

## **Increased participation by civil society and in situ visits will contribute to a more effective MESICIC**

### ***III Meeting of the Conference of the States Parties of the MESICIC Brasilia, December 09-10, 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 levels in America and represented a coordinated response to the continuous corruption scandals that rocked the countries in the region. In 2002, a mechanism (MESICIC) was established to support periodical 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 oversight mechanism. TI contributed to the creation of the MESICIC and provides it with independent information periodically regarding the status of implementation. Civil Society Organisations (CSO) 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 is more effective and transparent and that civil society is engaged in all its 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. These reforms that can only be made through the Conference of States Parties, meeting on the 9<sup>th</sup> and 10<sup>th</sup> December in Brasilia.

**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 certain organisations that seek only to exercise their social oversight role or their freedom of opinion.

Pursuant to Section 2 of the Organization of American States 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 agreement with the OAS Department of Legal Services' opinion on the matter, published on May 15 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 detailed in Article 34 for CSO participation not only violates the right of association established in the American Declaration and the American Convention on

Human Rights, but also infringes Resolution CP/RES. 759 (1217/99) adopting the Guidelines on Participation by Civil Society Organisations in OAS Activities.

We therefore request that the Third Conference of States Parties 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 comply with the OAS Guidelines and the relevant international agreements.

**2. Encourage the implementation of country visits in the Forth Round of the MESICIC** - The regulation is already established by Article 33, however the Committee of Experts must approve a methodology and start country visits in the Fourth Round. Visits constitute the most reliable method to obtain first hand information and evaluate if implementation is adequate. This is reflected in the fact that other Anticorruption conventions, such as that of the UN of OECD implement visits.

We recognise the special effort on the part of the States of El Salvador, which allowed the first country visit within the MESICIC framework to be carried out, as well as the state of Surinam which visited El Salvador. This fact demonstrates to us that it is possible to implement visits so long as there exists the will amongst states, and the financial resources required are minimal.

**3. 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. We request that annual reports prepared by Civil Society also be taken into account.

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

**5. Facilitating the use of available information on the implementation of the IACAC** - The MESICIC Secretariat should prepare an executive summary covering the answers submitted by the States, as well as the country report.

**6. Developing a strategy for implementing the UN Convention against Corruption** - 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).

Consequently compliance with the OAS General Assembly Resolution 2576 is vital. The resolution highlighted the importance of considering and adopting a strategy on how the MESICIC can secure and monitor the implementation of the United Nations Convention.

**7. Engaging CSOs as special observers** - CSOs should be engaged as special observers of the Committee's work, and should receive detailed and relevant information on the MESICIC process. For such purpose, we request that States accept the participation of CSOs as observers during meetings of the MESICIC Committee of Experts.

**8. Publishing the database of the Committee of Experts** – The OAS website should include a database of the current contact details of The Committee of Experts.

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

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