

## [Implementation of General Assembly resolution 74/247, operative paragraph 3](#)

### [Frequently asked questions \(FAQs\)](#)

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The present document, prepared by the Secretariat, presents the most frequently asked questions from Member States regarding the implementation of [General Assembly resolution 74/247](#), in particular its operative paragraph 3.

As background, on 12 May 2020, the Secretariat sent to Permanent Missions the following message via the UNOV/UNODC central messaging system:

“In relation to the implementation of operative paragraph 3 of General Assembly resolution 74/247, regarding the cybercrime ad hoc committee organizational session, the Secretariat hereby informs Member States of the following organizational arrangements for that meeting:

1. The Secretariat invites the submission of nominations for the offices of Chair, Vice-chairs and Rapporteur for the ad hoc committee, who will be elected by the ad hoc committee at the beginning of the August 2020 organizational session, in accordance with rule 103 of the rules of procedure of the General Assembly. Rule 103 further states that these officers shall be elected on the basis of equitable geographical distribution, experience and personal competence.

The nominations to be submitted are for the following positions:

- **One Chair;**
- **Thirteen Vice-chairs;** the Regional Groups that hold the positions of Chair and Rapporteur would be allocated two Vice-chairs each, while the remaining Regional Groups would be allocated three Vice-Chairs each; and
- **One Rapporteur.**

The deadline for submitting nominations for the above positions to the Secretariat, through the Chairs of Regional Groups, is **1 July 2020**, through the following email address: [cybercrimeAHC@un.org](mailto:cybercrimeAHC@un.org). A formal note will also be sent to Member States with this invitation.

2. The Secretariat will begin preparing the provisional agenda for the organizational session, as well as a draft background paper which will provide information on the “outline and modalities” for further activities of the ad hoc committee, as foreseen in operative paragraph 3 of the resolution.

- The provisional agenda is due for submission to Conference Management Service for editing and translation on **2 June 2020** and will be shared prior to that with Member States for comments.
- The background paper is due for submission to Conference Management Service on **15 June 2020** and will also be shared prior to that date with Member States for comments.
- The Secretariat may also organize an informal meeting online for Member States as necessary to further discuss and finalize these two documents. More details will be provided soon.”

The present document addresses the following topics:

1. Dates of the organizational session of the ad hoc committee
2. The nomination of officers of the ad hoc committee
3. Other procedural issues
4. COVID-19 considerations

## 1. Dates of the organizational session of the ad hoc committee

### 1. What are the dates of the organizational sessions of the ad hoc committee?

The dates of 25-27 August 2020 have been confirmed with the relevant Secretariat staff in New York for holding the organizational session of the ad hoc committee.

### 2. How were these dates chosen?

According to operative paragraph 3 of resolution 74/247, “the ad hoc committee shall convene a three-day organizational session in August 2020”.

In an effort to begin preparations for the organizational session, information on possible dates was included in the proposal by the Secretariat with status 22 April 2020, based on the general support for these dates expressed by Member States during the briefing delivered by the Director of the Division for Treaty Affairs of UNODC, Mr. John Brandolino, on 16 April 2020.

These dates, which are at the end of August 2020, will allow for more time for the organization of the meeting and for monitoring the evolution of the COVID-19 travel and other restrictions.

### 3. When will Member States receive the official invitation to the meeting?

The official invitation to the meeting is due to be sent out in the coming weeks.

## 2. The nomination of officers of the ad hoc committee

### 4. Do the officers of the ad hoc committee need to attend all meetings in person?

COVID-19 considerations aside, the officers of the ad hoc committee do not need to attend all meetings, unless they are carrying out a specific role, such as chairing a meeting.

### 5. Do the officers of the ad hoc committee need to be nominated at the Ambassadorial level?

This is entirely up to Member States to decide.

### 6. Do the officers of the ad hoc committee need to be located in Vienna, in New York, or can they be experts from capitals?

This is entirely up to Member States to decide. It would be highly practical for the Chair to be based in Vienna, however, to facilitate communication and coordination with the UNODC-based Secretariat.

### 7. When will these officers be elected?

In accordance with the Rules of procedure of the General Assembly, the officers will be elected at the beginning of the organizational session.

8. In relation to Rule 103 of the rules of procedure of the General Assembly, should a nominee for officer of the ad hoc committee be physically present at the meeting in August in order to be elected?

Assuming a physical meeting is held, there is no requirement for the officer to be present for the election. From a practical perspective, however, the person who will chair the meeting or perform any other practical function, such as the Rapporteur, should ideally be present at the meeting to conduct their work (but not per se just for the elections).

9. Will the elected officers be in place only for the organizational session or for all future ad hoc committee sessions?

The decision on this matter rests with the ad hoc committee itself. This can be decided at the organizational session, and it would ideally be discussed during informal consultations among Member States in the lead up to the organizational session.

10. Are Member States expected to send nominations through the Chairs of their Regional Groups? Are only three nominations permitted for each Regional Group?

The call for nominations for officers of the ad hoc committee was sent out to all Permanent Missions in Vienna through a special message on 12 May 2020 and an official Note Verbale on 20 May 2020 (reference CU/2020/162/DTA/OCB). The Note Verbale was sent directly to each Member State with the request that nominations be channelled through the Chairs of Regional Groups, as per usual practice and so that it is easier to keep track of the balanced regional representation and to comply with Rule 103 of the Rules of procedure of the General Assembly.

This does not mean that Regional Groups can only submit three nominations and they may submit as many as they wish, since all Member States have the right to submit nominations.

Ideally, consultations conducted prior to the organizational session would lead to an agreed slate of officers that is equal to the number of offices to be filled, thus allowing all officers of the ad hoc committee to be elected by acclamation and dispensing with the requirement of a secret ballot.

11. How can Member States submit their nominations for officers of the ad hoc committee?

Member States can submit their nominations by way of an official Note Verbale through the Regional Groups sent to the following address: [CybercrimeAHC@un.org](mailto:CybercrimeAHC@un.org).

12. What is the deadline for the submission of nominations for officers of the ad hoc committee?

The deadline for submission of nominations is 1 July 2020.

13. What functions will the offices of Vice-chair and Rapporteur have?

According to the Rules of procedure, in the case that the Chair is unable to preside, then she/he must designate a Vice-Chair to preside on their behalf. The Vice-Chairs therefore support the Chair in the conduct of the session. They discuss the organization of the session but do not make recommendations

or decisions on the substance. The traditional role of the Rapporteur is to draft the report of the meeting, with the assistance of the Secretariat.

14. My government wishes to submit a nomination, but we still do not know exactly who the candidate would be. Can Member States submit nominations without specifying names and functional titles?

If a country does not know for certain who the nominated individual would be, but would like to submit a nomination for their country, they may inform the Secretariat that they will be nominating someone and confirm the name of the person in the future (but before the elections take place).

15. In case officers are not based in New York, will there be support from the UN to facilitate the participation of the officers in the ad hoc committee meeting in August?

In terms of financial support for travel, UNODC currently has no available funds for this purpose. However, in operative paragraph 5 of its resolution 74/274, the General Assembly "invites donor countries to provide assistance to the United Nations in ensuring the active engagement of developing countries in the work of the ad hoc committee, including by covering travel costs and accommodation expenses."

16. If a Member States submits a nomination for the office of Chair or Rapporteur, but loses the election for that position at the meeting in August, would that losing nominee then be able to stand for one of the Vice-Chair positions?

This would be possible if at the time of the election vacancies remain for the offices of Vice-Chair and if the equitable geographical representation requirement is met. Ideally, consultations conducted prior to the organizational session would lead to an agreed slate of officers that is equal to the number of offices to be filled, thus allowing all officers of the ad hoc committee to be elected by acclamation and dispensing with the requirement of a secret ballot.

17. If an elected officer has to resign, what will be the process to choose a replacement? Will there be a call for a new nomination or is the incumbent Member State able to select a successor?

In order to comply with Rule 103 of the Rules of procedure and the established practice of the General Assembly, the nomination would be from the same Regional Group (though not necessarily from the same country).

### 3. Other procedural issues

18. The ad hoc committee, as a subsidiary body of the General Assembly, will function under the Rules of procedure of the General Assembly. Does this mean that all decision-making will be done through voting?

The fact that the rules of procedure of the General Assembly apply, does not necessarily mean that decisions of the ad hoc committee will be made by voting. In fact, the General Assembly (and its

committees) often adopt resolutions, and make other decisions, without a vote. Further information on the practice of decision-making by consensus at the General Assembly may be found [here](#).

19. What is the relationship between the rules of procedure of the General Assembly and the consensus-based practice in Vienna, i.e. the so-called “Vienna spirit”? If the convention elaboration process takes place in Vienna, would decisions be taken by vote or consensus?

As mentioned in the previous answer, the fact that the rules of procedure of the General Assembly apply, does not necessarily mean that decisions of the ad hoc committee will be made by voting. In fact, the General Assembly (and its committees) often adopt resolutions, and make other decisions, without a vote. Further information on the practice of decision-making by consensus at the General Assembly may be found [here](#).

The consensus-based practice in Vienna, i.e. the “Vienna spirit”, is indeed a matter of practice, rather than being rule-based. In fact, the intergovernmental bodies that are based in Vienna have voting procedures, but this does not mean that they must make decisions through voting. Clear examples are the Conference of the Parties to the United Nations Convention against Transnational Organized Crime (COP), or the Commission on Crime Prevention and Criminal Justice. In the case of the COP, its rules of procedure state that "States Parties shall make every effort to adopt decisions in the Conference by consensus" (Rule 56), but they also contain voting rights (Rules 57 to 71).

If the convention elaboration process were to take place in Vienna, it will be up to Member States within the ad hoc committee to make decisions through voting or consensus. The same could be said if the process were to take place in New York or anywhere else.

20. The UNCAC ad hoc committee terms of reference ([A/RES/56/260](#)) do not say anything about voting nor consensus. However, it was done through a consensus-based process. How did that work?

The UNCAC negotiations also used the usual practice of agreeing on decisions by consensus. This can be observed in the travaux préparatoires of the negotiations for the elaboration of the UNCAC, available [here](#). Member States may also find useful the report of the Intergovernmental Open-Ended Expert Group to Prepare Draft Terms of Reference for the Negotiation of an International Legal Instrument against Corruption ([A/AC.260/2](#)).

21. What official pre-session documentation is being prepared by the Secretariat?

The Secretariat has prepared a provisional agenda, due for submission to Conference Management Service on 2 June 2020, and shared it with Member States via special message on 20 May 2020 for approval. A background document is also being prepared, due for submission to Conference Management Service on 15 June 2020.

22. Is there a procedure for the approval of the meeting’s official pre-session documentation? Will there be consultations among all Member States?

The Secretariat will prepare the official pre-session documentation of the ad hoc committee organizational session (one provisional agenda and one background document) and will invite comments from all Member States. There is no approval needed for the background document, as it is

only for information and further discussion. The provisional agenda was submitted for approval by Member States on 20 May 2020 (see reply to previous question).

23. How will the work of the ad hoc committee be coordinated with the UNODC-based Secretariat in Vienna?

Pursuant to operative paragraph 3 of resolution 74/247, the organizational session of the committee will be held in New York, but all preparatory work is being supported by UNODC in Vienna, as the Secretariat of the ad hoc committee. At the organizational session in August, the committee will discuss the outline and modalities of its further activities and Member States will need to decide then, among other issues, the venue of its further activities. It would be advisable that the ad hoc committee carry out its future work in Vienna because of the location's advantage in terms of function, expertise and resources in relation to crime-related themes.

24. Will the provisional agenda and the background document be shared with Member States?

The provisional agenda was shared with Member States via special message on 20 May 2020 and placed on a silence procedure for approval with a deadline of 28 May 2020. The background document is currently being prepared by the Secretariat. Once the background paper is shared, the Secretariat will provide Member States with enough time to provide comments.

25. Regarding the background paper, does the Secretariat intend to include elements that could then be included in an outcome document from the ad hoc committee meeting in August?

The idea of the background paper is to provide suggestions on how the work of the ad hoc committee could be organized, based largely on the work of the similar committees that drafted the UNTOC and UNCAC, but it does not present substantive matters.

26. Does the Secretariat expect that the outcome document from the ad hoc committee meeting in August will be a zero draft of a General Assembly resolution for consideration at its 75th session?

The Secretariat interprets the text of operative paragraph 3 of General Assembly resolution 74/247 that states "... the ad hoc committee shall convene a three-day organizational session in August 2020, in New York, in order to agree on an outline and modalities for its further activities, to be submitted to the General Assembly at its seventy-fifth session for its consideration and approval" to mean that **a draft resolution on this matter needs to be submitted to the General Assembly for consideration and approval.**

However, whether the August meeting will produce a zero draft of a General Assembly resolution is up to the meeting itself; such a document would certainly be useful, but in procedural terms, the August meeting only will have to adopt a report on its meeting. This report could include language that could be directly used as a basis for a draft resolution, or it could have an annexed text to would serve this purpose, etc.

#### 4. COVID-19 considerations

27. Given the COVID-19 crisis, what is the Secretariat's most likely scenario for the meeting of the ad hoc committee in August?

This matter depends on the evolving situation of the COVID-19 measures. For example, it will depend on when and if travel and entry restrictions are lifted in New York and indeed across the globe. While the Secretariat does not yet have a concrete answer to this question, a few scenarios can be envisaged, including a completely virtual meeting, or a mixed physical and virtual meeting, depending on travel restrictions and other social distancing measures. Overall, the issue of whether formal intergovernmental meetings can take place online will be up to Member States to decide and will need to be discussed further based on the evolving situation.

28. Operative paragraph 3 of resolution 74/247 states that the meeting shall be held in New York. Does this operative paragraph imply that the meeting must be "physically" held in New York or would a "virtual" meeting be acceptable? Would it be it legally possible to hold the August session by way of videoconference?

The General Assembly is currently considering whether to allow virtual meetings for its plenary and subsidiary bodies. Depending on the ultimate decision by the General Assembly, this could cover the ad hoc committee. The General Assembly could alternatively consider a specific decision on the revised modalities for the organizational meeting. The UNODC Secretariat is in close contact with General Assembly colleagues in New York, and will share any developments with Member States in Vienna whenever the General Assembly pronounces on this topic.

29. The use of videoconference technology will likely be needed in the event that travel is not possible from Vienna and capitals due to the COVID-19 crisis. Is it technically possible to hold an intergovernmental meeting via videoconference?

The UN Secretariat at all main duty stations is working actively towards finding viable methods for holding formal (official) intergovernmental meetings online, including solving issues such as simultaneous interpretation and procedures to check proper credentials. The holding of such meetings online is, however, subject to the decision of Member States.

In the case of the ad hoc committee organizational session, the UNODC-based Secretariat is in constant and close communication with the New York-based Secretariat to establish who should make such decisions and when.

30. What are the rules governing the use of virtual meetings of the General Assembly? For example, will it be possible to participate in the August session (and future sessions) virtually even though it might be physically possible to travel to New York? Even if some might be able to participate in the meeting in person, capital-based experts might be asking this question now that videoconference has emerged as a possibility.

This is an evolving situation and there is no precedent; however, the Rules of procedure would continue to apply, unless any amendments or waivers are officially made. The goal is to enable business continuity as much as possible in the near future. A hybrid model for the meeting, of online plus physical presence, could be possible if Member States so decide.

31. If a virtual meeting is acceptable, where will the Chair (as well as the other officers and Secretariat) sit during the session? For example, if a meeting in New York is not possible due to the COVID-19 situation, will the Chair be able to convene the session virtually from Vienna?

Or does the Chair have to be in New York to hold the session (which would make the meeting impossible)?

If a virtual meeting is acceptable, the physical location of the officers, including the Chair, will not be relevant.

32. Is the Secretariat considering fall-back dates in the event the August meeting cannot go ahead?

The Secretariat has not yet considered the issue of alternative dates for the organizational session of the ad hoc committee. The postponement of the meeting would need to be decided by the Member States.

33. If the August 2020 organizational session needs to be postponed because of the pandemic, is a new General Assembly resolution needed?

Yes, the General Assembly would need to decide to postpone the session either in a specific resolution/decision or through an overall decision on the work of the plenary and its subsidiary bodies.