

MECHANISM FOR FOLLOW-UP ON THE
IMPLEMENTATION OF THE INTER-AMERICAN
CONVENTION AGAINST CORRUPTION
Ninth Meeting of the Committee of Experts
March 27 – April 1, 2006
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QUESTIONNAIRE
ON THE PROVISIONS OF THE INTER-AMERICAN CONVENTION AGAINST
CORRUPTION SELECTED IN THE SECOND ROUND AND FOR FOLLOW-UP ON THE
RECOMMENDATIONS FORMULATED IN THE FIRST ROUND

INTRODUCTION

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

At its eighth meeting, held from September 26 to 30, 2005, the Committee decided that during the second round it would review implementation by States Parties of the following provisions of the Convention: Article III, paragraphs 5 and 8; and Article VI.

Furthermore, the first paragraph of Article 29 of the Rules provides that “At the start of a new round, there shall be included within the questionnaire a section on “Follow-up on Recommendations” to enable the review of progress made in implementing the recommendations included in its country report adopted in previous rounds,” and that “to that end, each State Party shall submit the appropriate information in the standard format that the Committee shall provide as an Annex to the Questionnaire.” The aforesaid Article also provides in its second paragraph 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.”

In light of 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 is annexed to this document and can also be consulted on the OAS Internet page at the following address: http://www.oas.org/juridico/english/followup_method.htm.

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

To this effect, the OAS General Secretariat's e-mail to which the response to the questionnaire must be sent, and to which queries may be addressed in order to clarify any doubts that arise, is the following: _____.

The response to the questionnaire must be forwarded to the Secretariat no later than _____, 2006 and, per the recommendation made by the Committee, the length of the response should not exceed 30 pages.

SECTION I

QUESTIONS ON IMPLEMENTATION OF THE CONVENTION PROVISIONS SELECTED FOR REVIEW IN THE SECOND ROUND

CHAPTER ONE

SYSTEMS OF GOVERNMENT HIRING AND PROCUREMENT OF GOODS AND SERVICES (ARTICLE III (5) OF THE CONVENTION)

1. Government hiring systems

- a. Are there laws and/or measures in your country establishing government hiring systems? If so, briefly describe the main systems, indicating their characteristics and principles and list and attach a copy of the related provisions and documents.

Also describe how the above systems ensure openness, equity and efficiency in your country.

In relation to the above, refer, among others, to the following aspects:

- i. Governing or administrating authorities of the systems and control mechanisms.
 - ii. Access to the public service through a merit-based system.
 - iii. Advertisement for the selection of public servants, indicating the qualifications for selection.
 - iv. Ways to challenge a decision made in the selection system.
 - v. Relevant exceptions to the above.
- b. In relation to question a), state the objective results obtained, including any available statistical data.¹
- c. If no such laws and/or measures exist, briefly indicate how your State has considered the applicability of measures within your own institutional systems to create, maintain and strengthen government hiring systems, in accordance with Article III (5) of the Convention.

¹ In accordance with the methodology adopted by the Committee, the information on results will seek to center on the last two years, in connection with this and the other provisions of the Convention selected for review in the framework of the second round, with the exception of information relating to the acts of corruption foreseen in Article VI (1) of the Convention, for which it will seek to center on the last five years.

2. Government systems for procurement of goods and services

- a. Are there laws and/or measures in your country establishing government systems for procurement of goods and services? If so, briefly describe the main systems, indicating their characteristics and principles and list and attach a copy of the related provisions and documents.

Also describe how the above systems ensure openness, equity and efficiency in your country.

In relation to the above, refer, among others, to the following aspects:

- i. Procurement systems with a public tender and without a public tender.
 - ii. Governing or administrating authorities of the systems and control mechanisms.
 - iii. Register of pre-approved contractors.
 - iv. Electronic methods and information systems for government procurement.
 - v. Public works contracts.
 - vi. Identification of the selection criteria for contractors (e.g. price, quality and expertise).
 - vii. Ways to challenge a selection.
- b. In relation to question a), state the objective results obtained, including any available statistical data (e.g. percentage of contracts awarded through public tender; sanctions imposed on contractors).
- c. If no such laws and/or measures exist, briefly indicate how your State has considered the applicability of measures within your own institutional systems to create, maintain and strengthen government systems for procurement of goods and services, in accordance with Article III (5) of the Convention.

CHAPTER TWO

SYSTEMS FOR PROTECTING PUBLIC SERVANTS AND PRIVATE CITIZENS WHO, IN GOOD FAITH, REPORT ACTS OF CORRUPTION (ARTICLE III (8) OF THE CONVENTION)

- a. Are there laws and/or measures in your country establishing systems for protecting public servants and private citizens who, in good faith, report acts of corruption, including protection of their identities? If so, briefly describe them and list and attach a copy of the related provisions and documents.

In relation to the above, refer, among others, to the following aspects:

- i. Mechanisms for reporting (e.g. anonymous reporting, protection of identity reporting)
 - ii. Mechanisms for reporting threats or reprisals
 - iii. Witness protection mechanisms.
- b. In relation to question a), state the objective results obtained, including any available statistical data.

- c. If no such laws and/or measures exist, briefly indicate how your State has considered the applicability of measures within your own institutional systems to create, maintain and strengthen systems for protecting public servants and private citizens who, in good faith, report acts of corruption, in accordance with Article III (8) of the Convention.

CHAPTER THREE

ACTS OF CORRUPTION (ARTICLE VI OF THE CONVENTION)

1. Criminalization of acts of corruption provided for in Article VI (1) of the Convention

- a. Does your country criminalize the acts of corruption provided for in Article VI (1) of the Convention transcribed in this chapter of the questionnaire? If so, describe briefly the laws and/or measures regarding them, indicating to which of the particular aforesaid acts of corruption they refer, including sanctions, and attach a copy of them.

- Acts of corruption provided for in Article VI (1) of the Convention:

- i. The solicitation or acceptance, directly or indirectly, by a government official or a person who performs public functions, of any article of monetary value, or other benefit, such as a gift, favor, promise or advantage for himself or for another person or entity, in exchange for any act or omission in the performance of his public functions.
 - ii. The offering or granting, directly or indirectly, to a government official or a person who performs public functions, of any article of monetary value, or other benefit, such as a gift, favor, promise or advantage for himself or for another person or entity, in exchange for any act or omission in the performance of his public functions.
 - iii. Any act or omission in the discharge of his duties by a government official or a person who performs public functions for the purpose of illicitly obtaining benefits for himself or for a third party.
 - iv. The fraudulent use or concealment of property derived from any of the acts referred to in this article.
 - v. Participation as a principal, co-principal, instigator, accomplice or accessory after the fact, or in any other manner, in the commission or attempted commission of, or in any collaboration or conspiracy to commit, any of the acts referred to in this article.
- b. Briefly state the objective results that have been obtained in enforcing the above provisions, and provide the pertinent information available in your country on which those results are based, such as judicial proceedings undertaken and their outcome, referring, as far as possible, to the last five years.
 - c. If the aforementioned acts of corruption are not criminalized, what steps is your country taking to criminalize these acts.

2. Application of the Convention to acts of corruption not described therein, in accordance with Article VI (2)

- a. Has your State entered into any agreements with other States Parties to apply the Convention to any act of corruption not described therein, in accordance with Article VI (2)? If so, briefly describe the respective agreements or conventions and attach a copy of the related documents.
- b. If the above answer was in the affirmative, briefly state the objective results that have been obtained in the application of the respective agreements or conventions, and provide the pertinent information available in your country on which those results are based, such as judicial proceedings undertaken and their outcome, referring, as far as possible, to the last five years.

SECTION II

FOLLOW-UP ON THE RECOMMENDATIONS FORMULATED IN THE NATIONAL REPORT IN THE FIRST REVIEW ROUND

In accordance with Article 29 of the *Rules*, please provide information, in the standard format attached to this questionnaire, on progress in implementation of the recommendations formulated in the report adopted by the Committee with respect to your country in the framework of the first review round (Annex entitled “Standard format for presentation of information on progress in implementation of recommendations formulated in the national report in the first review round”).

SECTION III

INFORMATION ON THE OFFICIAL RESPONSIBLE FOR COMPLETION OF THIS QUESTIONNAIRE

- (a) State Party: _____
- (b) The official to be consulted regarding the responses to the questionnaire is:
 - () Mr.: _____
 - () Ms.: _____
- Title/position: _____
- Agency/office: _____
- Mailing address: _____
- _____
- Telephone number: _____
- Fax number: _____
- E-mail address: _____

ANNEX

STANDARD FORMAT FOR PRESENTATION OF INFORMATION ON PROGRESS IN IMPLEMENTATION OF RECOMMENDATIONS FORMULATED IN THE NATIONAL REPORT IN THE FIRST REVIEW ROUND

Instructions: Following the same structure as the country report,² kindly supply the following information on each of the recommendations mentioned by your State in the present progress report:

I. **RECOMMENDATION:** (Please transcribe the text of the recommendation made to your State by the Committee in the country report, on which this report contains information as regards progress):

A. Please mention the measure or measures suggested by the Committee, or the alternative measure or measures, that have been adopted to implement the above recommendation; and briefly describe the concrete steps that have been taken in connection with the measures adopted. As appropriate, please indicate the Internet web site where information in greater detail may be obtained on the measures adopted and steps taken to implement the foregoing recommendation, precisely identifying the information in reference on that site:

B. Briefly mention any difficulties observed in the process of implementing the above recommendation. If you consider it appropriate, please also mention the Internet web site where information in greater detail may be obtained in that regard, precisely identifying the information in reference on that site:

C. If appropriate, please mention which domestic agencies have participated in implementing the recommendations and identify concrete technical assistance and other needs that you may have in connection with the implementation of the above recommendation. Furthermore, as appropriate, also mention the Internet web site that describes in greater detail the aspects mentioned herein, precisely identifying the information in reference on that site:

² By way of a guide, the last page of this standard format describes that structure in connection with the issues covered in the First Review Round.

II. RECOMMENDATION: (Please transcribe the text of the second recommendation made to your State by the Committee in the country report, on which this report contains information as regards progress).

NOTE: The points mentioned in paragraphs A), B), and C) would be repeated, and so on successively, in connection with each of the other recommendations covered in the progress report.

STRUCTURE OF COUNTRY REPORTS

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