



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

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**Review of the implementation of the United Nations
Convention against Corruption**

**Report on the meeting of the Open-ended Intergovernmental
Working Group on Review of the Implementation of the
United Nations Convention against Corruption
held in Vienna from 29 to 31 August 2007**

I. Introduction

1. In accordance with article 63 of the United Nations Convention against Corruption (General Assembly resolution 58/4, annex), the Conference of the States Parties to the United Nations Convention against Corruption was established to improve the capacity of and cooperation between States parties to achieve the objectives set forth in the Convention and to promote and review its implementation. Pursuant to article 63, paragraph 1, of the Convention, the Conference is to acquire the necessary knowledge of the measures taken by States parties in implementing the Convention – and the difficulties encountered by them in doing so – through information provided by them and through such supplemental review mechanisms as may be established by the Conference. The Convention thus established the principle of review of its implementation by the Conference, leaving decisions on the means of such review to the Conference.

2. At its first session, held in Amman from 10 to 14 December 2006, the Conference took an important step in that direction by agreeing that it was necessary to establish an appropriate mechanism to assist it in reviewing implementation of the Convention. In its resolution 1/1, the Conference established an open-ended, intergovernmental expert group to make recommendations to the Conference at its second session on appropriate mechanisms or bodies for carrying out the implementation review.

* CAC/COSP/2008/1.



3. In the interim and subject to the availability of voluntary contributions, the Conference requested the United Nations Office on Drugs and Crime (UNODC) to assist parties, at their request, in their efforts to collect and provide information on their self-assessments and analyses of implementation efforts and to report on those efforts to the Conference at its second session.

4. At the first session of the Conference, representatives expressed their support for establishing a well-focused review mechanism but noted that the mechanism should be an ongoing process and that a gradual approach should be adopted. They stated that the mechanism should be effective, efficient, transparent and non-intrusive and must have predictable funding. The review mechanism should enable the Conference to identify difficulties encountered and good practices adopted in efforts by States parties to implement the Convention. Representatives also stressed that an overly complex and resource-intensive review mechanism should be avoided and that the mechanism needed to be impartial and participatory. In that respect, the mechanism would have to gauge compliance with obligations under the Convention in a manner consistent with the principle of the sovereignty of States. Furthermore, the Conference highlighted the close link that existed between technical assistance and implementation, emphasizing that the review mechanism should enable States parties to identify gaps in their legislative and institutional frameworks so that such gaps might be closed, if necessary through the provision of assistance.

II. Organization of the meeting

A. Opening of the meeting

5. The Open-ended Intergovernmental Working Group on Review of the Implementation of the United Nations Convention against Corruption held its first meeting in Vienna from 29 to 31 August 2007.

6. The Secretary opened the meeting and informed the Working Group that Muhyieddeen Touq (Jordan), President of the Conference of the States Parties to the Convention, had initially intended to chair the meeting but had been detained by urgent matters related to his office. The Secretary reported that he had explored the possibility of inviting one of the vice-presidents of the Conference to chair the meeting but they were all also unavailable. The Secretary proposed that the Working Group elect an ad hoc chairman. On the basis of informal consultations undertaken prior to the meeting, the Secretary proposed the election of the representative of Indonesia to chair the meeting. He indicated that that would enable the Conference to draw on the same regional group as that of the President and would reflect the fact that Indonesia would be hosting the second session of the Conference. Desra Percaya (Indonesia) was elected ad hoc chairman by acclamation.

B. Adoption of the agenda and organization of work

7. On 29 August, the Working Group adopted the following agenda:

1. Organizational matters:
 - (a) Opening of the meeting;

- (b) Adoption of the agenda and organization of work.
 2. Consideration of appropriate mechanisms or bodies for reviewing the implementation of the United Nations Convention against Corruption and preparation of the terms of reference for such mechanisms or bodies.
 3. Adoption of recommendations.
 4. Adoption of the report.
8. Following the suggestion of a number of speakers, the Chairman proposed that the discussion be structured along the lines of the background paper prepared by the Secretariat (CAC/COSP/WG.1/2007/2). The Working Group agreed to the proposal.

C. Attendance

9. The following States parties to the Convention were represented at the meeting of the Working Group: Algeria, Angola, Argentina, Australia, Austria, Azerbaijan, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Chile, China, Colombia, Costa Rica, Croatia, Cuba, Denmark, Dominican Republic, Egypt, El Salvador, Finland, France, Guatemala, Hungary, Indonesia, Jordan, Kuwait, Latvia, Lithuania, Mexico, Morocco, Namibia, Netherlands, Nigeria, Norway, Peru, Philippines, Poland, Romania, Russian Federation, Slovakia, South Africa, Spain, Turkey, United Republic of Tanzania and United States of America.
10. The following States signatories to the Convention were represented by observers: Belgium, Brunei Darussalam, Canada, Czech Republic, Ethiopia, Germany, Greece, Haiti, India, Iran (Islamic Republic of), Ireland, Italy, Japan, Pakistan, Portugal, Saudi Arabia, Singapore, Sudan, Sweden, Switzerland, Syrian Arab Republic, Thailand, Tunisia and Ukraine.
11. The European Community, a regional economic integration organization that is a signatory to the Convention, was represented at the meeting.
12. The following observer States were also represented: Andorra, Lebanon and Slovenia.
13. The following Secretariat units, United Nations bodies, funds and programmes, institutes of the United Nations Crime Prevention and Criminal Justice Programme network, specialized agencies and other organizations of the United Nations system were represented by observers: Office of Internal Oversight Services, United Nations Development Programme, United Nations Human Settlements Programme (UN-Habitat), United Nations Interregional Crime and Criminal Justice Research Institute and Basel Institute on Governance.
14. The following intergovernmental organizations were represented by observers: Asian-African Legal Consultative Organization, Commonwealth Secretariat, Commonwealth of Independent States, Council of Europe, Council of the European Union and League of Arab States.
15. The United Nations Office on Drugs and Crime served as secretariat of the meeting.

III. Consideration of appropriate mechanisms or bodies for reviewing the implementation of the United Nations Convention against Corruption and preparation of the terms of reference for such mechanisms or bodies

16. In her opening remarks, the Director of the Division for Treaty Affairs of UNODC emphasized the crucial step taken by the Conference at its first session, when it had decided on the necessity to establish an appropriate and effective mechanism to assist it in the review of the implementation of the Convention. She noted that the Conference had established the present Working Group to provide guidance and make recommendations on how it might fully and efficiently discharge its mandate. She reiterated the characteristics of the review mechanism as decided by the Conference: (a) it should be transparent, efficient, non-intrusive, inclusive and impartial; (b) it should not produce any form of ranking; (c) it should provide opportunities to share good practices and challenges; and (d) it should complement existing international and regional review mechanisms in order for the Conference to cooperate with them as appropriate and avoid duplication of effort. While that was a complex endeavour, she was confident that the participants would seize the opportunity and live up to the political will demonstrated at the first session of the Conference.

A. Information-gathering

17. From the outset, the Conference decided to devote attention to both information-gathering (resolution 1/2) and the review of implementation of the Convention (resolution 1/1). Each State party to the Convention is required to provide the Conference with information on its measures to implement the Convention. UNODC has actively supported States parties in their information-gathering efforts, specifically by preparing a self-assessment checklist designed to comply with resolution 1/2.

18. The Secretary provided information on the process for the collection of information based on the self-assessment checklist and the associated software package available on the UNODC website (http://www.unodc.org/unodc/en/crime_convention_corruption.html). By the deadline of 15 August 2007, the Secretariat had received 23 responses, of which 16 had been submitted using the software package. The Secretary considered that to be an encouraging result and noted that a number of developing countries and least developed countries had submitted completed checklists using the software, without requesting assistance. The Secretary pointed out that the software had been developed after a consultative process that had begun at the first session of the Conference. The software was intended to avoid questionnaire fatigue and to make it easier for national authorities to contribute to the self-assessment and for the Secretariat to analyse the information, including the statistical data obtained.

19. Speakers expressed the view that information-gathering was crucial to implementation of the Convention and to the mechanism for the review of implementation. The self-assessment checklist was widely considered a useful information-gathering tool, owing inter alia to the structured content of the

self-assessment and the positive impact in terms of sense of ownership by the contributing authorities. Speakers considered the information gathered through self-assessment as an appropriate starting point for a mechanism for the review of implementation.

20. A number of speakers considered that the self-assessment checklist, while an excellent tool, needed further development. One speaker suggested expanding the checklist in order to allow respondents to describe prospective work in relation to the Convention, including, where appropriate, through the provision of technical assistance. The same speaker noted that a more flexible design of the software would make it easier for national authorities to contribute to the self-assessment. The need to expand the self-assessment checklist to cover all parts of the Convention following its evaluation was highlighted. The development of a software tool for the reporting procedure under both the Convention against Corruption and the United Nations Convention against Transnational Organized Crime (General Assembly resolution 55/25, annex I) was a feasible option that could be explored further. One speaker recalled that differences between legal systems needed to be taken into account. Another emphasized the idea of product testing in relation to the software. Speakers stressed that dialogue with the Secretariat and any such assistance that it might provide during the process of completing the self-assessment were of particular importance.

21. Some speakers expressed concern about the short time allowed for submission of the self-assessment reports, although they recognized that the analytical report on the information received was to be submitted to the Conference in a timely manner at its second session. Some speakers proposed that periodic self-assessments should be planned in order to capture the progress made during the various stages of the implementation process.

B. Voluntary pilot programme for reviewing the implementation of the Convention

22. Several speakers expressed interest in learning more about the voluntary pilot programme launched by UNODC for reviewing the implementation of the Convention against Corruption in a limited number of countries. Relevant documentation on the pilot programme, namely the programme document and the minutes of the review group meeting, was distributed to the Working Group.

23. The Secretary provided an overview of the pilot programme, beginning with the inception of the idea of a technical assistance project during the preparations for the first session of the Conference. The Conference at its first session had requested, in its resolution 1/1, that UNODC assist parties upon request, as an interim measure and subject to the availability of voluntary contributions, in their analysis of implementation efforts. The main aim of the pilot programme was to test methods for reviewing the implementation of the Convention, not to evaluate that implementation. The pilot programme was conceived to address the need to better understand the various parameters at hand and to arrive at specific solutions for reviewing implementation. The global and sui generis nature of the Convention entailed the need for a new approach in designing methods to review the implementation of that instrument.

24. The pilot sought to maintain geographical balance and to ensure manageability and optimal handling of the process in order to obtain meaningful results by limiting the number of participating States. The following States had participated in the voluntary pilot programme: Argentina, Austria, Finland, France, Greece, Indonesia, Jordan, Netherlands, Norway, Peru, Poland, Romania, Sweden, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania and United States. The methodology of the pilot, which had been discussed and agreed upon by experts from the participating States, used the self-assessment checklist as the basis for information-gathering with certain adjustments. The pilot adopted a step-by-step approach and a clear timeline for execution, in the light of its temporary nature and the need to provide feedback on its findings to the Conference at its second session.

25. Several speakers from States that had volunteered to participate in the pilot programme welcomed the opportunity to provide feedback to the Working Group and highlighted the importance of transparency in that respect. They noted that their States had wished to seize the opportunity to test methods at an early, experimental stage. They particularly highlighted their appreciation of it being a flexible process, which allowed participating States to keep an open mind as the programme evolved. One speaker noted that the participation of his State had served to mobilize and encourage the national authorities in implementing the Convention. Speakers took stock of the efforts of their respective States to complete the self-assessment checklist (almost all pilot States had completed the checklist prior to the meeting) and some suggested possible improvements. Speakers stressed that the pilot was to be viewed as a learning experience and that dialogue between the experts and the States under review, in close cooperation with the Secretariat, was a crucial point. Some noted that the voluntary basis of the pilot encouraged ownership of the process, as did the regional perspective offered by each State being reviewed by another State from its own region and by one other State from another region.

26. Participants noted with interest the existence of the pilot process and agreed that its results and findings would be interesting for both the Working Group and the Conference. Several speakers cautioned that more time and information were needed to assess the experience of the pilot programme. Some speakers noted that a two-tiered approach to reviewing implementation would not be desirable, and they therefore cautioned that the pilot programme should not be of an unlimited duration. Several speakers encouraged the expansion of the pilot programme in order to allow other States to take part. Some speakers indicated that their States might be interested in volunteering for the pilot programme at a later stage should its activities be continued after the second session of the Conference.

C. Establishing an appropriate and effective review mechanism

27. It was noted that, in its resolution 1/1, the Conference had agreed that it was necessary to establish an appropriate and effective mechanism to assist it in reviewing the implementation of the Convention. Maintaining and sustaining the momentum created by the Conference were necessary and desirable.

28. It was pointed out that the endeavour on which the Conference had embarked after its pronouncement on the necessity of the mechanism was complex and delicate. It was important, however, to go forward and build upon the mutual

confidence and trust that had made the initial political decision possible. Political will was a central element for reaching acceptable conclusions on the review mechanism.

29. It was recognized that determining the time required for the completion of the design phase and for the establishment of the review mechanism was a key decision. To reach that decision, the Conference needed to balance a number of considerations. First, it needed to guard against overly hasty decisions, as those could lead to a mechanism that needed to be revised after a period of time. Secondly, given the fact that implementation was a longer-term process, there was a need to give thought to developing an appropriate step-by-step, gradual and progressive approach leading to the establishment of the mechanism. A broader information base was an important component of the decision on the terms of reference of the mechanism. Such an information base was currently being built in two parallel dynamic processes: (a) information on the implementation of the Convention was gathered through the self-assessment process; and (b) methods for reviewing the implementation of the Convention were tested through the voluntary pilot programme for reviewing implementation.

30. It was noted that those processes held significant potential for producing a sharper picture of how the mechanism should look. In particular, the pilot programme, with its considerable flexibility, could provide insights into a range of matters that would be important in decision-making.

31. At the same time, the Conference needed to give consideration to the considerable expectations created by the significant political decision contained in its resolution 1/1. Striking a delicate balance between those considerations would enable the Conference to set the optimal pace towards the establishment of the mechanism.

32. It was understood that the goal of the mechanism, to promote and facilitate the implementation of the Convention, should be the point of departure.

33. How ambitious a mechanism would be established was a matter to be considered. One proposal made during the meeting of the Working Group was to use the model of the International Narcotics Control Board. The matter, however, depended on resolving a number of other issues.

34. It was noted that there were a number of specific review methods. The so-called peer review process was one such method, which was used in existing mechanisms generating information about various experiences. The pilot programme was testing a method that created partnerships of States in a way that one State from the same region as the reviewed State and one State from another region engaged in dialogue to offer support in reviewing implementation. The regional aspect of peer review was also to be considered, while keeping the door open for expertise from other regions to complement the process.

35. Other important issues to consider were the clear definition of the objectives, composition and financing of the mechanism to ensure its practical functioning, including the question of how to ensure continuity, consistency and expeditious responses to identified technical assistance needs when the Conference entered into a biennial cycle after its second session. For an effective review of implementation

of the Convention, it was crucial to have a mechanism in place that functioned seamlessly despite the two-year cycle.

36. It was emphasized that, in designing the mechanism, it would be important to consider carefully the specific requirements of certain parts of the Convention whose innovative or comprehensive nature presented special challenges. That matter related to the fact that those parts were likely to require specialized expertise or a more thorough analysis in order to arrive at meaningful conclusions on efficiency and effectiveness of implementation. Thus, there was an issue as to how or whether the mechanism could be equipped to deal with those requirements, or whether there would be a need for special arrangements for those parts.

37. A further issue that required thought was how, whether and under what circumstances a regional perspective should be built into the mechanism. Proposals made at the Working Group foresaw the establishment of regional mechanisms, which would report to the Conference as the global review mechanism. According to those proposals, the Conference would coordinate, ensure consistency and oversee the quality and uniformity of the regional reviews. Consideration of such a “regional approach” involved taking into account the need to avoid fragmentation in the implementation of the Convention and the challenge of ensuring that there were common standards applied in various regions. Several speakers supported those proposals, while others opposed them, stating that there should be only one mechanism for all States parties.

38. The observer for Portugal, speaking on behalf of the European Union, made a statement in which he presented the following six principles that he regarded as important in establishing an appropriate and effective review mechanism: (a) reporting by all States parties, as called for by article 63; (b) review by experts from States parties; (c) establishment of one body (article 63, para. 7); (d) a global system that utilized available regional mechanisms (article 63, para. 4 (d)); (e) public reports (article 63, para. 6); and (f) the use of a variety of sources and expertise. Some speakers expressed their support for the statement made on behalf of the European Union, while others disagreed and gave concrete reasons why they were not able to support the statement; others suggested the need for further clarification.

39. In any event, it would be important to keep in mind at all times during further discussions the overall mandated objectives of the Conference as stated in article 63, paragraph 1 of the Convention.

40. A joint statement submitted on behalf of three delegations presented the following 10 areas that they perceived as areas of convergence: (a) all States parties must provide information on their implementation of the Convention as required by any review mechanism or body; (b) the review of implementation of the Convention would be carried out by the States parties; (c) the review of implementation of the Convention would benefit from the involvement of experts; (d) the review would include the identification of implementation gaps and of technical assistance needs as a way of promoting and facilitating implementation of the Convention by States parties; (e) the review would be non-adversarial in nature; (f) the review should not create a system having two or more tiers; (g) the operation of any review mechanism or body could be informed by taking into account the practices of other anti-corruption follow-up mechanisms and the results of the voluntary pilot

programme; (h) any review mechanism or body should bear the characteristics set out in resolution 1/1 of the Conference and all States parties should enjoy equal footing in any review mechanism or body; (i) any review mechanism or body could identify good practices relevant to the Convention; and (j) any review mechanism or body must be flexible and capable of evolving. Some speakers expressed their support for the statement, while others expressed reservations. As the submission came late in the meeting, there was not sufficient time to discuss it further.

D. Characteristics of the review mechanism

41. At its first session, the Conference had agreed on a certain number of characteristics that the review mechanism should have: that it should be transparent, efficient, non-intrusive, inclusive and impartial; that it should not produce any form of ranking; that it should provide opportunities to share good practices and challenges; and that it should complement existing international and regional review mechanisms in order that the Conference might, as appropriate, cooperate with them and avoid duplication of effort.

42. The Working Group was conscious of the fact that those characteristics were the fruit of careful deliberation and that its task was to elaborate upon them further and offer guidance to the Conference on how to incorporate those characteristics in the review mechanism. Speakers reaffirmed the importance of the characteristics and made observations on the issues raised by them.

43. The issue of transparency was approached from various angles during the discussion. In particular, transparency with regard to what documents, reports or findings were to be made public was addressed. It was noted that while publishing reports or findings of a review process might be envisaged, publication of the discussions leading to those results was a considerably more complex matter and a source of concern, especially regarding the effects it might have on the quality or the completeness of the information provided and on the openness of the relevant discussions. That question had to be viewed against the backdrop of the already established practice of making public all analytical reports prepared by the Secretariat, which were based on information provided by States. According to that practice, individual reports were made public only when the State concerned agreed. Input from other relevant organizations and civil society to the review process was an issue that was also related to the broader matter of information-gathering and management, which required further consideration.

44. The efficiency of the mechanism was a key issue to be considered carefully at the outset of its design. It was linked to the question of how ambitious the mechanism would be and to practical considerations, such as adequate and sustainable funding.

45. The non-intrusive, inclusive and impartial nature of the review mechanism was linked to the need to guard against creating a two-tiered approach to reviewing implementation. It was also a central element of ensuring full ownership of the process by States, which was considered a goal whose achievement would determine to a significant extent the success of the mechanism.

46. The importance of avoiding any form of ranking was in no doubt. Subjective judgements or negative tendencies were incompatible with the achievement of the goal of creating a constructive and supportive mechanism in line with the Convention and the mandate of the Conference. In that connection, it would be important to recognize that there were different levels of development among the States parties to the Convention. That would, by necessity, be reflected in the pace of implementation of anti-corruption efforts. The design of the review mechanism should take those factors into account.

47. Providing opportunities for sharing good practices and challenges was another feature that required attention. Input from other international organizations and from regional and specialized organizations and civil society might be a useful option to pursue in that connection. The Secretary informed the Working Group of the current efforts of the Secretariat to implement resolution 1/8 of the Conference. A summary of information on practices provided by States to the Secretariat pursuant to that resolution would be presented to the Conference at its second session, and the full text of the responses would be placed on the UNODC website. The relevance and quality of submissions might be an issue, but the review mechanism could function as a forum for exchanging views on practices, in particular regarding the experience of practitioners and those who might be involved in other regional or sectoral review mechanisms.

48. Avoiding duplication and ensuring that potential areas of synergy with other existing review mechanisms were explored were other important elements of the design of the review mechanism. Such efforts were needed in order to make optimal use of work undertaken in other regional and specialized settings and to reduce the workload of practitioners involved in the process, thus increasing the likelihood that information would be provided in a timely, complete and accurate manner. The results and findings of existing mechanisms could be useful for the work of the Conference, as information provided under a regional review mechanism might be appropriate to complete the self-assessment checklist. Considerable time and effort were expended in fulfilling obligations under different mechanisms and there were possibilities for that effort to be of use to the process of reviewing implementation of the Convention. It was noted, however, that other existing mechanisms were entirely different in nature and scope and that it was inadvisable to emulate past or ongoing experiences in the context of the Convention, which, with its significantly broader scope, global coverage and unique and innovative provisions, was unlike any other instruments. Furthermore, existing regional mechanisms differed significantly in terms of their methods of operation and approaches, and some of them had not yet had the chance to function.

49. It was noted that the process of establishing the review mechanism involved mutual enrichment. The Conference could draw lessons from what worked and what did not work in regional or sectoral mechanisms. The Secretariat had provided an overview of the existing mechanisms to the Conference at its first session in a background paper (CAC/COSP/2006/5). The Secretariat was requested to prepare for the Conference at its second session a comparative analysis of methods employed by existing regional or sectoral mechanisms, including conclusions on whether such mechanisms could contribute to the performance by the Conference of its mandated tasks for review of the implementation of the Convention.

E. Review of implementation and technical assistance

50. Several speakers highlighted the close links between the review of implementation and technical assistance. They stressed that information on technical assistance needs should flow from the review process, as a request for the provision of information on technical assistance needs was a key part of the self-assessment checklist. The desirability of an active interface between the Open-ended Intergovernmental Working Group on Review of the Implementation of the United Nations Convention against Corruption and the Open-ended Intergovernmental Working Group on Technical Assistance was highlighted in order to create areas of synergy and inform the Conference on technical assistance needs and activities. To that end, the documentation of the Open-ended Intergovernmental Working Group on Review of the Implementation of the United Nations Convention against Corruption should be made available to the Open-ended Intergovernmental Working Group on Technical Assistance. It was also pointed out that while multilateral assistance was important, bilateral activities should not be forgotten. The need for technical assistance to undertake the self-assessment of implementation and the need for legislative assistance to implement the Convention were both stressed.

F. Conclusions

51. The Working Group recommended that the Secretariat prepare for the Conference, at its second session, a report analysing information received using the self-assessment checklist.

52. The Working Group requested that the Secretariat prepare for the Conference, at its second session, a report containing a comparative analysis of methods employed by existing regional or sectoral mechanisms, based on the overview of those mechanisms provided in document CAC/COSP/2006/5. The analysis should include conclusions on whether such mechanisms could contribute to the performance by the Conference of its mandated tasks for review of the implementation of the Convention.

53. The Working Group recommended that the Secretariat should collect best practices in the fight against corruption and provide a summary in all the official languages of the United Nations, with fuller descriptions to be posted on the UNODC website in the language in which they had been submitted.

IV. Adoption of the report

54. On 31 August, the Working Group adopted the report on its meeting (CAC/COSP/WG.1/2007/L.1).
