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Other matters

**Document submitted by the UNCAC Coalition, a
non-governmental organization not in consultative status
with the Economic and Social Council****

The following document is being circulated in accordance with paragraph 1 (i) of resolution 4/6 of the Conference of the States Parties to the United Nations Convention against Corruption and rule 17, paragraph 3 (b), of the rules of procedure for the Conference.

* CAC/COSP/IRG/2019/1/Add.1*.

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Making UNCAC Work: UNCAC Coalition Statement to the 10th Session of the UNCAC Implementation Review Group Meeting

Citizens around the world are looking to their governments to deliver decisive action against corruption to reverse systems and trends of injustice and inequality. Tackling corruption requires serious collaborative efforts among states and prosecution authorities, as well as the involvement of all relevant non-governmental stakeholders. As recognised by the UNCAC, civil society can make substantial contributions to the fight against corruption with its expertise and insights, on the local, national and regional levels, as well as in global UNCAC fora.

For the UNCAC to be an effective anti-corruption instrument, robust monitoring of the implementation of the Convention is crucial. This can only be achieved by ensuring a high level of transparency and close involvement of civil society at all stages of the review process and in any follow-up action.

The UNCAC Coalition submits this statement to renew and update its call on UNCAC States parties to take action, including by adopting resolutions at the next session of the UNCAC Conference of States Parties, to achieve the following:

Transparency of country reviews

When it comes to the country reviews, we have both seen improvements and regressions in the transparency of the process.

A number of countries have taken steps to ensure a high level of openness in their respective reviews and facilitated a strong involvement of NGOs, including by signing and adopting the UNCAC Coalition's Transparency Pledge, by implementing steps outlined in the Coalition's Guide on Transparency and Participation in the Review Process,¹ and by sharing information about the review process and country visits on social media. However, the problems with transparency that we see in many other countries undermine civil society's ability to contribute its knowledge and expertise to the review process.

Overall, 25 of the 186 States parties have completed the Second Review Cycle at this point. Five countries have so far published their Self-Assessment Checklist responses, indicating an improvement in percentage terms in comparison with the First Review Cycle, when a total of only 14 countries of 169 with thus far completed reviews released their Self-Assessment Checklists.

¹ For details on the Pledge and the Guide, please see: <https://uncaccoalition.org/uncac-review/transparency-pledge/>

In the second cycle, only nine countries have so far published the full Country Report – 36% of those that completed the review.² This suggests a deterioration of transparency compared to the First Review Cycle, in which 49% or 82 out of 169 countries that completed the review published the Country Report. It is to be hoped that this is due to delays in publishing the full reports.

It is crucial that the Self-Assessments and full Country Reports be published because these contain valuable information, including data on implementation as well as detailed references to relevant legal provisions, policies and practices, that is not included in the Executive Summaries. Having access to these documents would enable the public to understand better and analyse country measures against corruption. Moreover, keeping such documents hidden from the public is inconsistent with UNCAC Chapter II's emphasis on transparency and undermines the credibility of the review process and of the Convention itself. None of the exceptions with respect to access to information under international standards and best practice are applicable with respect to these documents.

The absence of publicly available timetables for each country review augments difficulties for civil society representatives to engage in the process. In addition, substantial delays in the review process in many countries make it even more difficult to identify the current stage of the review process. As a result, civil society may miss important opportunities to engage and contribute. The Coalition has also received feedback from several NGOs that were struggling to identify and obtain the contact information of their government's focal point.

Analysing all publicly available documents from the Second Review Cycle, the UNCAC Coalition found references to non-state stakeholders being consulted during the review process only in two of the nine published Country Reports. At the same time, the Coalition is aware of several cases where civil society groups were consulted and involved in the review process. By not documenting these contributions, States parties are selling themselves short in getting recognition for their positive civil society engagement.

In moving forward in implementing the UNCAC, it is critical that States parties assume a transparent and inclusive mechanism in which they support and enable civil society organisations' contributions and consecutively publish full Country Reports. Civil society participation is an imperative precondition for a constructive and exhaustive review process. Other anti-corruption review mechanisms, including those of the OECD, the OAS and the Council of Europe's GRECO have recognised the importance of these practices and have benefited as a result.³

- Self-Assessments and full Country Reports should be published online by default;
- The names, positions and contact information of the focal points and the reviewers should be released online when this information is submitted to UNODC;⁴

² It is worth noting that the full Country Report is often published with a substantial delay after the Executive Summary is released.

³ See: Transparency International (2017): Transparency and Participation – An Evaluation of Anti-Corruption Review Mechanisms, https://www.transparency.org/whatwedo/publication/transparency_participation_an_evaluation_anti_corruption_review_mechanisms

⁴ Any spam or privacy concerns could be addressed by creating a dedicated email address for the review process through which messages are forwarded to the focal point and the reviewers.

- The UNODC country profile page also should show a tentative schedule and milestones of the review process, including tentative dates of a country visit – such information would facilitate stakeholder engagement with the process, even if this schedule is subject to revisions;
- Self-Assessment Checklists, Executive Summaries and Country Reports should contain a section with information on consultations with all stakeholders, as well as on how consultations were conducted and their outcomes were reflected.

Follow-up to the country review recommendations

It was disappointing from the outset that States parties postponed discussions about follow-up procedures to the end of the two review cycles. The Coalition's concerns about the lack of a follow-up mechanism in the review process have been exacerbated by the slow progress being made in the Second Review Cycle, which is likely to extend far beyond the initially scheduled five-year period. If a new Review Cycle starts after the end of the Second Review Cycle, ten or more years may pass between one evaluation of a specific article and compliance with the article being revisited. This long time frame is inadequate to stimulate, facilitate and inform reforms on the national level.

To ensure adequate follow-up to the findings and recommendations made during the UNCAC review process States parties should

- discuss the creation of a follow-up mechanism and adopt a continued review process at the next CoSP and
- ensure that the review is provided with adequate resources to ensure timely progress.

See also the UNCAC Coalition's statement: Growing Civic Space.

All Coalition submissions to the IRG and more information are available at

<https://uncaccoalition.org/uncac-bodies/implementation-review-group-irg/10th-irg/>