



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

Distr.: General
24 May 2011

Original: English

Open-ended intergovernmental working group on the review of the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto

Vienna, 17-19 May 2011

Agenda item 4

**Terms of reference for a review mechanism or
mechanisms, guidelines for governmental experts and a
blueprint for the country review reports: proposals and
initiatives of States parties and signatories**

Revised draft guidelines for governmental experts and the secretariat in the conduct of country reviews

I. General guidance

1. Throughout the review process, governmental experts and the secretariat shall be guided by the relevant provisions of the United Nations Convention against Transnational Organized Crime and the terms of reference of the mechanism for the review of implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto.
2. In particular, governmental experts shall bear in mind article 4, paragraph 1, of the Convention, which states that States parties shall carry out their obligations under the Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States, with due regard for article 37 of the Convention and article 1, paragraph 2, of each of the Protocols thereto.
3. Furthermore, governmental experts shall carry out the reviews in full recognition of the purpose of the review process as specified in paragraph 11 of the terms of reference.
4. During all interactions within the review process, governmental experts shall respect the collective approach. Governmental experts are expected to act with courtesy and diplomacy and shall remain objective and impartial. Governmental



experts need to be flexible in their approach and ready to adapt to changes in schedules.

5. Governmental experts shall work on the basis of consensus.
6. Governmental experts and the secretariat shall maintain the confidentiality of all information obtained in the course of, or used in, the country review process, as well as the country review report, as stipulated in the terms of reference. If there are serious grounds for believing that a governmental expert or a member of the secretariat has violated the obligation of confidentiality, the States parties concerned or the secretariat may inform the Implementation Oversight Group for appropriate consideration and action, including referring the matter to the Conference.
7. It is also expected that governmental experts are not to be influenced in their assessment of the implementation of the Convention. While information generated through competent regional and international organizations of which the State party under review is a member and whose mandates cover issues relevant to the review of the implementation of the Convention and its Protocols is to be taken into account, governmental experts shall make their own analysis of the facts provided by the State party under review in order to present findings that are in line with all the specific requirements of the provisions of the Convention and the Protocols thereto under review.
8. Throughout the review process, governmental experts are encouraged to contact the secretariat for any assistance required.

II. Specific guidance for the conduct of the review

9. In accordance with the terms of reference and consistent with the importance of ensuring the efficiency and effectiveness of the review process, reviews shall be conducted in a spirit of constructive collaboration, dialogue and mutual trust.
10. States parties and the secretariat shall endeavour to adhere to the indicative timelines set out in the paragraphs below.
11. The governmental experts shall prepare themselves by:
 - (a) Studying thoroughly the Convention and the Protocols thereto and the terms of reference of the mechanism, including the present guidelines;
 - (b) Familiarizing themselves with the *Legislative Guides for the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols Thereto*¹ and the *Travaux Préparatoires of the Negotiations for the Elaboration of the United Nations Convention against Transnational Organized Crime and the Protocols Thereto*,² particularly those parts pertaining to the articles that are the subject of the relevant review cycle;
 - (c) Reviewing the responses provided by the State party under review in its comprehensive self-assessment checklist and supplementary documentation and familiarizing themselves with the issues addressed by the State party under review;

¹ United Nations publication, Sales No. E.05.V.2.

² Ibid., Sales No. E.06.V.5.

(d) Informing the secretariat if additional information and material are required and highlighting issues requiring further clarification.

12. The Secretariat shall organize periodic training courses for governmental experts who participate in the review process so that they can familiarize themselves with the guidelines and increase their capacity to participate in the review process.

13. The secretariat, within one month after the drawing of lots, shall officially inform the State party under review and the reviewing States parties of the date of the beginning of the conduct of the country review, as well as of all relevant procedural matters, including the schedule for the training of experts and a provisional schedule for the country review.

14. The State party under review, within one month after being officially informed, shall appoint a focal point to coordinate its participation in the review, including intergovernmental communications, in accordance with paragraph 17 of the terms of reference, and inform the secretariat of that focal point. The secretariat shall assign a staff member to each review.

15. The secretariat shall undertake consultations with the State party under review and the reviewing States parties on the establishment of schedules and requirements of the country review, including the selection of working language or languages of the country review, in accordance with section VI of the terms of reference. The translation to and from those languages shall be provided by the secretariat within the whole review process.

16. The State party under review shall, within two months of being officially informed of the beginning of the conduct of the country review, provide to the secretariat the information required on its compliance with and implementation of the Convention, using the comprehensive self-assessment checklist as an initial step for that purpose. Assistance in the preparation of the responses shall be provided by the secretariat to the State party requesting such assistance. The secretariat shall, within one month of the receipt of the checklist response, submit that response for translation and circulate it to the governmental experts.

17. Within one month after the State party under review has been officially informed about the beginning of the conduct of the country review, governmental experts shall participate in a telephone conference or videoconference, to be organized by the secretariat for the purpose of an initial introduction of the reviewing States parties, the State party under review and the staff member of the secretariat assigned to the country review, as well as for general orientation, including a review of the schedule and requirements established for the review.

18. Governmental experts from reviewing States parties shall take a decision on how to divide tasks and issues among themselves, taking into account their respective fields of competence.

19. While governmental experts shall establish open lines of communication with the State party under review, the experts shall keep the secretariat abreast of all these communications.

20. Throughout the process, the governmental experts shall appropriately consider the information and material provided by the State party under review through the different means of communication as described in the terms of reference.

21. When seeking additional information and asking for clarification, governmental experts shall bear in mind the non-adversarial, non-intrusive and non-punitive character of the review and the overall goal of assisting the State party under review to reach full implementation of the Convention.
22. Within one month of the receipt of the response to the comprehensive self-assessment checklist and any supplementary information provided by the State party under review, governmental experts shall submit to the secretariat the outcome of the desk review, including requests for clarifications, additional information or supplementary questions, to be translated into the designated languages of the review and provided to the State party under review.
23. During the desk review, governmental experts shall avoid duplicating texts already contained in the comprehensive self-assessment checklist. The desk review is to be concise and factual and is to include solid reasoning for the outcome of the desk review. Objective and impersonal language will aid understanding. When abbreviations and acronyms are used, these shall be defined upon their first use.
24. After the State party under review receives the outcome of the desk review, the secretariat shall organize a telephone conference or videoconference bringing together the governmental experts of the reviewing States parties and the State party under review. During the conference call, governmental experts from the reviewing States parties shall introduce their parts of the desk review and explain the findings. The ensuing dialogue shall ideally last up to two months and consist of requests for additional information or specific questions from the governmental experts, to which the State party under review shall respond, using various means of dialogue including conference calls, videoconferences, e-mail exchanges or further means of direct dialogue as mentioned in paragraph 25 of the terms of reference and as specified below.
25. If agreed by the State party under review, the desk review should be complemented by any further means of direct dialogue, such as a country visit or a joint meeting at the United Nations Office at Vienna. The country visit or joint meeting at the United Nations Office at Vienna shall be planned and organized by the State party under review. While the secretariat will facilitate all practical arrangements, governmental experts shall take all necessary measures from their side to participate in the country visit or joint meeting at the United Nations Office at Vienna.
26. During the country visit or joint meeting at the United Nations Office at Vienna, governmental experts shall uphold the principles and standards outlined in the general guidance above.
27. Governmental experts are expected to actively and constructively participate in all meetings, including at internal debriefings at the end of each working day or at the end of the country visit or joint meeting at the United Nations Office at Vienna.
28. Governmental experts are expected to be respectful and courteous in meetings, respecting time frames set in the programme and allowing time for all members to participate. At the same time, governmental experts are expected to be flexible, as the programme may change during the country visit or the joint meeting at the United Nations Office at Vienna.

29. Questions should seek to complement information already provided by the State party under review and relate only to the review process. Governmental experts shall therefore remain neutral and not voice personal opinions during the meetings.
30. Governmental experts are expected to take notes during all meetings, which they can refer to for the production of the final country review report. They shall share their opinions and preliminary findings in writing among themselves and with the secretariat within two weeks after the country visit or the joint meeting at the United Nations Office at Vienna.
31. At the final stage of the country review process and preferably within five months of the beginning of the review, based on the blueprint format, the governmental experts shall, with the assistance of the secretariat, prepare a draft country review report and send it to the State party under review in the designated language of the review. The report shall identify successes, good practices and challenges and make observations for the implementation of the Convention and its Protocols. Where appropriate, the report shall include the identification of technical assistance needs for the purpose of improving implementation of the Convention and its Protocols. The comments of the State party under review shall be incorporated into the draft country review report.
32. Governmental experts shall include observations with respect to the implementation in national law of the articles of the Convention and its Protocols under review, as well as their application in practice.
33. Governmental experts shall further identify successes and good practices and challenges and make observations with respect to the implementation of the articles of the Convention and its Protocols under review, as well as areas where technical assistance may be required.
34. At the request of the State party under review and as required, governmental experts may also be asked to provide the State party under review with explanations of how to address the challenges identified so as to allow the State party to fully and effectively implement the relevant articles of the Convention and its Protocols.
35. The secretariat shall send the draft country review report to the State party under review for its agreement. In case of disagreement, there shall be a dialogue between the State party under review and the governmental experts to arrive at a consensual final report. An executive summary shall subsequently be prepared and agreed on.