

## **Recommendations for a more effective MESICIC**

### ***17<sup>th</sup> Meeting of the Committee of Experts of the MESICIC Washington D.C., September 13-17, 2010***

The Inter-American Convention against Corruption (IACAC) came into force in 1996. The Convention constituted a milestone: it was the first global attempt to draft an international treaty to reduce corruption in the Americas and represented a coordinated response to the ongoing corruption scandals that rocked the countries in the region. In 2002, a mechanism (MESICIC) was established to support regular reporting by the States on the results achieved in the application of the IACAC.

Since the 1990s, Transparency International (TI) has played a particularly active role in promoting and supporting the Inter-American Convention and its monitoring mechanism. TI contributed to the creation of the MESICIC and regularly provides it with independent information regarding the status of implementation. Civil Society Organisations (CSOs) from 21 countries have been actively engaged in this process. State representatives responsible for assessing the progress made in the implementation of the Convention recognise this contribution as a valuable input. TI also works to ensure that the MESICIC becomes more effective and transparent and that civil society is engaged at all stages.

Although the MESICIC has proved helpful for the advancement of certain anti-corruption issues in the hemisphere, significant reforms are still needed to achieve its goal.

TI will continue to support the monitoring of the IACAC and participate in the debate to strengthen the MESICIC. To that end, we submit the following recommendations to the Committee of Experts.

### **I. Civil society participation**

#### **1. Amendment to article 34 of the Rules of Procedure of the Committee of Experts**

Civil society participation has been weakened and limited by article 34 of the Rules of Procedure of the Committee of Experts, which provides that the participation of CSOs in the MESICIC shall be governed by the “internal legislation of the respective State Party.”

This article has been invoked to prevent the participation of legitimate civil society organisations and to grant States the power to veto organisations that exercise their social oversight role or their freedom of expression.

Pursuant to Section 2 of the OAS Guidelines, civil society organisation is understood to mean “any national or international institution, organization, or entity made up of natural or juridical persons of a nongovernmental nature.” In the opinion of the OAS Department of Legal Services, published on 15 May 2006, “[t]his definition is extremely broad. For example, it does not require the entity applying for CSO status in the OAS to have a recognized legal personality under the laws of any Member State, and it does not require the applying ‘institution, organization or entity’ to have civil society status under the laws of any Member State.”

In this respect, the requirement for the participation of civil society in the MESICIC not only violates the right of association established in the American Declaration and the American

Convention on Human Rights, but does not comply with the Guidelines on Participation by Civil Society Organisations in OAS established by Resolution CP/RES. 759 (1217/99).

We therefore request the next Conference of States Parties to amend this article and eliminate the words “and in accordance with the internal legislation of the respective State Party” in order to ensure that a plurality of sources of information are available for the assessment and to prevent situations such as the objection to the report submitted by Transparencia Venezuela over the last six years from occurring again within the framework of the Organization of American States.

## **2. Including annual reports by civil society**

Pursuant to articles 31 and 32 of the Rules of Procedure of the Committee of Experts of the MESICIC, only the States may report annually on the progress achieved in implementing the IACAC and the recommendations made during the rounds of review. In this respect, we request of the Conference of States Parties that such provisions be revised to include in the review the annual reports prepared by civil society.

## **II. Conference of States Parties to the MESICIC**

Ensuring acceptance of civil society participation during the Third Meeting of the Conference of States Parties to the MESICIC that will be held in Brasilia, Brazil, and that the proposals presented by social organisations are properly included in the agenda.

## **III. Reporting on the implementation of the Convention**

### **1. 12<sup>th</sup> anniversary report on implementation**

Twelve years after the coming into force of the IACAC, each of the State Parties must report to the Conference of States Parties on the steps they have taken to fully implement the Convention.

### **2. Developing compliance indicators**

The MESICIC Secretariat must develop and disseminate compliance indicators which can help State Parties enforce the Convention.

### **3. Facilitating the use of available information on the implementation of the IACAC**

The MESICIC Secretariat should prepare an executive summary of the answers submitted by the States, as well as the report by the country under review, in order to improve effectiveness. Civil society organisations have included executive summaries in their reports.

### **4. Developing a strategy for implementing the UN Convention against Corruption**

The OAS General Assembly—by Resolution 2576—highlighted the importance of considering and adopting a strategy on how the MESICIC can secure and monitor the implementation of the United Nations Convention against Corruption (UNCAC) and report to the OAS General Assembly in this regard. The States Parties to the MESICIC may share their invaluable experience to contribute effectively to the proper functioning of the recently sanctioned follow-up mechanism of the United Nations Convention against Corruption. The first round of review of this Convention has already started and will include several countries in the region (Argentina, Chile, Dominica, Dominican Republic, Jamaica, Peru and the United States).

The UNCAC chapters on criminalisation, law enforcement and international cooperation should be discussed thoroughly for the strategy, as these are the issues that will be addressed during the first review cycle (2010-2015) of the UNCAC.

## **IV. Following the methodology of the Third Round of the MESICIC**

### **1. Recognising the efforts of the States of El Salvador and Suriname and encouraging the implementation of on-site visits in the other countries**

We would like to acknowledge the work undertaken by El Salvador, which was the first country to implement the visits under the framework of the MESICIC, as well as the efforts of Suriname, as the country that visited El Salvador. This serves as a reminder that visits may be successfully implemented during the Third Round provided that the States are willing to cooperate and the necessary financial resources are available.

Therefore, as provided in article 33 of the Rules of Procedure, the Committee of Experts must adopt a methodology and begin country visits, which should include civil society consultation to obtain first-hand information on the implementation of the recommendations issued during the first and second rounds.

Country visits are an essential part of the review process, as they are regarded as the most reliable method for gathering information and assessing the effectiveness of the implementation, as well as for promoting compliance with the Convention. This has been further confirmed by the follow-up mechanism of the United Nations Convention and the OECD Convention.

## **V. Increasing the transparency of the MESICIC**

### **1. Engaging civil society organisations as special observers**

Civil Society Organisations should be engaged as special observers of the Committee's work, and should participate in the dissemination of detailed and relevant information on the MESICIC process. For this purpose, we request the States to voluntarily agree to the participation of CSOs as observers during their review by the Committee of Experts at the meeting of the MESICIC.

### **2. Publishing the database of the Committee of Experts**

The Committee of Experts' database should be published in the OAS website and updated with their current contact details (address, e-mail, telephone, fax, Skype account).

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TI appreciates this opportunity to submit the above recommendations and calls for prompt action to be taken. It is our intention to continue this productive cooperation to achieve our common goal of reducing corruption in the hemisphere.

**For more information:** [www.transparency.org/americas/conventions](http://www.transparency.org/americas/conventions)

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