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English only

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**Implementation Review Group of the  
United Nations Convention against Corruption****Fifth session**

Vienna, 2-6 June 2014

**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 this decision, the Conference decided, inter alia, that the Implementation Review Group shall begin promptly to collect and discuss relevant information in order to facilitate assessing the performance of the Mechanism following the completion of the first review cycle, in accordance with paragraph 48 of the terms of reference (accessible through <http://www.unodc.org/unodc/en/treaties/CAC/IRG.html>).

The Conference further decided that in the collection of such information future requirements for follow-up in accordance with paragraphs 40 and 41 of the terms of reference shall be taken into account.

In order to support the Implementation Review Group in collecting such relevant information, the Secretariat invited Governments to submit contributions in implementation of this decision which will form the basis of the discussions at the fifth session of the Implementation Review Group, to be held in Vienna from 2 to 6 June 2014. In line with decision 5/1, an agenda item allowing for discussion of the information collected has been included.

The following States have provided contributions: Armenia, Belgium, Chile, China, Ecuador, Egypt, El Salvador, France, India, Israel, Jordan, Latvia, Lebanon, Mexico, Pakistan, Romania, Russian Federation, Switzerland and United States. Where

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\* Reissued for technical reasons on 30 May 2014.



contributions were received in a language other than English, translations were carried out 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.

## II. Contributions received

### Armenia<sup>1</sup>

In response to Your request regarding information provided by the paragraphs 40 and 41 of the terms of reference as part of follow-up procedures, the Ministry of Justice of the Republic of Armenia kindly informs you, that the Republic of Armenia has not yet received a country review report regarding the results and outcomes of the monitoring process. However, in order to support the Implementation Review Group in collecting relevant information, the Ministry of Justice of the Republic of Armenia presents the following information.

Armenia is actively participated in the works of the review mechanism and implementation of the UNCAC. The Republic of Armenia was reviewed by Lithuania and Kirgizstan in 2013. Official visits were made to Armenia and different kind of meetings were successfully conducted between the review group and Armenian relevant state bodies as well as the representatives of civil society, Transparency international anticorruption centre and others.

In recent 5 years, Armenia has made a considerable progress in reforms aimed at prevention of corruption.

Emphasizing the importance of the fight against corruption, the Government of Armenia defined the main legislative and institutional frameworks. Two anti-corruption strategies have been adopted and implemented since 2004. The last one was foreseen for 2009-2012, and currently the Government is working on the new policy document. More specifically, the Government has summarized the results of implementation of the last anti-corruption strategy and is now in a process of reshaping the anti-corruption policy, with the aim of making it more effective.

In order to reduce corruption risks in public sector the Government undertook many reforms and established a consolidated public system by creating the legislative regulations for all types of public service.

The anti-corruption efforts also extend to the judiciary, in accordance with new draft laws, the random assignment of cases will be used in all courts.

The next cluster of anti-corruption reforms include the criminalization of the offences stipulated in the UNCAC.

Additionally, during the 2013 country visit the experts noticed, that the Republic of Armenia had not yet made a declaration regarding the Articles 44(6)(7), 46(13)(14) of the UN Convention Against Corruption. In January 2014 the Ministry of Justice undertook the process of making a declaration to the above mentioned articles of the

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<sup>1</sup> Contribution provided by the Ministry of Justice.

UNCAC, which has already been sent to the RA Ministry of Foreign Affairs for insurance of appropriate process of adoption of the declaration.

All existing gaps in current Criminal Code are in the process of improvements and have been taken into consideration while drafting the new concept of Criminal Code.

To correspond with the requirements of the UN, Council of Europe and GRECO several amendments were already done in criminal legislation, mainly issues concerning money laundering and bribery. The need of performing amendments concerning illicit enrichment and its extend is currently being considered.

The Republic of Armenia is consistent with its long standing view that the fight against corruption can only be won through complementary and mutually supportive action by governments, intergovernmental bodies and civil society. The Republic of Armenia is willing and ready to continue its active involvement in the process of implementation of the UNCAC and further enhancement of the review mechanism of the Convention.

## **Belgium**

The Permanent Mission of Belgium has the honour to attach herewith the points that Belgium would like to make on that subject:

- Experience shows that few countries are able to respect the time frames for response in the evaluation cycle. It would be appropriate to review those time frames for the next cycle.
- Some evaluation reports do not include recommendations. It is impossible to ensure follow-up in those cases.
- If questions were presented in Word format, it would be possible to fill out the questionnaire directly and not rely on the Omnibus software, which is difficult to access.
- Despite changes to the questionnaire, some questions remain superfluous. Would it perhaps be possible to redraft the questions either article by article or paragraph by paragraph?

## **Chile<sup>2</sup>**

1. The United Nations Office on Drugs and Crime requested in a Note that States parties to the Convention against Corruption submit information required for evaluating the mechanism for the review of implementation of that Convention.

2. The following recommendations for consideration by the Implementation Review Group are drawn from the experience that Chile has had both as a State under review and as a reviewing State for other countries.

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<sup>2</sup> Contribution provided by Anti-corruption Unit, Attorney-general's Office, Public Prosecution Service.

3. **A broad and uniform general framework for all States parties:** One of the most complex aspects of the review of States parties concerns the level of the requirements stipulated for the State under review in order to establish whether that State's obligations have been fulfilled, partially fulfilled or not fulfilled. Efforts should be made to seek a general consensus among all States under review to make the requirements similar for large and small countries. To achieve such a result, the review criteria could be enhanced using the following principles: universality, which reflects the formal legal principle of equal treatment; continuity, i.e. what has been determined and approved may not be subsequently re-evaluated on the basis of the same facts and substance; and systematic application, i.e. the whole conceptual framework of the Convention against Corruption should apply and not just certain aspects taken out of context.

4. Given the diversity of cultures and judicial systems of the States parties to the Convention against Corruption, the specificities of those States and the differences between them should be respected and valued without any reduction of the minimum requirements for the implementation of the Convention.

5. **Retention of the number of experts for each topic and country: Maintain contact with the experts and require them to participate in other evaluations and forms of training in order to improve their knowledge and develop their understanding of the review criteria.** The various Chapters of the Convention against Corruption cover specific topics: General provisions (I), Preventive measures (II), Criminalization and law enforcement (III), International cooperation (IV) and Asset recovery (V). Each one of those Chapters is complex in substance and demands practical experience of the area in question.

6. For those reasons, when the United Nations Secretariat requests the participation of professional experts from reviewing countries, one should be considered for each Chapter when multiple Chapters are being reviewed. A good expert should have in-depth knowledge of the topic and practical experience of the relevant area and should be well informed about the Convention and its standards.

7. However, a recent resolution which stated that the United Nations would finance only one expert per State could leave individual chapters deprived of an expert, which would be prejudicial to the reviewing State and to the process in general.

8. **Promotion of the Legislative Guide for the Implementation of the United Nations Convention against Corruption:** The Guide is a highly valuable resource for establishing the standards imposed by the Convention for compliance with the recommendations. Chile suggests that the Guide be supplemented by practical cases and reviews completed in other countries to provide examples.

9. **An organized and coordinated database for the various reviewed countries:** It would be useful for the expert reviewers to have access to or be provided with the completed reviews and follow-up in the case of other reviewed countries, structured thematically according to article for ease of comprehension. The aim would be to promote an understanding of the standards established in other reviews for an obligation to be considered fulfilled, partially fulfilled or not fulfilled.

10. Also, such a database would be extremely useful for the State under review because it would be able to prepare for the review more effectively with a better understanding of the level of the requirements applied to similar countries.

11. **Capping procedural stages:** It is not helpful when new observations are made or topics that have not been discussed previously are raised when the review is in its advanced stages (for example, during the drafting of the country review report or the executive summary). With little opportunity for interaction, the tasks of explaining, clarifying and contextualizing the observations made late in the final phases of the review are difficult for the States under review, and the experts' capacity to comprehend new information at this stage without interaction is also limited. This has an impact, too, on how the potential conclusions are corrected. In addition, the introduction of new lines of questioning tends to prolong discussions, making the process less efficient and less effective. Instead, a fixed timeframe or maximum period could be considered for making the first set of observations without prejudice to the opportunity for subsequent clarification of points previously made during the drafting of the relevant documents.

## China

1. The Mechanism for the Review of Implementation of the Convention has been in general successful in its operation and has played a positive part in assisting States parties to implement the Convention effectively and in promoting international cooperation to fight corruption. The guiding principles laid down by the basic documents of the Mechanism have been followed reasonably well. The meetings of the Implementation Review Group ran smoothly and States were active in exchanging and sharing their experiences of implementing the Convention. China welcomes these and commends the Secretariat for its hard work. At the same time, the Mechanism is going through the first review cycle and still has some room for improvement.

2. As regards the time frame for the review of implementation of the Convention, the basic documents of the Mechanism provide that the review of implementation of the Convention by each State party should be completed within six months. The fact is, however, that few countries can complete the review within six months. Problems that cause delays arise at every stage of the review, including the fact that the questionnaire for self-assessment cannot be finished within two months, translation takes up a further length of time and States parties conducting the review are not able to submit the report of the desktop review within one month. Delays in the review have affected the successful operation of the Mechanism. Our proposal is that the fifth meeting of the Implementation Review Group should conduct further discussions as to whether a more realistic time frame should be established for the second review cycle on the basis of respect for the guiding principles of the Mechanism, so that recommendations can be put forward next year to the Conference of the States Parties.

3. As regards the questionnaire for self-assessment and the report of the review, despite the requirements laid down for the structure and content of the questionnaire and the report, and the template provided for the review report and its executive summary, wide variations exist in practice among the completed self-assessment

questionnaires and review reports from States parties; some are long and complicated, while others are brief. The meeting of the Implementation Review Group could conduct discussions on this issue.

4. China is of the view that country visits are supplementary to the desk review. They must therefore be conducted with the consent of the State party under review and follow strictly the guiding principles of non-violation, non-confrontation and non-politicization laid down in the Mechanism. No State can force other States to accept country visits by using any means or attaching extra conditions.

5. On the issue of the translation of the self-assessment questionnaire and the review reports, the rules of the Mechanism provide that the translation of documents, including that of the self-assessment questionnaires and the review reports, will be undertaken by the Secretariat. However, the questionnaires and the reports are long, varied and highly specialized in terms of their content. The translations themselves are not complete, while the quality of translation needs to be improved. This has affected to a certain extent the review by Government experts. Our proposal is that the fifth meeting of the Implementation Review Group should engage in discussions on the way to resolve this issue.

6. With regard to the briefing for non-governmental organizations (NGOs), in both 2012 and 2013 the Implementation Review Group broke off twice to hold briefings for NGOs. During the first two meetings of the Group, States parties held discussions on the way to improve the briefings. In view of the fact that NGOs coming to the briefings do not have wide representation, their statements deviate from the issues under discussion and they take up the resources for meetings, our proposal is that the fifth meeting of the Implementation Review Group should engage in discussions on the development of detailed rules and procedures for the briefings and, in particular, on the major issues of requirements and criteria for NGOs to attend briefings and for the content of their statements and the limits on speaking time.

7. The rules of the Mechanism provide that the data obtained from the review process are confidential. The relevant rules were fairly well respected during the first review cycle. The thematic reports compiled by the Secretariat and the compilation of the additional regional data have become the main medium for States parties to share and benefit from the experiences of other Parties. As the number of States parties to be reviewed increases and the data on the implementation of the Convention continue to build up, the way to group, compile and share such data on the basis of continuing to observe the rules on confidentiality is an issue worthy of further exploration. Our proposal is that the fifth meeting of the Implementation Review Group should engage in discussions on this matter, for instance on whether thematic exchanges could be organized on good practices for the implementation of the Convention on the lines of the practice of the Open-ended Intergovernmental Working Group on Asset Recovery and whether it is necessary to produce a special written analysis on the implementation of chapters 3 and 4 of the Convention after the first review cycle is completed.

8. On the issue of financing for the Mechanism, the Secretariat indicated that a shortfall existed in the funding required for the operation of the Mechanism and mentioned at the last meeting of the Implementation Review Group that a plan to save resources had been put in place. The rules of the Mechanism provide that the

funding required by the Secretariat and the Mechanism should be provided from the normal budget of the United Nations, while the funding for country visits conducted for the review of the implementation of the Convention, the joint meetings in Vienna and the training of experts will be met through voluntary contributions. However, voluntary contributions should not be accompanied by any additional conditions nor bring any influence to bear. As more and more countries become States parties to the Convention and receive reviews of their implementation of the Convention, the resources required by the Mechanism will probably continue to increase. Our proposal is that the Secretariat should make presentations on the implementation of the plan for conserving resources. The meetings of the Implementation Review Group should conduct discussions on the sound use of the funding from the regular budget to support the operations of the Mechanism.

### **Ecuador<sup>3</sup>**

In response to the request made by the United Nations Office on Drugs and Crime (UNODC) in Note Ref. cu\_2014\_38\_spanish\_irg\_revision.pdf, received through the Ministry of Foreign Affairs and Human Mobility, information is provided here below regarding the experiences of Ecuador of participating in the first cycle of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption, in the roles of both “reviewing State party” and “State under review”, which serve as a basis for the evaluation of certain aspects of the performance of the Mechanism.

## **I**

### **Positive aspects**

#### **I.1. Technical assistance provided by the United Nations Office on Drugs and Crime**

In 2011 Ecuador received technical assistance from a UNODC expert in order to hold the first national workshop on self-assessment of implementation of the Convention, held in June 2011. The workshop resulted in the following:

- Creation of a network for ongoing coordination among 13 public institutions involved in the implementation of the Convention
- Mapping of chapters III and IV of the Convention in order to decide which institutions would work on and coordinate each of the articles comprising the chapters reviewed during the first cycle
- Creation of an initial methodology and workplan for the start of the self-assessment stage
- Provision of training to the group of governmental experts appointed for the country review stage (paragraph 21) of the Implementation Review Mechanism on the use of the new version of the self-assessment software (OMNIBUS) for use in completing the analysis required by the Implementation Mechanism

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<sup>3</sup> Contribution provided by the Council of Citizen Participation and Social Control.

- Provision of training to the governmental experts on the provisions of chapters III and IV of the Convention

As a result of the technical assistance received, Ecuador was able to successfully progress in its review process, completing and delivering the comprehensive self-assessment checklist within the deadlines specified.

## **I.2. Coordination with the Secretariat of the United Nations Convention against Corruption**

At every stage of the review process, the experts assigned by UNODC showed total willingness and openness to address concerns and consider requests for clarification or elaboration, as well as to act as a link with the countries reviewed by Ecuador during the first review cycle.

## **I.3. Training of governmental experts**

## **I.4. Process of developing the comprehensive self-assessment checklist**

- **Inclusion of introductory text to guide responses**

The self-assessment process allowed useful initiatives to be taken in the review process of Ecuador, such as the adoption of the work methodology that consists of including an introductory paragraph written in clear language in the response section for the question “Has your country adopted and implemented the measures described above?” with a general explanation of what is meant by the answers “Yes”, “Yes, in part” and “No”, together with guidance on the legislation or measures that are subsequently included.

The inclusion of introductory texts for the constructive dialogue stage provided for in paragraph 24 of the terms of reference of the Review Mechanism was of great use, since those texts provided an explanation or summary of the legislation and measures recorded in the checklist within the framework of Ecuador’s legal and institutional situation.

- **Improvement of the checklist**

The comprehensive self-assessment checklist contained some repetitive questions for which it was time-consuming to provide all the information requested, for example, where the checklist requests all relevant laws, policies or measures to be listed and a transcript of the texts to also be attached. We consider such lists unnecessary.

It is useful to be able to refer to the text of the provisions of the Convention when completing the checklist using the OMNIBUS software, but it is not necessary for the text to be included in the printed version of the checklist; including the actual texts, whose main use is to provide guidance in the preparation of responses, simply makes the checklist too long and unmanageable. Instead of the full text of the Convention, the checklist should simply include a reference to the article number, paragraph, subparagraph etc. as appropriate.



## II Difficulties encountered

### II.1. Holding teleconferences

- **Meeting deadlines and schedules**

As a State party that supported the review processes of the Russian Federation and Peru, Ecuador participated in several tripartite teleconferences in which observations were made and clarifications received on various points that arose during the country review of those States.

The first difficulty encountered was in agreeing on the scheduling of the teleconferences required for the process of constructive dialogue, owing to differences in time zones and the need for the participating countries to agree on suitable dates. This caused the teleconferences to be postponed several times, leading to delays in the schedule of the review process, which did not include any details about the necessary teleconferences, such teleconferences serving to meet the specific needs of the dialogue at different stages.

As a possible measure to alleviate these difficulties, in accordance with the principle of efficiency referred to in paragraph 3(a) of the terms of reference, the schedule of the review process should include a global stage that clearly defines a maximum and minimum number of teleconferences, to be held on any date within the established time period, for which the reviewing States parties and the State under review must agree to conscientiously meet the deadlines set.

- **Substantive topics of the teleconferences**

The second difficulty relates to the substantive topics of the teleconferences. In many cases the teleconferences served as a space in which to reach initial agreements but not to discuss the substantive issues.

In this regard it would be useful for the UNODC Secretariat to work with the States to set a preliminary agenda for the teleconferences, including in writing all the concerns to be addressed during the conferences, thus allowing information and clarifications to be prepared in order to make the discussions more decision-oriented and dynamic.

- **Technological resources**

It could be more efficient to find alternatives to replace the use of telephones in the teleconferences, such as the “Skype” tool, which also allows files and information to be attached online.

### II.2. Review of the draft country report

- **Promptness of the constructive dialogue stage in order to ensure that the information in the checklist and the report recommendations remain up-to-date**

It is fundamentally important to take into account that if too long a period passes, the comprehensive self-assessment checklist may become out-of-date and the findings may no longer be useful for the State under review.

To this end, the “constructive dialogue” stage should assign more realistic deadlines than those currently provided for in the terms of reference of the Review Mechanism, as the current deadlines are not being met in practice and are interfering with the overall schedule of the process and unnecessarily prolonging the review of each country. This issue most likely requires the proposal of an amendment to the terms of reference for consideration by the Conference of the States Parties to the United Nations Convention against Corruption.

- **Concentration of the time allocated to the revision of the country review report**

During the review of the draft report prepared as a result of the constructive dialogue stage there should be a single occasion for bringing together and discussing all the concerns of the reviewing States parties, i.e. a date set aside for review expressly included in the previously agreed schedule, with the commitment of the States concerned to meet all deadlines.

- **Consideration of experience and best practices of regional monitoring mechanisms**

As an instrument with which Ecuador is familiar, it would be helpful to draw on the experience and good practices of the Mechanism for Follow-up on the Implementation of the Inter-American Convention against Corruption (MESICIC), with regard to the global calendars established for the review rounds, as well as the challenges faced and lessons learned by the MESICIC Member States in the implementation of that convention.

## **Egypt**

1. Regarding the review of implementation

- There is a definite need for the Secretariat to prepare a document in which the lessons learned from the first review cycle are compiled for discussion before the second review cycle.
- It is important to adhere to the terms of reference of the review process that were adopted in Doha and that aim to insure that the review process contributes to an improvement in the implementation by the States parties of their obligations under the Convention, without imposing punitive measures upon States.
- The Secretariat has been notified previously of the comments of the Arab Republic of Egypt regarding the modification of questions relating to the review of implementation of chapters II and V of the Convention, to the effect that there is a need, in the review of implementation of chapters III and IV, to return to the form used during the first review cycle because that form is commensurate with the Mechanism’s objective of showing the extent to which the State under review has fulfilled its obligations and taken measures to implement the United Nations Convention against Corruption to the best of its ability.

2. Budgetary issues

- There is a need to continue to fund country visits from the regular budget without drawing on voluntary contributions, in order to ensure that the visits remain impartial and that such funding remains separate from the funding for technical assistance needs.
3. Technical assistance
- There is a definite need for the provision of technical assistance at the request of the State concerned, according to that State's priorities and in consultation with its Government, given the lack of prior coordination between regional representatives and Governments regarding the details of the programme of assistance to be provided, as a result of which the money intended for the provision of technical assistance is wasted and its basic purpose of capacity-building in combating corruption is not achieved.
  - It is important to consider the training of personnel and to consult national and regional experts before seeking international expert assistance, as such training and consultation are more cost-effective and commensurate with the nature of each geographical area.
  - There continues to be an urgent need for the provision of specialized technology for combating money-laundering and tracking diverted funds, which affects the recovery of stolen assets, as such provision contributes to the fulfilment by the State concerned of its obligations under the Convention.

## **El Salvador**

It should be noted that the comments submitted have been provided by the following institutions: the Office of the Under-Secretary for Transparency and Anti-Corruption Affairs of the Office of the President of the Republic, the Office of the Attorney-General of the Republic, the Supreme Court of Justice and the Ministry of Foreign Affairs, as detailed in the attached document.

### **I. Office of the Under-Secretary for Transparency and Anti-Corruption Affairs**

- During the process of self-assessment by the State party under review, it is suggested that the Omnibus Survey Software should display the options available to each State in terms of technical assistance for each point on the checklist. The aim of this would be to guide the State under review more clearly in order to identify the technical assistance that is required and that can be provided by the United Nations.
- With regard to the interim periods of the review process, it is suggested that videoconferences be held between experts from the reviewed and reviewing States parties. The questions posed by the reviewers could thus be addressed better by the experts of the State party under review, as the exchange of e-mails is not always ideal or effective in dispelling doubts or putting forward arguments.
- It is suggested that certain parts of the checklist should be accompanied by model legislation so that they are easier to understand, given that the provisions of the Convention itself and its accompanying interpretative

materials may not always be sufficient to allow a correct interpretation of the checklist.

- The mechanism for completing the cycle is very lengthy, as a result of which the review process does not have an immediate impact on the combating of corruption in each of the States parties concerned since, in theory, it could take around three years at least to adapt the legal system of the State in question accordingly.
- As the review carried out by the States parties during the country visit is very short, a workshop should be held at the end of the review at which the observations made can be raised and discussed among representatives of the reviewed and reviewing States parties.

## **II. Office of the Attorney-General of the Republic**

- A detailed review of the various checklists that have been developed to date should be carried out in order to evaluate the performance of the Review Mechanism, for example, the types of technical assistance available should be specified, since the terms of reference of the mechanism — section IV, part A (“Goals”), paragraph 11 (c) — refer only to the technical assistance needs to be identified, as can be seen in the text of that paragraph: “11. Consistent with the Convention, in particular article 63, the purpose of the review process shall be to assist States parties in their implementation of the Convention [...] (c) [...] to identify and substantiate specific needs for technical assistance and to promote and facilitate the provision of technical assistance.”
- It should be proposed that States parties be obliged to take into account the country visit to the State party under review, as this would facilitate the gathering of the first-hand data needed to corroborate the veracity of the information provided; for example, through interviews with major stakeholders, system users and similar entities.
- It would also be appropriate to assess the period within which country reviews are carried out, as, according to paragraph 13, those reviews should be carried out every five years, that period representing the duration of a complete cycle, yet if the terms of governments of States parties to the Convention are taken into account, it is clear that those terms are not all of the same length, which can create difficulties in addressing the observations made or ensuring that adopted measures are implemented. It should therefore be proposed that the review period be reduced (to once every three years, for example), regardless of the rule allowing a new cycle to begin before the previous cycle has been concluded.
- The above comments are in line with the goals detailed in paragraphs 40, 41 and 44 of the terms of reference.

## **III. Supreme Court of Justice**

- The Mechanism is designed to gather information on the basis of a comprehensive checklist agreed upon by the States parties. The procedure as described is based largely on self-assessment, which requires all States to

make a coordinated effort to provide the information required in order to measure the extent to which the Convention has been implemented.

- In the case of El Salvador, that information is provided by several institutions, including the Office of the Under-Secretary for Transparency and Anti-Corruption Affairs of the Office of the President, the Office of the Attorney-General of the Republic, the Government Ethics Tribunal, the Court of Audit and the Supreme Court of Justice.
- As the information is obtained from such a large number of institutions, this can create problems when attempting to consolidate the reports because of the difficulties in managing the information gathered within the State sector.
- In this regard, it is important that requests for technical assistance be followed up in order to improve inter-institutional coordination and thus to complement the necessary local efforts that should be undertaken in order to systematize information adequately.
- It would be useful if the mechanism for the preparation of basic checklists was based first and foremost on the principle set out in paragraph 8 of terms of reference of the Mechanism,<sup>4</sup> which refers to the asymmetries in the development of the various States parties, given that some of the information requested may not apply to certain States<sup>5</sup> since not all have implemented the provisions of the Convention to an equal extent.
- Emphasis should be placed on publicizing the information related to the results of the first review cycle of the Mechanism, in a way that allows not only representatives of Governments at the Conference but all entities involved, namely other State institutions, private entities and civil society organizations, to easily access and obtain the freely distributed documentation that is created.<sup>6</sup>

#### IV. Ministry of Foreign Affairs

- On the basis of national experience, we consider the active participation of civil society in the prevention and combating of corruption to be of the utmost importance, not only because of the valuable contributions that civil society

<sup>4</sup> “8. The Mechanism 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.”

<sup>5</sup> For example, in the case of El Salvador, information related to the concept of criminal liability of legal persons: article 26 of the Convention establishes that: “Each State Party shall adopt such measures as may be necessary, consistent with its legal principles, to establish the liability of legal persons for participation in the offences established in accordance with this Convention. 2. Subject to the legal principles of the State Party, the liability of legal persons may be criminal, civil or administrative. 3. Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offences. 4. Each State Party shall, in particular, ensure that legal persons held liable in accordance with this article are subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions”; however, this differs from national legislation, in which criminal proceedings may be brought against any person acting as director, legal representative or administrator of a legal entity [...]” (article 38 of the Criminal Code).

<sup>6</sup> Paragraph 3 (g): “The Mechanism shall: [...] Base its work on clear, established guidelines for the compilation, production and dissemination of information [...]”.

can make to strengthening those efforts but also because of their legitimate right to secure the accountability of both the public and the private sector. In this context, it is suggested that the participation of civil society organizations as observers in the working groups established by the Conference of the States Parties to the Convention be extended, thereby enabling them, through their valuable contributions, to aid in strengthening the implementation of the Convention, as appropriate. For example, an agenda item could be included concerning the implementation of article 13 of the Convention, which allows individuals and groups that do not belong to the public sector, such as non-governmental organizations that are in consultative status with the Economic and Social Council and as such have observer status, to have the opportunity to present information about their contributions to strengthening the implementation of the Convention.

## **France**

France reaffirms its support for the Mechanism for the Review of Implementation of the United Nations Convention against Corruption, which makes a key contribution to ensuring the effective implementation of the Convention. France, which was reviewed during the first review cycle, considers that the peer review mechanism has real added value (with respect firstly to compliance with obligations and secondly to the identification of technical assistance needs).

It is the opinion of France that the mixed financing of the review mechanism, drawn from both the regular budget and voluntary contributions, is indispensable in ensuring not only the impartiality of the review mechanism but also its sustainability.

Lastly, France considers the involvement of non-governmental organizations in the implementation of the review mechanism to be of major importance. Civil society plays a necessary and positive role within the framework of the preparation of country reviews, which a number of States — including France — have highlighted as a good practice during the various sessions of the Implementation Review Group of the United Nations Convention against Corruption.

## **India**

Please find below the comments received from India regarding contributions in the implementation of the decision 5/1 entitled “Mechanism for the Review of Implementation of the United Nations Convention against Corruption”, adopted by the Conference at its fifth session, held in Panama City from 25 to 29 November 2013.

(i) Implementation Review Group (IRG) is a part of the Implementation Review mechanism of UNODC for review of progress made in the implementation of various provisions of the UNCAC by the State Parties. The review process involves peer review of status of implementation of the provisions of UNCAC. The report of the Peer Review is considered and examined by the UNCAC Secretariat and placed before the Implementation Review Group for finalization. This IRG operates as an open-ended inter-governmental group of state parties and it is

required to report on the review of progress made by the State Parties in implementing the provisions of UNCAC to the Conference of the State Parties (COSP). The Conference of State Parties was established under Article 63 of the UNCAC to improve the capacity and co-operation between State Parties to achieve the objectives set forth in the Convention and to promote and review the implementation of UNCAC.

(ii) In terms of the review mechanism the Review of India will be done in two cycles, the first cycle covering Chapters III (Criminalization and law enforcement) and IV (International Cooperation and the 2nd cycle covering Chapter II (Preventive Measures) and Chapter IV (Asset Recovery) after completion of 1st cycle review. For detailed deliberations for country review of India covering Chapters III (Criminalization and law enforcement) and IV (International Cooperation, self-assessment gap analysis exercise has been undertaken by a team of 15 experts, having specialization in their respective field, drawn from various Ministries/Departments. Thereafter, a draft report was prepared and circulated amongst Ministries/Departments for obtaining their feedback/comments. Besides, private sector, civil society members and non-governmental organizations (NGOs) were also consulted and their views obtained on various provisions of UNCAC and its implementation. India's Self-Assessment Report of 1st cycle submitted to the UNODC Secretariat. It is apparent from the Self-Assessment Report prepared by India that its domestic laws are in consonance with the resolution of the UNCAC, except for a few provisions, which has been clearly mentioned against the relevant articles. UNODC Secretariat is yet to intimate mutually convenient dates for a desk review of India by the Member State of Uganda and Kazakhstan.

(iii) In accordance with the charter of UNCAC, State Parties may seek technical assistance, if need be, while replying to the Self-Assessment Questionnaire. The draft Self-Assessment Report was generated through Omnibus software provided by the UNODC. While feeding relevant answers against the UNCAC articles, relevant statistical data, best practices and examples etc. no technical problem was faced while working on the software. While self-assessment report was underway, India along with Bulgaria and Solomon Islands have undertaken country review of the Republics of South Korea and Vanuatu respectively and extended its cooperation and expertise while sharing formulation of executive summary during their country review. Since India is equipped with know-how of country review, India has not sought any technical assistance in preparation of the Self-Assessment Report as our domestic laws are sufficient enough to deal with anti-corruption issues. The Executive Summary prepared in respect of both the countries was discussed by the Implementation Review Group (IRG) at its 4th Session meeting held at Panama during November 2013. Having done desk review of both South Korea and Vanuatu India has acquired rich and useful experience to serve first as reviewer and thereafter undergoing its own review.

(iv) The review exercise has helped in enhancing inter-agency dialogue, cooperation and coordination through the establishment of dedicated core group across the Ministries for the validation of the information shared through the self-assessment report. The self-assessment process has offered new opportunities for refining and enhancing national data collection related to corruption. The country report and recommendations shall be an added opportunity to galvanize efforts to reform and strengthen domestic anti-corruption activities especially in the area of

legislative amendments and strengthening institutional set up by drafting national anti-corruption strategies, using the country report as a benchmarking tool. Several initiatives have since been taken to fine tune the domestic legislation with the tenets of the Convention. India has recently enacted The Lokpal and Lokayuktas Act, 2013 and the Parliament has recently passed The Whistle Blowers Protection Bill, 2011 which depicts India's firm commitment towards anti-corruption measures. Moreover, India is committed to further improve on anti-corruption front based on the requirements and recommendations of the IRG.

(v) Based on India's experience while undergoing review mechanism, following suggestions are made: (a) Country wise/region wise list of certain empanelled law consultancy agencies should be made available through UNODC Secretariat so that technical assistance in preparation of self-assessment report is easily available; (b) In case of Vanuatu, the time provided for Desk Review/country visit and finalization of executive summary was very short. Therefore, sufficient time should be provided for future reviews so that the experts as well as the concerned country have ample time to follow the procedures; and (c) Self-assessment Report for India was submitted to UNODC Secretariat in January, 2014 and finalization of desk review may be initiated so as to complete the review process well in time.

## **Israel**

Israel greatly appreciates the efforts undertaken by the UNODC Secretariat during the first cycle of the review process, in particular the organizing and coordinating of the vast number of country reviews conducted since the launch of the process in 2010. The dedication and efforts of the Secretariat and the member states have brought about a very successful outcome and Israel looks forward to continuing its active involvement in this important process.

In order to further the implementation of the Convention, we believe that the Implementation Review Mechanism could be strengthened by making it more focused, inclusive, effective and transparent. To that effect, we would like to submit the following points for consideration by the Implementation Review Group.

### **I. First Cycle of Review**

The first cycle of review is soon coming to an end and many practices in the conduct of the review process are already established. However, we believe that it would be useful to utilize the remaining time by applying measures to enhance the current process, with a view that the experience with such measures during the first cycle can assist possible implementation for the second cycle. Israel's main proposals in this regard are as follows:

Compilation of best practices — Based on reviews made so far, a short compilation of best practices (no more than 10 pages) could be prepared, as has been done to some extent in other review mechanisms, such as the OECD Anti-Bribery Convention. Such a compilation can be updated up to the conclusion of the first cycle. It could serve as a reference point for states in examining measures to implement the observations made by the reviewing states. The compilation could



perhaps be arranged according to legal systems and regional groups, in order to enable member states to properly explore best practices and consider their adoption.

Compilation of observations — Similarly, a compilation of specific observations made by reviewing states could inform states still under review of the nature of the expected observations so that they can prepare accordingly. Such overview could also provide the Working Group with the understanding not only of the recurring challenges (now included in the thematic reports), but also of recurring observations. States could also benefit from such information when considering the ways to address observations made by the reviewers, including in preparation for the follow-up procedures.

Cycle of review end product — It is proposed that the Working Group consider, at this late stage of the cycle, what it sees as the end product of the cycle of review. Options could include, inter alia, non-binding recommendations or guidelines on implementation, identifying issues where implementation was deemed impractical and finding ways to address this, and particular areas of focus for technical assistance and international cooperation. Defining the nature of the expected end product in advance is important as it would best convey to the international community the extensive work which has been done in the review process, without the need to derogate from the Terms of Reference of the Mechanism (TOR).

## II. Second Cycle of Review

Timelines — An adjustment to the indicative timelines of the review, in the TOR and Guidelines, should perhaps be considered for the second cycle. Such an adjustment could be made on an experimental basis, and if it is discovered to be workable, the member states can consider a formal modification of the timelines. This is important to consider as delays in the review process can result from a comprehensive internal consultation process in the reviewed state (in preparing the replies to the Omnibus questionnaire), translation needs or heavy workloads of the reviewing governmental experts.

Distinction between mandatory and discretionary provisions — The reviewed chapters in the second cycle include both mandatory and discretionary provisions. It is suggested that throughout the process, whether in the conduct of the review or in the thematic reports, clear distinctions be made between both types of provisions. The IRG could consider instructing the reviewed states, the reviewing states and the Secretariat to pay particular attention to the issue to avoid misrepresentation of compliance with the Convention.

Methodology of the executive summaries — Executive summaries of the second cycle could include more emphasis on case law rather than statistics and indication of alternatives suggested by reviewing states to remedy deficiencies in implementation.

Selection of reviewing and reviewed states — The IRG should consider more efficient alternatives for determining the scheduling and content of the reviews. It is suggested, for example, be draw the lots in the presence of the extended bureau, prior to the meeting of the IRG, and to release the results to member states only. Member states wishing to object or redraw can ask to do so in the first day of the meeting. This would save time for the first draw while preserving the rights of member states in accordance with the TOR.

It would also be important to preserve the practices established informally during the drawing of lots, including the right of a state to decline to serve as a reviewing state if it was selected to serve as a reviewer twice or more during the same year.

Participation of relevant stakeholders — During the first cycle, certain practices have been developed regarding the involvement of non-state stakeholders in the IRG and related Working Groups. Member states should consider means to enhance such participation, particularly in discussions on chapter II (regarding prevention), subject to the principle that such participation should not involve debates on country-specific situations.

### III. Follow-Up

Presentations by States — Building upon ideas previously presented by other member states, we believe it would be worthwhile to consider creating mechanisms for allowing reviewed states, upon their request, to present steps taken to remedy issues highlighted by the observations in the country report. Such a presentation could be done in the framework of a brief paper and/or side events. As long as the state agrees and requests to avail itself of such an option, it appears consistent with the TOR.

Self-Assessment follow-up report — responses to observations and national action plans — The IRG could consider encouraging member states to submit, within two years of the completion of the country report, a short self-assessment follow-up report, detailing both responses to observations made by the reviewing states and national action plans in order to address possible gaps in implementation.

### Jordan<sup>7</sup>

Since the Hashemite Kingdom of Jordan announced its ratification of the United Nations Convention against Corruption (UNCAC) in 2005, the country has strived to bring its legal system in line with the requirements of the Convention, focusing on the three following areas:

#### **Area no. 1: Harmonization of national legislation**

A country's legislation is undoubtedly one of the most effective indicators of its determination to fight corruption, increase transparency and promote accountability and integrity. Political will alone is not enough to tackle corruption; this will must be backed by robust, prudent legislation.

For the Hashemite Kingdom of Jordan, the process of harmonizing its national legislation with UNCAC has been a unique experience as a result of the particular issues at play and the short available time frame. The legislative overhaul began in early 2011, when the King ordered the formation of the Royal Committee on Constitutional Review to offer proposals and recommendations for amendments to articles of the Jordanian Constitution. The Committee proposed amendments to 37 of the constitution's 131 articles, around a quarter of the total. The amendments were designed to bring Jordan's constitution up to the standard of those of advanced

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<sup>7</sup> Contribution provided by the Anti-Corruption Commission.

countries, strengthen democracy in Jordan and promote the well-being of the Jordanian people. The amendments took full account of the requirements of UNCAC to promote transparency, integrity and accountability and fight corruption, most notably with the amendments that reaffirm the independence of the judiciary. For example, the word “independent” was added to describe the “Judicial Power” in article 27 of the constitution and article 98 was amended to streamline administration related to judicial affairs, the courts and the appointment of judges to the Judicial Council. All of this responds to the requirements of article 11 of UNCAC, in which the States parties reaffirm the need to guarantee the independence of the State judiciary. Substantive changes were also made to the mechanism used for bringing charges against ministers; the proportion of votes required to prosecute ministers was lowered from a “two-thirds majority” to a “majority” of the Council of Ministers, as required by UNCAC, which requests the States parties to take necessary measures to establish a balance between any immunities accorded to persons for the performance of their functions and the possibility of effectively conducting investigations to uncover acts of corruption, as described in paragraph 2 of article 30 of the Convention. Furthermore, the amendments that had included in the constitution the High Council for the Prosecution of Ministers, which was formerly responsible for bringing charges against ministers, were abolished and the Council was replaced with regular courts. The new amendments also state that a minister must be removed from office if a charge is brought against him or her by the Public Prosecutor, all of which is in accordance with the requirements stipulated in article 30 of the Convention.

In 2011, it became clear that the Anti-Corruption Commission (ACC) Law needed to be reviewed, since the practical application of the ACC’s tasks and the international obligations set out in UNCAC had revealed the need to close the legal loopholes involved in the investigation of suspected corruption cases and bring the perpetrators to justice. Based on the results of the work of the legal committees formed by the ACC and on the outcomes of the review that Jordan underwent in 2011, substantive amendments needed to be made to the ACC Law. The amended law, which was passed in 2012, granted the Commission legal powers to afford and request mutual international legal assistance provided that the conditions were fulfilled for the provision of that assistance through the official channels, pursuant to the provisions of article 46 of the Convention. The Board of the ACC was given the authority to help to recover assets obtained through corrupt practices both inside and outside the Kingdom and return them to their owners. The Commission was also given the power to appoint any specialized body to conduct financial and administrative audits on any party that falls within its jurisdiction. Furthermore, foreign public officials and officials of international public organizations were included in the provisions of the ACC Law, with the result that any act of corruption committed by them is now considered a criminal offence, in line with article 16 of the Convention. The Commission was granted the authority to request the court, as an emergency measure, to rescind any contract, agreement, benefit or privilege when there is evidence that it has been obtained by corrupt means, in accordance with the requirements of article 34 of the Convention. One of the most important amendments provides protection to informants, witnesses and experts involved in corruption cases, in accordance with articles 32 and 33 of the Convention. The amendments to the law also include provisions to apply mitigating punishment to persons who supply information or evidence that leads to the recovery of assets

obtained by corrupt means and exemption from punishment if such information is provided prior to the discovery of said corruption, in line with article 37 of the Convention. Under the amended draft law, the prosecution shall not apply sanctions if the proceeds of corruption are returned in full within the statute of limitations referred to in article 29 of UNCAC.

Under the financial control system established in 2011, each State institution and government ministry must establish a financial control unit to conduct advance audits of financial transactions, verify accounting records and financial statements, assess the compliance of State institutions with financial policy and legislation in force and establish a system of recruitment to senior leadership positions for the year 2013. The system was created to manage and control processes of recruitment to senior leadership positions and ensure that appointments are made through commissions (such as the Ministerial Commission for Selection and Appointment to Leadership Positions). Under this system, vacant leadership positions must be advertised, the Commission must assess applicants to verify their integrity and their ability to occupy the position and evaluation criteria must be used to assess specialist technical knowledge, experience, qualifications, leadership qualities, administrative abilities and other skills and convert them into assessment scores. This system fulfils one of the main requirements of the Convention, since the adoption of these measures will guarantee transparency and impartiality in recruitment to public positions.

The harmonization of national legislation with international conventions is a process that requires extensive study, research and time. Jordan can therefore not be said to have completed this process, in view of the numerous factors and related issues at play. A number of draft laws are still under consideration by the legislative institutions, which have held various sessions to study and discuss the drafts but are yet to approve the final versions. These include the amended draft law on the right to information, an instrument which facilitates and protects citizens' right to access information and take part in monitoring State institutions, and a draft anti-graft law, which is still being drawn up by the National Assembly and which, if approved, will replace the Financial Disclosure Law. The new law is particularly important because it creates mechanisms to deal with financial disclosure statements and grants the judicial body in charge of receiving the statements the authority to analyse and inspect them before they are approved and archived and to request clarifications and additional information from the party submitting the statement. The amendment also gives the ACC the power to request a copy of a statement for inspection if the statement in question relates to a corruption case under investigation.

In addition to the above measures, to complete the process of harmonizing national legislation with the requirements of UNCAC, an amended draft Anti-Corruption Commission Law was prepared in 2013 and is still under consideration. The draft law includes the following elements:

- Crimes of money-laundering and graft will be considered acts of corruption.
- Certain acts not currently criminalized under Jordanian law, such as trading in influence, as described in article 18 of the Convention, and bribery in the private sector, as described in article 21 of the Convention, will be considered crimes. The draft law also states that a conflict of interest can be considered a crime if the person in question fails to disclose the conflict.

- The scope of the ACC's powers will be broadened to allow it to investigate all persons, including those covered by special laws that require the adoption of specific procedures for their investigation.
- The Commission will be given the authority to inspect bank accounts and financial activity in both domestic and foreign banks and to examine financial disclosure statements, in line with article 40 of the Convention, which deals with bank secrecy.
- Harsher punishments will apply to persons who fail to report corruption, with more stringent punishment if the persons in question are public officials.

A number of other laws must still be amended to bring them in line with UNCAC. To that end, coordinated efforts are under way to prepare these laws for enactment. For example, the Extradition Act of 1927 is being amended to ensure that it complies with article 44 of the Convention. National legislation must also be passed to organize the mechanism for dealing with requests for mutual legal assistance (letters rogatory) and establish the conditions for such assistance and the mechanisms through which it is afforded, in accordance with article 46 et seq. of the Convention. Further legislation is required to arrange mechanisms to manage seized or frozen funds and govern the disposal of confiscated funds, in accordance with article 31 of the Convention. To comply with the provisions of the Convention, laws must also be passed on controlled delivery relating to corruption inquiries, disclosure of the identity of persons implicated in corruption and transfer of criminal proceedings and other matters that require joint investigation, as stipulated by article 47 et seq.

Additionally, pursuant to the recommendations of the review report and the comments of the expert reviewers, the Hashemite Kingdom of Jordan has notified the United Nations Secretary-General of its decision to designate the Ministry of Justice as the central authority responsible for receiving requests for mutual legal assistance and either executing them or transmitting them to the competent authorities, pursuant to paragraph 13 of article 46 of the Convention.

Based on the outcomes of its review, the Hashemite Kingdom of Jordan has also notified the United Nations Secretary-General that it takes bilateral agreements and national laws as the basis for cooperation on extradition requests, in accordance with paragraph 6 of article 46 of the Convention.

## **Area no. 2: National policy and strategy**

The Hashemite Kingdom of Jordan considers that anti-corruption legislation alone is not enough to tackle this scourge, particularly given that corruption is a complicated and intricate crime which is carefully defended and concealed by its beneficiaries. It must therefore be tackled using a unified strategy based on concerted efforts, drawing on the complementary roles of the various State institutions and with support from robust political and social will. To that end, Jordan has taken the initiative to establish national anti-corruption strategies, the first of which covered the 2008-2012 period. The subsequent 2013-2017 strategy was drawn up on the basis of a number of reports and documents, notably the review of Jordan's compliance with UNCAC.

The national strategy for 2013-2017 focuses on implementing a set of measures aimed in particular at building the capacity of the ACC, improving the effectiveness of investigative procedures in corruption cases and in the prosecution of perpetrators, strengthening international cooperation on anti-corruption, creating national legislation in line with international criteria and recommendations on anti-corruption and guaranteeing the effective implementation of those recommendations. All of these efforts respond to the obligation for the States parties to the Convention to harmonize their legislation with the Convention's requirements and establish policies and strategies to prevent acts of corruption, punish the perpetrators and pay due attention to international cooperation to ensure that criminals do not evade punishment and that there are no safe havens for the proceeds of corruption.

### **Area no. 3: Technical assistance and capacity-building**

The Hashemite Kingdom of Jordan is aware of the importance of adopting an open attitude towards the rest of the world and making the most of available technical expertise from other countries in all fields related to anti-corruption. On that basis, Jordan has made efforts to host a number of international and regional conferences and workshops focusing on the importance of international cooperation, such as the Global Focal Point conference held by INTERPOL and the StAR (Stolen Asset Recovery initiative) on unofficial information exchange, workshops with the Organisation for Economic Co-operation and Development on combating bribery and reinforcing transparency in the private sector and a workshop with the United Nations Office on Drugs and Crime on the impartiality of the judiciary. Various training sessions have been held with the Government of the French Republic and the United States Department of Justice on international cooperation and requirements for requesting mutual legal assistance.

To further boost Jordan's anti-corruption efforts, a twinning project with Finland has been implemented, with support from the European Union. The project revolved around capacity-building and improving investigation and prosecution skills in corruption cases, with due regard for international cooperation.

In preparation for Jordan's second cycle of the review, which will cover Chapter II of the Convention (Preventive measures) and Chapter V (Asset recovery), Jordan has created a national team with members from various institutions and ministries, including civil society organizations, supervisory bodies and the media. In cooperation with the United Nations Development Programme, Jordan held a training session to train the national team on completion and requirements of the self-assessment report. The team was divided into the following four groups:

- Group 1 will review the items on effective coordinated policy and specialized bodies (articles 5 and 6, chapter II of the Convention).
- Group 2 will review the items on public officials (articles 7, 8 and article 12, paragraph 2(e), chapter II of the Convention).
- Group 3 will review the items on public procurement and the roles of the private and public sectors (article 9, paragraphs 1 and 3, and article 12, paragraphs 1, 2 (with the exception of 2(e)) and 3, chapter II of the Convention).

- Group 4 will review the items on public reporting and participation of society (articles 10, 13 and article 9, paragraph 2, chapter II of the Convention).

The Hashemite Kingdom of Jordan also took part in the review of Iraq and is currently reviewing Bahrain in collaboration with Honduras.

## **Latvia**

With reference to the note verbale CU 2014/38/DTA/CEB/CSS hereby the contribution is submitted by the Corruption Prevention and Combating Bureau, the designated institution in Latvia for coordination of the United Nations Convention against Corruption implementation. The Bureau was the focal point in the process of the country review and it also provided reviewing experts on evaluation of Algeria and Slovenia.

Given that Latvia was under the review and at the same time participated in parallel in the reviews of other countries we are in the position to contribute from the comprehensive experience.

One of the major concerns in the context of this review mechanism is the time framework and volume of the information to be submitted in the self-assessment checklist. Either longer terms for evaluation or more flexible deadlines for submitting additional information has to be put under the further consideration. Having less fixed calendar for in particular submitting additional information would contribute to better organisation of the work in general. Further, both issues have impact to financial challenges and capacity of States faced by the review mechanism.

In order to have the review of all the UNCAC provisions and in the light of shortened country visits due to financial constraints, completion of the self-assessment and the country visit should be considered as complementary tool if there would be an agreement to launch a country visit at all.

It is our strong believe that in order to keep up the spirit of mutual assessments guided by the principle of equality development of the follow-up mechanism has to be on the agenda of one of the nearest Conference of States Parties. Elaboration of the follow-up mechanism would among other decrease the formal attitude towards the recommendations especially by adopting legal framework without application of these provisions in practice.

Although Latvia is party to the UNCAC from 2006 completion of self-assessment checklist was very useful exercise complemented by the country visit and exchange of information that followed after the visit. Findings of the review experts for Latvia have been already included in the country's anti-corruption policy programme for the period from 2014-2020, still to be approved by the government. Moreover, Latvia has made already self-assessment for the next reviewing cycle and identified shortfalls have been proposed for the country's anti-corruption programme.

It should be noted that the Mechanism for the Review of Implementation of the United Nations Convention against Corruption for particular States has created quite substantial overlapping with other regional or international review mechanisms. Namely, conventions and other stipulations reviewed by the Council of Europe

Anti-Corruption Group (GRECO) and the OECD Working Group on Bribery in International Business Transactions monitoring the implementation and enforcement of the OECD Anti-Bribery Convention also carries out quite extensive and substantial mutual evaluation and compliance procedures. GRECO has granted observer status to the Organisation for Economic Cooperation and Development (OECD) and the United Nations — represented by the United Nations Office on Drugs and Crime (UNODC). Therefore in order to simplify the review mechanism and to save the capacity of all institutions involved it would be important to consider skipping double review and taking into account conclusions drawn and recommendations issued by the other mechanisms.

Taking this opportunity we would like to reiterate our openness and readiness to continue sharing experience of our country in implementation of values of the UNCAC.

### **Lebanon<sup>8</sup>**

- I. With regard to the self-assessment checklist, we believe it would be better:
  1. If it were summarized and arranged in major topics covering several articles together in order to avoid repetition, instead of dealing with each paragraph separately as is the case at present.
  2. To reword the questions addressed to States parties as follows:
    - (a) Does your State fully implement the provisions referred to?  
Yes: List the policies, laws and regulations implementing them and provide examples of application.  
No: List the challenges that prevent implementation.
    - (b) Do you need technical assistance? If so, please specify.
  3. Reconsider the self-assessment checklist in Arabic from the technical standpoint, in view of the great difficulties encountered when printing the replies from the computer as a result of the inaccuracies that have marred the programme.
- II. With regard to the country visit to countries subject to review of implementation, we believe it would be better if it were mandatory and made room for dialogue with officials in the country and representatives of civil society and the private sector.
- III. There could be a timetable for rectifying the shortcomings in implementation of the Convention after the review process is finished in agreement with the country under review, insisting on the submission of a report on this every year or two to the Conference Secretariat.
- IV. With regard to publication of the self-assessment, we are clear that Lebanon encourages full publication of the self-assessment and of the final report, and has published a summary of it.

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<sup>8</sup> Contribution provided by the Ministry of Justice and the Ministry of State for Administrative Development.



V. With regard to the involvement of civil society in the review mechanism, Lebanon has organized a workshop to discuss the self-assessment with representatives of the three authorities and civil society. It favours the involvement of civil society at all stages of the implementation phase, from drafting of the report through to the field visit in order to lay the groundwork for the reform programme.

## **Mexico**

Mexico was one of the main promoters and negotiators of the terms of reference of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption as approved in Doha, Qatar, in November 2009. The Mechanism represents the most important development since the Convention entered into force on 14 December 2005.

During the first year of the first review cycle of the Mechanism, Mexico had the opportunity to act as the reviewing State party for Brazil, together with Haiti. In the third year of the same cycle, Mexico was reviewed by Peru and Azerbaijan, and is currently acting as reviewing State party for Belgium, together with the Netherlands.

Since the implementation of the Mechanism during the first review cycle, the strengthening of the Mechanism has been considered to be of the utmost importance in order to ensure that the second review cycle incorporates best practices and lessons learned and optimizes the use of financial and human resources, which will contribute to making the Mechanism more efficient and more effective.

To further the success of the Mechanism, it is necessary to make adjustments and obtain the support of participating countries, incorporating changes into the review process in order to make it more dynamic, through more open communication between the reviewed and reviewing States parties, consistently in accordance with the provisions of the terms of reference of the Mechanism.

### **Recommendations proposed by Mexico for the optimization of the Mechanism:**

- In order to shorten the time periods involved in the review process, so that it takes between six months and a maximum of one year, it is suggested that States parties under review nominate their focal points promptly in order to avoid creating a delay in the establishment of communication between the reviewing States parties, the State party under review and the Secretariat of the United Nations Office on Drugs and Crime.
- It is highly advisable that the States to be reviewed next begin to prepare their self-assessment checklists well in advance so as to make the process flow more quickly and thus to be able to submit the self-assessment checklist on time and duly completed.
- It is also suggested that the greatest possible number of documents supporting the information contained in the self-assessment checklist should be submitted together with the checklist, if possible both in the language of the country concerned and in English, in order to expedite the process of report review by the reviewing States parties.

- All available means of dialogue should be used in order to ensure that the reviewing State party, the reviewers and the Secretariat of UNODC maintain constant and close coordination and that the country visit thus serves as an exercise that enriches all parties involved and is not merely limited to a question and answer exercise. Additionally, it is recommended that the reviewed States parties provide information regarding their best practices in applying the Convention, including concrete examples of practices that are currently being applied, in order to gain a more comprehensive view of how the measures established in the Convention are being implemented in the country concerned.
- The carrying out of country visits improves the review process, given that through the empirical experience gained during that exercise, experts have the opportunity to reach a better understanding of the real situation in the country under review, establish closer ties and engage in direct dialogue with representatives of the sectors involved in implementing the Convention (the public and private sectors, civil society, etc.), understand the conditions in which implementation is taking place, facilitate a more fluid exchange of information and opinions and gain access to other sources of information, etc.
- Effort should be made to ensure that experts from both reviewing States parties participate in the country visits, which substantially enriches the review process.
- The personnel of the UNODC Secretariat who are responsible for the management of country visits should play a more active role in the regulation of the review process, and their participation should not be limited to logistical aspects only but rather extended to include the conduct of dialogue between the authorities of the reviewing States parties and of the State under review.
- The participation of civil society organizations and private-sector entities should be promoted as a routine feature of country visits, as was the case during the process of review of Mexico, which made a more substantive and critical assessment possible. This was seen by the reviewers and the UNODC Secretariat as a good practice that could be included by all States in the review process, which would make the process more transparent and give it an opening into those sectors of society.
- The process of preparation of the final country report by the UNODC Secretariat should be expedited, given that delay at that stage has been identified as a problem that is preventing reports from being adopted and published. The case of Brazil, which was reviewed in 2011, serves as an example; the country visit was carried out in August 2011 and as at March 2014 the report has still not been published, that is, there has been a delay of more than two and a half years.
- In the case of Mexico, the self-assessment checklist was sent to UNODC in January 2013 and the country visit was carried out in August of the same year, yet seven months later the UNODC Secretariat has still not sent the draft report to Mexico.
- There is a need for clear procedures and requirements for follow-up on the conclusions and observations that arise from the State review process,

including the development of detailed national action plans which take into account the technical assistance needs of the States concerned.

- Efforts should be undertaken to promote voluntary activities or mechanisms enabling States parties to facilitate the exchange of information, on the basis of their respective review reports, with other States parties and intergovernmental and civil society organizations, among others, including the citing of examples of best practices in the reports by the Secretariat, together with references and contact information, in order to facilitate direct cooperation between the States parties.
- It is important to examine the proposals of the Secretariat regarding the revised self-assessment checklist that will be used in the second review cycle, as well as suggestions on how to streamline the procedure for the drawing of lots.
- There is a need for the States and the UNODC Secretariat to adhere more strictly to the deadlines set for carrying out the implementation reviews.

## **Pakistan<sup>9</sup>**

**Translation Issues** — It has been observed that while translating various provisions of law into English from other languages, different terminologies got their meanings changed with reference to their original language. It is suggested that the State under review should be given ample time to revisit translated terminologies to avoid confusion at a later stage.

**Preparation of Self Assessment Checklist** — State Party under review is given 2 months to provide response to the Comprehensive Self Assessment Checklist after nomination of focal person and conduct of tele/video conference. This does not appear justified, keeping in view the in-house assignments required to be performed by the focal person and allied governmental experts. It is proposed that the existing time line may therefore be doubled i.e. 04 months, so that the State under review can provide detailed/comprehensive response to the above checklist.

## **Romania**

The Romanian Ministry of Justice (MoJ), with technical and financial support from the United Nations Development Programme (UNDP), conducted the self-assessment exercise on the implementation of the UNCAC in Romania. The objective of the partnership was to strengthen the capacity of the MoJ for the UNCAC Self-Assessment process (Going beyond the Minimum Approach). This national exercise sought to achieve a comparative analysis of the extent to which the country's national anti-corruption systems, notably its laws, regulations, policies, institutions and programs are complying with the requirements of UNCAC, both *de jure* and *de facto*.

By agreeing to implement the UNDP “going beyond the minimum” review methodology, Romania has committed to achieve more than just the minimum

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<sup>9</sup> Contribution provided by the National Accountability Bureau of Pakistan.

standards. The self-assessment process was applied to all the chapters in the convention.

MoJ led and coordinated the entire process, while the UNDP had a supporting role.

The partnership was carried out in the framework of Romania's evaluation within the Mechanism for the Review of Implementation of UNCAC. Moreover, this exercise was a result of the National Anticorruption Strategy 2012-2015, that provides, among its measures, "implementing international standards and promoting an active role of Romania within the regional and international anticorruption initiatives".

A Steering Committee was established and it comprised high level representatives of all relevant public institutions and stakeholders from civil society, business sector and academia, thus meeting the requirements of paragraphs 28 of the Terms of reference of the Mechanism for the Review of Implementation of United Nations Convention against Corruption.

The desk review carried out by France and Estonia, as reviewing States, was complemented with further means of a direct dialogue, respectively a country visit. It was organised between June 4 and 6, 2013.

The meetings were attended by the President and Secretary of the Senate's Legal Committee, the Vice-president of the Chamber of Deputies' Legal Committee, other members of the Parliament, the Vice-president of the High Court of Cassation and Justice (HCCJ), the Vice-president of the National Integrity Agency (ANI) and other high-level representatives of the National Anticorruption Directorate, Prosecutor's Office attached to HCCJ, ANI, the High Court of Cassation and Justice, the Superior Council of Magistracy, the Directorate for the Investigation of Organised Crime and Terrorism, the General Anticorruption Directorate within the Ministry of Internal Affairs, the National Office for Witness Protection and Criminal Records Division of the General Inspectorate of Romanian Police and representatives of the Ministry of Justice.

In addition, the expert team had two separate meetings with representatives of the business sector and civil society. A group of representatives of the Anticorruption Alliance from Republic of Moldova, an alliance of Moldavian NGOs involved in various activities to curb corruption. attended the meeting with the Romanian NGOs as an observer.

Therefore, in organising the country visit, Romania observed paragraphs 29 and 30 of the Terms of reference of the Mechanism for the Review of Implementation of United Nations Convention against Corruption.

During the review process, some challenges were encountered, particularly taking into account the high number of stakeholders consulted for filling in all chapters of the self-assessment. Thus, for the next review cycle, more flexible timeframes and deadlines would be needed, especially considering the amount of information needed to be provided under chapter II.

In addition, in order for both reviewing countries and country under review to better prepare for the country visit, the draft country review report should be made available at least one month before the visit.

As part of the follow-up procedure, the example of other review mechanisms should be taken into account. Therefore, based on paragraph 40 of the Terms of reference, the review States could be asked to provide information on how they dealt with the challenges and observations identified in the country review report, 2 years after its publication. A short synthesis could be drawn up by the Secretariat, comprising best practices and loopholes identified during the follow-up procedure.

In addition, the Secretariat could envisage organising regional thematic seminars on the outcomes of the first review cycle.

Moreover, a track record supporting the implementation of the Convention could also be set up, on a voluntary basis, following the model of the StAR Initiative's database on asset recovery. As a start-up point, the Secretariat could use the information provided by the States that made public their country review

## **Russian Federation**

The experience of the Russian Federation following the first review cycle has shown the Mechanism to be reliable and not in need of any major improvement.

The Russian Federation firmly believes that an intergovernmental basis for the review mechanism is necessary. NGOs could make contributions by offering suggestions on how to strengthen measures to counter corruption and on the type of information that would help to achieve more effective implementation of the Convention. NGOs should not, however, be given the right to participate directly in the review process itself on a par with governmental experts.

When reporting on progress in connection with the observations contained in country reports relating to the first review cycle, States parties to the Convention should be guided by not only the provisions under paragraphs 40 and 41 ("Follow-up procedures") of the Terms of Reference for the review mechanism but also the guiding principles laid down in paragraph 3 ("Guiding principles and characteristics of the Mechanism") of those Terms of Reference.

## **Switzerland**

Switzerland would like to bring for discussion to the Implementation Review Group (IRG) the following points in relation to the decision 5/1 entitled "Mechanism for the Review of Implementation of the United Nations against Corruption", adopted by the Conference of the States Parties to the United Nations Convention against Corruption at its fifth session, held in Panama City from 25 to 29 November 2013:

### **Increased public awareness of the UNCAC review mechanism**

Lack of public awareness of the Implementation Review Mechanism (IRM) and the UNCAC in general, emerged as salient factor to the UNCAC review mechanism. An important reason for this shortcoming is that many governments did not notify early enough this process to in-country stakeholders.

There is also a lack of public interest in the process, which appears to be both a cause and a consequence of low awareness. In general, the media do not cover the UNCAC review process.

#### PROPOSED MEASURES

- \_ The launch of the UNCAC review process should be officially and timely announced and notified to in-country stakeholders.
- \_ Each State Party should make the contact details of the national focal point of the review process publicly available.
- \_ Relevant actors outside the public sector should be informed in advance about the country visit, at best be included in the country visit.
- \_ A media release by the Secretariat of each finalized country review would make the UNCAC review process better known to the public.

#### **Enhancing transparency and the systematic use of the collected information**

Each country review collects an enormous amount of relevant and interesting information. The question is how to ensure that Member States can make the best use of it.

A publication of the country reports would not only provide access to this unique information database for Member States, it would also deepen the thematic discussion and bring it to a more substantial and concrete level. Furthermore, it could be useful for technical assistance providers seeking information on how to best support beneficiary countries with customized technical assistance programs. The new UNCAC webpage displaying country profiles provides a good overview on the status of country examinations, i.e. which country has already concluded the country examinations and which country has published the self assessment and the country report.

With respect to the Terms of References (TOR), two provisions address the issue of information sharing: The first is an optional one under TOR 38, while the second provides the Member States under TOR 39 with a mean to share the outcomes of the country review process.

#### PROPOSED MEASURES

- \_ The publication of the self-assessment and the full country reports should be encouraged.
- \_ The TOR 39 should be applied to allow the information sharing between Member States.

#### **Follow-up activities**

The country reports contain remarks and recommendations on how to improve compliance with the Convention and recommend concrete actions to fully implement the Convention. However, there is no mechanism defined yet on how to respond in a systematic way to challenges and deficiencies that have been identified. Nor do they indicate in which way and until when such shortcomings should be addressed.

## PROPOSED MEASURES

\_ The IRG should define a follow-up procedure for the recommendations made during the first cycle country reviews.

\_ The IRG and the UNCAC Secretariat should consider developing additional practical nonbinding recommendations to maximize the value of the IRM process in countries.

### **Enhanced engagement of all relevant stakeholders**

In order to ensure an effective UNCAC implementation, it is very important to engage from the beginning of the review process all stakeholders such as national agencies, units of governmental administrations, the parliament, regional government administrations, media, the private sector, civil society organizations, academia and technical assistance providers. The credibility and strength of the UNCAC review process depends largely on such multistakeholders participation.

### **Private Sector**

Corruption not only slows down economic development of countries, it also causes market distortions and barriers for investment. It is necessary to pursue efforts to achieve a stronger involvement of the private sector into the IRM process, especially at the national level.

## PROPOSED MEASURES

\_ Increase the collaboration with the private sector, especially on the national level by providing information to companies on the contents and benefits of UNCAC, by collaborating to fully implement UNCAC and to introduce effective anti-corruption compliance programs.

\_ The IRG could introduce for the further meetings a discussion item focusing on the implementation of Article 13 of the Convention from the perspective of individuals and groups outside the public sector, and States Parties could invite relevant private sector representatives and non-governmental organizations, having consultative status with ECOSOC, to present information to the IRG regarding their efforts to strengthen implementation of the Convention.

### **Civil Society**

Civil society is widely acknowledged to have a crucial role to play in the fight against corruption. This view is reaffirmed in a number of international conventions, including the United Nations Convention against Corruption (UNCAC), which states in its preamble that

*“... The prevention and eradication of corruption is a responsibility of all States and that they must cooperate with one another, with the support and involvement of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, if their efforts in this area are to be effective.”*

Furthermore, Article 13 of the Convention provides explicitly for the participation of civil society in the fight against corruption:

*“...Each State Party shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption.”*

#### PROPOSED MEASURES

\_ State Parties should take early action to ensure that there is broad awareness within the civil society of the IRM and upcoming country reviews by publishing the contact details of the national contact point, by informing the public about the start of the review process and by consultation during the country examination with the different actors of the civil society.

\_ States Parties should enhance the inclusivity of their UNCAC country reviews by making use of the options contained in the terms of reference of the UNCAC Review Mechanism, namely by allowing country visits, involving civil society in their individual country reviews – if needed under Chatham House rules – and improving access to the information by publishing in full the reports of the review.

#### **Adopting the timing of the country reviews realistically and shortening the drawing of lots**

The IRM is confronted with an important delay in the conclusion of the country reviews. Furthermore, new Member States have joined the Convention. For some countries the review mechanism is the first country review in the area of anti-corruption. Experience has proven that the timeline indicated in the terms of reference is too tight and should be reviewed. Furthermore, a lot of time was lost during the first review cycle to the drawing of lots, which could have been used for substantial discussion. The IRG and the UNCAC Secretariat could seek more efficient ways of carrying out the drawing of lots. For the purpose of reinforcing Member States compliance with the review process requisitions, the IRG could consider discussing the following measures:

#### PROPOSED MEASURES

\_ Formal processes and realistic deadlines, even if not mandatory, are needed to assist countries in engaging in reviews.

\_ The UNCAC Secretariat should present to the IRG a more efficient solution for the drawing of lots in order to have more time available for substantive discussions during the IRG.

\_ The IRG with support of the UNCAC Secretariat should define how to deal with the non-responsiveness of Member States.

#### **Increasing the operationalization of the Convention for technical assistance**

An unexpected assessment of the first review cycle’s experience is the limited role of technical assistance providers in supporting the UNCAC review mechanism process at the national level – in particular, their passive waiting for requests for assistance.



The most important challenge in the area of technical assistance is how to best use the UNCAC review process and its respective outcomes and wealth of information on the countries' actual status. The UNCAC review mechanism holds the potential to become a more relevant source of information for an anti-corruption reform process for both technical assistance providers and national stakeholders.

The UNCAC could provide a platform for exchange of information and good examples with regard to technical assistance in the area of anti-corruption. However, it is difficult to define country-specific responses in the fight against corruption for a country or a region without enabling an inclusive debate on the needs identified through the country reports. A simple aggregated analysis, falls far short of the necessary information on technical assistance needs gathered through the reviews. In its reports, the Secretariat could provide examples of good practices with references and contacts in order to facilitate direct cooperation, targeted technical assistance and learning among States Parties. This will allow the UNCAC to be used as a credible basis for coordinated multilateral and bilateral development assistance in the fight against corruption and facilitate cooperation with bilateral and multilateral technical assistance providers.

#### PROPOSED MEASURES

\_ Technical assistance providers could encourage government counterparts to integrate the UNCAC review process into their overall national anti-corruption initiatives and reduce potential duplication efforts.

\_ Where relevant, technical assistance providers should consider the transparency of the UNCAC review mechanism (including access to information required to produce parallel reports) and meaningful civil society participation in the process as part of anti-corruption performance indicators.

\_ Technical assistance providers could follow-up on the country review findings through dialogue and use identified needs as a reference for technical assistance provides dialogue on possible support, coordination and harmonization.

\_ Under its regular agenda item "Technical Assistance", the IRG could establish a structured, inclusive debate on the concrete technical assistance needs identified through the specific country reviews. It could foster the collaboration with multilateral and bilateral technical assistance providers through interactive discussions.

#### United States

Pursuant to the UNODC's Note Verbale, dated 6 February 2014, the United States welcomes the opportunity to provide input for the work of the Implementation Review Group (IRG) as it begins to "collect and discuss relevant information in order to facilitate assessing the performance of the Mechanism." After more than 40 months of operation and Executive Summaries from over 40 countries available, States parties are gaining insight into promoting implementation of the Convention. For example, we are gaining insight into the challenges facing implementation of certain articles, and are also getting a better picture of success. It is essential that we harness the lessons learned from the first review cycle and reach agreement on recommendations for consideration by the Sixth COSP to make the review

mechanism more efficient and effective for the second review cycle. Outlined below are key areas which require attention by the IRG.

**1. Information Sharing.**

- UNODC has provided the IRG with “thematic reports” that are updated prior to each IRG session and organized around the chapters to be reviewed in the current review cycle. These reports provide a good basis to identify general and basic implementation trends for the Conference. However, due in part to constraints on the sharing of information, it is difficult for States parties to obtain a more detailed level of analysis, including individual country experiences, regarding implementation of relevant articles.
- It is therefore imperative that States parties publish their full reports resulting from the review mechanism.
- At the same time, the reviews are helping identify “raw needs” for technical assistance but the information contained in the Executive Summaries and the “thematic reports” is only moderately helpful for practical assistance. In many instances, the information on technical assistance needs is not detailed enough to substantiate technical assistance activities. While the mechanism is not the vehicle to provide “delivery” of technical assistance, it can be useful in identifying technical assistance needs in a way that might be instructive to all States parties, including providers of technical assistance and recipients.
- Action should be taken by States to ensure that technical assistance needs are disseminated to those technical assistance providers or potential providers operating on the ground in any particular country.

**2. Narrowing the Scope of Articles to Be Reviewed.**

- It is unduly burdensome and an inefficient use of resources to review every individual article within each chapter designated for review in a given cycle.
- For the second review cycle, the IRG should identify particular articles for review, notably for the chapter on prevention given its wide breadth and scope, but also for that on asset recovery.
- Limiting the articles under review could also help prevent a backlog of reviews during the second review cycle; assuage “review fatigue”; and allow for more focus on and attention to identification of technical assistance needs.
- Emphasis should also continue to be placed on streamlining the self-assessment checklist to make it more amenable to brevity and efficiency.

**3. Engagement with Interested Stakeholders.**

- Civil society organizations have demonstrated their positive and invaluable contributions in the area of anti-corruption.
- States parties should ensure that the briefing for NGOs on the margins of the UNCAC Implementation Review Group (IRG) remains a full-day session. It should also include representatives from the private sector and the business community, given the role of these sectors in the anti-corruption prevention.

In addition, civil society should also be invited to participate in the technical assistance discussions of IRG. Particularly for the second review cycle, those sectors

outside of government play a key role in providing assistance to facilitate implementation of the asset recovery and prevention chapters.

**4. Follow-Up to the First Review Cycle.**

- As follow-up to the first review cycle, States parties should each be required to deliver a five minute oral report to the IRG as a way to highlight action taken since the conclusion of their report. Such oral reports could be staggered during the IRGs that occur during the second review cycle and under a stand-alone agenda item added to the IRG.
  - In addition to the oral reports at the IRG, each State Party should prepare a clear, concise written product on its efforts, successes, failures in meeting the conclusions contained in its review report. This analysis could be placed on a prominent government website of their own in their own national language. The State Party would then include the resulting information as part of its oral briefing to the IRG where the written product is posted.
  - In the area of technical assistance, States parties should be urged to develop “action plans” following their individual reviews in order to itemize and prioritize technical assistance needs, bearing in mind that technical assistance “delivery” is not part of the review mechanism. Donors should be encouraged to fund UNODC’s UNCAC in-country mentor program as one vehicle for facilitating the development of such “action plans.”
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