demonstrated that stolen money could still be deposited in European banks. The panellist explained that some money laundering techniques were still very easily used within Europe such as offshore or trust schemes as well as high risk instruments (i.e. nominee's bearer shares). Some major gaps included the lacking definition of beneficial ownership and the general weakness of the beneficial ownership databases which did not include all types of beneficial owners but provided also for limited access. Finally, two sectors were identified as particularly exposed to the risk of money laundering due to the lack of strong standards: the real estate sector in which few requirements existed to identify the

ultimate beneficial owner and the luxury goods sectors as FATF recommendations did not fully cover all of them.

Christine Clough, global manager at Global Financial Integrity, made a presentation on the links between corruption, money laundering and transnational crime. The value of all transnational crimes, including corruption, was estimated at between 1.6 to 2.2 trillion USD. She stated that in order to prevent the laundering of such amounts, measures involving the private sector should be taken. These measures included the obligation for all registered entities to declare the names of their ultimate beneficial owners, flagging the individuals or corporations trading in “secrecy jurisdictions” as high risk, scrutinizing import and export invoices, as well as using world market price databases to estimate the risk of mis-invoicing.

Pierre Kanaan, of the Central Bank of Lebanon, underlined that launderers always operated through loopholes, showing great creativity in using the latest technologies in order to be steps ahead of law enforcement. For that reason, it was key to improve the standards and update FATF recommendations in line with the latest technologies. He emphasized that it was important that States assessed their anti-money laundering systems on a regular basis and take the necessary measures to strengthen the weaknesses that are identified.

Tanja Santucci from UNODC presented the key findings from the 1st cycle of the United Nations Convention against Corruption Implementation Review Mechanism. She noted that article 23 of the Convention which required the criminalisation of the money laundering offence, was one of the six top articles where States parties encounter challenges. One of the key challenges was that predicate offences did not include all Convention offences or did not cover all the modalities of the offence. A number of challenges related to weaknesses in capacity, including the need for training. Despite these difficulties, article 23 was also one of the top eight articles where successes and good practices had been identified in the reviews. Many countries had adopted comprehensive legislation and their systems went beyond the requirements of the Convention.

In concluding, the moderator agreed that strong international standards are now in place worldwide, partially due to the work of FATF and others. However, gaps and weaknesses still existed and there was a need to strengthen standards, in particular with regard to the new possibilities that the latest technologies offer. To this end, civil society could play an important role in supporting States in their roles of continuously updating and strengthening the anti-money laundering systems. This was echoed by several speakers.

One speaker recalled resolution 4/6 and specifically the terms of the briefing, which he noted were not adhered to by some speakers and panellists who made reference to specific country situations.