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NATIONAL LEGISLATION PROGRAMME

Commentary on Section II, Paragraph 8 of Resolution 12.9 on the Establishment of a Review Mechanism and a National Legislation Programme

The Conference of the Parties adopted Resolution 12.9 on the Establishment of a Review Mechanism and a National Legislation Programme at its 12th Meeting. The National Legislation Programme has the objective of supporting the strengthening of the implementation of the Convention through national legislation and supporting Parties, if needed, in developing or improving relevant national legislation.

Parties decided to adopt both the Review Mechanism and the National Legislation Programme in one single Resolution and deemed it necessary to make a point regarding the possibility of initiating the Review Mechanism process through the National Legislation Programme. Paragraph 8 of Section II reads as follows:

“8. Parties will not be subject to further review for non-implementation of Article III, paragraph 5 with regard to the procedures, actions and reasonable timeframes established in accordance with Section II, paragraph 4 of this Resolution”.

Paragraph 4 of Section II states that *“4. The Secretariat shall inform Parties about the findings and recommended actions”* referring to findings and recommended actions based on the information submitted to the Secretariat regarding Parties legislation and other domestic measures relating to implementation of Article III, paragraph 4(a) and (b) and 5. This information will be provided through a questionnaire and the National Reports.

The aim of identifying non-implementation cases through the National Legislation Programme is not to trigger the Review Mechanism but to identify opportunities to improve the level of implementation of the Convention, in particular, regarding those obligations that can be implemented through a number of domestic legislative measures.

The questionnaire is envisaged as a one-time exercise to provide an accurate picture of Parties national legislation. It will be the basis for setting up further action at the national level and providing the necessary assistance that shall result in higher levels of implementation. Later on, the information will be received through the National Reports triennially.

It should be kept in mind that the National Legislation Programme is designed as a supportive, non-adversarial and facilitative activity that will help with the identification of implementation matters related to Article III, 4. (a) and (b) and 5. It is in the benefit of Parties that any findings and recommended actions are, not only, addressed by taking appropriate measures, but also, supported as necessary through the provision of tailored capacity building activities and adequate resources. As an additional benefit for Parties, paragraph 8 of Section II clarifies that those Parties that are in the process of participating in the National Legislation Programme would not be subjected to a further review under the review mechanism for possible non-implementation of Article III, paragraph 5 of the Convention.