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English only

Meeting to explore all options regarding an appropriate and effective review mechanism for the United Nations Convention against Transnational Organized Crime and the Protocols thereto

Vienna, 28-30 September 2015

Item 2 of the provisional agenda*

Five Years of UNCAC Reviews — What have we learned?

Briefing Note by the Secretariat

UNCAC Ratification Status as of 15 September 2015

1. The United Nations Convention against Corruption (UNCAC) entered into force in December 2005. It is the only globally accepted framework for action by States in relation to the issue of corruption. In September 2015 Tuvalu acceded to the Convention and became the 177th State Party.

Introduction to the Implementation Review Mechanism (IRM)

2. The Conference of the States Parties (COSP) to the United Nations Convention against Corruption adopted resolution 3/1 at its third session, in November 2009. The resolution contains the Terms of Reference of the Mechanism for the Review of Implementation of the Convention. The IRM's main elements are:

(a) Peer review process — equal participation thanks to the funding through the United Nation's regular budget and continued voluntary support on an equal footing;

(b) Enhanced implementation of UNCAC. Countries assess progress made in their implementation of the Convention and identify weaknesses or gaps requiring strengthening domestically;

(c) Confidential process, leading to the publishing of only the Executive Summary. However, States are encouraged to also publish their full report.

* CTOC/COP/WG.8/2015/1.



3. The IRM identifies measures to be implemented in a broad range of areas, from legislation to generating statistical data to review implementation. UNODC, as the secretariat to the Review Mechanism, plays a crucial role by coordinating the reviews and carrying out the following tasks:

- (a) Preparing the initial country reports;
- (b) Analysing and summarizing the outcome of the reviews;
- (c) Preparing thematic reports and regional addenda, as well as providing technical and substantive servicing of the Implementation Review Group (IRG).

4. The IRM commenced in July 2010, with two cycles foreseen in the review process. The first review cycle (2010-2015) covers UNCAC chapters III (Criminalization and Law Enforcement) and IV (International Cooperation).

The IRM in numbers

5. Between 2010 and 2015, 177 parties have ratified UNCAC, of which 172 should be reviewed during the first cycle. A decision regarding the review of the European Union is still pending. States that acceded in 2015 are unlikely to be able to finalize their reviews before the end of the year.

6. In order to support the States parties in carrying out their country reviews as well as enabling them to act as expert reviewers in other countries, UNODC has trained over 1,500 anti-corruption practitioners. Such training has at times also been delivered together with or through UNDP and some Civil Society Organizations (CSOs).

7. The IRM country review begins with the submission of the “Self-Assessment Checklist” in any of the United Nations languages. The element of multi-lingualism has come to play an important role in that it allows experts and States to express themselves freely. To date, UNODC has received some 154 responses to the self-assessment checklist. The vast majority of these have required some form of translation.

8. In line with paragraph 24 of the guidelines, the process may be complemented by any further means of direct dialogue, such as a country visit or a joint meeting at the United Nations in Vienna.

9. Of 177 States parties, 122 countries have agreed to the direct dialogue and have already carried out country visits or joint meetings, with over 90 per cent opting to host a country visit.

10. In line with paragraph 33 of the terms of reference and paragraph 30 of the guidelines, the reviewing governmental experts are to keep the information submitted and the deliberations held during the process confidential. At the end of the process, only the Executive Summary of that country report will be issued as an official United Nations document.

11. However, UNODC has noted an increasing desire from States to make public the full report, which is an encouraging trend in favour of transparency. To date, 34 States parties have agreed to publish their full report on the IRG web page. Some States publish the full reports on their own websites, so the actual number of reports posted online exceeds 34.

12. While the country report identifies successes, good practices and challenges, and makes observations to strengthen the implementation of the Convention, the Executive Summary includes a summary overview of the State Party's legal framework as well as all the recommendations and observations made by the reviewing experts.

13. Almost 100 Executive Summaries are publicly available on UNODC's website, at present.

IRM — Impact at the global level

14. The adoption and launch of the IRM has given renewed impetus to the accession of countries to the Convention: 32 countries have joined the Convention since 2010, compared to only 2 new States parties in 2009.

15. The Review Mechanism has also proven to be an important forum for all States parties to engage on practical anti-corruption issues in a positive and constructive spirit, both as States parties under review and reviewing governmental experts. The transparent, efficient, non-intrusive, inclusive and impartial nature of the Review Mechanism, as well as its multilingualism, were assets in this regard, as they allowed the equal participation of all countries. Trilateral meetings and other informal consultations on the margins of the IRG sessions and other meetings have proven to be particularly valuable. The IRM has also generated reforms, dialogue and cooperation, both domestically and internationally.

16. Since launching the Mechanism, some 40 States have sought assistance from UNODC in drafting new legislation and, more frequently, have requested comments on draft bills for the implementation of the Convention.

17. In the same context, wide-ranging support was provided for measures to improve States parties' capacities to prevent, detect, investigate and prosecute corruption, including for the development of national anti-corruption strategies, for the establishment and strengthening of relevant institutional frameworks, structures, policies, processes and procedures and for the strengthening of the preventive, investigative and prosecutorial capacities of relevant institutions, through both national and regional activities.

18. Through the servicing of the IRG meetings, in synthesizing and analysing data and information contained in the reports and their Executive summaries, the Secretariat has been able to systematically document the efforts by States parties in preventing and combating corruption. The documentation produced by the Secretariat allows for a global picture of trends, challenges, good practices and technical assistance needs, which is important because it allows the Secretariat to develop multiple tools for targeted technical assistance to countries.

19. There is a broad inclusion of stakeholders in the IRM, such as CSOs and the private sector. In 80 to 90 per cent of all reviews, non-State actors participated in some way. Additionally, 40 per cent of all reviews had participation from the private sector. It should be noted that this inclusion is at the initiative and agreement of the State party under review.

UNCAC: Impact at the country level

20. The UNCAC Review Mechanism has had positive impacts at the national level. For instance, in relation to the review of Chapter III of UNCAC, gaps which have been identified are being addressed within national coordination efforts and statistical data compiled for the report has become the benchmark for data collection. In addition, there is an increased use of electronic evidence or an increased awareness of the necessity to use this type of evidence in many countries. The country reviews have also highlighted the fact that there is a general lack of specialized anti-corruption knowledge, and therefore a continuous need for training (primarily due to staff rotation and turn over).

21. With relation to Chapter IV of UNCAC, the IRM has shed light on the increasing use of ad hoc arrangements in relation to the provision of mutual legal assistance, which shows the willingness of States to facilitate international legal cooperation. Using the Convention as a legal basis for extradition is becoming more common, and there is an apparent reluctance of reliance on information technology for keeping track of requests for international legal cooperation.