

# UNDERSTANDING UNCAC REVIEW PROCESS MECHANISM

## TRAINING OF CSOs & JOURNALIST ON UNCAC REVIEW PROCESS

Organised By:

Africa Network For Environment & Economic Justice (ANEEJ)

With Support From: European Union under the 10th European  
Development Fund (EDF)



# PRESENTATION LAYOUT

- Background
- Objectives
- Glance at the Chapters Under Review
- Detailed of the Chapters Under Review
- Understanding the UNCAC Review Mechanism
- Roles of CSOs in UNCAC Review Mechanism.
- Conclusion

# BACKGROUND

Research findings indicate that in terms of legal regime and existing initiatives the Nigerian system appears to be largely compliant with the requirements of the United Nations Convention Against Corruption (UNCAC), and other continental and regional conventions such as; African Union Convention on Prevention and Combating Corruption (AUCPCC) and Economic Community of West African States Protocol on the fight against Corruption (ECOWAS Protocol), the structures, laws and institutions include ones that were already in existence prior to adoption of the International Anti-Corruption Instruments. Indeed Nigeria has come a long way in policy, institutional reform and anti-corruption programming from the position it was in the year 2000.

# BACKGROUND CONTD.

Despite that, there are weaknesses and gaps identified in both the domestic law and practice. There are areas where the domestic legal regime requires new laws, the case of procedure for public access to assets declaration forms, non-court based asset forfeiture regimes, anti-terrorism financing are examples, in respect of Criminal Procedure, Evidence Law, Independent Corrupt Practices and other related offence Commission (ICPC) and Economic and Financial Crimes Commission (EFCC) Acts 2002 as amended in 2004 (the EFCC Act 2004) , Code of Conduct Bureau (CCB) and Code of Conduct Tribunal (CCT) Acts modifications are also required, some of the required modifications will enhance institutional effectiveness and independence. Also some modifications are required to the Constitution, as it relates to the dual role of the Office of the Attorney General, Immunity from Prosecution of certain Officers etc.

# OBJECTIVES

This presentation will examine the situation of UNCAC implementation in Nigeria as well the implementation of the recommendations from the last review process and efforts towards the preparation for the next round of review process. Essentially, the outcomes of this training session will serve as an effort in the direction of tracking progress in UNCAC implementation in Nigeria while at the same time evaluating performance in the core areas of the UNCAC review mechanism in the past years to date.

# OBJECTIVES CONTD.

Therefore, the presentation is on the UNCAC implementation and review mechanism with emphasis on the second review cycle of (2015-2020) which will cover **Chapter II preventive measures** and **Chapter V on asset recovery** as well as other chapters relevant to support the anti-corruption process in Nigeria. The presentation will emphasize on the roles of CSOs in the review process mechanism as a key stakeholders in the implementation of United Nation Convention Against Corruption (UNCAC).

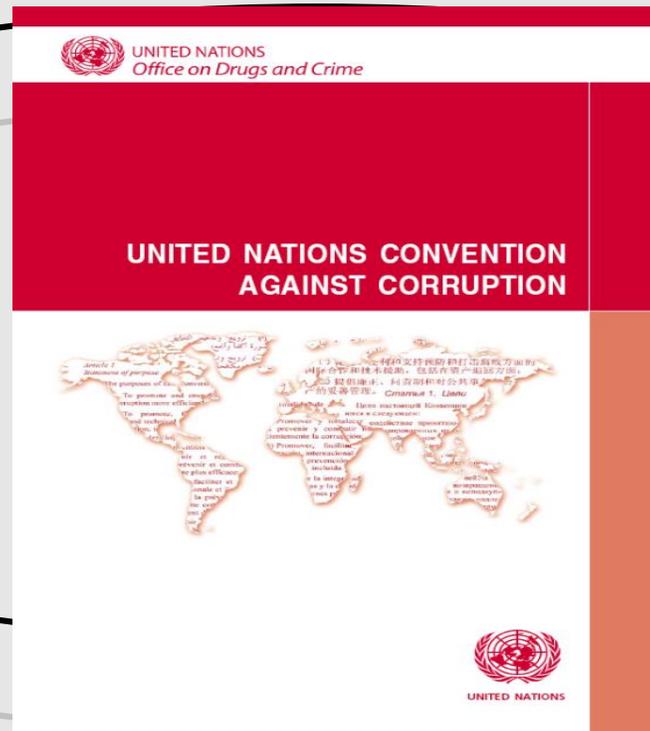
# THE CHAPTERS UNDER REVIEW

*Chapter II  
Preventive  
measures*

*Chapter III  
Criminalization &  
Law Enforcement*

*Chapter V  
Asset Recovery*

*Chapter IV  
International  
Cooperation*



# CHAPTER II – PREVENTIVE MEASURES (ARTS 5 – 14)

- Anti-corruption policies and bodies
- Public Sector – Recruitment / Retention of Civil Servants – Rules relating to election candidates
- Codes of conduct of Public Officials
- Public Procurement – Establishing a system with objective criteria
- Integrity of the Judiciary
- Private Sector – Cooperation / Auditing

# CHAPTER V – ASSET RECOVERY

- Return of Assets a fundamental principle of the Convention (Art 51).
- Prevention / Detection of transfers of proceeds of crime
  - Requirements on Financial Institutions to identify customers
  - Enhanced scrutiny of accounts of public officials
  - Prevent banks with no physical presence
- Recovery of Property through Int. Cooperation
  - Give effect to confiscation orders from another State Party including freezing orders
  - Assets to be returned to requesting State Parties



# UNDERSTAND THE UNCAC REVIEW MECHANISM PROCESS

- At the 2009 UNCAC Conference of States Parties (COSP3) in Doha, civil society advocacy for an UNCAC review mechanism was realised with the successful adoption of [Resolution 3/1](#) and the mechanism's [Terms of Reference](#).
- The Terms of Reference contain procedures and processes for the [peer review](#) of country implementation of the UNCAC, including the formation of an oversight body called the [Implementation Review Group](#) (IRG). In July 2010 the IRG met for the first time in Vienna and adopted the [guidelines](#) for governmental experts and the UNCAC secretariat – the [UN Office on Drugs and Crime](#) (UNODC) – in the conduct of a country review. Below are the steps in review mechanism process.

# UNDERSTAND THE UNCAC REVIEW MECHANISM PROCESS CONTD.

- Implementation Review Group (IRG)
- Terms of reference (TOR):
- Appointment of country review team
- Appointment of focal point/person
- 10 year review cycle of two reviews
- Review of two chapters in one review

# UNDERSTAND THE UNCAC REVIEW MECHANISM PROCESS CONTD.

- Non- ranking
- De-politicization
- Drawing of lots
- Two reviewers
- Use of self-assessment checklist (SAC)
- Video conferencing & constructive dialogue

# UNDERSTAND THE UNCAC REVIEW MECHANISM PROCESS CONTD.

---

- Country visit
- Executive summary
- Final report

# UNDERSTAND THE UNCAC REVIEW MECHANISM PROCESS CONTD.

The review process comprises two five-year cycles: The first cycle (2010–2015) covers chapter III on criminalization and law enforcement and chapter IV on international cooperation. The second cycle (2015–2020) covers chapter II on preventive measures and chapter V on asset recovery. Approximately a quarter of the state’s parties are scheduled for review in each of the first four years, with the fifth year reserved for unanticipated delays or countries acceding during the review cycle. A country review process follows these phases:

# UNDERSTAND THE UNCAC REVIEW MECHANISM PROCESS CONTD.

- **Phase I: self-assessment:** UNODC informs the state party that it is under review. The state party identifies a focal point to coordinate the country's participation in the review and then fills out a standardised [self-assessment checklist](#).

# UNDERSTAND THE UNCAC REVIEW MECHANISM PROCESS CONTD.

- **Phase II: peer review:** Two reviewer countries – decided by lots – provide experts to form an expert review team. The team conducts a desk review of the completed self-assessment checklist. It may require further information from the focal point and direct dialogue through conference calls, or a country visit if agreed by the country reviewed.

# UNDERSTAND THE UNCAC REVIEW MECHANISM PROCESS CONTD.

**Phase III: country review report and executive summary:** With the assistance of UNODC, the expert review team prepares a [country review report](#) (80–300 pages). The report is sent to the focal point for approval. In cases of disagreement, the reviewers and the contact point engage in dialogue to arrive at a consensual final report, which is published in full only with the agreement of the country under review. The expert review team produces an [executive summary](#) of this report (7–12 pages), which is automatically published on the UNODC website.

# IMPORTANCE OF THE REVIEW PROCESS

- Fulfillment of Nigeria's Treaty obligation under the UNCAC.
- Affords the country the opportunity to determine its level of technical compliance, enforcement capabilities, capacities, competences and effectiveness.
- It enables an objective assessment of domestic and international cooperation mechanisms both in terms of information sharing, synergy and the validity and reliability of data.
- It exposes legislative robustness and lacunae.
- It enables lessons to be learnt from best practices and what needs to be adapted to suit local circumstances.

# PREPARATORY ACTIVITIES ON THE SECOND REVIEW PROCESS

As part of concerted efforts of the present administration's fight against corruption, the Attorney General and Minister of Justice, Mr. Abubakar Malami, (SAN), has inaugurated a Country Expert Review Committee for the second cycle of the review of implementation of the United Nations Convention Against Corruption (UNCAC). The Minister performed the inauguration of the Inter Agency Task Team for the second cycle of the review of the implementation of the United Nations Convention Against Corruption in his office on Tuesday October 11, 2016.

# PREPARATORY ACTIVITIES CONTD.

- AGF set up advisory committee consisting of heads of anti-corruption agencies who have the mandate in the chapters under review ( EFCC, ICPC, CCB, FMOJ)
- AGF also set up technical committee consisting of Directors of Investigation, Prosecution and Legal Departments from the relevant agencies; and the central authority within the FMOJ.
- Need for focal persons to meet with CSOs to brief them on the process
- planning meetings will be organised by the secretariat in collaboration with FMOJ in which CSOs will participate fully

# THE COUNTRY VISIT

- During the last review process the round-table approach was used where the reviewers sat with the heads of agencies and relevant directors and management staff.
- Nigeria also exercised the option of inviting CSOs to sit in the roundtable throughout the process.
- While site visits were made to the relevant court in the FCT as well as to the offices of the relevant ACAs.
- Our expectation is that such invitation should be extended to CSOs during this current review and as well extend it to more CSOs across the country by not limiting it to Abuja based CSOs.

# WHERE WE ARE NOW ON THE SECOND REVIEW PROCESS CONTD

ACTIVITY	TIMELINE	RESPONSIBILITY
APPOINTMENT OF FOCAL PERSONS FOR THE REVIEW	WITHIN THREE WEEKS OF THE NOTIFICATION	HAGF (Mr Tukur Modibo as Focal Person and TUGAR as Secretariat.
COMPLETION OF THE SELF ASSESSMENT CHECKLIST	WITHIN TWO MONTHS OF OFFICIAL NOTIFICATION	TUGAR/IATT (Process is still on going
CONSTRUCTIVE DIALOGUE WITH REVIEWERS.	TRILATERAL MEETINGS WERE HELD IN VIENNA AT THE MARGINS OF OTHER MEETINGS IN VIENNA. TELECONFERENCES WERE HELD AND E MAILS WERE EXCHANGED.	UNCAC SECRETARIAT/ FOCAL PERSONS
COUNTRY VISIT	YET TO BE FIXED	ALL THE PARTIES

# WHAT THE REVIEWERS WILL ASK FOR

- Expatiation and explanation of assertions in the SAC with supporting documents.
- Enabling laws of anti-corruption agencies in hard and soft copies
- Draft bills and other related policy documents
- Evidence of efforts to implement sections of the convention where there are no laws
- Challenges of implementation

# ROLES OF CSOs IN UNCAC IMPLEMENTATION PROCESS



The UNCAC recognises the crucial role of civil society in successful anti-corruption efforts: supporting governments to meet their UNCAC obligations and contributing to ongoing assessments of their performance through the UNCAC review process. Civil society holds an important role as an independent observer of governments' implementation of the UNCAC and of the transparency of the review process. Civil society participation is limited by the UNCAC review mechanism guidelines. These guidelines provide the discretion to countries to decide on the extent of participation and transparency in their country reviews. It is up to them to decide whether to allow:

# ROLES OF CSOs IN UNCAC IMPLEMENTATION PROCESS CONTD.



- Civil society involvement in the preparation of the self-assessment checklist.
- Publication of information on the focal point.
- Publication of the self-assessment responses online or access to the responses directly to civil society organisations upon request.
- Inclusion of some form of civil society dialogue with the peer reviewers, including an opportunity to submit written reports.
- An in-country visit with an opportunity for civil society groups and other stakeholders to meet and provide oral and written input to the official reviewers.
- Publication of the full country review report (it is only mandatory to publish the executive summary).

# ROLES OF CSOs IN UNCAC IMPLEMENTATION PROCESS CONTD.

- It is therefore important that CSOs actively advocate for transparency and participation during the UNCAC review process in their country. UNCAC-based advocacy aims to achieve specific improvements in a country's anti-corruption system by referencing UNCAC standards and calling for the government to fulfill its UNCAC commitments. Civil society input is valuable at many stages of the review process (see phases in the review process above). Civil society organisations may:

# ROLES OF CSOs IN UNCAC IMPLEMENTATION PROCESS CONTD.

- Monitor implementation of the UNCAC themselves and produce a parallel review report as a contribution to the review process
- Comment on the official country review report
- Follow-up implementation of the country review report recommendations.

# CONCLUSION

---

To deal with corruption, a holistic approach where the people, the public and private sectors are involved must be taken into consideration. Stronger roles ought to be played by the private sector in the whole process of anti-corruption. Perhaps the biggest question would be to ask if it would be easier to demand compliance if there are adequate legal frameworks spelling out offences and sanctions with regards to corruption in the private sector. Also, we should ask what role incentives can play in reducing private sector involvement in corruption. Globally, research has shown that there are certain sanctions and incentives that will get businesses involved in the fight against corruption.

# Lets stay in touch and share ideas

Mobile: 08027942603 OR 07060602706 E-mail: [a.lukman@ceywi.org](mailto:a.lukman@ceywi.org) OR [info@ceywi.org](mailto:info@ceywi.org)

Facebook: adekunle lukman adefolahan Twitter: @adekunlelukman Skype: adefolahan3



# Many THANKS for Your Attention

Dziękuję *Ďakujem* dhanya-waad Дякую  
bedankt ? ? go raibh maith agat  
tesekkürle Спасибо شكراً Eise gan  
Na gode m' Merci kösziti tack så mycket  
uku Thank you faleminderit  
We k'obiruo Danke hvala díky kiitos  
takk Obrigada Mulțumesc nandri  
Ευχαριστώ Grazie anugurihiitosumi תודה  
Muchas gracias dhanya-waad  
Dalu nnu o tack köszönöm  
aitäh děkuji vam ačiû Terima Kasih  
mande tak salamamat