

12th IACC Report

Workshop 1.2: Drawing lessons from the implementation and monitoring of the OAS Convention, is this an example to follow?

Thursday, November 16, 2006 11:30-14:00

Moderator: Miguel Angel Peñailillo, Senior Advisor on Conventions in the Americas, Transparency International

Rapporteur: Ximena Salazar, OAS Liaison Officer, Americas Anticorruption Conventions Programme, Transparency International

Panellists: **Moisés Herrera**, President, Committee of Experts, OAS Follow-up Mechanism; General Director of Legislation and Consulting in the Committee of Judicial Affairs of the Secretariat of the Public Office, Mexico.
Nancy Zucker Boswell, Managing Director, Transparency International-USA
Hugo Maul Figueroa, delegate of the Presidency for Transparency and Anticorruption, Guatemalan government
Jorge García González, Director, Department of Legal Cooperation, Organization of American States.
Alejandro Urizar, Accion Ciudadana, Transparency International's National Chapter in Guatemala.

Session Summary: The Inter-American Convention against Corruption (IACAC) was signed in 1996, and 28 countries in the Americas have adopted its follow-up mechanism since its establishment in 2001. This mechanism allows for measuring the level of the Convention's implementation by signatory countries. Additionally, the mechanism has a technical body, the Committee of Experts, which analyzes compliance by the states. In order to do this, they have several inputs: governments evaluate themselves through a questionnaire, and Civil Society Organizations (CSO) can answer the same questionnaire and provide an independent view of the state's compliance.

In 2006, the mechanism ended its First Round in which a few articles of the Convention were evaluated, and the Committee of Experts drafted some recommendations to improve implementation. In recent years, CSOs have used the questionnaires and the Committee of Expert's recommendations as an input to develop advocacy strategies before the governments and international actors.

The IACC workshop evaluated the First Round of the mechanism, and identified the good practices of both CSOs and governments that will help in the next rounds. The workshop also showed that there are better results when civil society and others actors join forces. Additionally, the workshop evaluated whether or not the practices of the mechanism could be a model to be followed in other anti-corruption conventions that have just entered into force but don't have a monitoring mechanism yet, like the UN Convention and the African Union Convention.

Moisés Herrera, President of the Committee of Experts, presented the experiences and challenges of the follow-up mechanism for the implementation of the Inter American Convention against Corruption, MESICIC. According to him, the evaluation policy developed by the Committee of Experts during the First Round was a success highlighting the fact that all the recommendations formulated by the Committee to the Member States were adopted by consensus. He acknowledged the

institutionalization and contribution by the CSOs in the mechanism and called for a more active implementation and follow-up of the public policies of their respective governments. Finally, he made an appeal to gather greater financial support for MESICIC, especially for the visits system, to strengthen the services of the Secretary of the mechanism, and to promote the existence of a Protocol regarding MESICIC within the text of the Convention

Jorge García González, from the MESICIC secretariat within the OAS, presented some remarks on what it has been done so far in relation to the IACAC, MESICIC, the significant experiences of the OAS Pilot Project, as well as the future of this initiative. He highlighted that ten years ago it was being discussed if corruption was an international issue and that, nowadays, Barbados is the only state not part of the IACAC. He stressed the great progress that the creation of the MESICIC - that started functioning in 2002 – meant, and that there have been so far 28 country reports and one Hemispheric Report within the MESICIC First Round. The Second Round is currently underway.

According to Dr. García, MESICIC needs to be understood as a tool to facilitate cooperation, as an increasingly consolidating learning process. Furthermore, it must be viewed as entity in which equal treatment among member states is a fundamental principle with information transparency playing a primary role. In fact, the country reports, and those of the CSOs, are public and published on the OAS website. He also recognized the importance of the participation and contributions by CSOs in MESICIC and in the national analysis, as well as in supporting the work of the Secretariat in the technical analysis of the country report.

Among the future challenges mentioned by Dr. García, he highlighted the follow-up of the implementation of the formulated recommendations and its materialization in specific results during the Second Round, as well as the technical cooperation to support the states in the implementation of the recommendations, with resources and technical assistance.

Regarding the enforcement of the Pilot Project in the establishment of National Action Plans for the Implementation of the Recommendations, financed by the Canadian International Development Agency (CIDA), this considers the development of a matrix for each of the recommendations in which an institution in charge of its execution would be set up with the necessary time and resources. Until now, national workshops have been held and Actions Plans have been already adopted in Argentina, Paraguay, and Nicaragua. On December 1st, the Colombian National workshop will be held.

In Dr. Garcia's view, the development of National Plans for the Implementation of the Recommendations made by MESICIC is useful for international coordination as long as specific measures to be implemented are identified.

Finally, it was announced that, along with the recent contribution of one and a half million dollars by the government of the US, it was expected that the development of Action Plans would take place in all the remaining countries.

Nancy Zucker Boswell, Managing Director of Transparency International-USA, presented actions and strategies from civil society concerning the intergovernmental initiative for the monitoring of the OAS, in which she recognized the important value for the MESICIC and the dialogue between the civil society and the member states. However, she added that, in order to work on it, it has to be reformatted and it is necessary to engage the private sector and CSOs in this process.

She remarked that financial support and technical resources play a fundamental role in the engagement of civil society participation in the follow-up mechanism.

Dr. Boswell urged to increase the number of articles of the IACAC within the MESICIC, the presentation of an annual report by the states about the accomplishment of the whole IACAC, the implementation of in-country visits, and she recognized the very value of the reincorporation of this in the rules of procedure of the MESICIC. On the other side, she promoted the creation of a whistle blower protection model of law within the MESICIC.

With regard to procurement, she invited states and the MESICIC to look on elements of procurement transparency in the new United Nation Convention against Corruption (UNCAC) and in the numerous free trade agreements, e.g., NAFTA and CAFTA and the APEC. The OECD Development Assistance Committee/World Bank procurement Roundtable issued a report containing a Methodology for Assessment of National Procurement Systems. This report contains indicators of good procurement practice to which the Committee could refer.

Finally, she called the World Bank and the Inter-American Development Bank to include in their agendas the support to the implementation of the recommendations that the MESICIC give to the countries. It is very important to create capacity, and political will within the states and within the civil society in order to produce technical reforms in the national rules.

Alejandro Urizar and Maul Figueroa presented examples of collaboration between the civil society and the government as the case of Guatemala.

Maul Figueroa delegate of the Presidency for Transparency and Anticorruption of the Guatemalan government highlighted that the ratification of the IACAC in most of the cases supposes legal amendments, which is not easy considering parliamentary practice require a political consensus in Congress.

Among the main progresses achieved by the Government of Guatemala, he stressed the introduction of a series of bills in the national Congress during the last years and, among them, the access to public information and the information declassification bills, the bill that establishes the mechanism of submission of the executive accounts, and the creation of fiduciary funds.

He highlighted that it would be perfect to pass a law establishing the Ethical Code in all public distributions and not only in those made by the Executive power. Likewise, he pointed out that it is necessary to pass legislation or executive decisions in order to suppress the unnecessary procedures in the public service.

Among the challenges, he encouraged using the regulatory framework existing in the countries, such as executive decrees and regulations, which implies an important push for the legislative body to act. Furthermore, advantage must be taken from the fact that there is a political commitment to transparency and anti-corruption.

Alejandro Urizar from Accion Ciudadana, Transparency International's National Chapter in Guatemala, presented the summary of the creation of follow-up indicators for the ICAC in Guatemala. A coalition of seven civil society organizations has been working on this since the signature of a Memorandum of Understanding in November 2005 in which the follow-up of the implementation of the ICAC is the main purpose. Indicators are being developed with diverse information obtained from the private

sector, human rights organizations, and the media. The work is being carried out from a set of indicators measuring not only the legal reforms but also the practices. Standards have been adopted in order to measure the quality and suitability of the legal norms with the goal gathering quantitative and qualitative data. Up to now, 23 experts have been consulted.

It was highlighted that the development of the establishment of these indicators has brought closer the actors involved in the follow-up of the IACAC and, for instance, spaces of collaboration and the definition of common strategies with the media and the government are being created

In the execution of the set of indicators, the alliance with the central authority was of great importance as this gave the civil society the political influence needed in order to ask for the required information. In the building of this alliance, everybody benefits from an innovative tool for Guatemala in order to keep on insisting and focusing on the anti-corruption fight,

Finally, he highlighted that independence of the process is essential and in order to achieve that, at least 10% of the surveys must be verified.

The audience asked, among other things, about the way of speeding up MESICIC and improving the quality of the reports, as well as the appropriateness of establishing an incentives or conditional mechanism for obtaining funds from the states within the framework of MESICIC. As a result of these contributions made by the audience, the main conclusions drawn were:

- Civil society needs to work in coalitions with other civil society organizations (private sector, universities, and professional organizations).
- The MESICIC needs to measure if countries are applying recommendations of the First Round and if the implementations of the recommendations have shown results. It is necessary to create indicators for the First and Second Round.
- In order to accelerate the MESICIC process, it would be very useful to include the "in situ" visits for the members of the subgroup of analysis. Each country is reviewed by a subgroup of two other countries. It is necessary to support the work of the subgroup within the MESICIC as they don't have enough time to know very well the situation of the other country.
- Technical cooperation is needed in order to support countries in the implementation of the Recommendations in the MESICIC.
- There is also the necessity to work in the area of access to information as a first step to overcome other problems. 15 out of 28 countries received specific recommendations in the Final Report of the MESICIC.

Signed: Ximena Salazar