

**The InterAmerican Convention against Corruption:
Strengthening the Follow-Up Process to Secure Reform**

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Introduction:

Thank you and good morning everyone. It is a privilege to join the members of this distinguished panel including Maul Herrera from the Government of Guatemala.

I would particularly like to recognize **Moises Herrera** for his leadership as the President of the Committee of Experts and moving us toward our common objective of strengthening systems to reduce corruption in our countries.

We have had a long and productive relationship with the OAS and particularly with **Jorge Garcia** and his colleagues in the MESICIC Secretariat, and appreciate the energy and commitment that they have brought to promoting the IACAC and strengthening the MESICIC process.

I am also pleased to join my colleague, **Alejandro Urizar**, from Accion Ciudadana, the TI chapter in Guatemala.

I would like to focus my remarks today on three main topics:

- The importance of civil society participation in the country review process and in the country programs to implement the Committee's country specific recommendations;
- The importance of strengthening the MESICIC process by increasing the pace of country reviews and conducting on-site visits as part of the process; and
- The importance of strengthening the capacity of governments and civil society to work effectively to implement the convention in order to achieve our shared objective to reduce corruption.

TI and the MESICIC

But first, let me say a word about TI's history with the MESICIC and the Committee of Experts. It is a long and cooperative one, going back to 1994 and the first Summit of the Americas in Miami. We participated in this summit and shared the excitement that something significant had changed. The issue of corruption was explicitly on the agenda for the first time anywhere in the world and leaders of our countries called for action, including a regional approach to fighting corruption. The reaction was swift. The IACAC was concluded with remarkable speed.

However, many of you will recall, several years after the convention entered into force, there was little evidence that governments were taking action to turn their commitments into reality. So, in 1999, TI organized a meeting of experts including Jorge from governments and civil society across the hemisphere to consider how best to promote implementation. The outcome of that meeting was a finding that a follow-up mechanism was essential to secure the enforcement of the convention and a recommendation to the OAS Committee on Probit and Public Ethics that one be created.

With broad consensus that a follow up process was essential to realize the convention's promise, the States Parties created the MESICIC as Jorge said to provide constructive support and consistency in implementation.

Participation in the Country Reviews

We believe civil society participation in the follow up process has been valuable for the effectiveness and credibility of the process and for moving reform forward.

It is interesting to note that in the early days, civil society was skeptical about the value of the convention as an instrument of reform. Many believed that their countries already had adequate laws on the books. The problem was that they were not enforced and there was doubt that conventions would be enforced either.

However, TI viewed the convention and the review process as providing an important opportunity to motivate reform and to enhance and in some cases initiate a dialogue between government and civil society on this issue. Indeed, one of the great dividends of the review process has been an increase in engagement between civil society and the public sector, which, of course, is vital to effective and sustainable reform.

TI chapters participated in the first meeting of the Committee in 2002, and provided input into the Committee's organization and rules of procedure.

Since then, 15 Transparency International chapters from across the hemisphere have reached out to a broad range of civil society organizations to develop responses to the questionnaires. TI and many of these organizations have presented their findings to the Committee at each meeting.

They provide specific, fact-based objective information, and the Committee has reflected many of their recommendations in the country reports and in specific recommendations for in-country reforms.

Implementing Country Recommendations

Implementation of these recommendations will determine not only the success of the process, but the success of the convention itself.

Therefore, we welcome Jorge's efforts to increase attention in order to ensure this action takes place. His program and plan of action are vitally important. We would like to see more public reporting on progress with recommendations and broader civil society engagement. This will contribute to greater ownership of the reform process and thus more accountability and sustainability.

Implementing the IACAC and Strengthening the MESICIC:

Let me note a few TI recommendations regarding the MESICIC. The MESICIC has played an important role in helping countries move forward and we have frequently contributed recommendations on how to make its work more efficient and effective. We are gratified that many of our recommendations have been accepted by the Committee and have submitted further ideas for consideration by the Conference of State Parties later this month. A copy of TI's recommendations is available here today and on the TI website.

I would like to highlight just a few of them:

Institutionalize Civil Society Participation: Civil society views have been welcome at various stages through a relatively informal process. We would like to see the Committee institutionalize opportunities for civil society to participate at its meetings and as permanent observers of the Committee's work.

Increase publication of information and reports: The Committee has taken steps to increase transparency, notably by requiring publication of both governmental and civil society responses to the questionnaire on the OAS website. Given the importance of the Committee's recommendations, we believe governments should publish action plans for implementing them.

Increase pace of review: A central concern is the pace of the review process. We recognize the budget constraints and appreciate the good efforts of the Committee. However, the pace of review is an issue of public concern. It is ten years since the IACAC entered into force, and yet the Committee has completed its review of only three articles in the convention, and is only now starting to review two more. At this rate, it will be years until all countries have been reviewed on how they have implemented the entire convention.

The concern is that some countries wait to take action until it is time for them to be reviewed. The review process thus delays the action necessary to achieve the reduction in corruption that the convention and the States Parties promised.

TI has urged the Committee to increase the number of yearly meetings to three so that each round can be completed within two years.

Publish Reports on Implementation: TI is also calling for each States Party to report to the 2007 General Assembly on steps it has taken since ratification to implement the entirety of the IACAC. Each country took on obligations when it ratified the convention and it is time to demonstrate how they have fulfilled those obligations. This is an opportunity for those that have taken action to raise public awareness as a public report will help citizens understand the progress, or lack of it, to date.

Conduct On-Site Reviews: TI has also recommended that the Committee conduct on-site visits during the country review process. On-site reviews are widely agreed to be the only reliable method for obtaining information about the adequacy of implementation and capacity needs. They promote public interest in the convention and its implementation.

Both the OECD and GRECO monitoring mechanisms provide for on-site reviews and these sessions, including with private sector and civil society, have proven extremely useful for the experts conducting the reviews.

On-site reviews are especially important in the second round, which will focus on procurement and whistleblower protection. A balanced, reliable assessment of how governments have implemented these provisions, in particular, will depend upon obtaining input from the private sector and civil society, as well as from governments.

We have urged the Committee to restore the provision for on-site reviews that was deleted from the rules without discussion.

Expediting Work on Round Two Issues: Whistleblower Protection and Procurement:

We believe the Committee could assist governments and expedite the review process by drawing on an existing body of information relevant to two key issues in the second round of reviews – whistleblower protection and procurement. In terms of whistleblower protection, a model law was drafted under the auspices of the OAS Office of Legal Cooperation, which could serve as the basis for recommendations to overcome deficiencies in implementation.

With regard to procurement, the Committee has many sources to consult, beyond its consideration as the topic of collective interest in the first round. There are useful examples of the consensus across this hemisphere (and globally) on elements of procurement transparency in the new UN Convention Against Corruption and in the numerous free trade agreements, *e.g.*, NAFTA and CAFTA and APEC. The OECD Development Assistance Committee has also done extensive work on procurement. Most recently, the OECD-DAC/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.

We hope that the Committee will give due regard to these sources as it develops recommendations for further government action.

Enhance Capacity Building:

Let me conclude with a few words about capacity-building. We have learned over the years that implementing conventions is vital, but challenging and resource intense. While political will is the first requirement for reform, even those governments with political will may need technical and financial assistance.

MDBs and other donor agencies: We have urged the World Bank and the Inter-American Development Bank to do more to support government efforts to implement the IACAC and other anti-corruption conventions through their country assistance strategies. We welcome President Moreno's statement of support at these meetings in Guatemala. In its new governance and anticorruption strategy framework, the World Bank has committed to doing more to support implementation of the OECD and UN Conventions

but we would suggest that the IACAC is equally deserving of attention. We need to ensure coordination among the existing IACAC review process and a new UNCAC mechanism.

TI worked with numerous experts to develop recommendations for an effective UN monitoring process, including the need to coordinate the various monitoring programs, to avoid duplicative monitoring and to take advantage of regional capabilities. It is important that we recognize not only the importance of monitoring but also the burden monitoring imposes on governments. We need to ensure mechanisms to support their efforts.

We must also devote attention to supporting greater civil society engagement. While it is widely recognized that civil society engagement is vital to effective and sustainable reform, there is as yet inadequate of the technical and financial capacity needs of civil society. TI has been able to play a key role with only small grants from the private sector and private foundations. We believe that the OAS anti-corruption trust fund and board should provide not only for governments but for civil society involvement as well.

Conclusion:

Let me close here and again express our appreciation to the Committee and the MESICIC Secretariat and assure you that we remain committed to working with you to see that the IACAC achieves its objective of reducing corruption across the Americas. By ensuring the participation of civil society in all aspects of the MESICIC process, increasing the pace of reviews, including on-site visits, and increasing the capacity of all stakeholders to implement the convention, we can ensure that the convention achieves its objective of lessening the effect of corruption in all or our countries. Thank you for today's opportunity to share our thoughts with you.