



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

Bulgaria, Finland, France and Italy

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,

Reaffirming its decision 1/2 of 8 July 2004, in which the Conference decided
to carry out its functions assigned to it in article 32 of the Convention,

* CTOC/COP/2016/1.

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

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 objective of periodically reviewing the implementation of the Convention,

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, entitled “Review of the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto”,

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,

Welcoming the call of the Doha declaration, adopted by the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice, to continue to explore all options regarding an appropriate and effective mechanism or mechanisms to assist the Conference of the Parties to the United Nations Convention against Transnational Organized Crime in the review of the implementation of the Convention and the Protocols thereto in an effective and efficient manner,

Recalling article 28 of the Convention, which encourages States Parties to collect, exchange and analyse, in consultation with the scientific and academic communities, trends in organized crime in their territory, as well as to monitor their policies and actual measures to combat transnational organized crime and making assessments of their effectiveness and efficiency,

Recalling also articles 2 and 37 of the Convention concerning respectively the use of terms and the relation between the Convention and the Protocols thereto, as well as the common article 1 of each Protocol thereto,

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 and international cooperation, with a view to combating transnational 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 continue the process of establishing the mechanism for the review of the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto based on the recommendations contained in the report of the working group to explore all options for a review mechanism held in Vienna on 6 and 7 June 2016;³

3. *Decides* to elaborate specific Procedures and rules for the functioning of the review mechanism for consideration and adoption by the Conference at its ninth session, which shall be guided by the following principles and characteristics set out in Conference resolution 5/5:

- (a) Be transparent, efficient, non-intrusive, inclusive and impartial;
- (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) Be conducted in conformity with article 4 of the Convention, not serve as an instrument for interfering in the domestic affairs of States parties and the review process shall be conducted in a non-political and non-selective manner;

² CTOC/COP/WG.8/2016/2.

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

(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* that the review mechanism shall be cost-effective, concise and user-friendly and that it should make optimal and efficient use of existing information, tools, resources and technology so that it would not impose undue burdens upon States Parties, their central authorities and experts involved in the review process;

5. *Also decides* that the review mechanism shall progressively address all the articles of the Convention and the Protocols thereto for each of the instruments that States Parties are Parties to, grouped in thematic clusters in accordance with the content of their provisions, as indicated in table 1 of the annex to the present resolution, and that the review shall be a gradual process conducted and concluded according to a multi-year workplan, as indicated in table 2 of the annex;

6. *Requests* the United Nations Office on Drugs and Crime to convene, within existing resources from the regular budget and without prejudice to other mandated activities, at least one open-ended intergovernmental meeting, with interpretation, for the purpose of defining the specific procedures and rules for the functioning of the review mechanism, and invites States Parties to remain engaged in the process, including during the intersessional period;

7. *Decides* to include in the specific Procedures and rules for the functioning of the Mechanism the following elements:

a) the review mechanism to be established shall be conducted, within the Conference and its existing working groups, which shall add the matter as an item to their agenda, consistent with their areas of expertise and without prejudice to their respective existing mandates;

b) in order to review each thematic cluster of articles, the relevant working group shall define, in the next two years, with the assistance of the Secretariat, a short, precise and focused self-assessment questionnaire;

c) the desk review of the information gathered shall be conducted for each State party by two other States that are Parties to the relevant instrument, with the active involvement of the State Party under review. The State under review and reviewing countries shall appoint as their Governmental experts for the purpose of the review mechanism persons with relevant expertise to examine the issues under evaluation. The relevant working group shall identify the reviewing States for each State party under review by drawing of lots to select one State from the regional group of the

State party under review and one State from another regional group. One of the reviewing States Parties, if possible, 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, that the drawing of lots be repeated. In exceptional circumstances, the drawing of lots may be repeated more than twice;

d) the working groups shall hold intersessional meetings open to all States Parties, for the purpose of the drawing of lots above, and without prejudice to the right of a State Party to request that the drawing of lots be repeated at the Group's subsequent regular session;

e) other elements;

8. *Invites* States Parties to carry out the desk review and to fulfil any request for or provision of supplementary information and clarification by making the largest possible use of all the available technological tools, such as virtual networks, conference calls and videoconferences. The Secretariat shall facilitate, where appropriate, the establishment of open lines of communication among the participants;

9. *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;

10. *Underscores* that the specific Procedures and rules for the functioning of the review mechanism shall be defined taking into account all options regarding the funding model of such a review mechanism, including that the core activities of that mechanism should be funded through the existing regular budget resources, to be complemented if necessary by voluntary contributions for other activities, once clear options and their associated costs have been identified, and whether additional resources would be appropriate, bearing in mind the need that the review mechanism have reliable, sustainable and predictable resources as well as the principle of cost-efficiency;

11. *Underscores* that the specific Procedures and rules for the functioning of the review mechanism shall be defined taking into account all options to recognize the role of other stakeholders, including international and regional organizations, academia and non governmental organizations in the review mechanism for the Convention and Protocols thereto, recalling the Marrakesh consensus as a possible basis;

12. *Requests* the Secretariat, within existing resources, to support this process, in particular by providing adequate estimates of costs and indicating measures, where possible, that allow for the incorporation of such costs into its existing resources and workload, where appropriate;

13. *Decides* that an evaluation of the organization, functioning and performance of the review process, once established, shall be conducted, when appropriate, by the Conference at its next sessions so as to amend and improve the existing mechanism;

14. *Invites* States Parties to continue making full use of the Conference of the Parties and of its Working Groups as well as available tools developed by the UNODC for the purpose of improving their capacity to combat transnational organized crime and promoting information exchange among State parties and their practitioners, so as to promote implementation of the UNTOC and Protocols thereto;

15. *Reiterates* all relevant decisions of the Conference of the Parties regarding the existing questionnaires, and requests all States parties to submit responses to the questionnaire on the implementation of the UNTOC and the Protocols thereto, and to provide updated information and responses including identifying technical assistance needs;⁴

16. *Requests* the Secretariat, within existing resources, to provide an assessment on best practices, lessons learned and obstacles to the implementation of the provisions of the Convention and the Protocols thereto, based on the information collected through the questionnaire;

17. *Requests* States Parties to inform the Secretariat of any technical assistance need that should be addressed to support them in providing the information requested under the questionnaires, and requests States Parties and other interested donors to provide resources for technical assistance as a matter of priority;

18. *Directs* the Technical Assistance Working Group to consider the needs identified by Member States and to make recommendations to assist them in their efforts to implement the Convention and the Protocols and to provide the Conference of the Parties the information needed to conduct effective reviews;

19. *Invites* States and other donors to provide extrabudgetary resources for these purposes in accordance with the rules and procedures of the United Nations.

⁴ <http://www.unodc.org/unodc/en/treaties/CTOC/review-questionnaires.html>

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 and jurisdiction</i>	<i>Cluster on prevention, technical assistance, protection measures and other measures</i>	<i>Cluster on law enforcement, the judicial system</i>	<i>Cluster on international cooperation, mutual legal assistance and confiscation</i>
Organized Crime Convention	Articles 2, 5, 6, 8, 9 ⁵ , 10, 15 and 23	Articles 24, 25, 29, 30 and 31	Articles 7, 11, 19, 20, 22, 26, 27 and 28	Articles 12, 13, 14, 16, 17, 18 and 21
Trafficking in Persons Protocol	Article 3 and 5	Articles 6, 7 and 9	Article 11, 12 and 13	Articles 8 and 10
Smuggling of Migrants Protocol	Articles 3, 5 and 6	Articles 8, 9, 14, 15 and 16	Article 11, 12 and 13	Articles 7, 10 and 18
Firearms Protocol	Article 3, 5 and 8	Articles 7, 9, 10, 11, 14 and 15		Articles 6, 12 and 13

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-II	Definition of organizational matters and questionnaire	Definition of organizational matters and questionnaire	Definition of organizational matters and questionnaire	Definition of organizational matters and questionnaire
III-VI	Criminalization International cooperation, mutual legal assistance and confiscation	Criminalization International cooperation, mutual legal assistance and confiscation	Criminalization International cooperation, mutual legal assistance and confiscation	Criminalization International cooperation, mutual legal assistance and confiscation

⁵ Articles 8 and 9 only for States Parties which are not party to the UNCAC

<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>
VII-X	Law enforcement, judicial system Prevention, assistance, protection measures and other measures	Law enforcement, judicial system Prevention, assistance, protection measures and other measures	Law enforcement, judicial system Prevention, assistance, protection measures and other measures	Law enforcement, judicial system Prevention, assistance, protection measures and other measures

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