

REPORT OF BUENOS AIRES

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

Delegations from the following States Parties participated: Argentina, The Bahamas, Bolivia, Canada, Chile, Costa Rica, the United States of America, Ecuador, El Salvador, Mexico, Nicaragua, Panama, Paraguay, Peru, Dominican Republic, Republica Oriental del Uruguay, and Venezuela. Representatives from the following non-States Parties participated: Brazil, Guatemala, and Haiti, and representatives from the IADB and the OECD were also present.

The General Secretariat of the OAS provided the secretariat functions for this first meeting of the Conference.

This first meeting of the Conference is the result of the work undertaken within the Group on Probity and Public Ethics of the OAS, on the basis of OAS General Assembly Resolution 1723 (XXX-0/00). Moreover, the terms of reference that were considered at this meeting of the Conference were the recommendations drafted by the Expert Group in Washington on March 21-23, 2001, that took into account OAS Permanent Council Resolution 783 (1260/01).

As a result of the debates that took place in Buenos Aires, the first meeting of the Conference of the States Parties reached the consensus that is reflected in the final document that is attached to this Report under the title, "Document of Buenos Aires on the Follow-up Mechanism for the Implementation of the Inter-American Convention against Corruption," which will be submitted for the consideration and adoption by the Conference of the States Parties to the Inter-American Convention that will take place on the occasion of the XXXI Regular Session of the OAS General Assembly, which will take place in San Jose, Costa Rica, between June 3 and 5, 2001.

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

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

PREAMBLE

Bearing in mind that the purpose of the Inter-American Convention against Corruption is to promote and strengthen cooperation among the States Parties and the development of the mechanisms needed to prevent, detect, punish, and eradicate corruption.

Acknowledging that significant progress has already been achieved in implementing the provisions of the Inter-American Convention against Corruption at the national level, along with substantial developments at the subregional and international levels, especially through the Inter-American Program for Cooperation in the Fight against Corruption.

Emphasizing that the existence of a follow-up mechanism and analysis of the implementation of those achievements, that facilitates cooperation both among States Parties and among all member states of the OAS, will help to achieve the objectives of the Convention, and that this mechanism must acknowledge the need to proceed in a progressive manner toward the achievement of its goals and to support the programs that the States Parties undertake to implement the Convention.

Considering the Plan of Action signed at the Third Summit of the Americas, at Quebec City, Canada, in which the Heads of State and Governments pledged themselves to support the establishment, as soon as possible, of a follow-up mechanism for the implementation of the Inter-American Convention against Corruption by the States Parties to the Convention, taking into consideration the recommendation of the OAS.

It is considered that the follow-up mechanism will include the following elements:

1. Purposes

The purposes of the mechanism will be:

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

2. Basic principles

The follow-up mechanism of the commitments made by the States Parties to the Convention will be guided by the purposes and principles established in the Charter of the Organization of American States. Accordingly, the powers accorded to it and the procedures it employs must bear in mind the principles of sovereignty, nonintervention, and the legal equality of the States Parties, as well as the need to respect the Constitution and the fundamental principles of the legal system of each State Party.

3. Characteristics

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

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

4. Members of the follow-up mechanism

The States Parties to the Convention will be members of the follow-up mechanism.

5. Structure and responsibilities

The follow-up mechanism will consist of two bodies: the Conference of the States Parties and the Committee of Experts.

The Conference will be comprised of representatives of the States Parties. It will have the overall authority and responsibility for the implementation of this mechanism and will meet at least once a year.

The Committee will be comprised of experts appointed by each of the States Parties. It will be responsible for the technical analysis of the implementation of the Convention by the States Parties, among its other tasks related to this main purpose. The Committee may request assistance and guidance from the Conference, which will meet to consider such requests.

The functions of the Secretariat for the mechanism will be performed by the General Secretariat of the OAS.

6. Headquarters

The follow-up mechanism will be based at the headquarters of the Organization of American States.

7. Activities

- a. The Committee will adopt and disseminate its rules and procedures.
- b. Country reports
 - i. Selection of provisions and methodology:

The Committee of Experts will select, from among the provisions addressed in the Convention, those to be reviewed, and will determine the length of time it will devote to this task, which will be known as a round. The Committee of Experts will develop a methodology for each provision designed to ensure that it will obtain sufficient and reliable information. The Committee will publish the information referred to in this paragraph.

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

- ii. Selection of countries

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

- iii. Review of information and preliminary report

In order to expedite its work, the Committee will establish in each case a subgroup comprised of experts from two States Parties to review, with support from the Secretariat, the information on each State Party.

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

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

The plenary meeting of the Committee will prepare the conclusions and, if pertinent, make the recommendations it deems appropriate.

iv. Final report

After completing its review of the reports of all the States Parties in each round, the Committee will issue a final report for each State Party that will include the observations of each State Party concerned, which will be forwarded to the Conference and then made public.

c. Cooperation

The Committee, 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, will strive to cooperate with all member states of the OAS, bearing in mind the activities already underway in the OAS, and report thereon to the Conference.

The Committee will initiate the systematic consideration of issues involved in cooperation and assistance among States Parties in order to identify the areas in which technical cooperation is needed and the methods best suited to collect data useful for the analysis of such cooperation and assistance. This task will include a reference to the provisions of Articles XIII-XVI and XVIII of the Convention.

d. Observers

Non-State Parties to the Inter-American Convention against Corruption may be invited to observe the plenary meetings of the Committee if they so request.

8. Participation of civil society

In order to obtain the best input for its review, the Committee will include in its rules of procedure an adequate 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 included in AG/RES. 1661 (XXIX-0/99), in accordance with the domestic legislation of the State Party being reviewed. The Committee may request information from civil society organizations, for which purpose it will elaborate the methodology it deems to be most appropriate.

9. Resources

The activities of the mechanism will be financed by contributions made by States Parties to the Convention, non-States Parties, and 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 the possibility of establishing a specific fund. Such contributions may include offers by State Parties to host and organize meetings of the Committee of Experts. The Conference will consider the establishment of criteria to determine regular contributions.

10. Periodic review of the mechanism

The Conference will periodically review the operation of the mechanism, taking into account observations made by the Committee and may introduce the changes it deems appropriate.

11. Temporary Provisions

To facilitate the work of the first meeting of the Committee, the Conference considers that the provisions that might be analyzed by the Committee for the first round are, *inter alia*, the following:

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

In the event that the Committee encounters difficulties preventing it from analyzing all the provisions indicated, it will report this to the Conference for it to take such decisions as it deems appropriate at its next meeting.

The Conference also suggests that the Committee should hold at least two meetings in its first year of operation.