

**AG/RES. 1784 (XXXI-O/01)**

**MECHANISM FOR FOLLOW-UP OF IMPLEMENTATION OF THE INTER-AMERICAN CONVENTION AGAINST CORRUPTION**

(Resolution adopted at the third plenary session, held on June 5, 2001)

THE GENERAL ASSEMBLY,

HAVING SEEN the report of the Permanent Council on the Mechanism for Follow-up of Implementation of the Inter-American Convention against Corruption (CP/doc.3481/01);

BEARING IN MIND that the purposes of the Inter-American Convention against Corruption are to promote and strengthen the development, by each of its States Parties, of the mechanisms needed to prevent, detect, punish, and eradicate corruption, and to promote, facilitate, and regulate cooperation among the States Parties to ensure the effectiveness of measures and actions to combat acts of corruption in the performance of public functions and those specifically related to such performance;

RECALLING that, through resolution AG/RES. 1723 (XXX-O/00), “Enhancement of Probity in the Hemisphere and Follow-up on the Inter-American Program for Cooperation in the Fight against Corruption,” the Permanent Council was requested to analyze existing regional and international follow-up mechanisms with a view to recommending, by the end of the year 2000, the most appropriate model that States Parties could use, if they should think fit, to monitor implementation of the Inter-American Convention against Corruption; and that said recommendation would be transmitted to the States Parties to the Convention for them to choose the course of action they deemed most appropriate;

ACKNOWLEDGING WITH SATISFACTION the efforts of the Working Group on Probity and Public Ethics, which laid the foundation for the Recommendation of the Permanent Council to States Parties on the Mechanism for Follow-up of Implementation of the Inter-American Convention against Corruption, in a process that fostered broad participation by all member states of the Organization;

HAVING TAKEN NOTE of the Recommendation of the Permanent Council to States Parties on the Mechanism for Follow-up of Implementation of the Inter-American Convention against Corruption [CP/RES. 783 (1260/01)];

CONSIDERING that the Working Group on Probity and Public Ethics convened the Meeting of Government Experts to Prepare for the Conference of States Parties to the Inter-American Convention against Corruption, held in Washington, D.C., from March 21 to 23, 2001, which resulted in a set of recommendations to be considered at the First Conference of States Parties to the Inter-American Convention against Corruption, as recommended by the Permanent Council;

EXPRESSING APPRECIATION to the Argentine Republic for having hosted the First Conference of States Parties to the Inter-American Convention against Corruption on the Mechanism for Follow-up on Implementation of the Convention;

CONSIDERING ALSO that the Inter-American Convention against Corruption has been signed by 26 member states and ratified by 22, which means that four additional states ratified the Convention in the past year;

BEARING IN MIND that the Plan of Action of the Third Summit of the Americas affirms the decision of the Heads of State and Government to “support the establishment as soon as possible, taking into consideration the recommendation of the OAS of a follow-up mechanism for the implementation of the Inter-American Convention against Corruption by States Parties to this instrument”; and

AWARE that the First Conference of States Parties to the Inter-American Convention against Corruption was held in Buenos Aires, Argentina, from May 2 to 4, 2001, to establish a mechanism for follow-up on implementation of the Convention and that a consensus was reached during that conference and recorded in the “Report of Buenos Aires on the Mechanism for Follow-up on Implementation of the Inter-American Convention against Corruption,” which is attached hereto,

RESOLVES:

1. To express its appreciation to the Permanent Council for its timely adoption of the Recommendation to States Parties on the Mechanism for Follow-up of Implementation of the Inter-American Convention against Corruption.

2. To thank the Government of the Argentine Republic for having hosted the First Conference of States Parties to the Inter-American Convention against Corruption on the Mechanism for Follow-up on Implementation of the Convention.

3. To welcome the adoption of the Report of Buenos Aires on the Mechanism for Follow-up on Implementation of the Inter-American Convention against Corruption, which reflects the consensus reached by the States Parties to the Inter-American Convention against Corruption in relation to the mechanism for follow-up on implementation of that inter-American instrument.

4. To urge those member states of the OAS that have not yet done so to sign or ratify, as appropriate, the Inter-American Convention against Corruption, and to participate actively in the mechanism for follow-up on its implementation.

5. To invite states that are not members of the Organization, in particular the OAS permanent observers, to accede to the Inter-American Convention against Corruption, in accordance with Article XXIII thereof.

6. To request the General Secretariat to take the necessary measures, within the resources allocated in the program-budget and other resources, to provide secretariat services to the Mechanism for Follow-up of Implementation of the Inter-American Convention against Corruption and to carry out the tasks entrusted to it in that area.

## APPENDIX I

### MINUTES OF THE BUENOS AIRES MEETING

On May 2 to 4, 2001, the States Parties to the Inter-American Convention against Corruption met to establish a mechanism for follow-up on implementation of the Convention.

The meeting was held with the participation of delegations from the following States Parties: Argentina, The Bahamas, Bolivia, Canada, Chile, Costa Rica, Dominican Republic, Ecuador, El Salvador, Mexico, Nicaragua, Panama, Paraguay, Peru, United States, Republic of Uruguay, and Venezuela, and with the participation of representatives from the following states not party to the Convention: Brazil, Guatemala, and Haiti. Representatives of the Inter-American Development Bank and the Organisation for Economic Cooperation and Development also participated.

The General Secretariat of the OAS provided secretariat services for this First Conference.

The First Conference is the result of work carried out in the framework of the OAS Working Group on Probity and Public Ethics pursuant to OAS General Assembly resolution AG/RES. 1723 (XXX-O/00). In addition, the recommendations of the meeting of the Group of Experts held in Washington, D.C., March 21 to 23, 2001, pursuant to OAS Permanent Council resolution CP/RES. 783 (1260/01), were the terms of reference considered at the Conference.

As a result of the discussion that took place in Buenos Aires, the First Conference of States Parties reached consensus, details of which are given in the report attached hereto, the "Report of Buenos Aires on the Mechanism for Follow-up on Implementation of the Inter-American Convention against Corruption," which will be submitted to the Conference of the States Parties to the Inter-American Convention for its consideration and possible adoption at the meeting thereof to be held during the thirty-first regular session of the General Assembly of the OAS, in San José, Costa Rica, from June 3 to 5, 2001.

Done in Buenos Aires, on the fourth day of May, 2001.

# REPORT OF BUENOS AIRES ON THE MECHANISM FOR FOLLOW-UP ON IMPLEMENTATION OF THE INTER-AMERICAN CONVENTION AGAINST CORRUPTION

## PREAMBLE

The purpose of the Inter-American Convention against Corruption is to promote and strengthen cooperation among the States Parties and to develop the mechanisms needed to prevent, detect, punish, and eradicate corruption.

Considerable progress has already been made in implementing the provisions of the Inter-American Convention against Corruption at the national level, and significant developments have also taken place at subregional and international levels, especially through the Inter-American Program for Cooperation in the Fight against Corruption.

A mechanism to follow-up on and review how such developments are being implemented and to facilitate cooperation among States Parties and among all member states of the OAS will assist in attaining the objectives of the Convention. This mechanism must take account of the need for gradual progress in attaining those objectives and must support programs for implementation of the Convention pursued by the States Parties.

This mechanism is established in fulfillment of the Plan of Action signed at the Third Summit of the Americas, in Quebec City, Canada, in whose chapter on corruption the Heads of State and Government undertook to support the establishment, as soon as possible, taking into consideration of the recommendation of the OAS, of a follow-up mechanism for the implementation of the Inter-American Convention against Corruption by the States Parties to this instrument.

### 1. Purposes

The purposes of the mechanism shall be:

- a. To promote the implementation of the Convention and contribute to attaining the purposes set forth in Article II thereof;
- b. To follow up on the commitments made by the States Parties to the Convention and to study how they are being implemented; and
- c. To facilitate technical cooperation activities; the exchange of information, experience, and best practices; and the harmonization of the legislation of the States Parties.

## 2. Basic principles

Development of the mechanism for follow-up of the commitments of the States Parties to the Convention shall be guided by the purposes and principles established in the Charter of the Organization of American States. Therefore, the powers accorded to it and the procedures it follows shall take account of the principles of sovereignty, nonintervention, and the juridical equality of the states, as well as the need to respect the Constitution and the fundamental principles of the legal system of each State Party.

## 3. Characteristics

The mechanism for follow-up of implementation of the Convention shall be intergovernmental in nature and shall have the following characteristics:

- a. It shall be impartial and objective in its operations and in the conclusions it reaches.
- b. It shall ensure equitable application and equal treatment among States Parties.
- c. It shall not entail the adoption of sanctions.
- d. It shall establish an appropriate balance between the confidentiality and the transparency of its activities.
- e. It shall be conducted on the basis of consensus and cooperation among States Parties.

## 4. Members of the follow-up mechanism

Only States Parties to the Convention shall participate in the follow-up mechanism.

## 5. Structure and responsibilities

The follow-up mechanism shall be comprised of two bodies: the Conference of the States Parties and the committee of experts.

All States Parties shall be represented in the Conference. It shall have general authority to implement and responsibility for implementation of the mechanism and shall meet at least once each year.

The committee shall be comprised of the experts appointed by each of the States Parties. It shall be responsible for technical analysis of the implementation of the Convention by the States Parties, among other tasks related to this main function. The

Committee may request assistance and guidance from the Conference, which shall meet to consider such requests.

Secretariat services for the mechanism shall be provided by the General Secretariat of the Organization of American States.

6. Headquarters

The headquarters for the follow-up mechanism shall be at the headquarters of the Organization of American States.

7. Activities

- a. The Committee shall adopt and disseminate its rules of procedure and other provisions.
- b. Country reports
  - i. Selection of provisions and methodology

The committee of experts shall select, from among the provisions of the Convention, those whose application by the States Parties may be reviewed, seeking to maintain general balance among the various types of provision contained in the Convention, and shall determine the length of time it will devote to this task, which shall be known as a “round.” The committee shall devise a method for the review of each provision, designed to ensure that sufficient reliable information will be obtained. The Committee shall publish the information referred to in this paragraph.

At each round, the Committee shall prepare a questionnaire on the provisions selected, based on OAS document CP/GT/PEC-68/00 rev. 3, “Questionnaire on Ratification and Implementation of the Inter-American Convention against Corruption,” and shall forward it to those States Parties to be reviewed. The States Parties shall undertake to reply to the questionnaire by the deadline established by the committee. The replies to the questionnaire shall be distributed to all committee members.

- ii. Selection of countries

The Committee shall use an impartial method for setting the dates for review of the information on each State Party, such as their presentation on a voluntary basis, chronological order of ratification of the Convention, or lot. The Committee shall give adequate advance notice of the dates for the review of each State Party during each round.

- iii. Review of information and preliminary report

To expedite its work, the committee shall establish a subgroup in each case, comprised of experts from two States Parties, which shall review, with support from the Secretariat, the information on each State Party.

On the basis of that review, each subgroup shall prepare, with support from the Secretariat, a confidential preliminary report, which shall be made available to the State Party concerned for its observations.

Each subgroup shall prepare a revised version of the preliminary report, taking into account the observations presented by the State Party concerned, and present it to a plenary meeting of the Committee for its consideration.

The plenary meeting of the Committee shall prepare the conclusions and, if deemed appropriate, make the recommendations it considers pertinent.

iv. Final report

After completing, at each round, its review of the reports for all States Parties, the Committee shall issue a final report for each State Party, containing the observations of the State Party reviewed, which shall be forwarded first to the Conference and then published.

c. Cooperation

Mindful of the purposes of the follow-up mechanism and in the framework of the Inter-American Program for Cooperation in the Fight against Corruption, the Committee shall strive to cooperate with all OAS member states, taking account of the activities already under way within the Organization, and shall report to the Conference thereon.

The Committee shall undertake systematic consideration of the issues involved in cooperation and assistance among States Parties in order to identify the areas where technical cooperation is needed and the most appropriate methods for collection of useful data to review such cooperation and assistance. This work shall take account of the provisions of Articles XIII through XVI and Article XVIII of the Convention.

d. Observers

States that are not parties to the Inter-American Convention against Corruption may be invited to observe the plenary meetings of the committee of experts if they so request.

8. Civil society participation

In order to obtain better input for its review, the Committee shall include in the provisions governing its operation an appropriate role for civil society organizations, taking into account the “Guidelines for the Participation of Civil Society Organizations in

OAS Activities” [CP/RES. 759 (1217/99)] and the definition of civil society contained in AG/RES. 1661 (XXIX-O/99), in keeping with the domestic legislation of the State Party under review. The Committee may request information from civil society organizations, for which purpose it shall develop the method it considers most appropriate.

9. Resources

The activities of the follow-up mechanism shall be funded by contributions from States Parties to the Convention, from states that are not parties to the Convention, and from international financial organizations, and by any other contribution that may be received in accordance with the General Standards to Govern the Operations of the General Secretariat, including a specific fund that may be established. Such contributions may include offers by State Parties to organize and host meetings of the bodies of the mechanism. The Conference of States Parties may establish criteria for determining the amounts of regular contributions.

10. Periodic review of the mechanism

The Conference shall periodically review the operation of the mechanism, taking account of observations made by the committee of experts, and may introduce such changes as it deems appropriate.

11. Transitory provision

To facilitate the work of the first meeting of the committee, the Conference considers that topics that the committee might analyze at its first round are, *inter alia*:

- a. Article III, selecting as many measures as the Committee considers appropriate;
- b. Article XIV; and
- c. Article XVIII.

In the event that the committee of experts encounters difficulties in conducting a review of all topics indicated, it shall report such difficulties to the Conference so that that body may take such decisions as it deems appropriate at its next Conference.

The Conference also suggests that, during its first year of operation, the committee of experts hold at least two meetings.