

**Procedure for Self- And Mutual Evaluation of Implementation  
of the Convention and the Revised Recommendation - Phase 2**

**Annex**

**Terms of Reference for On-Site Visits**

**1. Aim of Phase 2 Self- and Mutual Evaluation**

The aim of Phase 2 self- and mutual evaluation of implementation of the Convention and the Revised Recommendation is to improve the capacity of Parties to the Convention and the Recommendation to fight bribery in international business transactions by following up, through a dynamic process of self- and mutual evaluation and peer pressure, compliance with their undertakings in this field.

**2. Functions of Phase 2 Self- and Mutual Evaluation**

2.1 In order to achieve the aim in paragraph 1 above, the Working Group shall monitor the implementation of the Convention and the Revised Recommendation on Combating Bribery of Foreign Public Officials in International Business Transactions, in conformity with the provisions contained in such instruments.

2.2 Phase 2 Self- and Mutual Evaluation should include on-site visits to be carried out in accordance with these terms of reference.

**3. Evaluation Procedure**

3.1 The Working Group will conduct a self- and mutual evaluation procedure, including on-site visits, for each country that has already completed a Phase 1 examination.

3.2 The evaluation for each country will be conducted within a period of time determined by the Working Group.

3.3 The evaluation will be based on the replies by the country evaluated to the Phase 2 questionnaire, the results of the on-site visits, and the consultation in the Working Group.

**4. Phase 2 Questionnaire**

4.1 The Working Group shall adopt a questionnaire for Phase 2 evaluation which shall be addressed to all members of the Group.

4.2 The questionnaire will provide the framework of the evaluation procedure.

4.3 The time limits for replying to the questionnaire and for commenting on the preliminary report will be fixed by the Secretariat in co-ordination with the country concerned and the lead examiners. The replies, in English or French, should be sent to the Secretariat together with supporting material.

## **5. On-Site Visits**

5.1 Each country agrees to allow an on-site visit of approximately 2-3 days.<sup>1</sup> for the purpose of providing information concerning its law or practice, including enforcement and prosecution, which is useful for Phase 2 evaluation.

5.2 The Working Group should give a minimum of two months notice to the country concerned prior to carrying out the on-site visit.

5.3 The country undergoing evaluation will play an active role in fixing the date for and preparing the visit.

5.4 The on-site visit should be carried out in accordance with a programme agreed between the country undergoing evaluation and the on-site visit team, taking account of the specific requests expressed by the on-site team.

## **6. Composition and functions of Evaluation Teams**

6.1 On-site visit teams will be composed of 1-2 members of the Secretariat and up to 3 experts from each lead examining country chosen in consultation with the country examined. The composition of the team would ensure adequate expertise for the areas to be examined. Lead examiners shall be chosen, in the first instance, from countries for which a Phase 1 examination has been completed by the Group.

6.2 The on-site visit teams will examine the replies given to the questionnaire and may request, where appropriate, additional information from the country undergoing evaluation, to be submitted either orally or in writing.

6.3 The on-site teams will consult with the country concerned on the possibility of meeting with representatives of the private sector and civil society to ascertain their views.

6.4 Costs of experts taking part in on-site teams will be funded in accordance with the provisions of paragraph 10.2, below.

## **7. Evaluation Reports**

7.1 On the basis of the information gathered from the questionnaire and the on-site visits, the Secretariat and the lead examiners (the evaluation team) will prepare a preliminary draft report on the state of enforcement and application of the law implementing the Convention and on measures taken to implement the provisions of the Revised Recommendation.

7.2 The preliminary draft report should be transmitted to the country undergoing evaluation for comments. These comments shall be taken into account when finalising the preliminary report.

7.3 The preliminary report will be submitted to the Working Group.

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1. It is envisaged that there would be at least one visit per round (five years).

## **8. Discussion and Adoption of Reports by the Working Group**

8.1 The Working Group, in plenary, will discuss the preliminary report submitted by the evaluation team.

8.2 The country undergoing evaluation can submit observations orally, and or in writing, to the plenary.

8.3 After full discussion, the Working Group will adopt the preliminary report, including an evaluation, in respect of the country evaluated.

8.4 After modification to take account of the discussion in the Working Group, the revised report will be adopted by the Group in plenary or under written procedure.

8.5 The Working Group will adopt evaluation reports on the basis of consensus. The country undergoing evaluation shall not block the decision to adopt the evaluation but has the right to have its views and opinions fully reflected in the report.

8.6 Only full participants in the Working Group can take part in the decision to adopt the evaluation reports.

8.7 The evaluation reports may contain recommendations addressed to the country concerned in order to improve its domestic laws and practices to combat bribery of foreign public officials in international business transactions.

## **9. Confidentiality**

9.1 Consultations and discussions of the Working Group on the self- and mutual evaluations shall take place *in camera*. Non-governmental groups will have a possibility to express their views and submit information to the Working Group.

9.2 Evaluation reports shall be confidential until their transmission to the Council. They would then be made publicly available.

## **10. Funding for Phase 2 On-Site Visits**

10.1 The budget of the Organisation will bear the expenses for the travel and per diem expenses for the members of the Secretariat part of the on-site visit teams.

10.2 The countries taking part in the evaluations as lead examiners will bear the costs of travel and per diem expenses for their experts assigned to the on-site visit teams.

10.3 The country undergoing evaluation will bear the cost of replying to the questionnaire and preparing the on-site visits.