



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

Distr.: General
26 June 2023

Original: English

Working Group on International Cooperation

Vienna, 11 and 12 September 2023

Item 3 of the provisional agenda*

Lessons learned from the implementation of the international cooperation provisions of the Organized Crime Convention 20 years after its entry into force and in light of anticipated work under the Mechanism for the Review of the Implementation of the Organized Crime Convention and the Protocols thereto: the indicative example of establishing dual criminality for extradition and mutual legal assistance purposes

Working Group on Trafficking in Persons

Vienna, 2 and 3 October 2023

Item 4 of the provisional agenda**

Matters pertaining to the Mechanism for the Review of the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto

Working Group on the Smuggling of Migrants

Vienna, 5 and 6 October 2023

Item 4 of the provisional agenda***

Matters pertaining to the Mechanism for the Review of the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto

Status of the functioning of the Mechanism for the Review of the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto

Background paper prepared by the Secretariat

I. Introduction

1. In October 2018, the Conference of the Parties to the United Nations Convention against Transnational Organized Crime established the Mechanism for the Review of the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto through Conference resolution 9/1, which included in its annex the procedures and rules for the functioning of the Mechanism.¹ Following a two-year preparatory phase, the review process of the Mechanism was

* CTOC/COP/WG.3/2023/1.

** CTOC/COP/WG.4/2023/1.

*** CTOC/COP/WG.7/2023/1.

¹ CTOC/COP/2018/13, resolution 9/1, annex.



launched on 16 October 2020, through Conference resolution 10/1, which included in an annex the guidelines for conducting the country reviews.²

2. In accordance with paragraph 12 of the procedures and rules, in which it is stated that the Conference and its working groups are to add the matter to their agendas as an item consistent with their areas of expertise and without prejudice to their respective existing mandates, items relating to the review process were added to the agendas of: the fourteenth meeting of the Working Group on International Cooperation, the thirteenth meeting of the Working Group on Trafficking in Persons and the tenth meeting of the Working Group on the Smuggling of Migrants.

3. The present background paper contains an overview of matters relating to the first years of operation of the Mechanism, from October 2020 to June 2023.

4. Pursuant to paragraph 12 of the procedures and rules, the review process is to be composed of a general review that will be undertaken in the plenary of the Conference of the Parties, and of country reviews that will be conducted through desk reviews. The update provided by the secretariat to the working groups is focused on the progress of the country reviews.

II. Preparatory work and pairing of participating parties

5. A total of 189 parties are taking part in the Mechanism: 188 States and one regional organization. Their engagement in the country reviews has been gradual, with one third of the reviews starting each year over a period of three years, from 2020 to 2022.

A. Drawing of lots

6. Pursuant to paragraphs 17 and 28 of the procedures and rules, the parties were divided into three groups to start their reviews in a staggered manner over three consecutive years. The selection of parties participating in the country reviews and their reviewing peers was carried out by a drawing of lots at relevant joint intersessional meetings of the working groups, held without interpretation services, at the beginning of the review process. The pairing of States parties is valid for the entire duration of the review process, unless a party requests a redraw. States parties may request that the drawing of lots be repeated up to four times.

7. As a result of the drawing of lots, 130 parties were selected to participate in 62 reviews as part of the first group, 131 parties were selected to participate in 63 reviews as part of the second group, and 134 parties were selected to participate in 64 reviews as part of the third group. Following the request of some States parties to repeat the drawing of lots in accordance with subparagraphs 28 (d) and (f) of the procedures and rules, the secretariat subsequently organized four joint intersessional meetings of the working groups, namely, on 12 October 2021, 17 February 2022, 4 May 2022 and 3 May 2023, for the purpose of repeating the drawing of lots.

8. The updated results of the drawing of lots have been circulated to States parties and can be found on the dedicated website of the Mechanism.³

9. Since the launch of the review process, one State has become a party to the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and

² CTOC/COP/2020/10, resolution 10/1, annex I.

³ United Nations Office on Drugs and Crime (UNODC), UNTOC Review Mechanism, "Country pairings". Available at www.unodc.org/.

Children,⁴ and seven States parties to the Organized Crime Convention have become parties to the Protocols thereto.⁵

10. Pursuant to paragraph 9 of the procedures and rules, the Mechanism is applicable to all States parties to the Convention and to each of the Protocols. The Conference of the Parties may wish to consider the approach to be taken for the inclusion of new parties in the Mechanism, such as the timeline for the completion of country reviews by new parties and matters relating to pairing.

B. Status of nominations

11. The nomination of focal points and governmental experts represents the first essential step towards allowing a country review to effectively start. Each State party is to appoint, within two weeks from the start of the review, a focal point to coordinate its participation in the review.⁶ This information is made available on the online platform “RevMod”, the secure module of the Sharing Electronic Resources and Laws on Crime (SHERLOC) knowledge management portal, which hosts the country review process.

12. As at 9 June 2023, the secretariat had received nominations for 159 focal points from 149 States parties; 30 per cent of focal points are female (48 focal points), and the majority are affiliated with the respective country’s ministry of justice, ministry of foreign affairs or ministry of the interior.

13. Among the parties that nominated focal points, most nominated only one focal point to coordinate their participation in all country reviews, while only 5 per cent (eight States parties) nominated more than one focal point – usually one for their own country review and another for their role as a reviewer in other country reviews.

14. A total of 35 per cent (52 out of 149) of the States parties that have already nominated a focal point have also changed their respective focal points at least once since their engagement in the review process. In the first six months of 2023, the secretariat has registered an increase of 11 per cent in changes of focal points. In some cases, such substitutions delayed the progress of the reviews, while in other cases it helped to advance reviews that were not progressing because of unresponsive previous focal points. In these cases, internal handover among focal points and timely communication through permanent missions has proven key to prevent further delays in the progress of the country reviews affected by these changes.

15. As at 9 June 2023, of the 189 parties participating in the Mechanism, 21 per cent (40 States parties) had not yet nominated their focal points. Despite the decreasing rate of missing nominations, 93 country reviews have not commenced.

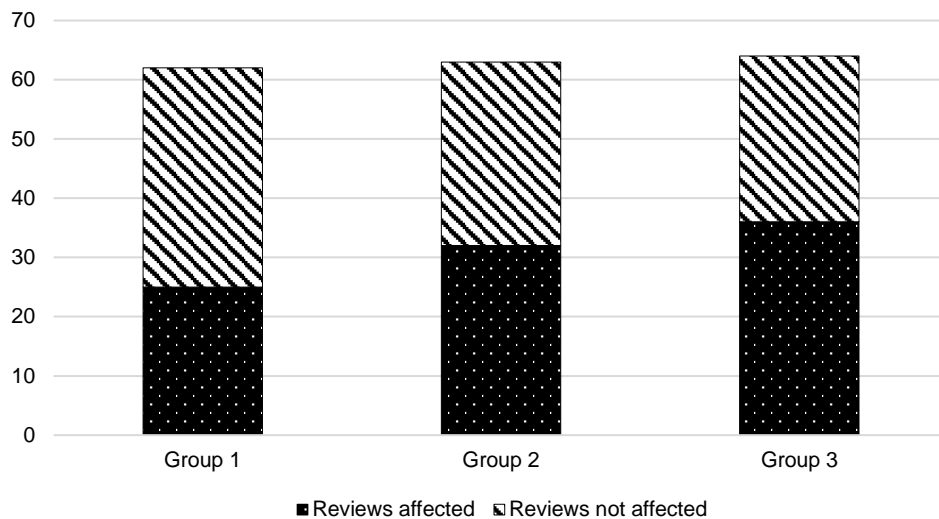
16. Figure I shows the number of reviews within each group that are affected by missing nominations.

⁴ Bhutan acceded to the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, on 20 February 2023.

⁵ Andorra acceded to the Trafficking in Persons Protocol on 21 September 2022; Chad ratified the Protocol against the Smuggling of Migrants by Land, Sea and Air on 23 September 2022; Comoros ratified the Smuggling of Migrants Protocol on 15 December 2020 and acceded to the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition on 1 June 2021; Germany acceded to the Firearms Protocol on 14 October 2021; Luxembourg ratified the Firearms Protocol on 9 May 2022; and Pakistan acceded to the Trafficking in Persons Protocol on 4 November 2022.

⁶ Procedures and rules for the functioning of the Mechanism for the Review of the Implementation of the Organized Crime Convention (CTOC/COP/2018/13, resolution 9/1, annex), para. 18; and Guidelines for conducting the country reviews (CTOC/COP/2020/10, resolution 10/1, annex I), para. 5.

Figure I
Reviews affected by missing focal points



17. Special efforts were undertaken by the secretariat to follow up with States parties on the missing nominations by contacting and holding briefings for permanent missions and reaching out to relevant national counterparts through the field offices of the United Nations Office on Drugs and Crime (UNODC), as needed. Additional efforts were undertaken by the President of the Conference of the Parties to remind States parties to adhere to their obligation to nominate focal points and governmental experts for the review process in a timely manner.

18. States parties should also designate, within four weeks of the start of their participation in the review process, governmental experts to carry out the country review.⁷ As at 9 June 2023, the secretariat had received nominations for 990 governmental experts, 324 of whom are female (33 per cent).

19. In addition, 15 States parties had nominated observers as at 9 June 2023. Officials who have been granted access to the “RevMod” platform as observers have read-only access to the content of the reviews, that is, access without the possibility of performing any actions or modifying content.

20. General information on the appointed focal points is publicly available in the “Country profiles” section⁸ of the Mechanism website, and the contact details of focal points and governmental experts are available to registered users in the “RevMod” platform.

III. Progress of the review of the first thematic cluster

21. In its resolution 9/1, the Conference of the Parties decided that all articles of the Convention and the Protocols thereto would be progressively addressed. To facilitate that approach, the articles have been structured in four thematic clusters. The review of the implementation of each cluster is to last two years, which is designated as a review phase. The first thematic cluster under review includes the provisions pertaining to criminalization and jurisdiction of the Convention and the Protocols thereto.

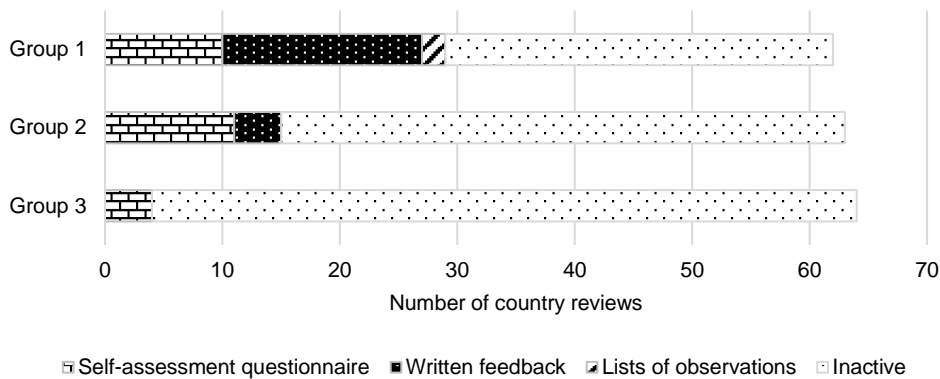
22. By the end of 2022, all three groups of participating parties had started their country reviews under the first cluster: the first group started on 1 December 2020, the second group on 1 November 2021 and the third group on 1 November 2022.

⁷ Guidelines for conducting the country reviews, para. 6.

⁸ UNODC, UNTOC Review Mechanism, “Country profiles”. Available at www.unodc.org/.

23. As at 9 June 2023, only 55 out of 189 reviews were advancing. Twenty-eight reviews had reached the stage of States parties under review preparing their answers to the questionnaire; 25 reviews were at the stage of written feedback, and 2 reviews had reached the stage of drafting lists of observations, as illustrated in figure II.

Figure II
Status of country reviews, by group



24. According to the indicative timeline adopted by the Conference of the Parties at its tenth session, in October 2020, the first group of States parties under review was due to have concluded its first review phase after two years, namely, by December 2022. However, at the time of reporting, some six months after the indicative deadline, none of the States parties had concluded their country reviews under the first thematic cluster.

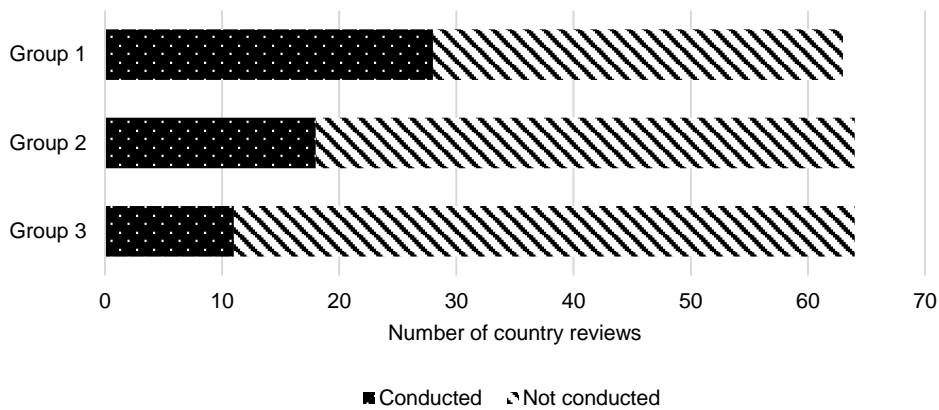
25. In order to start the review of the next thematic cluster, which will focus on international cooperation, mutual legal assistance and confiscation (cluster 4), 70 per cent of the reviews in the first group must be completed, unless the Conference decides otherwise.

A. Initial and preparatory steps of a country review

26. Once the three focal points for a country review are nominated, the State party under review is to undertake consultations with the reviewing States on the establishment of time frames and the requirements of the country review. In this regard, as at 9 June 2023, only 29 per cent of all country reviews (54 in total, mostly in the first group) had been initiated through a preliminary consultation among the parties involved,⁹ as shown in figure III, despite multiple attempts by the secretariat to facilitate the organization of such meetings.

⁹ Out of the 48 country reviews advancing, one advanced without a preliminary consultation meeting.

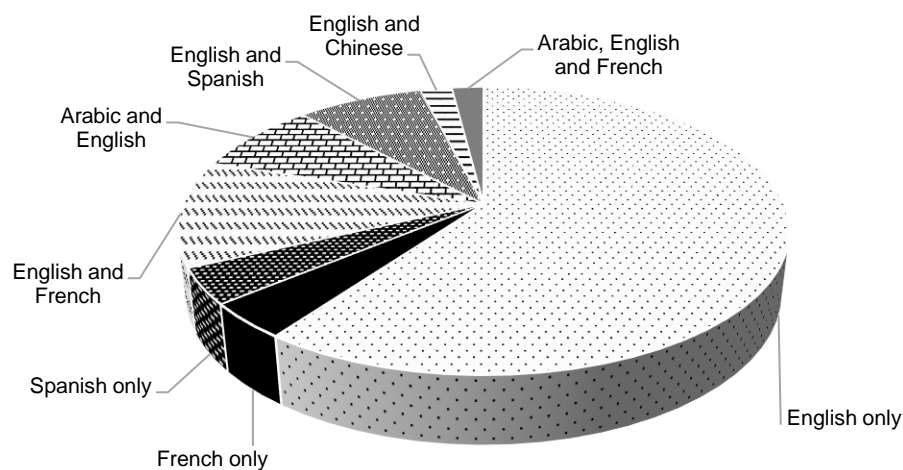
Figure III
Number of country reviews for which preliminary consultations have been conducted



27. At the start of each country review, the parties concerned agree upon the languages they will use to conduct the review, considering that they may use any one or two of the six working languages of the Mechanism or, in exceptional circumstances, three languages.¹⁰

28. As at 9 June 2023, States parties agreed on the use of only one language in the majority (60 per cent) of the preliminary consultation meetings that were held. Thirty reviews were to be conducted in English, two in French, two in Spanish and one in Arabic. In one exceptional case, parties agreed on conducting the review in three languages (Arabic, English and French), and in the remaining preliminary consultation meetings, States parties agreed on the use of two languages. Six of those reviews were to be conducted in English and French, four in English and Spanish, five in Arabic and English, one in English and Russian and one in Chinese and English. Figure IV illustrates the languages and combinations thereof selected for the reviews.

Figure IV
Languages selected for the reviews



29. In a few other country reviews, parties were either still discussing the working language or languages to adopt or failed to do so owing to a lack of resources available to facilitate the translation of written input. With the assistance of the secretariat,

¹⁰ Procedures and rules, para. 50.

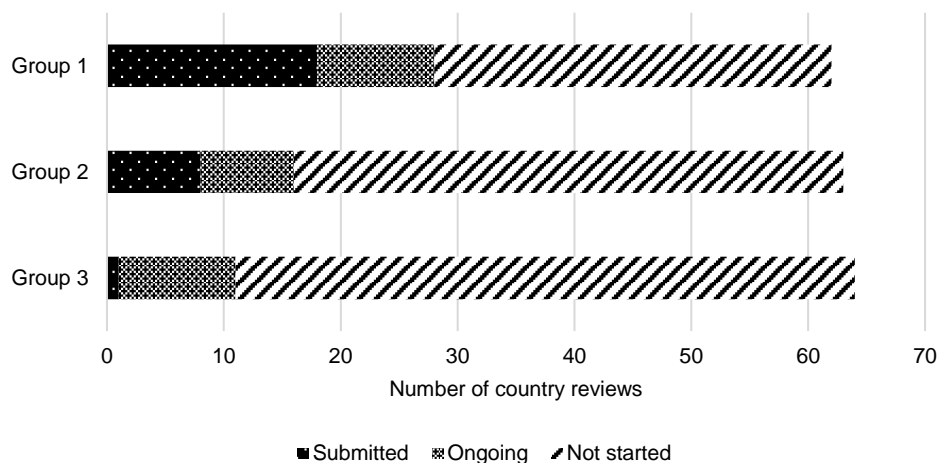
additional consultations were scheduled in order to explore possibilities of financing the translation of input in multiple languages, making use of resources available at the national level, such as informal translations. The secretariat does not receive regular budget funding to address translation and interpretation needs in the context of the Mechanism, and very limited voluntary contributions are made available to support multilingualism.¹¹ This challenge has had an impact on the progress of some reviews and resulted in a few requests for the repetition of the drawing of lots.

B. Self-assessment questionnaires

30. In accordance with the procedures and rules for the functioning of the Mechanism, each State party under review is to provide to its reviewers its responses to the self-assessment questionnaire within a reasonable time frame, not exceeding six months.

31. According to the indicative timeline contained in annex I to resolution 10/1, by the time of reporting, all self-assessment questionnaires for the reviews of the first and second groups under cluster 1 should have been completed. However, only 27 parties under review had completed and submitted their questionnaires. Coordination and information-gathering challenges, clearance processes and the “digital gap” were cited as common grounds for delay. Figure V reflects the progress of country reviews in each group.

Figure V
State of progress of the self-assessment questionnaires, by group



32. To address those challenges, strengthen cooperation and provide learning opportunities for and among States parties, the secretariat will progressively make available the responses to the self-assessment questionnaires to participating parties through the “RevMod” portal, in accordance with paragraph 40 of the procedures and rules. In addition, at the participating parties’ request, the responses may be shared publicly in the “Country profiles” section of the Mechanism website upon the conclusion of a country review in each thematic cluster.

C. Written feedback

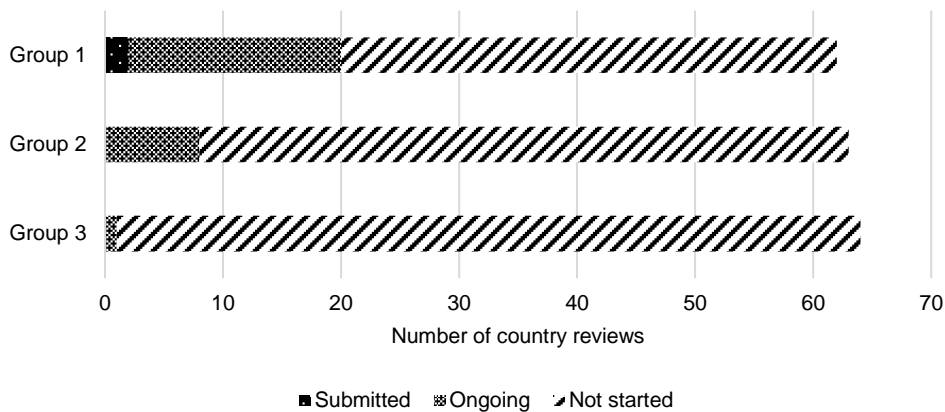
33. Reviewing parties are to submit to the State party under review their written feedback on the measures taken to implement the provisions under review, including successes and challenges in implementation, within a reasonable time frame not exceeding six months from receipt of the responses to the self-assessment

¹¹ Ibid., para. 54.

questionnaires.¹² The two reviewing parties are to work hand in hand to conduct this stage of the review. As a result, they are routinely invited by the secretariat to discuss the possible distribution of tasks at the inception of the review and to inform all parties if foreseen delays require an extension of the timelines.

34. As at 9 June 2023, out of the 54 active reviews, 29 had reached the stage of written feedback, and only two reviews had concluded that step, as shown in figure VI.

Figure VI
State of progress of written feedback, by group



D. Lists of observations and summaries of lists of observations

35. Each country review is concluded with the preparation and publication of a list of observations on the implementation of the provisions in the thematic cluster under review and a summary of the list of observations. The reviewing States, in close cooperation and coordination with the State party under review, and with the assistance of the secretariat, are to prepare such lists indicating any gaps and challenges in the implementation of the provisions under review, best practices, suggestions and any technical assistance needs identified with a view to improving the implementation of the Convention and the Protocols thereto.

36. As at 9 June 2023, no lists of observations had been finalized, despite the expectations under the indicative timeline that the first group would have concluded the first review phase by the end of 2022. At the time of reporting, only 2 out of 62 country reviews in the first group had reached the stage of finalizing the lists of observations.

37. As a result, it has not been possible to hold the thematic discussions envisaged for the working groups of the Conference of the Parties or to draw on those lists of observations in preparing recommendations for the Conference, as indicated in the procedures and rules. Before the fourteenth meeting of the Working Group on International Cooperation, the thirteenth meeting of the Working Group on Trafficking in Persons and the tenth meeting of the Working Group on the Smuggling of Migrants, no technical assistance needs identified in those lists were available for consideration or for the formulation of recommendations.

IV. Support provided by the secretariat

38. In accordance with paragraph 54 of the procedures and rules, the Mechanism is funded from different sources under a mixed funding model combining the existing resources of the regular budget with voluntary contributions. UNODC, as requested by the Conference of the Parties in the procedures and rules, established the Global

¹² Ibid., para. 35.

Programme to Support the Mechanism for the Review of the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto to manage voluntary contributions to the Mechanism and ensure its effective operation, including through the provision of secretariat services and support, which are funded by the existing regular budget.

39. The secretariat has continued to provide support for the country reviews at each stage, including by systematically following up with States' representations and focal points, providing technical guidance on the review process and its requirements, monitoring the progress of the reviews according to the agreed timelines and languages, and advising on the effective use of the "RevMod" platform.

A. Training and capacity-building

40. Since 2020, UNODC has briefed and trained 2,161 government officials from 150 States parties, in the six official languages of the United Nations as well as in Portuguese, through the Global Programme to Support the Mechanism. Focal points and governmental experts of States parties under review and reviewing States parties have thus had the opportunity to familiarize themselves with the methodology of the review process and the use of the "RevMod" platform.

41. Focal points and governmental experts were assisted in setting up their accounts to access the "RevMod" platform and were advised on substantive and procedural aspects of the review process on many occasions.

B. Tools

42. UNODC has also developed resources¹³ to further support focal points and governmental experts, in particular:

(a) An e-learning module on the Mechanism and the use of the "RevMod" platform in all official languages of the United Nations;

(b) Manuals on the use of the "RevMod" platform for focal points and governmental experts;

(c) A guide for focal points on preparing for the preliminary consultation meeting;

(d) A compendium of basic documents that provides comprehensive information on the functioning of the Mechanism, available in all United Nations official languages.

43. In addition, UNODC provided focal points and governmental experts with access to a range of tools and materials developed by UNODC relating to the interpretation and implementation of the Organized Crime Convention and the Protocols thereto, including model legislative provisions and model laws, as well as legislative guides for the implementation of the Convention and the Protocols thereto.¹⁴

¹³ The resources listed are available on the website of the Mechanism: www.unodc.org/unodc/en/organized-crime/intro/review-mechanism-untoc/home.html.

¹⁴ Available at www.unodc.org/unodc/en/organized-crime/intro/review-mechanism-untoc/resources.html.

V. Constructive dialogues and engagement with relevant stakeholders

A. Constructive dialogues

44. To promote fruitful engagement with relevant stakeholders, including non-governmental organizations, constructive dialogues on the review process were held with relevant stakeholders after the conclusion of the meetings of the working groups of the Conference of the Parties. The first series of constructive dialogues on the review process, held in English and in a hybrid format in 2022, were attended by 219 non-governmental stakeholders representing non-governmental organizations, academia and the private sector, as well as by States parties, signatories, non-signatories and intergovernmental organizations. The summaries by the Chairs of the constructive dialogues were made available to the Conference.¹⁵ The second series of constructive dialogues on the review process started in May 2023. Two meetings were held following the conclusion of the tenth meeting of the Working Group on Firearms and the fourteenth meeting of the Working Group of Government Experts on Technical Assistance and were attended by representatives of a total of 98 non-governmental organizations and 15 other relevant stakeholders (including seven from the academia and eight from the private sector), in addition to 82 Member States and one intergovernmental organization.

B. Engagement with non-governmental stakeholders

45. UNODC supports the building of capacity of non-governmental stakeholders for their constructive engagement in the review process through its stakeholder engagement project for the Convention, the Mechanism and related activities, known as “SE4U”, in line with Conference resolution 9/1.

46. At the time of reporting, more than 1,878 non-governmental stakeholders from 121 countries had been trained on the review process and avenues for cooperation with Member States, through workshops, self-paced online courses and additional materials.¹⁶ To facilitate cooperation and networking among relevant non-governmental stakeholders working on organized crime and corruption, the multi-stakeholder knowledge hub “WhatsOn” was developed as part of the SE4U project and currently hosts 452 members from 133 countries.

47. As at 9 June 2023, UNODC had facilitated the launch of two government-led multi-stakeholder engagement processes, known as “pilot initiatives”, in two countries, with a view to encouraging the participation of non-governmental stakeholders in the country reviews, with the agreement of the parties under review.¹⁷

VI. Topics for consideration

48. Building on the relevant discussions as reflected in the reports of the meeting of the Working Group on Firearms, held on 3 and 4 May 2023, and the meeting of the Working Group of Government Experts on Technical Assistance, held on 29 and 30 May 2023, the working groups may wish to focus their deliberations on the following topics:

¹⁵ Conference room paper CTOC/COP/2022/CRP.3.

¹⁶ See, among others, *Toolkit on Stakeholder Engagement: Implementing the United Nations Convention against Transnational Organized Crime (UNTOC) and Guide for Civil Society Community Engagement in the UNTOC Review Mechanism*.

¹⁷ Procedures and rules, para. 23.

- (a) Identifying obstacles to and mitigating actions for the timely completion of each step of the country reviews and for progressing from the first thematic cluster to the next;
- (b) Identifying needs for technical assistance and capacity-building in relation to the functioning of the Mechanism;
- (c) Addressing participation in the Mechanism by new parties to the Organized Crime Convention and the Protocols thereto;
- (d) Ensuring or facilitating multilingualism in the work relating to the review process, including constructive dialogues;
- (e) Sharing national experiences, including challenges and lessons learned, on the review of the first thematic cluster on criminalization and jurisdiction;
- (f) Ensuring the sustainability of the Mechanism, including through the implementation of the observations of the Mechanism.

VII. Follow-up and possible recommendations

49. The working groups may wish to make the following recommendations:

- (a) States parties should strengthen their efforts in observing the timetable for the review process as indicated in the procedures and rules;
 - (b) States parties should consider publishing their responses to the self-assessment questionnaire, the ensuing dialogue and additional documentation, or parts thereof, including by publishing them in the “Country profiles” section of the UNODC website for the Mechanism, in accordance with paragraph 41 of the procedures and rules;
 - (c) UNODC should facilitate the exchange of experiences and lessons learned among States parties through their participation in the review process;
 - (d) States parties should consider setting up modalities for the participation of new parties to the Organized Crime Convention and the Protocols thereto;
 - (e) States parties should consider making voluntary contributions to UNODC to ensure that the review mechanism secretariat has adequate financial, technical and human resources to effectively support the participation of all parties in the review mechanism.
-