

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

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Third Meeting of the Conference of the States Parties
December 9-10, 2010
Brasilia, Brazil.

**RECOMMENDATIONS
OF THE THIRD MEETING OF
THE CONFERENCE OF STATES PARTIES OF THE MESICIC**

The Conference of the States Parties of the Mechanism for Follow-up on Implementation of the Inter-American Convention Against Corruption (MESICIC), at its Third Meeting held, pursuant to the provisions of the Report of Buenos Aires and of its Rules of Procedure, in Brasilia, Brazil, on December 9 and 10, 2010:

NOTING the special significance of this meeting taking place on the occasion of International Anti-Corruption Day (December 9);

REAFFIRMING, as stated in the Preamble to the Inter-American Convention against Corruption, that corruption “undermines the legitimacy of public institutions and strikes at society, moral order and justice, as well as at the comprehensive development of peoples”;

CONVINCED of the importance, usefulness, and effectiveness of the Inter-American Convention against Corruption and of the Mechanism for Follow up on its Implementation (MESICIC), for strengthening cooperation among the States Parties in the prevention, detection, punishment, and eradication of corruption;

BEARING IN MIND the commitments and mandates agreed on at the Summits of the Americas in connection with the fight against corruption, the implementation of the Inter-American Convention against Corruption, and the strengthening of its follow-up mechanism (MESICIC);

ALSO BEARING IN MIND that the XIX Ibero-American Summit of Heads of State and Government, held in Estoril, Portugal, between November 29 and December 1, 2009, declared that “it is a priority to support the work of the Mechanism for Follow-up on Implementation of the Inter-American Convention against Corruption (MESICIC) of the Organization of American States (OAS), which represents a valuable regional collaboration effort for preventing and combating the phenomenon of corruption”;

RECALLING that the *Inter-American Democratic Charter* provides, *inter alia*, that “transparency in government activities, probity,” and “responsible public administration on the part of governments” are “essential components of the exercise of democracy”;

CONSIDERING the *Inter-American Program for Cooperation in the Fight against Corruption*, the new text of which was adopted by the Conference of States Parties of the MESICIC at its Second Meeting, as well as the developments that have taken place in compliance with it, and

the recommendation contained in Chapter VII thereof regarding the adoption by this Conference of a strategy in relation to the United Nations Convention against Corruption;

CONSIDERING AS WELL the need to coordinate international efforts among agencies involved in the fight against corruption through greater interaction between the conventions and their follow-up mechanisms;

RECOGNIZING the support given to the strengthening of the MESICIC by the OAS General Assembly, in all the resolutions adopted in connection with it at its regular sessions since the creation of this Mechanism; and,

BEARING IN MIND the thanks extended to the Government of Brazil and the support given to the organization of this Third Meeting of the Conference of the MESICIC States Parties by the OAS General Assembly in resolution AG/RES. 2576 (XL-O/10),

Agrees on the following:

I. RATIFICATION OF THE CONVENTION AND ADHESION TO THE MESICIC

1. To urge the member states of the OAS 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 (hereinafter the Convention) and/or to become members of the MESICIC, and to pursue such formalities as may be necessary to attain this objective.

II. CONFERENCE OF STATES PARTIES OF THE MESICIC

2. To continue consolidating the Conference of the States Parties of the MESICIC as the organ with the general authority and responsibility for implementing the Mechanism, and as the political forum for addressing the topics of hemispheric cooperation on preventing and combating corruption, pursuant to the *Report of Buenos Aires* and the decisions of said Conference.

III. COMMITTEE OF EXPERTS OF THE MESICIC AND REVIEW OF THE IMPLEMENTATION OF THE CONVENTION

3. To express its satisfaction with the progress made by the Committee of Experts of the MESICIC (hereinafter, the Committee), with the support of the Technical Secretariat, which can be seen in the successful manner in which they concluded the first two rounds of review with the adoption of reports on each of the 28 MESICIC States Parties and in advancing with the Third Round of Review with the adoption of 17 country reports to date, which include the follow-up of the implementation of the recommendations adopted in the earlier rounds, and the adoption of the Hemispheric Reports corresponding to the first two rounds of review.

4. To note its satisfaction with the content and scope of the Hemispheric Report on the Second Round of Review, adopted by the Committee of Experts on the basis of the draft prepared by the Technical Secretariat and presented by the Chair of the Committee during this meeting, which offers a general and comprehensive analysis of the country reports, provides collective recommendations, and provides a summary of the progress made by the MESICIC member countries

as a whole in implementing the recommendations formulated to them by the Committee in the First Round, pursuant to the *Report of Buenos Aires* and Article 30 of the *Rules of Procedure* of the Committee.

5. To express its pleasure with and support for the process embarked on by the Committee, with the support of the Technical Secretariat, for the consideration, adoption, and dissemination of the *Annual Reports on Progress in Implementation of the Inter-American Convention against Corruption*, in accordance with Article 32 of its *Rules of Procedure*, with the first of such reports to be examined during the next meeting of the Committee.

6. To recommend that the Committee with the support of the MESICIC Technical Secretariat develop, consider, and adopt a methodology for the preliminary review subgroups, with the support of the Technical Secretariat, to conduct on-site visits to the States Parties, in accordance with the provisions of the first paragraph of Article 33 of the *Rules of Procedure* of the Committee. Said methodology shall guarantee equal and impartial treatment for all the States Parties, and establish procedures so that the respective country to be officially reviewed expresses its consent to the execution of an on-site visit.

7. To recommend that the Committee, once it has adopted the methodology referred to in the previous paragraph, in addition and as part of the decisions for commencing the Fourth Round, take the necessary steps so that during that round, on-site visits may be carried out to the States Parties in accordance with the provisions of the first paragraph of Article 33 of the *Rules of Procedure* of the Committee and with the aforesaid methodology.

8. To recommend that, in order to implement the terms of the previous paragraph, the States Parties consider making voluntary contributions to guarantee funding for the expenses demanded by the on-site visits referred to in the two previous paragraphs, thus ensuring their financial sustainability and the uninterrupted pursuit of them. For these purposes, the Technical Secretariat of the MESICIC may also negotiate and receive voluntary contributions from States not party to the Convention, international financial agencies, international cooperation agencies, and all other contributions that may be received in accordance with the General Standards to Govern the Operations of the OAS General Secretariat. Contributions for the funding of on-site visits shall be made without conditions related to the substance of the review process or its outcomes and without expectations of influence, and it shall be used in agreement with provision 3, paragraphs (a) and (b) of the Report of Buenos Aires.

9. To recommend that during the Fourth Round, the Committee give high priority to the follow-up of recommendations, and to that end:

a. With regard to the follow-up of recommendations, that it concentrates 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.

b. In order to make the foregoing possible, with regard to the review of the implementation by the States Parties of the provisions of the Convention, that it select provisions that, by reason of their number, content, and scope, allow the review carried out by the Committee in relation to the implementation of said provisions by the States Parties be, as a whole, proportionally less extensive, though carried out no less thoroughly, than those conducted for the provisions selected in earlier rounds.

c. In each of the above cases, to continue to review application and enforcement of the measures adopted, in addition to implementation de jure.

10. To recommend that the Committee adopt, as of the Fourth Round of Review, along with the corresponding country report, a summary of that report covering the recommendations formulated on the topics reviewed in that round and the progress made in the implementation of the recommendations made in earlier rounds in which follow-up is being carried out.

11. To recommend to the Committee that, for the follow up of the implementation of the recommendations formulated for the States Parties in previous rounds, it take into account, to the extent it deems relevant, developments made with national plans of action, for those States that have carried out this technical cooperation initiative.

12. To recommend to States Parties to advance the effectiveness of the review process by ensuring that delegations to the Committee continue to include experts relevant to the subjective matter of the reviews and the matters before the Committee.

13. To encourage States Parties that had recommendations formulated in their corresponding reports of the First and Second Rounds and which were deemed to require additional attention in the reports of the Second or Third Round, to take steps to complete implementation of the measures recommended.

IV. TOPICS OF COLLECTIVE INTEREST, AMONG OTHERS THE RESPONSIBILITY OF THE PRIVATE SECTOR IN PREVENTING AND COMBATING CORRUPTION

14. To recommend that the Committee, bearing in mind the provisions of Articles 3 (h) and 37 (b) and (c) of its *Rules of Procedure*, continue to consider, as topics of collective interest, in addition to others that the Committee may identify in the course of its work, the responsibility of the private sector in preventing and combating corruption, asset recovery, the conflicts of interest regime, the legal framework for preventing corruption in public procurement, and the development of legal cooperation tools such as model laws or legislative guidelines on the issues covered by the Convention; and in addition, that it determine the timing and sequencing for them and, in each case, adopt the appropriate methodology for dealing with them.

15. To recommend that the Committee, bearing in mind the decision adopted at its Seventeenth Meeting, continue to treat, as a topic of collective interest, the question of best practices including those related to promoting ethics in the private sector and cooperation between the public

and private sectors in preventing and combating corruption, and that, to that end, it consider and if satisfactory adopt a methodology based on a proposal to be developed by the Technical Secretariat in consultation with the Committee.

16. To further recommend that the Committee treat as additional topics of collective interest:

- (a) Matters related with measures to promote integrity in the branches of Government;
- (b) Matters related with measures to promote the culture of integrity in the private sector; and
- (c) Measures to promote the independence of specialized anticorruption bodies or authorities and to safeguard them from threat or undue influence.

17. To recommend that, when appropriate, the States Parties' specialists on the different topics of collective interest attend the meetings of the Committee.

V. TECHNICAL COOPERATION

18. To express its satisfaction with the progress made in carrying out the technical cooperation program for supporting the States in the development of National Plans of Action for implementing the recommendations formulated to them by the MESICIC and, to that respect:

- a. To acknowledge the following States that, to date, have participated in said technical cooperation program: Argentina, Belize, Bolivia, Colombia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Suriname, Trinidad and Tobago and Uruguay.
- b. To thank the United States, Canada, and Spain for their contributions to the funding of this technical cooperation program.
- c. To urge those States that have participated in this technical cooperation initiative to continue with the due dissemination and implementation of their National Plans of Action and to share developments therewith with the other States Parties, as well as other States, within the framework of the Committee's meetings and in accordance with the terms of Article 31 of its *Rules of Procedure*.

19. To note its satisfaction with the *Conference on the Progress and Challenges in Hemispheric Cooperation against Corruption* that was held in Lima, Peru, on June 3 and 4, 2010, which facilitated the dissemination and exchange of information and experiences on developments with the OAS and with the States in preventing and combating corruption under the aegis of the Convention and the MESICIC, and to thank the Government of Peru for the support it provided in the organization of the Conference. In addition, to recommend that conferences or events of similar characteristics and scope be organized periodically, subject to available resources for this purpose.

20. To acknowledge the usefulness of the legal cooperation tools developed by the MESICIC Technical Secretariat, such as the systematization of national laws, legislative guidelines, and model laws on topics reviewed by the MESICIC, which serve to support the States in implementing the Convention and improving the effectiveness and efficiency of their laws, policies, and national institutions involved in preventing and combating corruption.

21. To request that the MESICIC Technical Secretariat, as part of the technical cooperation tools, develop a standard methodology with a set of indicators to facilitate the presentation and follow-up of the results and developments attained by the States in the thematic areas reviewed by the Committee and to place these set of indicators before the States Parties for their consideration, within the framework of the Committee.

22. To encourage donor organizations and other providers of technical cooperation to make a priority the provision of technical cooperation intended to enhance States Parties' capacity to implement the Convention.

VI. TRAINING

23. To state its recognition of publication, through the *Anticorruption Portal of the Americas*, of information on national and international training programs on matters related to anticorruption cooperation, and to urge the States to convey to the MESICIC Technical Secretariat, on a timely basis, information on their training programs on those topics that could be of benefit to representatives of other States Parties.

24. To urge the States Parties and the MESICIC Technical Secretariat to continue facilitating awareness of specific information about the Convention and the MESICIC among training institutions, including schools, institutes, academies, and university departments of public administration, law, and criminal justice.

25. To highlight the usefulness of the *Introductory Guide for MESICIC Experts* as an instrument that facilitates the understanding and training of newly appointed government experts with regard to the Convention, the MESICIC, and its responsibilities thereunder, and to ask the Technical Secretariat to keep it updated and facilitate access to it by those experts.

26. To welcome with satisfaction the establishment on September 2, 2010, of the International Anti-Corruption Academy (IACA) in Vienna, Austria, and to ask the MESICIC Technical Secretariat to continue to make progress with the coordination and arrangements necessary to formalize and consolidate reciprocal cooperation between the OAS General Secretariat and the IACA, as well as to facilitate that the information, developments of its activities, as well as the assistance needs identified through the MESICIC, can be taken into account by the Academy in its training programs and that the MESICIC States Parties can benefit from them.

27. To express its pleasure at the progress made by the Government of Panama and the United Nations Office on Drugs and Crime (UNODC) toward the establishment of a Regional Anticorruption Academy in Panama City, in order to, *inter alia*, provide training in areas related to anticorruption cooperation for the Central American and Caribbean regions. In addition, to ask the MESICIC Technical Secretariat to continue coordinating, with the Government of Panama and the

UNODC, the reciprocal cooperation between the OAS General Secretariat and the future Regional Anticorruption Academy, so that the information, the development of its activities as well as assistance needs that are identified through the MESICIC can be taken into account by the Academy in its programs and that the corresponding MESICIC States Parties can benefit from them.

VII. DISSEMINATION

28. To acknowledge the usefulness of the *Anticorruption Portal of the Americas*, which operates on the OAS web page and facilitates access to information regarding the progress made with transparency in public administration and in anticorruption cooperation within the framework of the OAS, including the progress made within the framework of the MESICIC, and with respect to developments taking place by the institutions of the Member States with responsibilities in that area. In addition, to ask the MESICIC Technical Secretariat to continue consolidating the Portal, and to urge the States to provide it with relevant information in order to keep it up to date.

29. To note the usefulness of the dissemination, through the *Anticorruption Bulletin* and through social networks, of the developments undertaken in the framework of the MESICIC, and to request the MESICIC Technical Secretariat to continue disseminating these developments through these means.

30. To ask the Technical Secretariat, subject to available resources, to continue producing and distributing printed publications to disseminate the MESICIC's reports, activities, and developments in the area of preventing and combating corruption.

31. To urge the States Parties to quickly and efficiently distribute and disseminate copies of the reports adopted by the Committee in relation to them, among the organs and institutions that, in accordance with their domestic laws, are responsible for implementing the corresponding recommendations.

32. To urge the States Parties to disseminate as broadly as possible, over the internet and through other channels, the country reports, hemispheric reports, and annual progress reports referred to in Articles 25, 30, and 32 of the Committee's *Rules of Procedure*.

33. To urge the States Parties to disseminate into society and through the media, the work of the MESICIC and, in particular, as deemed appropriate, the corresponding country reports adopted by the Committee.

VIII. FORUM ON BEST PRACTICES AND EXCHANGE OF INFORMATION

34. To consolidate the MESICIC as a forum for the exchange of information and reciprocal cooperation among the States Parties in the area of best practices for preventing and combating corruption, and, in this regard, to recommend that the Committee, based on a proposal to be drawn up by Technical Secretariat in consultation with members of the Committee, adopt a methodology that, *inter alia*, facilitates the presentation, exchange of information and dissemination of the best practices identified by the States.

35. To urge the States Parties to make the best possible use, in the investigation and prosecution of acts of corruption, of the *Hemispheric Information Exchange Network for Mutual Assistance in Criminal Matters and Extradition* (“*Criminal Matters Network*”) that was created and operates under the aegis of the Meetings of Ministers of Justice or Other Ministers or Attorneys General of the Americas (REMJA) process.

36. To recommend that, subject to available resources, the Technical Secretariat organize forums or technical meetings, attended by the national authorities responsible for specific thematic areas related to preventing and combating corruption, and develop, support, or maintain pages or networks on the Internet in order to facilitate the exchange of information and experiences and mutual cooperation among them.

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

37. To continue promoting cooperation, the exchange of information, and joint activities in areas related to preventing and combating corruption with other international organizations, such as the United Nations, the Organization for Economic Cooperation and Development (OECD), the Inter-American Development Bank (IADB), the Council of Europe, and the Asia-Pacific Economic Cooperation Forum (APEC).

X. CIVIL SOCIETY

38. To acknowledge the contributions made by civil society organizations in the implementation process of the MESICIC recommendations, and to continue facilitating their participation in the activities of the Committee and of the Conference of States Parties, in accordance with provision 8 of the *Report of Buenos Aires* and Article 34 of the *Rules of Procedure* of the Committee.

39. To recommend to the Committee that it consider the adoption of measures aimed at fostering the broadest and most diverse participation by civil society organizations in the activities of the MESICIC.

XI. STRATEGY IN RELATION TO THE UNITED NATIONS CONVENTION AGAINST CORRUPTION

40. To continue to facilitate access to the information generated as a part of the MESICIC’s process of reviewing the implementation of the Inter-American Convention against Corruption, such as responses by States, documents presented by civil society organizations, and country, hemispheric, and annual progress reports, so that pursuant to Article 63 (4) (d) of the United Nations Convention against Corruption, that Convention’s Review Mechanism can make appropriate use of said information and thus avoid an unnecessary duplication of efforts.

41. To recommend that the MESICIC States Parties, when participating as Examining States of another MESICIC State Party under the Review Mechanism of the United Nations Convention against Corruption, take into account the relevant information produced within the

framework of the MESICIC, as provided for in Article 63 (4) (d) of the United Nations Convention against Corruption, in the Terms of Reference of that instrument's Review Mechanism (paragraph 27 (c)), and in its Appendix (paragraph 6).

42. To recommend that the MESICIC Committee of Experts, in adopting the methodology, questionnaire, and other documents for the commencement of future review rounds, continue to take into account elements contained in the provisions of the United Nations Convention against Corruption related to the topics of the Inter-American Convention against Corruption for which implementation is to be reviewed.

43. To welcome the signing of a Memorandum of Understanding between the OAS General Secretariat and the United Nations Office on Drugs and Crime (UNODC) on February 24, 2010, establishing a framework for facilitating coordination and cooperation between those two organizations in connection with, *inter alia*, the implementation and follow-up of the Inter-American Convention against Corruption and the United Nations Convention against Corruption, and, in that regard, to support under that Memorandum of Understanding the continued strengthening of exchanges of information, reciprocal cooperation, and the development of joint programs, projects, and activities between the two organizations to support the States in the implementation of the two Conventions.

44. To recommend that the Chair of the Conference of MESICIC States Parties keep the Conference of the States Parties to the United Nations Convention against Corruption, at its different periods of sessions, apprised of developments within the MESICIC, as well as others, in order to facilitate cooperation and the appropriate use of the relevant information generated within that framework and avoid an unnecessary duplication of efforts, in accordance with the terms of Article 63 (c) and (d) of the United Nations Convention against Corruption and the Rules of Procedure of both Conferences.

45. To recommend that States Parties of the Inter-American Convention against Corruption and States Parties of MESICIC that have not already done so strongly consider ratifying or acceding to, as appropriate, the United Nations Convention against Corruption.

46. To recommend that States Parties of MESICIC that are also States Parties to the United Nations Convention against Corruption, share information with UNCAC States Parties that are not States Parties of MESICIC about the positive impact of an inclusive and transparent review mechanism, based on the experience of MESICIC.

XII. TECHNICAL SECRETARIAT AND FUNDING OF THE MECHANISM

47. To give recognition to the quality of the work undertaken by the MESICIC Technical Secretariat in promoting the implementation of the Inter-American Convention, and in its contribution in carrying out the objectives of the Convention by following up on the commitments undertaken by the States Parties in facilitating the development of technical cooperation activities, the exchange of information, experiences and best practices, as well as in supporting the preparation and development of the rounds of review.

48. To ask the OAS General Secretariat, in its capacity as the Technical Secretariat of the MESICIC through the Department of Legal Cooperation of the Secretariat for Legal Affairs, to continue, *inter alia*, supporting the Committee of Experts and the Conference of States Parties in the discharge of their duties, disseminating the developments that take place within that framework, and coordinating or executing technical cooperation programs, in accordance with the provisions of the *Inter-American Program for Cooperation in the Fight against Corruption*, the resolutions of the General Assembly, and the resources assigned in the program-budget and other resources of the OAS.

49. To recommend that the States Parties that have contributed to the funding of the Mechanism's activities consider continuing to do so, and that those that have not done so consider making contributions to that end, so that the Mechanism can continue to discharge its tasks in an optimal and efficient manner.