

# **Constructive dialogue on the review process following the conclusion of the fourteenth meeting of the Working Group on International Cooperation in accordance with paragraph 53 of the Procedures and rules for the functioning of the Mechanism for the Review of the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto**

**Summary by the Chair**

## **I. Introduction**

1. The Conference of the Parties to the United Nations Convention against Transnational Organized Crime established in October 2018 the Mechanism for the Review of the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto<sup>1</sup> through Conference [resolution 9/1](#), which included, in its annex, the procedures and rules for the functioning of the Mechanism.

2. According to paragraph 53 of the procedures and rules for the functioning of the Mechanism and in accordance with article 32, paragraph 3 (c), of the Organized Crime Convention, constructive dialogues with relevant stakeholders, including non-governmental organizations, shall be convened as a regular practice, following the conclusion of the meetings of the working groups and the adoption of the reports. The constructive dialogues aim to promote fruitful engagement with relevant stakeholders. They allow for briefing participants on the development and outcomes of the review process, and for collecting inputs and suggestions from participants, including their contributions on ways to improve the implementation of the Convention and the Protocols thereto.

3. This constructive dialogue was held on 13 September 2023, after the conclusion of the fourteenth meeting of the Working Group on International Cooperation. It was chaired by the Chair of the Working Group, Mr. Thomas Burrows, Associate Director for Europe and Senior Counsel for Multilateral Matters, Office of International Affairs, U.S. Department of Justice (United States).

4. Sixty-nine non-governmental organizations and six other relevant stakeholders (two from the academia and four from the private sector) participated in the constructive dialogue, in addition to 47 States parties and one intergovernmental organization. The written comments received in accordance with paragraph 53 of the procedures and rules for the functioning of the Mechanism were made available on the webpage: [www.unodc.org/unodc/en/organized-crime/intro/review-mechanism-untoc/constructive\\_dialogues/ta\\_2023.html](http://www.unodc.org/unodc/en/organized-crime/intro/review-mechanism-untoc/constructive_dialogues/ta_2023.html).

5. This document presents the summary of discussions at the abovementioned constructive dialogue prepared by the Chair of the fourteenth meeting of the Working Group on International Cooperation.

## **II. Opening**

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<sup>1</sup> Hereinafter: UNTOC review mechanism.

6. At the opening of the meeting, the Chair delivered introductory remarks, expressing his confidence that the Mechanism shall greatly benefit from the contributions of relevant stakeholders, including non-governmental organizations, academia, and the private sector.

### **III. Briefing on the developments and outcomes of the review process**

7. Under agenda item 2, the secretariat shared an overview of the status of the review process, which had been launched in October 2020 through conference [resolution 10/1](#), after a two-year preparatory phase. A status report on the progress of the Mechanism had also been shared with the Working Group in form of a background paper ([CTOC/COP/WG.3/2023/3](#)).

8. The overview included information on the support provided by the United Nations Office on Drugs and Crime (UNODC) to States parties in the review process and on the action taken towards the involvement of non-governmental stakeholders in it.

9. Several speakers noted that the constructive dialogue had evolved since the previous year to include more substantive, interactive, and open discussions. They further mentioned the critical role that civil society may play in enhancing international cooperation. They also shared their view that the process was weakened by civil society's inability to participate in the working groups.

10. Several representatives of States parties expressed the view that the exclusion of civil society organizations from participating in the meetings of the working groups represented an inaccurate interpretation of the Procedures and rules. They emphasized that civil society participation is conducive to uniting efforts to combat organized crime for mutual benefit across the globe. Delegates also underscored that constructive dialogues demonstrate the benefit of involving non-governmental stakeholders.

11. In response to interventions made by several States parties on the issue of the participation of non-governmental organizations as observers in meetings of the Working Groups functioning as subsidiary bodies of the Conference of the Parties to the Organized Crime Convention, the Secretary of the Working Group on International Cooperation provided a factual account and referred to background history of related discussions within the framework of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption (UNCAC), which dated back to 2010 and the first session of the Implementation Review Group (IRG), which was established as subsidiary body of the Conference of the States Parties (COSP) of UNCAC. It was highlighted, in this regard, that two main arguments had been supported that time: first, that the definition of the IRG in paragraph 42 of the terms of reference of the UNCAC Review Mechanism ("open-ended intergovernmental group of States parties") indicated that only States parties were meant to attend the meetings of the body; and, second, that the rules of procedure of COSP-UNCAC apply *mutatis mutandis* to the IRG as subsidiary body of the Conference (rule 2(2)), hence rules 16 and 17 (participation of entities and intergovernmental organizations and participation of non-governmental organizations) apply in an analogous manner. In the light of those discussions, the IRG requested the Secretariat to seek a legal opinion from the Office of Legal Affairs of the Secretariat. The Office of Legal Affairs recommended that the IRG take a decision on the participation of observers that is consistent with both the rules and prior practice. Alternatively, the IRG could revert to the COSP-UNCAC and request the Conference to take a decision concerning the participation of observers in the activities of the IRG. Subsequently, through

its resolution 4/6, the COSP-UNCAC decided on the conduct of briefings on the outcomes of the review process “to further promote constructive dialogue with non-governmental organizations dealing with anti-corruption issues”.

12. Several speakers emphasized the slow progress in the review process, noting delays in the advancement of country reviews. At the time of the constructive dialogue, no country had completed its review under the first thematic cluster. They highlighted the need for more interaction and exchange among multiple stakeholders to drive the review process forward and to support countries in achieving their goals in international cooperation including in criminal matters.

#### **IV. Spotlight on the 14th meeting of the Working Group on International Cooperation**

13. Under agenda item 3, the Chair briefed the participants on the developments and outcomes of the 14<sup>th</sup> meeting of the Working Group on International Cooperation, held from 11 to 12 September 2023.

14. The panel discussion under agenda item 3, involving eight non-governmental stakeholders, was divided into two sub-panels. The first sub-panel was comprised of Criminologists without Borders, Nyman Gibson Miralis, Research Society of International Law, Consejo Mexicano de Asuntos Internacionales (COMEXI). The second sub-panel was comprised of Meta, Microsoft, the Global Initiative Against Transnational Organized Crime (GI-TOC) and Kennis: Knowledge for Safety and Good Governance.

15. Both sub-panels focused their discussion on one of the substantive topics that the Working Group on International Cooperation addressed at its 14th meeting, namely “Practical implementation of article 27 of the United Nations Convention against Transnational Organized Crime (law enforcement cooperation)”.

16. The first sub-panel reflected the panellists’ interventions on human rights considerations in the field of law enforcement cooperation.

17. The panellist from Nyman Gibson Miralis referred to the critical relationship between human rights law and international law, stressing the need for a better understanding and promotion of this connection in the context of reviewing international law enforcement cooperation mechanisms. He further highlighted the specific human rights that might be impacted by such cooperation undertaken pursuant to article 27 of the Organized Crime Convention, including how these can be limited for purposes of combating transnational organized crime. Such rights include the right to privacy, freedom of expression, and the right to a fair trial. The panellist further emphasized the importance of legal clarity, proportionality standards and procedural safeguards. The panellist also referred to specific case examples (anonymized) drawn from practice, highlighting instances where international law enforcement had breached human rights, affecting both criminal cases and the reputation of law enforcement agencies. Finally, the panellist made suggestions for improvements and recommendations to strengthen law enforcement cooperation within a human rights framework. In this context, he advocated for a proactive approach involving risk assessment, governance controls, oversight and accountability to ensure that international law enforcement cooperation aligns with human rights principles and integrates a human rights-based approach at the law enforcement level, while emphasizing the need for improved education and training for law enforcement agencies in this domain.

18. The panellist from the Research Society of International Law mentioned the impact of transnational organized crime on human rights and on society as a whole and the urgent need for a comprehensive approach to addressing it. She also highlighted the importance of article 27 of the Organized Crime Convention in promoting international law enforcement cooperation. The panellist underlined the need to consider human rights in the context of emerging and evolving technologies and investigative techniques, highlighting gaps in human rights protection globally, and advocating for the transformation of the prevailing law enforcement culture, shifting from a force-oriented model to one that is focused on the service of the community.

19. The panellist from Consejo Mexicano de Asuntos Internacionales (COMEXI) emphasized the importance of balancing technology use in law enforcement with individual rights protection, stressing the need for legal frameworks and oversight mechanisms. He also mentioned various ways in which enabling technology, particularly information and communications technology, may enhance multidisciplinary efforts to combat transnational organized crime. These include data sharing and analysis, real-time communication, digital evidence gathering, big data analytic, surveillance and monitoring, secure communication, international collaboration, public awareness and reporting, resource allocation, training, and promoting transparency and accountability. The speaker highlighted the role of non-governmental organizations as well as their contribution to monitoring human rights violations and the impact of organized crime through initiatives, which could serve as early-warning systems to prevent risks to human rights, democratic governance, citizen security, and environmental sustainability.

20. The panellist from Criminologists without Borders emphasized the importance of education, ethics, integrity, and enhancing the role of civil society in fostering greater international cooperation to address significant global challenges. The panellist stressed the need for comprehensive education efforts, particularly focusing on transnational crime, justice and corruption. Furthermore, the panellist underscored the vital role of ethics and integrity in combating discrimination and promoting respect for human rights. Lastly, he pointed out that civil society organizations possess the expertise and experience to gather data, share information, and contribute to international cooperation for law enforcement, criminal justice, and crime prevention, making them essential partners in addressing global issues.

21. Following the first sub-panel presentations, the floor was opened for questions to the panellists and reflections on the points raised.

22. One speaker highlighted the challenges associated with collecting data and discerning patterns in the context of rapidly evolving organized crime *modi operandi*, as well as the role of data analysis in the fight against organized crime. In response, one panellist noted that despite the constant evolution of organized crime, it is feasible to identify specific trends and dynamics that offer a degree of predictability. The same panellist underscored the importance of understanding and monitoring these patterns and trends as an integral part of the ongoing endeavors to combat organized crime.

23. In the ensuing discussion, attention was devoted to the important role victims could play in gaining a better understanding of how criminal groups operate. Empowering victims to voice their concerns and opinions was seen as a means to contribute to the strengthening of international collaboration in tackling organized crime.

24. Furthermore, the role played by law enforcement in some cases in protecting criminals and intimidating victims was mentioned as a concern. The need for actions by both governments and civil society to ensure the

protection of victims and to safeguard law enforcement from being complicit in organized crime activities was underscored. This highlighted the importance of transparency, accountability, and integrity in law enforcement agencies.

25. The second sub-panel focused on the cooperation between law enforcement authorities and communication service providers.

26. The panellist from the Global Initiative Against Transnational Organized Crime (GI-TOC) outlined the crucial role of trust in facilitating effective collaboration between civil society, law enforcement, and communication service providers to combat transnational organized crime. He emphasized civil society's potential as a valuable resource, particularly in providing essential data and intelligence related to human rights and the rule of law aspects of transnational organized crime. While recognizing challenges due to resource limitations and the dynamic nature of organized crime, the speaker stressed the significance of international cooperation. Ultimately, the intervention underscored the importance of trust-building among stakeholders to enhance international cooperation effectively.

27. The panellist from Meta provided insights into the role of the company in combating criminal activities on its platforms, emphasizing their significant global user base and its mission to provide a safe online experience. The speaker outlined their extensive efforts to enforce community standards, covering various policy areas, such as hate speech, human trafficking, and harassment, with dedicated teams working on policy development and enforcement. The panellist reaffirmed the strategic nature of his company's relationship with law enforcement authorities, which builds on tools for legal requests and specialized content review channels. In conclusion, the panellist reiterated his company's commitment to user safety and stressed the importance of partnerships between law enforcement and the private sector in addressing transnational organized crime.

28. The panellist from Kennis: Knowledge for Safety and Good Governance referred to the transformative role of artificial intelligence in the field of law enforcement, highlighting its potential to revolutionize data collection, analysis, and utilization to enhance peace and security. The speaker further stressed the importance of addressing data needs and gaps within law enforcement agencies and argued for greater automation and digitization. The panellist concluded by underlining the necessity of maintaining high-quality data, human oversight, and adherence to key principles such as transparency, interpretability and accountability when integrating artificial intelligence.

29. The panellist from Microsoft stressed the concept of shared responsibility between technology companies and law enforcement agencies, emphasizing that this should not be seen as outsourcing but rather as a collaborative effort. The speaker highlighted the importance of legal requirements and frameworks that mandate technology companies to assist authorities when specific reporting thresholds are reached. The speaker also called for standardized reporting mechanisms to swiftly identify, and address risks related to crimes such as human trafficking and child exploitation. The company's commitment to ethical use of artificial intelligence was underscored, with a focus on maintaining a balance between privacy and law enforcement needs. Public-private partnerships were called upon to make technology available for law enforcement while ensuring that businesses continue to function without infringing on individuals' rights.

30. Following the presentations from the second sub-panel, the floor was opened for questions and an exchange of information among participants.

31. One representative of a State party raised a question on the statistics of legal requests made by law enforcement officials in different countries

and further mentioned the importance of ensuring the validity and admissibility of evidence before the courts. The same speaker suggested that the role of the private sector and service providers in international cooperation could be an element of future discussions at the Working Group on International Cooperation.

32. One participant inquired about the methods to detect and combat illicit or harmful activities carried out through private chats on social media platforms, all while adhering to privacy policies including safeguarding individual privacy. In response, the representative of Meta explained that WhatsApp is entirely encrypted, rendering direct access to conversations impossible. He added that nonetheless, various safety measures and online reporting mechanisms may aid in the identification of potential coordinated criminal activities. For instance, artificial intelligence and object detection capabilities may assist in identifying instances of coordinated inauthentic behaviour or accounts promoting illegal services. Thus, reporting and taking action to disrupt such activities are also crucial steps.

33. One speaker mentioned how gender considerations are taken into account in international law enforcement cooperation. The representative of Kennis responded by emphasizing the importance of addressing gaps and deficiencies in data, particularly the lack of disaggregated data by sex. This missing data can create significant blind spots, especially in cases involving women and female victims. The panellist also highlighted the issue of possible bias in artificial intelligence, explaining that if such incomplete data is fed into artificial intelligence systems, it can perpetuate and amplify biases present in the original data.

## **V. Collection of inputs and suggestions from participants and provision of information on relevant activities, including those related to enhancing international cooperation in the context of the anticipated work of the UNTOC Review Mechanism**

34. A keynote speech was provided, discussing challenges in international cooperation to combat organized crime, and emphasizing the shift from multilateral to bilateral approaches. The keynote speaker highlighted practical issues hindering cooperation, such as lack of capacity and awareness, institutional weaknesses, conflicting rules of confidentiality and privacy, difficulties with the case management of sophisticated and complex international cooperation requests and informal cooperation bypassing substantive and procedural rights. The speaker introduced five essential conditions for successful cooperation and protection of human rights as follows: trust, reciprocity, legal alignment and clear communication, as well as legitimacy (in the sense of avoiding illegitimate conduct that may undermine the cooperation process and harm prospects for future collaboration). A "pre-mortem" procedure as a practice of informal consultations between cooperating States was also underscored, with the aim to identifying and resolving problems that may arise in international cooperation. In conclusion, the speaker called for the active participation of civil society in the reform of the international cooperation framework in order to foster more effective cooperation.

35. A video about the efforts by UNODC to integrate the perspective of civil society into the implementation of the Organized Crime Convention, through the project "Stakeholder Engagement for the Implementation of the United Nations Convention against Transnational Organized Crime" (SE4U project), was played prior to the discussion.

36. Under agenda item 4, the Chair opened the floor for inputs and suggestions from participants and provision of information on relevant activities, including those related to enhancing international cooperation in the context of the work of the UNTOC Review Mechanism.

37. Several speakers mentioned concerns about liability in cases involving artificial intelligence-driven law enforcement without human intervention. They emphasized the need for legal frameworks to catch up with technology and for organizations to establish policies for responsible use of artificial intelligence. Ultimately, they suggested that liability considerations should be taken by each country.

38. One speaker highlighted the importance of trust in relation to the use of technology platforms and stressed the importance of building such trust between users and service providers. The potential harm and exploitation by organized criminal groups that can occur in the absence of trust and guarantees has been further discussed. Several speakers highlighted that civil society plays an increasingly recognized role in international cooperation, especially in relation to the work of law enforcement authorities. It was emphasized that recognizing the principles of the rule of law, due process, and full and effective protection of human rights is fundamental to the success of international cooperation.

39. Some participants highlighted the increasing use of artificial intelligence and machine learning in capturing information related to crime scenes and forensics. While these technological advancements were seen as valuable, it was underscored that artificial intelligence relies on good-quality information to provide accurate results, and emphasizing principles such as transparency, responsibility, and resource prioritization.

40. One speaker underscored the importance of legal responsibility for technology companies and emphasized the need to strike a balance between privacy and law enforcement when considering the use of technology in criminal activities.

41. Some participants discussed the need for public-private partnerships to enable greater access to technology and the role of the private sector in relation to the transfer of technology.

42. Some participants mentioned the need to adjust laws and policies to the changing technological environment, and to develop guidelines in that regard.

43. There was a call for more collaboration between technology companies, law enforcement, and governments to address the rapid increase in criminal activities involving technology. Such collaboration could comprise of forums, webinars, and training programs to build capacity and share expertise.

44. Concerns were raised about protecting human rights, especially in the context of investigative techniques and tools and the need to ensure that evidence obtained as a result of torture or other forms of cruel, inhuman or degrading treatment or punishment would not be admissible in court.

45. Civil society organizations were encouraged to work together, including through enhancing mutual trust. Their role in providing feedback, facilitating research, and advocating for policy changes related to transnational organized crime was recognized.

46. Some participants highlighted the role and participation of the academia as a valuable resource for conceptualizing and providing clarity on organized crime networks. The potential for the academia to drive change, engage with the private sector, and contribute to data analysis was underscored.

47. Some participants emphasized the need for improved coordination, especially between UNODC and human rights bodies in light of the interrelationship between the Organized Crime Convention and human rights. Additionally, recommendations were made to build the capacity of civil society organizations, ensure the inclusion of human rights dimensions in transnational organized crime legislation, and sensitize prosecutors and law enforcement to the needs of victims of crime.

## **VI. Observations by the Chair based on the recommendations mentioned by participants during the constructive dialogue**

48. Based on the discussions held during the constructive dialogue, the Chair has identified the following observations:

49. States should prioritize the integration of human rights into law enforcement cooperation at all levels to ensure the effectiveness of international cooperation and compliance with human rights protection. This should be accompanied by a strong commitment to the protection of human rights within law enforcement agencies, particularly in cases of cross-border cooperation, and the incorporation of risk assessment procedures and governance controls into considerations of law enforcement cooperation to reduce the risks of human rights violations.

50. States should strengthen capacity-building in international cooperation, and actively provide assistance and technical support to countries in need, with the aim of improving the quality of legal assistance requests, respecting data privacy laws, and considering updates to domestic legislation to incorporate human rights principles.

51. States and the international community should pay attention to the balance between data protection and the need for evidence in criminal investigations and should carefully examine the role of artificial intelligence in international cooperation.

52. States should recognize the importance of consultations with non-governmental stakeholders (civil society, academia, and the private sector) in the fight against transnational organized crime. In doing so, States should consider enhancing collaboration with these stakeholders and provide for platforms allowing them to present relevant data and knowledge to inform the responses to the self-assessment questionnaire in the review process. The close involvement of these stakeholders with State parties contributes to the development of more effective strategies against organized crime.

53. States should consider cooperating with non-governmental organizations, academia, and the private sector to collect and analyze data on organized crime, identify the dynamics and impact of organized crime at the local level and design related comprehensive responses, in a gender-sensitive and human rights compliant manner.

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