



Conference of the Parties to the United Nations Convention against Transnational Organized Crime

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Review of the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto: United Nations Convention against Transnational Organized Crime

France and Italy: draft resolution

Mechanism for the review of the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto

*The Conference of the Parties to the United Nations Convention against
Transnational Organized Crime,*

Recalling that the United Nations Convention against Transnational Organized
Crime and the Protocols thereto¹ represent the principal worldwide legal instruments
to combat the scourge of transnational organized crime, which affects individuals
and societies in all countries, and reaffirming their importance as the main tools
available to the international community for this purpose,

Reaffirming that the purpose of the Convention and the Protocols thereto is,
inter alia, to promote cooperation to prevent and combat transnational organized
crime more effectively, and stressing the need to take additional concerted action to
reinforce the implementation of the Convention and the Protocols thereto by States
parties and to identify related technical assistance needs,

Recalling article 32 of the Convention, pursuant to which the Conference of
the Parties to the United Nations Convention against Transnational Organized Crime
was established to improve the capacity of States parties to combat transnational
organized crime and promote and review the implementation of the Convention,

Recalling also that in article 32 of the Convention it is stated that the
Conference of the Parties shall agree upon mechanisms for achieving, inter alia, the

* CTOC/COP/2016/1.

¹ United Nations, *Treaty Series*, vols. 2225, 2237, 2241 and 2326, No. 39574.



objective of periodically reviewing the implementation of the Convention and the Protocols thereto,

Noting the continuing obligation of each State party, under article 32 of the Convention, to provide the Conference with information on its programmes, plans and practices, as well as legislative and administrative measures, related to implementation of the Convention,

Recalling its resolution 5/1 of 22 October 2010, which began a process to consider and explore options with regard to the establishment of a mechanism to assist the Conference in reviewing the implementation of the Convention and the Protocols thereto, as well as its resolution 6/1 of 19 October 2012 and General Assembly resolution 68/193 of 18 December 2013, entitled “Strengthening the United Nations crime prevention and criminal justice programme, in particular its technical cooperation capacity”, in which the Assembly, inter alia, reiterated the need for the establishment of a mechanism for the review of the implementation of the Convention and the Protocols thereto,

Recalling also its decision 4/1 of 17 October 2008 and its resolution 5/5 of 22 October 2010,

Recalling further its resolution 7/1 of 10 October 2014, entitled “Strengthening the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto”, in which, inter alia, the usefulness of the existing working groups to advise and assist the Conference of the Parties in the implementation of its mandate was emphasized,

Recalling articles 29 and 30 of the Convention, and stressing the connections between the review of the implementation of the Convention and the Protocols thereto and the technical assistance programmes provided to requesting States parties with a view to combating transnational organized crime,

Welcoming the important role of civil society in assisting national authorities in preventing and combating transnational organized crime, thus promoting the implementation of the Convention and the Protocols thereto, including by facilitating the provision of technical assistance as well as assistance to those affected by organized crime,

1. *Takes note with appreciation* of the report on the intergovernmental meeting to explore all options regarding an appropriate and effective review mechanism for the United Nations Convention against Transnational Organized Crime and the Protocols thereto, held in Vienna on 6 and 7 June 2016;²

2. *Decides* to establish a mechanism for the review of the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto;³

3. *Underlines* that the review mechanism for the Convention and the Protocols thereto shall:

- (a) Be transparent, efficient, non-intrusive, inclusive and impartial;

² CTOC/COP/WG.8/2016/2.

³ United Nations, *Treaty Series*, vols. 2225, 2237, 2241 and 2326, No. 39574.

- (b) Not produce any form of ranking;
- (c) Provide opportunities to share good practices and challenges;
- (d) Assist States parties in the effective implementation of the Convention and, where applicable, the Protocols thereto;
- (e) Take into account a balanced geographical approach;
- (f) Be non-adversarial and non-punitive and shall promote universal adherence to the Convention and its Protocols;
- (g) Base its work on clear, established guidelines for the compilation, production and dissemination of information, including addressing issues of confidentiality and the submission of the outcome to the Conference of the Parties to the United Nations Convention against Transnational Organized Crime, which is the competent body to take action on that outcome;
- (h) Identify, at the earliest possible stage, difficulties encountered by States parties in the fulfilment of their obligations under the Convention and its Protocols, as applicable, and good practices adopted in efforts by States parties to implement the Convention and, where applicable, the Protocols thereto;
- (i) Be of a technical nature and promote constructive collaboration, *inter alia*, on issues concerning international cooperation, prevention, protection of witnesses and assistance and protection for victims;
- (j) Complement existing relevant international and regional review mechanisms so that the Conference may, as appropriate, cooperate with those mechanisms and avoid duplication of efforts;
- (k) Be an intergovernmental process;
- (l) In conformity with article 4 of the Convention, not serve as an instrument for interfering in the domestic affairs of States parties but shall respect the principles of equality and sovereignty of States parties, and the review process shall be conducted in a non-political and non-selective manner;
- (m) Promote the implementation of the Convention and its Protocols by States parties, as applicable, as well as cooperation among States parties;
- (n) Provide opportunities to exchange views, ideas and good practices, thus contributing to strengthening cooperation among States parties in preventing and fighting transnational organized crime;
- (o) Take into account the levels of development of States parties, as well as the diversity of judicial, legal, political, economic and social systems and differences in legal traditions;
- (p) Endeavour to adopt a progressive and comprehensive approach, given that the review of implementation of the Convention is an ongoing and gradual process;

4. *Also underlines* the necessity that the review mechanism be cost-effective, complete and user-friendly and that it should make optimal and efficient use of existing information, tools and technology so that the administrative

burden it entails for States parties, their central authorities and experts involved in the review process is acceptable;

5. *Decides* that the mechanism for the review of the implementation of the Convention and the Protocols thereto, as a peer review process, shall be conducted within the Conference and through the existing working groups, consistent with their respective mandates and their areas of expertise;

6. *Also decides* that the review mechanism shall comprehensively address all the articles of the Convention and the Protocols thereto, grouped in thematic clusters in accordance with the normative content of the provisions, as indicated in table 1 of the annex to the present resolution, and that the review shall be a gradual process conducted according to a multi-year workplan, as indicated in table 2 of the annex;

7. *Further decides* that to review each thematic cluster of articles, the relevant working group shall define and adopt a short, precise and focused self-assessment questionnaire, to be completed by all States parties to each relevant instrument on an incremental basis, in accordance with the multi-year workplan. The States concerned shall be encouraged to provide updated information, in this respect, through the comprehensive self-assessment software (“omnibus survey software”) and the knowledge management portal known as Sharing Electronic Resources and Laws on Crime, which shall be adjusted to meet the requirements of the review process;

8. *Decides* that the review shall be based on the responses to the self-assessment questionnaire and any supplementary information provided by the State under review. The State under review may also consider updating information submitted with regard to the implementation of other regional or international mechanisms;

9. *Also decides* that, if agreed by the State under review, the desk review should be complemented by any further means of direct dialogue, such as a country visit or a joint meeting, to be funded from extrabudgetary resources. Each working group may, as appropriate, develop specific procedures in this respect;

10. *Further decides* that the desk review of the information thus gathered shall be conducted for each State party by an evaluation team, composed of four members selected from a list of governmental experts designated by all States parties. The relevant working group shall appoint members of the evaluation team for each State party under review, by drawing lots to select two experts from the regional group of the State party under review and one expert from another regional group. The State party under review may request, a maximum of two times, that the drawing of lots be repeated. The remaining member of the team shall be indicated by the State under review;

11. *Calls upon* each State party to designate up to five national experts for each of the working groups for the purpose of the review mechanism, ensuring that they possess international experience and adequate expertise to examine the issues under evaluation, so as to provide a balanced, professional and technically competent assessment of the implementation of the Convention and the Protocols thereto in each reviewed country;

12. *Decides* that the evaluation teams shall carry out the desk review by making the largest possible use of all the available technological tools, such as virtual networks, conference calls and videoconferences;

13. *Also decides* that each team of experts shall prepare, in close cooperation and coordination with the State party under review, a draft comprehensive country report on good practices and challenges in implementing the relevant legal provisions. The draft report shall be finalized with the agreement of the State party under review and it shall be transmitted to the relevant working group for its final adoption. Each working group shall transmit copies of final reports to the Conference, along with a brief report on its progress in reviewing all States parties, in accordance with the present resolution and the multi-year workplan;

14. *Further decides* that the Secretariat shall compile, within the existing resources, the most relevant information on successes, good practices, challenges, observations and technical assistance needs contained in the country review reports and include them, organized by theme, in a thematic implementation report and regional supplementary addenda, for submission to the relevant working group;

15. *Decides* that the core activities of the review mechanism shall be funded from the existing regular budget resources of the United Nations, to be complemented, if necessary, by extrabudgetary resources, including voluntary contributions and, where appropriate, reallocation of existing funding. All voluntary contributions shall be free of conditions and influence;

16. *Invites* Member States and other donors to provide extrabudgetary resources for the purposes of the review mechanism, in accordance with the rules and procedures of the United Nations;

17. *Encourages* States parties under review to endeavour to prepare their responses to the self-assessment questionnaire through broad consultations at the national level with all relevant stakeholders, including, where appropriate, the private sector, individuals and groups outside the public sector, non-governmental organizations and academia;

18. *Establishes* that signatories, non-signatories, entities, non-governmental organizations and representatives of academia and the private sector shall be invited to provide written contributions in the review process, in order to further promote constructive dialogue with all relevant stakeholders, including international and regional organizations, non-governmental organizations, academia and the private sector, while recognizing that there are continuing deliberations to build confidence in the role of such stakeholders in the review mechanism for the Convention and the Protocols thereto;

19. *Decides* that the working groups shall invite signatories, non-signatories, entities and non-governmental organizations to participate in the discussion as observers where the protection and assistance of victims of crime are concerned, such as in the areas covered by the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime,⁴ and by the Protocol

⁴ Ibid., vol. 2237, No. 39574.

against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime;⁵

20. *Decides* that briefings with all relevant stakeholders, including international and regional organizations and non-governmental organizations, shall be conducted on the outcomes of the review process, including on the technical assistance needs identified; such briefings shall be convened in the margins of the meetings of the working groups and be conducted by the Secretariat in cooperation with a member of the bureau, at the request of the President of the Conference;

21. *Requests* the United Nations Office on Drugs and Crime, subject to the availability of voluntary contributions, to assist, upon request, States parties in their efforts to collect and provide information on their self-assessment and their analysis of implementation efforts and to report on those efforts to the Conference at its ninth session;

22. *Requests* the Secretariat to continue to assist the working groups, as appropriate, in the performance of their functions related to the review mechanism;

23. *Decides* that an evaluation of the functioning and performance of the review process thus established shall be conducted by the Conference after the first biennium of activity so as to amend and improve the existing mechanism.

Annex

Organization of the review of the implementation of the Convention and the Protocols thereto

Table 1

Clusters of articles of the Convention and the Protocols thereto for the purpose of the review of implementation

| <i>Legal instrument</i> | <i>Cluster on criminalization</i> | <i>Cluster on prevention, assistance, protection measures and other measures</i> | <i>Cluster on law enforcement, the judicial system and confiscation</i> | <i>Cluster on international cooperation and mutual legal assistance</i> |
|---------------------------------|-----------------------------------|----------------------------------------------------------------------------------|-------------------------------------------------------------------------|-------------------------------------------------------------------------|
| Organized Crime Convention | Articles 5, 6, 7, 10 and 23 | Articles 24, 25, 29, 30 and 31 | Articles 11, 12, 13, 14, 19, 20, 22, 26, 27 and 28 | Articles 15, 16, 17, 18 and 21 |
| Trafficking in Persons Protocol | Article 5 | Articles 6, 7 and 9 | Article 11, 12 and 13 | Articles 8 and 10 |
| Smuggling of Migrants Protocol | Articles 5 and 6 | Articles 8, 9, 14, 15 and 16 | Article 11, 12 and 13 | Articles 7, 10 and 18 |
| Firearms Protocol | Article 5 | Articles 7, 8, 9, 10, 11, 14 and 15 | Article 6 | Articles 12 and 13 |

⁵ Ibid., vol. 2241, No. 39574.

Table 2
Multi-year workplan for the functioning of the mechanism

| <i>Year</i> | <i>Organized Crime Convention working groups^a</i> | <i>Working Group on Trafficking in Persons</i> | <i>Working Group on the Smuggling of Migrants</i> | <i>Working Group on Firearms</i> |
|-------------|----------------------------------------------------------------|----------------------------------------------------------------|----------------------------------------------------------------|----------------------------------------------------------------|
| I | Definition of organizational matters and questionnaire |
| II-III | Criminalization | Criminalization | Criminalization | Criminalization |
| IV-V | International cooperation and mutual legal assistance |
| VI-VII-VIII | Law enforcement, judicial system and confiscation |
| IX-X | Prevention, assistance, protection measures and other measures |

^a The Working Group on International Cooperation and the Working Group of Government Experts on Technical Assistance.