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**Meeting for the purpose of defining the specific procedures and rules for the functioning of the review mechanism for the United Nations Convention against Transnational Organized Crime and the Protocols thereto**

Vienna, 30 October-1 November 2017

**Draft procedures and rules for the functioning of the review mechanism for the United Nations Convention against Transnational Organized Crime and the Protocols thereto**

**Text of the President of the Conference of the Parties\***

**Explanatory notes:**

1. This document contains a partial draft procedures and rules, as it includes only the following subsections of section IV. *Review process*: B. *Country review*, C. *Information gathering*, D. *Conduct of the country review*, E. *Outcome of the country review process*, and F. *Follow up procedures*.
2. The numbering of the paragraphs and cross-references throughout the document are intended for this partial draft procedures and rules to be a self-standing document.
3. Indication to table 1 and table 2 in paragraph 1 refers to these tables in the Annex of Resolution 8/2. ~~The clustering of articles and the multi-year plan in this proposal deviates from the organization of the review contained therein.~~
4. Paragraph 7 makes reference to a specific provision in section III. *Relationship of the Mechanism with the Conference of the Parties* which is not contained in this document and, to avoid confusion, is indicated as paragraph X. The specific provision in the *Non-paper containing draft procedures and rules for the functioning of the mechanism for the review of implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto*, circulated at the request of the President of the Conference following the conclusion of the Open-ended intergovernmental meeting held from 24 to 26 April 2017, is paragraph 4.
5. The blueprint format referred to in paragraph 29 may be a simplified version of the Appendix II of Resolution 5/5.

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## Preamble

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## IV. Review process

### A. Goals

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### B. Country review

6. The Mechanism shall be applicable to all States parties. It shall progressively address all the articles of the Convention and the Protocols thereto for each of the instruments that States are a party to. It shall be structured on thematic clusters of articles based on their subject matter, as indicated in table 1 to the present procedures and rules. The review shall be a gradual process consisting of one preparatory phase (years 1 and 2) and four subsequent review phases (years 3-18). The working groups may recommend and the Conference may decide to make amendments to the thematic clusters if doing so is deemed appropriate in the light of the efficient functioning of the Mechanism.

7. The preparatory phase (years 1 and 2) shall be devoted to the definition of organizational matters and the development and finalization, in accordance with paragraph 8 of the present procedures and rules, of the self-assessment questionnaire within each of the working groups of the Conference. This preparatory phase shall also include analysis of existing information, tools, resources and technology in order to ensure their optimal and efficient use as part of the review process. The four review phases shall be held from year 3 to year 18. They shall last four years each. The first review phase shall be held from year 3 to year 6, the second review phase shall be held from year 7 to year 10, the third review phase from year 11 to year 14, and the fourth phase from year 15 to year 18. The four review phases shall be conducted and concluded in line with the multi-year workplan contained in table 2 to the present procedures and rules. The working groups may recommend and the Conference may decide to make amendments to the multi-year workplan if doing so is deemed appropriate in the light of the efficient functioning of the Mechanism.

8. The reviews of all States that are parties at the start of the review phase should be completed before a new review phase begins. However, the Conference may decide to launch a new review phase when it finds that a significant percentage of all reviews foreseen at the beginning of the previous phase have been completed. No State party shall undergo a review twice in the same review phase, without prejudice to the right of a State party to provide new information. If possible, the number of States parties from each regional group participating in the review process in a given year shall be proportionate to the size of that regional group and the number of its members that are States parties to the Convention and the Protocols thereto.

9. The selection of States parties participating in the review process shall be carried out by the drawing of lots at the beginning of each review phase in accordance with paragraphs 16-18 of the present procedures and rules.

10. Each State party shall appoint a focal point to coordinate its participation in the review. In case a State party has not appointed a focal point by the time of the drawing of the lots referred to in paragraph 16, all communications will be submitted to the permanent representative to the United Nations Office in Vienna, permanent representative to the United Nations Office in Geneva, or the permanent representative to the United Nations in New York, in that order, who shall act as temporary focal point.

11. The Secretariat shall, prior to the drawing of lots to select the reviewing States parties, compile, circulate and update, where necessary, a list of focal points of States parties under review entrusted with the task of coordinating their participation in the review.

12. In accordance with paragraph X of the present procedures and rules, the country reviews shall be conducted within the Conference and its existing working groups, which shall add the matter to their agendas as an item if consistent with their areas of expertise and without prejudice to their respective existing mandates.

### **C. Information-gathering**

13. In order to review each thematic cluster of articles of the Convention or Protocols thereto, the relevant working group shall define, with the assistance of the Secretariat, a short, precise and focused self-assessment questionnaire, preferably with closed questions, and, only when necessary, with limited space to provide further information. States parties are invited to provide complete, up-to-date, accurate and timely responses in one of the working languages of the Mechanism, in the language selected in accordance with paragraph 20. The responses to the questionnaire shall be the basis for the review, without prejudice to information or clarification requested by the reviewing States parties and provided by the State party under review.

14. Each State party under review shall provide the responses to the self-assessment questionnaire to the reviewing States parties.

15. The self-assessment questionnaire shall be available on the knowledge management portal known as Sharing Electronic Resources and Laws on Crime (SHERLOC). A new secure module shall be developed as a further component of SHERLOC to host the questionnaires and responses thereto, which shall ensure the confidentiality of all data submitted by States parties. The module shall include a written communications platform for the ensuing dialogue between the State party under review and the reviewing States parties, and archive capabilities.

16. States parties which are also party to the United Nations Convention against Corruption and which have been reviewed by its Review Mechanism may refer to that process when responding to the self-assessment questionnaire. State parties shall bear in mind any update since previous submissions are appropriately reflected in the responses.

17. The State party under review is encouraged to prepare its responses to the self-assessment questionnaire through broad consultations at the national level with all relevant stakeholders, including where appropriate, academia, the private sector, individuals and groups outside the public sector, taking into consideration the specificities of the Convention and the Protocols thereto. The State party under review may also invite other States parties and relevant stakeholders to submit information pertaining to its implementation of the Convention and Protocols thereto.

18. The Secretariat shall be responsible for adjusting and maintaining SHERLOC to serve as the user-friendly database for collecting and disseminating information on the review mechanism.

### **D. Conduct of the country review**

19. The responses to the self-assessment questionnaire, and any additional information, for each State party shall be reviewed by two other States that are parties to the relevant instruments, with the active involvement of the State party under review.

20. Each State party shall, for the purposes of the review, appoint governmental experts for each instrument under review. The appointed governmental experts shall have expertise relevant to the issues under evaluation. The Secretariat shall, prior to

the drawing of lots to select the reviewing States parties, compile and circulate a list of such governmental experts.

21. For each State party under review, the relevant working groups shall draw lots to select as reviewing States one State from the regional group of the State party under review and one State from another regional group, with the understanding that States shall not undertake mutual reviews and that reviewing States shall be parties to the respective instruments. If possible, one of the reviewing States parties shall have a legal system similar to that of the State under review. The State party under review and the reviewing States may request a maximum of two times each that the drawing of lots be repeated. In exceptional circumstances, the drawing of lots may be repeated more than twice.

22. A State party under review may defer serving as a reviewing State party that same year. That same principle, *mutatis mutandis*, shall apply to the reviewing States parties. By the end of a review phase, each State party must have undergone its own review and performed a minimum of one review and a maximum of three reviews. On a voluntary basis, States parties may participate as reviewing State party in more than three reviews.

23. The working groups shall hold joint intersessional meetings open to all States parties for the purpose of the drawing of lots referred to in paragraph 16 of the present procedures and rules, without prejudice to the right of State party to request that the drawing of lots be repeated at the group's subsequent session.

24. The country review shall be concluded within 12 months.

25. The State party under review shall undertake consultations with the reviewing States parties, through their focal points, with the assistance of the Secretariat, on the establishment of schedules and the requirements of the country review, including the selection of one working language, in accordance with section VI of the present procedures and rules.

26. The reviewing States shall appoint the governmental experts for the purpose of the review one or two persons with relevant expertise to examine the issues under evaluation and with sufficient proficiency in the working language selected.

27. Governmental experts from the reviewing States parties shall divide tasks and issues among themselves, taking into account their respective fields of competence.

28. The Secretariat shall provide administrative support to facilitate the establishment of open lines of communication among the governmental experts involved in the review process. The Secretariat shall also issue a step-by-step guide to facilitate the conduct of the review in accordance with the procedures and rules, which may be based, *inter alia*, on the UNODC legislative, technical and assessment guides.

29. Within a reasonable timeframe the State party under review shall provide the responses to the self-assessment questionnaire to the reviewing States parties.

30. Within a reasonable timeframe of the receipt of the responses to the self-assessment questionnaire from the State party under review the reviewing States parties shall submit to the State party under review written feedback on the measures reported on taken to implement the Convention or the relevant Protocol and on successes in and challenges of such implementation. It may also contain, where necessary, requests for clarification or additional information, or supplementary questions to which the State party under review is encouraged to respond. A constructive dialogue between the State party under review and the reviewing States parties shall be guided by the overarching principles and shall be archived in the designated confidential module in SHERLOC.

31. States parties shall carry out the desk review and fulfil any request for or provision of supplementary information and clarification by making the largest possible use of all the available technological tools, primarily through electronic and

telephonic means, inter alia, by way of conference calls, videoconferences or email exchanges, as appropriate. State parties are encouraged to take advantage of regularly scheduled meetings of the Conference of the Parties and its working groups to further the direct dialogue.

32. The reviewing States parties, and the Secretariat, as applicable, shall maintain the confidentiality of all information obtained in the course of, or used in, the country review process.

33. Any additional translations required for the conduct of the country review shall be provided by extrabudgetary resources.

## **E. Outcome of the country review process**

34. At the final stage of the country review process, the Secretariat, under the guidance of the reviewing States and in close cooperation and coordination with the State party under review, shall prepare an executive country review report to summarize the outcome of the process. The final document shall be short — no more than 1000 words — precise and concise, and based on the blueprint format. The report may include: successes and good practices; challenges in implementation, where applicable; recommendations on the implementation of the articles under review; and, in particular, technical assistance needs identified to improve implementation of the Conventions and its Protocols.

35. At the request of the State party under review and as required, reviewing States parties may provide the State party under review with recommendations and explanations about ways to address the challenges identified so as to enable the State party under review to fully and effectively implement the relevant articles of the Convention or the relevant Protocol.

36. The finalized executive country review report shall be translated into the six official languages of the United Nations and be made available a joint document of the relevant working groups of the Conference for discussion under the agenda item referred to in paragraph 7.

37. In order to improve and strengthen cooperation and learning among States parties, each State party shall make available to other States parties, through the secure module of SHERLOC, the responses to its self-assessment questionnaire, and, upon request, may make available the ensuing dialogue and additional documentation pertaining to its review.

38. State parties may make public the responses to its self-assessment questionnaire, ensuing dialogue and additional documentation, or part thereof, through SHERLOC.

## **F. Follow-up procedures**

39. The working groups of the Conference shall discuss and analyze the good practices and lessons learnt, and the challenges to implementation, identified in the executive country review reports, and take them into account when proposing generally applicable recommendations to the Conference.

40. The working group of Government Experts on Technical Assistance shall consider the needs identified by States parties under review further to their country reviews, make recommendations to assist them in their efforts to implement the Convention and the Protocols and inform the Conference of the Parties accordingly. As appropriate, States parties shall also provide information on whether technical assistance needs identified by them in relation to their executive country review reports have been addressed.

41. As a follow-up to its country review each State party is encouraged to submit, within a reasonable timeframe, to the appropriate working group information on

progress achieved in connection with the observations contained in the executive country review report and on any measures planned or undertaken.

42. As a follow-up to its country review each State party, in conjunction with the reviewing States parties, is invited to make a detailed panel presentation of the process of its review in the working groups of the Conference. Working methods for such panel presentations will be agreed upon by the Bureau of the working groups.

43. Relevant non-governmental organizations which have been granted observer status for the Conference of the Parties may participate in the meetings of the working groups relating to the agenda item referred to in paragraph 7. Rule 17 of the Rules of Procedures of the Conference of the Parties shall apply, *mutatis mutandis*.

44. As a follow-up to its executive country review report, State party shall be provided, upon request, technical assistance based on the specific needs identified in the review process with a view to improve the capacity of the State party to effectively implement the Convention and, where applicable, Protocols, subject to the availability of the necessary resources.

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