

MECHANISM FOR FOLLOW-UP ON THE
IMPLEMENTATION OF THE INTER-AMERICAN
CONVENTION AGAINST CORRUPTION
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QUESTIONNAIRE
REGARDING THE PROVISION OF THE INTER-AMERICAN CONVENTION AGAINST
CORRUPTION SELECTED FOR REVIEW IN THE FOURTH ROUND AND FOR
FOLLOW-UP OF THE RECOMMENDATIONS FORMULATED IN THE FIRST ROUND

INTRODUCTION

The *Report of Buenos Aires*^{1/} and the *Rules of Procedure and Other Provisions*^{2/} of the Committee of Experts of the Mechanism for Follow-up on the Implementation of the Inter-American Convention against Corruption (hereinafter, as applicable, *Report of Buenos Aires*, *Rules of Procedure*, *Committee*, *Mechanism*, and *Convention*) provide that the Committee shall adopt a questionnaire on the selected provisions to be reviewed in each round.

At its Eighteenth Meeting, held on March 21 to 25, 2011, the Committee agreed on the comprehensive review of “oversight bodies, with a view to implementing modern mechanisms for preventing, detecting, punishing, and eradicating corrupt acts” (Article III, paragraph 9, of the Convention) as the topic for review during the Fourth Round. In addition, in compliance with recommendation 9(a) of the Third Meeting of the Conference of States Parties of the MESICIC^{3/}, it was agreed that in the Fourth Round, “with regard to the follow-up of recommendations, [the Committee will concentrate] exclusively on the follow-up of the recommendations formulated to the States Parties in their corresponding reports of the First Round and which were deemed to require additional attention in the reports of the Second and Third Rounds, including the consideration of any new and relevant information or developments that would allow the Committee to determine the continued validity of the recommendations and measures suggested in the reports of the First Round and, with regard to those deemed still valid, to assess whether the State has given them satisfactory consideration or whether additional attention is required or, when applicable, to restate or reformulate them.”

Furthermore, Article 29 of the *Rules of Procedure* states that the information on the implementation of the recommendations is to be presented by each State Party using the standard format provided by the Committee as an Annex to the Questionnaire. It also establishes that “with respect to the implementation of recommendations, the State Party shall refer to any difficulties that may have arisen in the process,” and that “should it deem it to be appropriate, the State Party may also identify the domestic agencies that have participated in implementing the recommendations, as well as identify specific technical assistance or other needs connected with the implementation of the recommendations.”

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1. The Report of Buenos Aires (document AG/RES. 1784 (XXXI-O/01)) is available at: www.oas.org/juridico/english/doc_buenos_aires_en.pdf
 2. The Rules of Procedure and Other Provisions of the Committee of Experts of the MESICIC (document SG/MESICIC/doc.9/04 rev. 4) are available at: www.oas.org/juridico/english/mesicic_rules.pdf
 3. The Recommendations of the Third Meeting of the Conference of States Parties of the MESICIC (document MESICIC/CEP-III/doc.4/10 rev. 1) are available at: www.oas.org/juridico/english/cepIII_recom_en.pdf

Pursuant to the above, this document contains the questions that comprise the questionnaire adopted by the Committee.

The responses given to the questionnaire shall be reviewed in accordance with the methodology adopted by the Committee, which may be consulted on the *Anticorruption Portal of the Americas* at:

In accordance with Article 21 of the *Rules of Procedure*, the State Party shall return its response to the questionnaire through its Permanent Mission to the OAS, in an electronic format, along with the corresponding supporting documents, within the deadline established by the Committee.

To this effect, the OAS General Secretariat's e-mail address, to which the response to the Questionnaire should be sent and to which queries may be addressed in order to clarify any doubts that may arise, is the following LegalCooperation@oas.org.

SECTION I

QUESTIONS ON IMPLEMENTATION OF THE CONVENTION PROVISION SELECTED FOR REVIEW IN THE FOURTH ROUND

OVERSIGHT BODIES, WITH A VIEW TO IMPLEMENTING MODERN MECHANISMS FOR PREVENTING, DETECTING, PUNISHING, AND ERADICATING CORRUPT ACTS (ARTICLE III, PARAGRAPH 9, OF THE CONVENTION)

- A) Indicate the oversight bodies in your country that would be relevant for preventing, detecting, punishing, and eradicating corrupt acts, and briefly state the assigned purpose of each.
- B) Then select 4 or 5 of these oversight bodies, bearing in mind their institutional importance and that the functions they are assigned should cover one or more of the objectives of preventing, detecting, punishing, and eradicating corrupt acts that trigger disciplinary; administrative; financial or civil; and criminal responsibility.
- C) For each of the oversight bodies selected in the response to question B), to the extent that is possible, address the issues such as those indicated below, attaching copies of the norms or measures on which the answers are based or indicating links to the web pages where they may be consulted:
 - i. Their objectives and functions; their autonomy for pursuing them; and when applicable, the exercise of their functions in conjunction or concert with other agencies or authorities; and the mechanisms for resolving any conflicts of jurisdiction that may arise.
 - ii. The scope of their functions, indicating whether any exceptions to it exist.
 - iii. The manner in which they adopt their decisions, indicating whether there are various agencies with jurisdiction to do so and whether they are collegiate or single-person agencies; review remedies that can be brought against the decisions adopted, both internally and with other external agencies or authorities; and the actions needed to implement or enforce those decisions.

- iv. The manner in which their senior officers are selected, indicating whether they serve fixed terms or are freely appointed and removable, and the agencies authorized to hold them responsible for their actions and deciding on their continued tenure in those positions.
- v. The manner in which the human resources needed for their operations are identified and how their personnel are selected, indicating whether they are freely appointed and removable or whether they are selected by means of merit-based competition; if certain requirements have to be met to hold such positions; and whether their personnel are subject to a regime of disqualifications and incompatibilities and of responsibility for their actions.^{4/}
- vi. The existence of manuals or other documents that describe the functions of their personnel, and also indicating whether regular training is given in connection with those functions.
- vii. The existence of documented procedures for performing their tasks, or of manuals or guides dealing with those duties; institutional strengthening or quality improvement actions implemented; and the implementation of systems or modern technologies to facilitate their work.
- viii. The manner in which the general public is provided with information about their objectives and functions, is informed of the procedures established for the performance of their functions, and is given guidance about how to carry out proceedings before them.
- ix. The mechanisms for internal control and for dealing with claims, complaints, or allegations related to the pursuit of their objectives and to the performance of their personnel.
- x. The manner in which the budgetary resources needed for their operations are ensured.
- xi. As appropriate, the coordination mechanisms for harmonizing their functions with those of other oversight agencies or public authorities and for securing the support of other authorities and the public for full compliance with their duties.
- xii. Accountability mechanisms applicable to the performance of their duties; the way in which the information needed for that is gathered and processed; and the information issued for that purpose,^{5/} and the way in which it is made public and how members of the public may access it.

4. If relevant and applicable information was reported in the response to the First or Second Round questionnaires, reference may be made to that information.

5. If the information relevant to this paragraph is contained in a document, please provide copies of it or indicate the internet address where it may be accessed. If it is in several reports or if they are issued periodically, please provide copies of those issued over the past five years, or indicate the internet address where they may be accessed.

- D) For each of the oversight bodies selected in the response to question B), summarize the results obtained in the performance of their duties, providing the relevant information available to your country^{6/} and making reference, to the extent that is possible, to issues such as the following:
- i. If the oversight body in question is tasked with the prevention of corrupt acts, list the actions taken in the past five years to prevent those acts, such as: campaigns to publicize their consequences; probity programs or awareness-raising on the duty of respecting and protecting public property and general interests; production of manuals or guides to orient public servants and private citizens regarding ethical behavior in their dealings with the State; alerts about corruption risks in specific areas of the State's operations and proposals for preventing them; attention to inquiries, issuing of opinions, or advisory actions or preventive auditing related to the State's actions; attention paid to corruption prevention studies in the areas of their jurisdiction and to related suggestions made by civil society.
 - ii. If the oversight body in question is tasked with detecting corrupt acts that trigger disciplinary; administrative; financial or civil; or criminal responsibility for persons involved therein, indicate, as appropriate, the total number of investigations begun in each of the past five years and indicate how many remain ongoing; how many have been suspended for whatever reason; how many have been shelved due to statute of limitations; how many have been shelved without a decision being reached on the merits in the case under investigation; how many are at a stage that allows a decision to be reached on the merits of the case under investigation; and how many have been referred to the competent body in order for such a decision to be taken.
 - iii. If the oversight body in question is tasked with punishing corrupt acts that trigger disciplinary; administrative, financial or civil; or criminal responsibility for persons involved therein, indicate the total number of cases investigated that were ready for a decision to be adopted in each of the past five years; the number of decisions adopted in connection with them; the number of those decisions in which responsibilities were established or penalties were imposed; the number of those decisions in which no responsibilities were found or acquittals were given; and the number of those decisions involving the extinction of the punishment or responsibility because of the triggering of the statute of limitations.
 - iv. If the oversight body in question is tasked with punishing corrupt acts that trigger civil or financial responsibility for persons involved therein, indicate the monetary sanctions imposed, or of the amounts ordered paid to the State, that have entered the public treasury in each of the past five years.
- E) For each of the oversight bodies selected in the response to question B), briefly report on difficulties encountered in preventing, detecting, and punishing corrupt acts of relevance in consideration of their functions and, if applicable, identify specific technical cooperation needs.

6. If possible, covering the past five years.

- F) If so desired, report on no more than one best practice developed in connection with the duties of each of the oversight bodies selected in the response to question B) that you wish to share with the other MESICIC member countries, using, to the extent deemed appropriate, the suggested standard form offered as a guideline for presenting that information and attached to this questionnaire (Annex II).

SECTION II^{7/}

FOLLOW-UP OF PROGRESS AND NEW INFORMATION AND DEVELOPMENTS RELATED TO THE IMPLEMENTATION OF THE RECOMMENDATIONS FORMULATED IN THE COUNTRY REPORT FOR THE FIRST ROUND OF REVIEW

In accordance with the terms of Article 29 of the *Rules of Procedure*, and bearing in mind the decision of the Committee at its Eighteenth Meeting, made in compliance with recommendation 9(a) of the Third Meeting of the Conference of States Parties of the MESICIC, the document contained in Annex I of this questionnaire is adopted as the standard format for the countries to report progress and new information and developments related to the implementation of the recommendations formulated and measures suggested by the Committee for implementation in their First Round reports, together with those that the Committee identified as requiring additional attention in their Second and Third Round reports.

Based on the standard form referred to above, the Technical Secretariat will send to each country an individualized format which clearly identifies those recommendations and measures, in advance not less than three months to the date on which to the country is to respond to the questionnaire, in accordance with the provisions of section VI of the methodology adopted by the Committee for the Fourth Round.

7. Section II of this questionnaire, regarding the follow-up of the recommendations formulated in the First Round, is not applicable to those countries that had not joined the MESICIC at the time that Round took place; however, pursuant to Article 28 of the *Rules of Procedure*, those countries must reply to the questions set out in Sections I and II of the questionnaire adopted by the Committee for that round, except as regards their oversight bodies subject to review during the Fourth Round. That questionnaire is published at: www.oas.org/juridico/english/questionnaire.doc and the Technical Secretariat will complete it with questions on the topics addressed in Section XII of the methodology for the Fourth Round and send it to those countries at least three months in advance of the date on which they are to submit their responses to the Questionnaire in accordance with the schedule adopted for the Fourth Round.

SECTION III

INFORMATION ON THE OFFICIAL RESPONSIBLE FOR COMPLETION OF THIS QUESTIONNAIRE

Please provide the following information:

(a) State Party: _____

(b) The official to be consulted regarding the responses to the questionnaire is:

() Mr./Mrs.: _____

Title/position: _____

Agency/office: _____

Address: _____

E-mail: _____

Tel.: _____

Fax: _____

ANNEX I

STANDARD FORMAT FOR PRESENTATION OF INFORMATION ON PROGRESS AND NEW INFORMATION AND DEVELOPMENTS^{8/} RELATED TO THE IMPLEMENTATION OF THE RECOMMENDATIONS FORMULATED IN THE COUNTRY REPORT IN THE FIRST ROUND OF REVIEW

Following the same structure as the First Round country report^{9/}, the Secretariat shall transcribe each of the recommendations formulated for the country in question during the round that the Committee deemed to require additional attention in the Second and Third Round reports. Then, it will ask the country to provide information in connection with the corresponding recommendation and with the corresponding measures suggested by the Committee for implementation, and, if any, with the alternative measures adopted by the country to that end, as follows:

- I. RECOMMENDATION: *(the Secretariat transcribes the text of the corresponding recommendation)*

Measure: *(the Secretariat transcribes the text of the corresponding measure suggested by the Committee)*

Then it will ask the country in question to provide the following information:

- A) Please briefly describe the specific actions^{10/} that have been carried out to implement the above recommendation, or the above measure suggested by the Committee for implementation, or the alternative measure(s) adopted by the country to that end. If deemed appropriate, please indicate the web page on which more detailed information on those actions can be obtained, clearly indicating the information of the web site in question: _____

- B) If applicable, indicate the new information and developments related to the subject matter of the above recommendation or corresponding measure suggested by the Committee, briefly describing the new provisions and/or measures adopted in connection with the subject^{11/}, or the provisions and/or measures unknown to or not taken into consideration by the Committee when that recommendation or measure was formulated^{12/}, indicating whether they are deemed to have an impact on the validity of that recommendation or measure or whether they could lead to its restatement or reformulation: _____

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8. In accordance with the provisions of section VI of the methodology for the Fourth Round, it is understood that new information and developments relate to new provisions and/or measures adopted in regard to the topic addressed by the recommendations and measures suggested by the Committee, or provisions and/or measures unknown to or not taken into consideration by the Committee when those recommendations or measures were formulated, that could have an impact on their validity or that could lead to their restatement or reformulation. In the event that information of this kind was furnished in the progress reports referred to in Article 31 of the Committee's Rules of Procedure, reference may be made thereto.
9. Following on from this standard format, the structure applicable to the topics considered in the First Round is described.
10. If these actions involve the adoption of provisions and/or measures, please provide copies of them or indicate the internet address where they may be accessed.
11. Please provide copies of them or indicate the internet address where they may be accessed.
12. Please provide copies of them or indicate the internet address where they may be accessed.

- C) Please briefly indicate the possible difficulties seen in the implementation of the foregoing recommendation or corresponding measure suggested by the Committee. If deemed appropriate, please indicate the web page on which more detailed information on them can be obtained, clearly indicating the information of the web site in question: _____

- D) If deemed appropriate, please indicate which internal agencies or other organizations have participated in the implementation of the foregoing recommendation or corresponding measure suggested by the Committee, and identify specific technical cooperation needs related to its implementation. In addition, if deemed relevant, please also indicate the web page dealing in greater detail with these issues, clearly indicating the information of the web site in question: _____

NOTE: The questions identified as A), B), C), and D) will be repeated in connection with each of the remaining recommendations and measures identified by the Committee as requiring additional attention.

STRUCTURE OF COUNTRY REPORTS IN THE FIRST ROUND

1. STANDARDS OF CONDUCT AND MECHANISMS TO ENFORCE COMPLIANCE (ARTICLE III, PARAGRAPHS 1 AND 2 OF THE CONVENTION)
 - 1.1. Standards of conduct intended to prevent conflicts of interest and enforcement mechanisms
 - 1.2. Standards of conduct to ensure the proper conservation and use of resources entrusted to government officials in the performance of their functions and enforcement mechanisms
 - 1.3. Standards of conduct and mechanisms concerning measures and systems requiring government officials to report to appropriate authorities acts of corruption in the performance of public functions of which they are aware
2. SYSTEMS FOR REGISTERING INCOME, ASSETS, AND LIABILITIES (ARTICLE III, PARAGRAPH 4, OF THE CONVENTION)
3. OVERSIGHT BODIES FOR THE SELECTED PROVISIONS (ARTICLE III, PARAGRAPHS 1, 2, 4 AND 11, OF THE CONVENTION)
4. MECHANISMS TO ENCOURAGE PARTICIPATION BY CIVIL SOCIETY AND NONGOVERNMENTAL ORGANIZATIONS IN EFFORTS TO PREVENT CORRUPTION (ARTICLE III, PARAGRAPH 11 OF THE CONVENTION)
 - 4.1. General participation mechanisms
 - 4.2. Mechanisms for access to information
 - 4.3. Mechanisms for consultation
 - 4.4. Mechanisms to encourage participation in public administration
 - 4.5. Mechanisms for participation in the follow up of public administration
5. ASSISTANCE AND COOPERATION (ARTICLE XIV OF THE CONVENTION)
6. CENTRAL AUTHORITIES (ARTICLE XVIII OF THE CONVENTION)
7. GENERAL RECOMMENDATIONS

ANNEX II

STANDARD FORMAT SUGGESTED AS A GUIDELINE FOR PRESENTATION OF INFORMATION ON BEST PRACTICES^{13/}

1. The name of the institution that is implementing the best practice: _____

2. Title: The name of the best practice or the action it entails and the topic it covers (i.e., prevention of conflicts of interests): _____

3. Best practice description: A short description and summary of the best practice should be provided and explanation and as to why it should be considered a best practice: _____

4. Reasons/Importance: Reasons for the development of the best practice should be given. A description should be made of the situation in place before the adoption of the best practice and identification of the problem or problems it is to address: _____

5. Approach: What was the proposed design and methodology for applying the best practice? What was considered in its design and methodology? Were other countries experience taken into account: _____

6. Implementation: How is the best practice being implemented? _____

7. Challenges: What are the challenges in implementing the best practice? Were civil society organizations involved in its implementation? _____

8. Outcome: What is the end result or expected end result of implementing the best practice? Have benefits and/or success stories been identified? Have they addressed the problems originally identified as necessitating a best practice to be implemented? What has its impact on civil society been? _____

13. The questions set out on this form are intended to guide the States regarding the information they may furnish on best practices, if they so wish, and to be responded as deemed appropriate.

9. Follow-Up: Who or what groups will monitor the practice's implementation? How will its implementation be monitored? Will there be progress reports? _____

10. Lessons: What are some lessons in implementing the Best Practice? _____

11. Documentation: Where to find more information on the Best Practice (i.e., internet links) _____

12. Contact: Who to contact to receive further information. _____
