

Annex I

Guidance Note for the provision of information by States parties for the tenth intersessional meeting of the Working Group on Prevention from 4 to 6 September 2019

1. The Secretariat has produced this Guidance Note to assist States parties and signatories in providing information as to initiatives and practices they have implemented regarding the topic under consideration at the tenth intersessional meeting of the Working Group on Prevention taking place from 4 to 6 of September 2019.
2. The Secretariat wishes to recall paragraph 12 of the report of the Working Group on Prevention on its second intersessional meeting, in which the Group recommended that States parties should be invited to share their experiences of implementing the provisions of the Convention under consideration in advance of each meeting, preferably by using the self-assessment checklist.
3. In furtherance of this, the Secretariat outlines below a selection of issues based on the questions from the self-assessment checklist that States parties may wish to use as a guide when providing information, while also taking into account that some of the information may have been provided by their Governments in the context of their reviews under the second cycle of the Implementation Review Mechanism. States parties are encouraged to view the information below only as guidance and remain free to provide any information believed to be relevant to the topic under consideration.

I- Information requested from States parties in relation to lessons learned in the development, evaluation and impact of anti-corruption strategies (art. 5 of the Convention)

1. Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention, and in particular to develop, implement, monitor and evaluate the impact of the country's anti-corruption policies.

In relation to article 5 and measures/steps that have been taken, States parties and signatories may wish to consider including the following:

a) Development and Implementation Process

- Description of the process and steps taken for the development of the anti-corruption policies (strategy, plan, or other policies, regardless of their format or official title) that have been produced or are currently being developed by the State party;

- Description of how the policies reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability;
- Description of the applicable implementation mechanisms (including allocated budget, designated responsible institutions, timeline for implementation, etc.) which were established at national, sub- national and/or local government levels;
- Description of any coordination mechanisms which have been put in place (including structures, protocols or procedures); and
- *Brazil has endeavored to combat corruption in all its forms and has promoted the enforcement of international treaties that deal with this issue including the UN Convention against Corruption and the Interamerican Convention to Combat Corruption, among others.*
- *After major improvements in the legislative branch, important achievements and good results have been possible. Among the efforts undertaken by the Brazilian Government, one could mention the restructuring and modernization of relevant institutions including the Federal Police; the Council for Economic Defense; the Council for Control of Financial Activities; and the Ministry of Transparency. All these efforts prove in a concrete manner the firm engagement of Brazil in the fight against corruption and in the recovery of assets.*
- *More specifically, within the structure of the Department of Assets Recovery and International Legal Cooperation (DRCI), great attention has been paid to the National Strategy for Combatting Corruption and Money Laundering (ENCCLA). This institution was established in 2003 under the direct coordination of the Ministry of Justice and Public Security with the main objective of facilitating and promoting dialogue and common action between public and private institutions responsible for fighting against corruption and money laundering.*
- *In the following year, the Ministry of Justice created the Department of Assets Recovery and International Legal Cooperation (DRCI, February 18th, 2004 - Decree nº 4.991), which is today the central body for international judicial cooperation in Brazil. DRCI is also the body responsible for the organization and functioning of ENCCLA. Thus, the DRCI became responsible for managing ENCCLA and for organizing its meetings.*
- *Today, ENCCLA englobes more than 80 bodies of the Executive, Legislative and Judiciary as well as civil associations.*

b) Monitoring and Evaluation

- Description of the monitoring mechanisms which were established (including monitoring protocols, mechanisms and channels, feedback mechanisms, etc.);
- Description of the evaluation mechanisms which were established (including indicators, targets, baselines, data collection tools, data analysis procedures,

validation and presentation or reporting of the evaluation findings to the policymakers and to the public at large);

- Description of analytical approaches and methodologies used with regard to data and indicators in order to measure progress in implementation as well as the impact of measures taken further to the implementation process; and
- Description of how the participation of society was promoted, including whether stakeholders outside of government were consulted and involved in the monitoring and evaluation processes.
- States parties and signatories are encouraged to provide information on the implementation of article 5(2), 5(3) and 5(4), when this would help illustrate how the anti-corruption policies are developed, implemented, monitored and evaluated.
- *ENCCLA became a major institutional network with the task of discussing legal propositions, public policies and initiatives that aim at combatting corruption and money laundering.*
- *It should be pointed out that interaction between Brazilian public institutions already existed before ENCCLA, however, there was no regularity or methodological organization focused on results. After ENCCLA was established, its permanent staff created monitoring mechanisms that are periodically reviewed.*
- *Each year, participants of ENCCLA get together at a plenary Session to analyze and approve the new initiatives and issues that will be in the agenda of activities for the following year. Working Groups are organized for each initiative and have the task of presenting proposals.*
- *To support the strategy, the DRCI acts as the Secretariat for ENCCLA, organizing the meetings in its building, located in Brasilia.*
- *There is no hierarchy among the institutions that participate in ENCCLA, but one institution is designated to coordinate each plan of action, and to provide support to the other participants of the working group.*
- *All decisions are taken by mutual consensus. This working methodology has raised more balanced and complex responses facilitating the generation of new rules and legislation, as well as Executive decrees, administrative regulations, and Good Practices for the prevention and combat against corruption and money laundering.*

2. Please outline the actions required to ensure or improve the implementation of the measures described above and any specific challenges you might be facing in this respect.

Examples of the actions required to ensure or improve the implementation of the measures described above and challenges States parties and signatories may face include:

a) **Development and Implementation Process**

- Description of challenges encountered in the development and implementation process, particularly in terms of effectiveness, coordination and impact in both urban and rural areas, and steps that were taken, if any, to address these challenges;
- Reports, studies, statistics or any other relevant information which illustrates the measures the State party has taken to effectively implement this provision;
- Anti-corruption policy documents (strategy, action plan or other policies) or other documents containing anti-corruption policies;
- Government regulations, decrees or similar decisions establishing coordination structures and/or procedures; and
- Examples of the operation of the mechanisms for inter-institutional coordination.

b) **Monitoring and Evaluation**

- Progress reports on the implementation and/or impact of national anti-corruption strategies, action plans and/or policies;
- Description of challenges in the development, data collection and/or analysis of indicators to evaluate the implementation of relevant policies and their impact on the prevention and detection of corruption;
- Evaluation reports of the impact and effectiveness of measures taken to prevent and detect corruption;
- Public surveys of the perceived and experienced extent of corruption in various sectors; and
- Risk assessments of areas or sectors particularly susceptible to corruption.

Please find below a list of positives results achieved by ENCCLA:

- 1) *Inauguration of the **National Program for Combatting Corruption and Money Laundering** - since it was launched in 2004 the Program provided training to more than 18.000 civil service employees;*
- 2) *The formulation of **RED - LAB, a National Network of Laboratories** against money laundering;*
- 3) *The creation of **SIMBA - Banking Monitoring System**, with the subsequent creation of the **National Registry of Bank Accounts of the National Financing System**;*

- 4) *Launching of an initiative to regulate the Assets Declaration of the Brazilian Civil Service employees;*
- 5) *Enactment of **Interministerial Decree 127/08** that regulates access by public auditing institutions to the fiscal and accounting registries of firms contracted by the Public Administration/ Brazilian Government;*
- 6) *Improvement of checkpoints in borders zones to control illegal traffic of assets, guns and ammunition;*
- 7) *Enactment of **Law 12.683/12 and Law 12.694/12**, that allow for the anticipated apprehension of illegal assets;*
- 8) *As a result of ENCCLA debate in 2011, new legislation was passed by Congress (**Law 13.810, March 8th, 2019**) regulating and expediting the freezing of assets of persons under investigation or accused of acts of terrorism;*
- 9) *ENCCLA inspired the creation of police units specialized in the combat of financial crimes within the structure of the Brazilian Federal Police, which became more efficient in the repression of these crimes.*
- 10) *A **National Group for Combating Criminal Organizations** was established within the Office of the General Prosecutor. This working group promotes the training of authorities that deal with the fight against criminal organizations.*
- 11) *Another major improvement was the establishment of a **General Coordination for Assets Recovery at DRCI (Decree 9.662, January 1st, 2019)**. This initiative intends to deal directly with the issues that arise from Assets Recovery inside and outside the Ministry of Justice and Public Security.*