



Conference of the States Parties to the United Nations Convention against Corruption

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**Consideration of ways and means to achieve the objectives
of the Conference of the States Parties in accordance with
article 63, paragraphs 1 and 4 to 7, of the United Nations
Convention against Corruption**

Argentina: position paper

Central aspects of the United Nations Convention against Corruption to be discussed by the Conference of the States Parties

I. Preventive measures

1. Chapter II of the United Nations Convention against Corruption, on preventive measures, represents significant progress in the efforts of the global community towards an effective fight against corruption. The Convention has recognized that the efforts to prosecute and punish acts of corruption through the investigation and pursuit of corrupt people must be complemented by adequate systems of prevention in order to minimize opportunities and reduce corruption to a minimum.

2. To this end, a broad and comprehensive implementation of the articles set forth in chapter II of the Convention constitutes a priority. Within the framework of this implementation process, Argentina believes that articles 5, 6 and 9 must be implemented immediately, together with the provisions on financial disclosure forms (art. 8, para. 5) and those which provide for the detection and control of conflicts of interest included in several articles of the same chapter (arts. 7, 8 and 12).

II. Criminalization

3. As regards chapter III of the Convention, the most urgent task is that States parties establish within their respective legislations the offences included in the Convention.

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4. Priority must be given to offences for which criminalization is mandatory, as well as those which, although expressed as non-mandatory, are essential in order to carry out actions of international cooperation and recovery of the proceeds of acts of corruption in accordance with the provisions set forth in the Convention, for example, offences included in article 18 (Trading in influence) and article 20 (Illicit enrichment). Consideration must also be given to the implementation of article 36.

III. Cooperation

5. Argentina considers that the fight against corruption requires effective and speedy judicial cooperation between States. To such end, the authorities in charge of implementing the Convention must have the necessary infrastructure, as well as appropriate management capabilities to disseminate such agreements among direct and indirect operators, through different training activities.

6. Requirements for submission of requests for assistance in criminal matters should be lowered, in particular in respect of formalities. However, substantive requirements should also be reduced, in order to simplify requests and speed up cooperation. This would strengthen mutual trust among States, a key element in this field.

7. Special attention must be given to the provisions set forth in article 46, paragraph 9, since in order to combat corruption effectively, States parties must make their best effort either to eliminate the condition of dual criminality for the provision of mutual legal assistance or to keep it under very limited exceptions, so that the absence of dual criminality for certain offences does not affect the possibility of successfully investigating acts of corruption and recovering proceeds of crimes, when appropriate.

IV. Asset recovery

8. The recovery of proceeds of acts of corruption is fundamental so as to repair, to a certain extent, the harm caused to the rights that have been undermined.

9. In order for the asset recovery mechanism to work, mutual legal assistance must be strengthened, among other measures.

10. Another key element is the establishment of a specialized unit within the Organization, composed of experts in different fields related to asset recovery, that can provide advice and expertise to States parties. Such a unit should develop training programmes for public officials from the States parties working in specific areas of the Government (especially the bodies entrusted with providing cooperation), so as to promote the establishment of specialized units on asset recovery in each State and coordination among them.

11. Such an initiative would make possible the existence of appropriate “focal points” responsible for coordinating, facilitating and rendering efficient cooperation in this subject.

V. Technical assistance

12. Priority must be given to the establishment of an information-gathering process to identify efficiently the needs of States parties as regards requests for the necessary technical assistance for an adequate implementation of the Convention.

13. This process of identification must go together with a process to recognize good practices in other States parties, so that needs and good practices converge and the assistance is carried out with a transfer of experience and knowledge, allowing States parties to find the most cost-efficient systems for the prevention and fight against corruption.

14. The first step towards the establishment of a technical assistance system consists in the creation of an efficient mechanism to gather information.

15. Argentina considers that technical assistance should be oriented towards the following subjects: criminalization, asset recovery and prevention of corruption, in areas such as the establishment of efficient agencies or departments to prevent corruption (arts. 5 and 6); assistance in connection with financial statements and in policies to control different aspects of conflict of interest (art. 8); and public procurement (art. 9).

VI. Mechanism for implementation

16. Argentina considers that fundamental to implementing the provisions set forth in the Convention is deployment of the necessary tools for an adequate implementation within the different levels of government. Argentina therefore proposes the following:

(a) A mechanism to assist in the implementation of the Convention, as set forth in article 63, paragraph 7, should be established. This mechanism must be composed of experts appointed by the States parties and it must operate with the support of a technical secretariat in accordance with article 64;

(b) If the Conference of the States Parties decides that there should first be a pilot stage to evaluate possible follow-up mechanisms, Argentina would support that initiative and voluntarily offers itself to take part in such an exercise;

(c) The follow-up process should commence with a self-assessment questionnaire;

(d) States parties should send responses to the self-assessment questionnaire to the mechanism established on the basis of article 63, paragraph 7;

(e) Considering that follow-up of the implementation of the Convention will be a long-term task, the first questionnaire should address only those aspects which the Conference of the States Parties considers as priorities. Argentina suggests that the first questionnaire should refer to the implementation of articles 5, 6, 7 (para. 5), 9 and 14 of chapter II and articles 15 to 18, 20, 23, 25 and 36 of chapter III;

(f) States parties should ensure the participation of civil society in the completion of the questionnaire;

(g) Once the questionnaire is completed, peer review processes, in the framework of article 63, paragraph 7, should be performed. The principles of impartiality, objectivity and equal treatment should be fully respected, so that all States parties remain equal in the mechanism to assist implementation;

(h) The mechanism described above shall endeavour to include consultations with civil society while performing a country evaluation;

(i) In order to make the follow-up process more dynamic, Argentina suggests that the mutual evaluation should start on a regional basis. The implementation of pilot tests so as to evaluate the various possibilities is suggested. In such a case, Argentina offers to take part in such an effort.
