

PERMANENT COUNCIL OF THE
ORGANIZATION OF AMERICAN STATES
COMMITTEE ON JURIDICAL AND POLITICAL AFFAIRS

OEA/Ser.G
CP/CAJP-2480/07 rev. 2
9 May 2007
Original: Spanish

DRAFT RESOLUTION

FOLLOW-UP ON THE INTER-AMERICAN CONVENTION AGAINST CORRUPTION
AND THE INTER-AMERICAN PROGRAM FOR COOPERATION IN THE FIGHT
AGAINST CORRUPTION

(Approved by the Committee at its meeting of April 20, 2007)

DRAFT RESOLUTION

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THE INTER-AMERICAN PROGRAM FOR COOPERATION IN THE FIGHT AGAINST
CORRUPTION

(Approved by the Committee at its meeting of April 20, 2007)

THE GENERAL ASSEMBLY,

HAVING SEEN the Annual Report of the Permanent Council to the General Assembly (AG/doc. ...) with regard to this topic;

TAKING INTO ACCOUNT resolutions AG/RES. 2219 (XXXVI-O/06) and AG/RES. 2222 (XXXVI-O/06);

CONSIDERING the importance of the Inter-American Convention against Corruption, the fact that it has been ratified by 33 member states of the Organization of American States (OAS), and that 28 of those states participate in the Follow-up Mechanism for the Implementation of the Inter-American Convention against Corruption (MESICIC);

BEARING IN MIND the mandates of the Summits of the Americas with respect to the fight against corruption, implementation of the Inter-American Convention against Corruption, and strengthening of its follow-up mechanism (MESICIC);

RECOGNIZING the work of the Committee of Experts of the MESICIC, which has been supported by the OAS General Secretariat with a view to initiating in December 2006 the second round of review for the 28 states parties, and

UNDERSCORING the results of the Second Meeting of the Conference of States Parties to the MESICIC, held in Washington, D.C., on November 20 and 21, 2006, and, in particular, its adoption of the new text of the Inter-American Program for Cooperation in the Fight against Corruption (MESICIC/CEP- II/doc.5/06 rev. 2),

RESOLVES:

1. To urge those states parties to the Inter-American Convention against Corruption that have not yet done so to participate in the Follow-up Mechanism for the Implementation of the Inter-American Convention against Corruption (MESICIC); and to urge all states parties to the Mechanism to fund it through voluntary contributions.

2. Also to urge those member states of the Organization of American States (OAS) that have not yet done so to consider signing and ratifying, ratifying, or acceding to, as the case may be, the United Nations Convention against Corruption (Mérida Convention), as well as the United Nations Convention against Transnational Organized Crime (Palermo Convention).

3. To urge the states parties to the Inter-American Convention against Corruption to take any measures they deem necessary to adapt their domestic law in order to comply with the commitments they undertook upon ratification of or accession to the Convention.

4. To express once again its support for strengthening the MESICIC and, in that regard:
- a. To express its satisfaction with the progress made by the Committee of Experts of the MESICIC, with support from the General Secretariat, in the second round of review, reflected in the adoption of the reports of Argentina, Paraguay, Nicaragua, Uruguay, Ecuador, and Honduras and in the initiation of the process of preparing and considering the reports of Bolivia, Peru, Costa Rica, Venezuela, Mexico, and Trinidad and Tobago.
 - b. To request the General Secretariat to continue identifying sources of funding within the OAS, such as the Regular Fund, and of external funding, such as international and regional financial institutions and national government agencies, among others, for the adequate funding of the MESICIC and, when applicable, for the full and effective implementation of its recommendations.

- c. To invite the Conference of States Parties to the MESICIC to continue reporting to the Permanent Council on the implementation of concrete measures to strengthen the MESICIC as well as on other topics submitted to it for consideration.
- d. To request the General Secretariat to continue, through the Office of Legal Cooperation of the Department of International Legal Affairs, to provide technical secretariat services to the Conference of States Parties to the MESICIC and to the Committee of Experts of that mechanism.

5. To adopt, pursuant to operative paragraph 8 of resolution AG/RES. 2219 (XXXVI-O/06), the new text of the Inter-American Program for Cooperation in the Fight against Corruption MESICIC/CEP- II/doc.5/06 rev. 2), approved by the Conference of States Parties to the MESICIC at its second meeting, held in Washington, D.C., on November 20 and 21, 2006. The new text is appended to and forms an integral part of this resolution.

6. To request the OAS General Secretariat to continue providing, through the Office of Legal Cooperation of the Department of International Legal Affairs, and pursuant to Chapter VIII of the new text of the Inter-American Program for Cooperation in the Fight against Corruption, the technical support needed to implement that Program, within the resources allocated in the program-budget and other resources.

7. To encourage all member states and other donors to consider contributing, in accordance with Article 74 of the General Standards to Govern the Operations of the General Secretariat, to the OAS specific fund "Inter-American Anti-Corruption Fund" to assist member states in implementing the Inter-American Convention against Corruption and the MESICIC country report recommendations.

8. To instruct the Permanent Council to follow up on the activities stemming from this resolution, which will be implemented within the resources allocated in the program-budget of the Organization and other resources, and to present a report on its implementation to the General Assembly at its thirty-eighth regular session.

APPENDIX

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

OEA/Ser.L/XXIII.2.2.
MESICIC/CEP-II/doc.5/06 rev. 2
21 November 2006
Original: Spanish

Second Meeting of the Conference of States Parties
November 20-21, 2006
Washington, D.C.

**INTER-AMERICAN PROGRAM
OF COOPERATION TO FIGHT CORRUPTION**

The member States of the OAS, bearing in mind:

That the General Assembly of the OAS, at its twenty-seventh regular session, in resolution AG/RES. 1477 (XXVII-O/97), adopted an Inter-American Program of Cooperation to Fight Corruption;

That ever since that moment, efforts have been ongoing toward the implementation of the actions provided for by that Program in the legal, institutional, international, and civil society arenas;

That in addition, during the period between the adoption of that Program and the present, new developments of great importance have taken place in the fields of international and hemispheric cooperation against corruption, and that these should be taken into account in a program of this kind, most particularly the following:

- The various mandates in this field adopted by the four Summits of the Americas and by the OAS General Assembly at its subsequent meetings, including resolution AG/RES. 2219 (XXXVI-O/06), which reaffirmed its satisfaction over the agreement reached at the First Meeting of the Conference of States Parties to the MESICIC to strengthen the Conference of States Parties as a political forum for addressing topics in the area of hemispheric cooperation against corruption;
- The creation of the Mechanism for Follow-up on the Implementation of the Inter-American Convention against Corruption (MESICIC), by means of the Report of Buenos Aires and the declaration signed by the States Parties in 2001, together with the due performance of their duties by the Conference of the States Parties and the Committee of Experts of that Mechanism, with the support of the Technical Secretariat, including the conclusion of the First Round of Analysis with the adoption of the twenty-eight (28) country reports and the corresponding Hemispheric Report, and the commencement of the Second Round of Analysis;

- The adoption of the Inter-American Democratic Charter in 2001, which states that “transparency in government activities, probity, responsible public administration on the part of governments,” *inter alia*, are “essential components of the exercise of democracy.”
- The adoption of the Declaration on Security in the Americas in 2003, in which the states called corruption “a threat to the security of our States” and committed themselves to strengthening the MESICIC;
- The adoption of legal instruments relating to anticorruption efforts and mechanisms for following up on them, *inter alia*, under the aegis of the Organization for Economic Cooperation and Development (OECD) and the Council of Europe, along with the negotiation, approval, and recent entry into force of the United Nations Convention against Corruption;

That operative paragraph 8 of resolution AG/RES. 2219 (XXXVI-O/06), “Follow-up on the Inter-American Convention against Corruption and its Program for Cooperation,” resolved to “recommend that the next meeting of the Conference of States Parties to the MESICIC consider, review, update, and supplement, insofar as it considers this appropriate, the Inter-American Program of Cooperation to Fight Corruption, adopted by resolution AG/RES. 1477 (XXVII-O/97), and present its recommendations to the General Assembly for formal adoption at its thirty-seventh regular session, through the Permanent Council; and to request the General Secretariat to draft a basic proposal for that purpose”; and,

Having complied with the above, they agree that this document will be the new text of the Inter-American Program of Cooperation to Fight Corruption, the implementation of which will call for the following measures:

I. FOLLOW-UP ON IMPLEMENTATION OF THE INTER-AMERICAN CONVENTION AGAINST CORRUPTION

1. Urge the OAS member states that have not yet done so to consider, as promptly as possible and as applicable to each case, ratifying or adhering to the Inter-American Convention against Corruption and/or to become members of the MESICIC, and to pursue such formalities as may be necessary to facilitate those steps.

2. Continue strengthening the MESICIC and, to that end:

- a. Consolidate the MESICIC Conference of States Parties as the body with the authority and general responsibility for implementing the Mechanism and as the political forum for dealing with the topic of hemispheric anticorruption cooperation, pursuant to the Report of Buenos Aires and to the decisions adopted by the Conference.
- b. Continue to carry out the technical analysis of the States Parties’ implementation of the Convention, through the MESICIC Committee of

Experts, together with the follow-up of the implementation of the recommendations issued to the States Parties in the country reports, in accordance with the terms of the Report of Buenos Aires and the Rules of Procedure and Other Provisions of the Committee of Experts.

- c. Continue strengthening the technical secretariat services of the MESICIC, to support, *inter alia*, the Committee of Experts and the Conference of States Parties in performing their duties, the dissemination of the developments taking place within that framework, and the coordination or execution of technical cooperation programs.
- d. Disseminate, over the Internet and other channels, the country, hemispheric, and annual progress reports referred to in Articles 25, 30, and 32 of the Rules of Procedure and Other Provisions of the Committee of Experts of the MESICIC.
- e. Promote, disseminate, coordinate, and execute technical cooperation programs and projects to support those states requiring the same in the implementation of the recommendations issued to them by the Committee of Experts of the MESICIC in its corresponding national analysis reports, and urging the realization of measures that favor the implementation of the recommendations.
- f. Continue to facilitate the participation and contributions of civil society organizations in the activities of the MESICIC Committee of Experts and Conference of States Parties, in accordance with their corresponding Rules of Procedure, and, when applicable, in processes relating to the implementation of the recommendations in each of the States Parties, in accordance with their domestic legislation.
- g. Promote, when necessary, training programs for MESICIC Experts, aimed at the implementation of the provisions.
- h. Bolster the funding of the MESICIC, both with resources from the OAS Regular Fund and with external sources of funding, including the consideration by the States Parties, as appropriate, of continuing or commencing to make voluntary contributions, so that the Mechanism can continue to discharge its tasks in an efficient and optimal fashion.

II. EXCHANGES OF INFORMATION AND DISSEMINATION

1. Consolidate, by means of the OAS webpage, the “Anti-corruption Portal of the Americas,” which will facilitate access to information about the developments taking place regarding transparency in public administration and anticorruption cooperation under the aegis of the OAS, including all those within the MESICIC framework, along with links to the webpages of the member states’ agencies with responsibilities in this area.

2. Develop, support, or maintain pages or networks on the Internet, with restricted access if deemed necessary, to facilitate exchanges of information between authorities with responsibilities in specific areas relating to transparency in public administration and policies for the prevention, investigation, and prosecution of acts of corruption.

3. Give the broadest dissemination possible to the activities and developments taking place in anti-corruption cooperation efforts under the aegis of the OAS, including those related to the MESICIC and the steps taken to implement its recommendations in the States Parties.

4. Prepare and distribute printed publications to publicize the reports, activities, and developments taking place under the aegis of the OAS's anti-corruption cooperation efforts.

5. States Parties shall consider establishing or enhancing, as appropriate, educational and training programs, including programs for public officials, which promote the ethical values that sustain democracy and combat corruption.

6. Encourage cooperation by the mass media in the pursuit of educational campaigns in the struggle against corruption, and continue to exchange experiences on the role played by the mass media in fighting corruption.

III. RECOVERY OF ASSETS

1. Continue to assist and promote cooperation between the central authorities in the area of assistance for the provision of useful information for investigations and for evidentiary purposes, and to provide effective and specific assistance to help deny criminals the instrumentalities of their crimes, the proceeds or equivalent thereto, and to recover those instrumentalities, proceeds, or equivalents and return them to their legitimate owners in accordance with domestic law and applicable treaties.

2. Promote the consideration, among the States Parties, in addition to the United Nations Convention Against Corruption, when applicable, of the signing of specific bilateral or multilateral agreements with respect to the seizure and confiscation of the instrumentalities and proceeds of crime, as well as the return to the legitimate owners of the goods obtained as a result of those actions, resulting from the commission of offenses criminalized pursuant to the Inter-American Convention against Corruption, and in compliance with their domestic laws.

3. Promote the training of experts and public officials in the areas of freezing of assets, forfeitures and the recovery of assets.

IV. TECHNICAL COOPERATION AND EXTRADITION

1. Strengthen technical cooperation activities in order to continue making progress in the implementation of the Convention and in improving the efficiency and effectiveness of national laws, policies, and institutions related to anti-corruption undertakings, including the programs and

projects embarked on to support the states in their implementation of the recommendations from the Committee of Experts of the MESICIC as described in paragraph I.2.e of this Program.

2. Promote the development and dissemination of academic research and studies related to anti-corruption cooperation, including those that use the information produced under the aegis of the MESICIC, and facilitate the participation of universities and research centers in their preparation, analysis, and dissemination.

3. Encourage awareness of the training programs that exist in areas related to anti-corruption cooperation, and, when possible, the development thereof, in order to facilitate participation in those efforts by the competent officials of the OAS member states.

4. Continue to conduct comparative studies of legal provisions in the member states, identifying similarities, differences, and any legal gaps that might exist and, on the basis thereof, identify issues that might lead to the drafting of illustrative model laws that include the most advanced anticorruption approaches.

5. Strengthen cooperation for the effective application of extradition provisions, in compliance with the provisions of Article XIII of the Inter-American Convention against Corruption, to secure the arrest and trial of those who perpetrate, jointly perpetrate, instigate, serve as accomplices in, and conceal acts of corruption

V. COOPERATION WITH OTHER AGENCIES AND INTERNATIONAL FOLLOW-UP MECHANISMS

Continue to promote cooperation, exchanges of information, and joint activities in areas related to transparency in public administration and anti-corruption efforts with other international organizations, such as the United Nations, the Organization for Economic Cooperation and Development (OECD), the Council of Europe, the Inter-American Development Bank (IDB), the World Bank, Asia-Pacific Economic Cooperation (APEC), and the International Monetary Fund.

VI. CIVIL SOCIETY

Foster the participation and contributions of civil society in the national activities and developments taking place at the hemispheric level regarding transparency in public administration and the fight against corruption, including those under the aegis of the Conference of the States Parties and the Committee of Experts of the MESICIC and in programs and projects to support the implementation of their recommendations to the States Parties, in accordance with the terms of paragraph I.2.f of this Program.

VII. UNITED NATIONS CONVENTION AGAINST CORRUPTION

Recommend that the Conference of States Parties to the MESICIC, in consideration of the recent entry into force of the United Nations Convention against Corruption, consider and adopt at its

next meeting a strategy on how the MESICIC could carry out the implementation of the various thematic areas covered by the Inter-American Convention against Corruption and the United Nations Convention against Corruption, and the monitoring of the developments made in connection with them.

VIII. TECHNICAL SECRETARIAT

Request that the General Secretariat, as the Technical Secretariat of the MESICIC, continue to provide the technical support necessary for the implementation of this Program, through the Office of Legal Cooperation of the Department of International Legal Affairs of the OAS, in accordance with the resources assigned in the program-budget and other resources of the OAS.

IX. FOLLOW-UP

Recommend that the Conference of States Parties to the MESICIC and the OAS General Assembly, within their respective areas of authority, duly follow-up on this Program.