



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

Distr.: General
23 May 2014

English only

Implementation Review Group

Fifth session

Vienna, 2-6 June 2014

Item 6 of the provisional agenda*

Other matters

**Statement submitted by the UNCAC Coalition,
a non-governmental organization not in consultative
status with the Economic and Social Council****

The following document is being circulated in accordance with paragraph 1 (i) of resolution 4/6 of the Conference of the States Parties to the United Nations Convention against Corruption and rule 17, paragraph 3 (b), of the rules of procedure for the Conference.

* CAC/COSP/IRG/2014/1.

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22 May 2014

Progress of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption and recommendations for action

Dear Chair, Bureau and members of the Implementation Review Group,

On behalf of the UNCAC Coalition, I am writing with proposals for action regarding the Mechanism for the Review of Implementation of the United Nations Convention against Corruption and the implementation of the Convention. This letter supplements our two letters to the Implementation Review Group, dated 29 April 2013 and 16 May 2013, and our letter of 23 August 2013 to the Open-ended Intergovernmental Working Group on the Prevention of Corruption, as well as other submissions.

The damage done by corruption is well known and multifaceted. The injustice and inequity it causes is the subject of worldwide outrage, which, in a series of countries, has erupted into mass protest. The Implementation Review Group is called upon to ensure that the landmark United Nations Convention against Corruption provides the necessary remedy.

In that regard, it is of key importance that the necessary resources be provided for a review process covering 171 diverse countries. It is also crucial to provide developing countries with financial and technical assistance that will assist them in meeting their Convention commitments, as well as to provide public information about that assistance.

1. Progress and transparency in the review process

At the time of writing, 65 reviews had been completed and useful executive summaries were published on the website of the United Nations Office on Drugs and Crime (UNODC). We commend States parties and UNODC for the steady progress in the review process.

We especially commend the 28 Governments that have voluntarily published their full review reports and the 13 that have published their self-assessments on the UNODC website. We also commend all those — the vast majority of reviewed countries — that have included non-State actors in the review process in their countries, including representatives of civil society organizations, the private sector and academia.

In terms of the transparency of the process, credit is also due to UNODC for the steady upgrading of the country pages on the UNODC website, which makes the relevant information more easily available to those interested in the process and in the tangible achievements made in the framework of the Convention.

Unfortunately, in some countries there are difficulties in accessing relevant information, such as contact information for the focal point in the review process and the review schedule. In some countries there is no access to the Government self-assessment and full report. These are matters of concern.

We are also concerned that at the end of the fourth year of the process, fewer than half of the planned reviews have been completed for a variety of reasons. Furthermore, the quality of country review reports varies greatly.

Recommendations:

We therefore encourage States parties to:

(a) Publish their self-assessments and full review reports on the UNODC website and on government websites;

(b) Publish and regularly update government website information about their progress in implementing the Convention and also about the results of Convention reviews and discussions, so that the wider public can gain a greater understanding of the progress being made and, as the case may be, contribute to implementation efforts;

(c) Ensure that stakeholders have access to information about focal points and review timetables because it would enable them to contribute better to the review process;

(d) Consider whether sufficient resources have been allocated to the review process, taking into account that the cost of this important process is miniscule in relation to the cost of corruption;

(e) Consider ways of improving the quality of country reviews, including the possibility of additional guidance material and training of reviewers.

2. Priority implementation issues

Based on the experience of our members in anti-corruption efforts we have identified a set of priority implementation issues that we believe to be critical for combating corruption and require greater attention from States. The UNCAC Coalition statement to the fifth Conference of the States Parties to the United Nations Convention against Corruption, held in Panama City from 25 to 29 November 2013 (CAC/COSP/2013/NGO/1) contained proposals for action with regard to these issues.

We welcomed the language on many of these topics in resolutions at the fifth session of the Conference of the States Parties.

Recommendations:

In the area of criminalization and enforcement, and as stated in our letter to the Implementation Review Group of 16 May 2013 (CAC/COSP/IRG/2013/NGO/5), we recommend that the Implementation Review Group should prepare analysis and guidance regarding the following key issues: (a) settlements/plea bargains in corruption cases; (b) immunities; and (c) independence and resources for specialized enforcement bodies and the judiciary.

In addition, as stated in our submission to the fourth session of the Implementation Review Group (CAC/COSP/IRG/2013/NGO/6), we recommend that States parties should improve whistle-blower protection. We commend the work of UNODC to develop guidance material in this area.

In the area of prevention, and as stated in our letter of 23 August 2013 to the Open-ended Intergovernmental Working Group on the Prevention of Corruption, circulated to delegations, we recommend that States parties should:

(a) Adopt and implement comprehensive access to information legislation. The Implementation Review Group should also pay special attention to the subject of access to information. Transparency is a keystone of the Convention, appearing in many of its articles;

(b) Collect beneficial ownership information through national public-level registers of companies and trusts maintained with current updated information.

Regarding asset recovery, and as stated in our letter of 23 October 2013 to the Arab Forum on Asset Recovery, circulated to delegations, we recommend that States Parties should:

(a) Introduce measures to enable proactive enforcement action;

(b) Increase information exchange among countries with a potential interest in conducting or joining proceedings and adopt appropriate measures enabling compensation to countries harmed;

(c) Ensure transparency and accountability in the return of assets.

3. Follow-up and technical assistance

Follow-up to the recommendations in the review process is key for advancing the Convention's aims. This is discussed in Transparency International's progress report submitted to the Conference of States Parties in November 2013 (CAC/COSP/2013/NGO/2). Without follow-up, the efforts put into the first cycle of the review process will be lost.

We commend those countries that have prepared follow-up action plans to implement the recommendations of the country reviews, which we understand include Mongolia, Niger, Sao Tome and Principe, Zambia and Zimbabwe. We understand that Uganda and Togo are also developing plans. We would welcome seeing other countries follow their good example.

We also commend those countries that have provided technical and financial assistance to developing countries to help them to address challenges identified in their country reviews. It would be useful for civil society and other members of the public to be able to access more information about what technical assistance is being provided to assist countries in meeting their obligations under the Convention, so that we can help support these initiatives.

Recommendations:

We encourage States Parties to:

(a) Prepare and publish follow-up action plans to respond to the recommendations in the country review reports;

(b) Provide adequate technical and financial assistance to assist developing countries to meet Convention obligations and publish information about this assistance.

4. Subsidiary bodies

We remain greatly disappointed at our exclusion from the subsidiary bodies of the Convention. We maintain the position that excluding civil society observers from the main proceedings of the Implementation Review Group and the Working Groups is inconsistent with the rules, values, and goals of the Convention and of the United Nations itself. This is elaborated upon in our letter of 29 April 2013 on the Review Mechanism (CAC/COSP/IRG/2013/NGO/1).

We understand that some countries have indicated that they require a period of trust-building before we are permitted to enter as observers in those bodies. We are interested in helping build that trust and in demonstrating that our concern is addressing the corruption problem rather than naming and shaming any country or countries.

Recommendations:

We urge States Parties to continue to hold discussions on this subject and hope that the issue can be placed on the agenda of the sixth session of the Conference of States Parties so that steps can be agreed for making progress in this area.

We hope that you will find these observations and recommendations useful and look forward to continued discussion with you on how to improve implementation of the Convention.

[Signed]

Vincent Lazatin
Chair
UNCAC Coalition
