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## DECLASSIFICATION

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Subject: DRAFT COUNCIL COMMON POSITION on the United Nations  
Convention against Corruption,  
- Preparation of the 2nd Conference of the Parties to the UN Convention  
against Corruption on 28 January - 2 February 2008

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Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

  

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# RESTREINT UE



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 7 November 2007**

**14412/07**

**RESTREINT UE**

**CRIMORG 164**

## **NOTE**

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From : Presidency

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To : Article 36 Committee/COREPER/Council

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Subject : DRAFT COUNCIL COMMON POSITION on the United Nations Convention against Corruption,  
- Preparation of the 2nd Conference of the Parties to the UN Convention against Corruption on 28 January - 2 February 2008

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Delegations will find attached the draft EU Common Position on review mechanism in view of the second Conference of the States Parties to the UN Convention against Corruption.

This text was discussed in the MDG on 19 July 2007, 26 September 2007 and 24 October 2007.

The text takes into account the conclusions of the EU coordination meetings held in Vienna on the occasion of the experts' meeting on review mechanism (UNODC, 29-31 August 2007).

At the MDG meeting in October all reservations have been lifted and delegations have agreed on the proposed amendments.

The Article 36 Committee is requested to agree on the draft common position set out in the annex and to forward to Coreper/Council for adoption.

**DRAFT COUNCIL COMMON POSITION 2007/ /JHA  
of ...2007**

**on the United Nations Convention against Corruption, preparation of the 2nd Conference of  
the Parties to the UN Convention against Corruption on 28 January - 2 February 2008**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 34(2)(a) thereof,

Having regard to the initiative of Portugal,

Whereas:

- (1) the European Union recognises that preventing and combating corruption is a key objective to be achieved worldwide.
- (2) a number of legal instruments have been adopted by the European Union with a view to developing a comprehensive EU anti-corruption policy both in the public and in the private sector,
- (3) in April 2005, the Council adopted a Resolution concerning a comprehensive EU policy against corruption with the aim of achieving further progress in preventing and combating corruption at European level and outside the EU and of defining those areas where further improvements are needed,
- (4) it is desirable that the existing international anti-corruption instruments are ratified and effectively implemented by all States without further delay,

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- (5) several Member States are parties to the United Nations Convention against Corruption (UNCAC) while the ratification process is underway in other Member States,
- (6) the Council of the European Union is in the process of adopting the Decision on the conclusion, on behalf of the European Community, of the United Nations Convention against Corruption (UNCAC),
- (7) the Conference of the State Parties (COSP) at its first session in December 2006 agreed about the need to establish an appropriate and effective review mechanism to assist in the implementation of the UNCAC,
- (8) the European Union has developed a significant experience with the setting up of evaluation mechanisms and is in the process of assessing the existing review mechanisms with a view to improving them,
- (9) the Council adopted a Common Position<sup>1</sup> on review mechanism and asset recovery on 29 November 2006,

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<sup>1</sup> Doc. 15012/1/06 REV 1 CRIMORG 165 RESTREINT UE

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HAS DEFINED THIS COMMON POSITION:

## *Article 1*

The Member States shall support the establishment of a strong and effective review mechanism to assist the COSP in the promotion and review of the implementation of the Convention. The Member States shall encourage the COSP to take into account the outcomes of the pilot project carried out by the UNODC in cooperation with certain Member States and the relevant evaluation mechanisms existing in other international and regional fora with a view to benefiting from best practices when designing the review mechanism.

## *Article 2*

1. The review mechanism shall enable the COSP to obtain reliable and homogeneous information concerning the implementation of the Convention with a view to identifying gaps or deficiencies mainly in the implementation of mandatory provisions and to enabling a proper analysis on whether corrective initiatives need to be taken, including technical assistance.
2. The information gathering should be accurate and gradual and limit the administrative burden on States as much as possible. The outcome of the self-assessment checklist<sup>1</sup> should be drawn on as the basis for a first stage analysis on the state of play of the implementation. Further initiatives to broaden the scope of the information gathering should be explored.
3. Duplication of work and overlap with existing initiatives and mechanisms should be avoided. The COSP, assisted by the UNODC Secretariat, should seek to cooperate with international and regional organizations with a view to making appropriate use of relevant information.

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<sup>1</sup> Resolution 1/2 on 'Information gathering mechanism on the implementation of the United Nations Convention against Corruption', adopted by the COSP at its first session (Jordan, 10-14 December 2006). According to the Resolution, the UNODC Secretariat has finalised and distributed to States the self-assessment checklist to be replied by 15 August 2007.

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## Article 3

1. Member States shall support a global review mechanism. This mechanism should be based on a review by experts from States Parties and should involve the assistance of experts from the region concerned. It should be governed by transparent and objective assessment criteria. Reports should be made public and a variety of different sources and expertise should be taken into account.
2. The Member States shall encourage the COSP to consider the advantages of a review mechanism including country visits, which would enable the COSP to obtain genuine and in-depth information from multiple national sources.
3. The information gathered through the checklist and other means of obtaining information, such as country visits, should serve as basis for analysis, for identifying gaps, difficulties, weaknesses and best practices in the implementation process and should enable the establishment of priorities with a view to enhancing the implementation. Where appropriate, analysis by third parties could also be resorted to.

## Article 4

1. The Member States shall support the establishment of a body to assist in the effective implementation of the Convention.
2. This body should:
  - a) have clear and well-defined terms of reference;
  - b) be made up of experts;
  - c) be assisted by the UNODC Secretariat;
  - d) carry out the analysis and review of the information;

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- e) draft a comprehensive report that should be made public, draw conclusions and make recommendations to the COSP on priorities and initiatives for enhancing the implementation;
- f) identify the areas where technical assistance is required.

3. If it is not possible, in the context of the negotiations, and as a final solution, to set up a body, the Member States should advocate that an alternative mechanism is established that would help ensure effective implementation of the Convention.

### *Article 5*

The Council will adopt further positions on this matter, as appropriate.

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