



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

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Report on the meeting for the purpose of defining the specific procedures and rules for the functioning of the review mechanism for the United Nations Convention against Transnational Organized Crime and the Protocols thereto, held in Vienna from 24 to 26 April 2017

I. Introduction

1. In its resolution 8/2, entitled “Mechanism for the review of the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto”, the Conference of the Parties to the United Nations Convention against Transnational Organized Crime decided to continue the process of establishing the mechanism for the review of the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto based on the recommendations contained in the report on the intergovernmental meeting to explore all options regarding an appropriate and effective review mechanism for the United Nations Convention against Transnational Organized Crime and the Protocols thereto, held in Vienna on 6 and 7 June 2016 (CTOC/COP/WG.8/2016/2).
2. In the same resolution, the Conference decided to elaborate specific procedures and rules for the functioning of the review mechanism for consideration and adoption by the Conference at its ninth session, which shall be guided by the principles and characteristics set out in Conference resolution 5/5, and also decided to include in the specific procedures and rules certain elements as listed in the resolution.
3. Also in resolution 8/2, the Conference requested the United Nations Office on Drugs and Crime to convene, within existing resources from the regular budget and without prejudice to other mandated activities, at least one open-ended intergovernmental meeting, with interpretation, for the purpose of defining the specific procedures and rules for the functioning of the review mechanism, and invited States parties to remain engaged in the process, including during the intersessional period.
4. At its meeting held on 8 February 2017, the extended Bureau of the Conference agreed that the open-ended intergovernmental meeting for the purpose of defining the specific procedures and rules for the functioning of the review mechanism for the United Nations Convention against Transnational Organized Crime and the Protocols thereto would take place from 24 to 26 April 2017.
5. On 11 April 2017, the President of the Conference, Pilar Saborío de Rocafort (Costa Rica), confirmed that she would be chairing the meeting with the support of



Maria Assunta Accili Sabbatini (Italy), Vice-President of the Conference, who would be chairing the meeting on 24 April 2017, as the President would not be available to chair on that day.

II. Summary of deliberations

6. At its 1st, 2nd, 3rd and 4th meetings, held from 24 to 26 April 2017, the meeting discussed item 2 of the agenda, entitled “Consideration of a first draft of the procedures and rules for a review mechanism based on the elements contained in resolution 8/2”.

7. The secretariat introduced the item by providing explanations on the legal and substantive background to the preparation of the draft procedures and rules for the review mechanism, as well as on the accompanying note containing the estimated financial requirements for the functioning of the mechanism.

8. Speakers welcomed the adoption of Conference resolution 8/2 and the efforts made by States parties to continue to engage in a dialogue and consultations to shape the procedural framework of the mechanism for the review of the implementation of the Organized Crime Convention and the Protocols thereto. They also expressed appreciation for the work done by the secretariat to prepare the draft procedures and rules for the mechanism and the accompanying note containing a breakdown of costs for its functioning.

9. Many speakers underscored the importance of a review mechanism for assisting States parties in the effective implementation of the Convention and the Protocols thereto and in identifying and substantiating specific needs so as to promote and facilitate the provision of technical assistance to address capacity-building needs relating to implementation of the Convention. Some speakers recalled that a series of principles and characteristics had been agreed that were contained in Conference resolution 5/5 and had been reiterated in Conference resolution 8/2: the mechanism shall be transparent, efficient, non-intrusive, inclusive and impartial; it shall not produce any form of ranking; it shall be non-adversarial and non-punitive and promote universal adherence to the Convention and its Protocols; it shall be an intergovernmental process and shall be conducted in a non-political and non-selective manner; and it shall assist States parties in the effective implementation of the Convention and, where applicable, the Protocols thereto.

10. One speaker reiterated the overarching mandate contained in the 2030 Agenda for Sustainable Development, adopted by the General Assembly in its resolution 70/1, in particular its Goal 16 (“Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels”).

11. Some speakers requested that the term “procedures and rules” be capitalized, as was previously decided by the eighth session of the Conference.

12. Many speakers pointed out the importance of ensuring the cost-effectiveness of a future review mechanism by making the best use of existing resources. Many speakers stressed the importance of providing sustainable resources for the review mechanism and stated that the core activities of the review mechanism should be funded from the regular budget of the United Nations, while others stressed that they would not support a review mechanism that led to an increase in the regular budget of the secretariat. Some speakers acknowledged the challenges posed by matching with the available resources certain operational aspects of the mechanism, such as the volume of the outcome documentation and the translation requirements. One speaker stated that the draft procedures and rules failed to follow the instructions contained in Conference resolution 8/2 to take into account all options regarding the ways in which such a review mechanism would be funded. Several speakers stressed the importance of technical assistance and requested resources to be provided in that regard.

13. The structure and content of the draft procedures and rules was the focus of the dialogue among the speakers. A series of questions were raised for further consideration. Those included the question whether there was a need to transfer certain procedural rules contained in the terms of reference of the Mechanism for the Review of Implementation of the United Nations Convention against Corruption and the guidelines for governmental experts and the secretariat in the conduct of country reviews on the implementation of the Convention against Corruption, bearing in mind the tailor-made context of the Organized Crime Convention and the Protocols thereto. Other questions included whether diverse sources of information should be used for filling in the questionnaire during a country review; whether the list of governmental experts to be compiled for the purpose of the review process should also include experts from other fields, such as representatives of academia; whether the list of governmental experts should be compiled and circulated prior to the drawing of lots; how to resolve practical problems related to identifying the working language to be used in a country review; how to design the outcome of each review; and how to ensure the quality and consistency of the recommendations given in the country reviews as well as of the efficiency of the follow-up process.

14. Many speakers referred to the importance of an enhanced role for and the participation of civil society in the review mechanism. Others recalled the “Marrakech model”, as adopted in resolution 4/6 of the Conference of the States Parties to the Convention against Corruption on non-governmental organizations and the Mechanism for the Review of Implementation of the United Nations Convention against Corruption. One speaker did not see the Marrakech model as appropriate for the involvement of civil society in the review mechanism and proposed that a cost-effective way of engaging civil society in the review mechanism was to allow civil society organizations to participate in the working groups. Another speaker stated that the draft procedures and rules failed to follow the instructions contained in Conference resolution 8/2 to take into account all options to recognize the role of other stakeholders. One speaker noted that the lack of consensus on using the Marrakech compromise as the basis for the participation of civil society in the review mechanism, as expressed by some delegations, may hamper, in his view, the creation and the launch of the mechanism.

15. Some speakers expressed concern that the review mechanism may impose an undue burden on States parties, their competent authorities and experts involved in the review process. Some speakers argued in favour of taking into account relevant and updated information already available under existing review procedures of other regional and international organizations. One speaker proposed that the Conference consider reviewing each of the four instruments in turn, rather than simultaneously, as a measure to manage the workload and costs associated with conducting the reviews. One speaker underscored that the information gathered and the technical assistance needs identified in the responses to the self-assessment questionnaire, and the subsequent dialogue between the country under review and the reviewing States were the aspects of the review process that added the greatest value. The same speaker encouraged other delegations to examine all options that differed from the model used for the outcome document of the mechanism for the review of implementation of the Convention against Corruption. As an alternative, one speaker proposed to consider making available one short public report focusing on concrete recommendations for further consideration, instead of having a confidential comprehensive report accompanied by a public executive summary. Many speakers supported retaining the structure of country reports accompanied by executive summaries.

16. Speakers expressed divergent views on the extent of the involvement and the role of the secretariat in the review mechanism, while acknowledging that that issue was closely linked to the resources for the functioning of the mechanism. Some speakers preferred the original text of the draft procedures and rules, which provided for an intergovernmental process and did not provide for a role for the secretariat in the conduct of the reviews. Others were of the view that the secretariat

should provide assistance to States parties within the framework of the review mechanism, since without such assistance the functioning of the mechanism as proposed in the draft procedures and rules did not seem feasible. One speaker noted that the nature of such assistance should be specified. Another speaker stated that the assistance of the secretariat should replicate that provided for under the Convention against Corruption review mechanism.

17. One speaker referred to the need to include in the draft procedures and rules a general clause which would enable a State party to opt out of the review mechanism where deemed appropriate.

18. Another speaker stressed that the capacities of smaller developing countries should be taken into account when reporting on the effective implementation of the Convention and the Protocols thereto.

19. One speaker noted that in view of article 2, subparagraph (j), of the Organized Crime Convention, the use of certain terms in the draft procedures and rules raised technical issues relating to their applicability to regional economic integration organizations that are parties to the Convention, and that that issue needed to be addressed before the draft could be finalized.

20. On its second day, with the President of the Conference presiding, the meeting continued its examination of the draft procedures and rules for the review mechanism. Views were exchanged on the following main issues: the structure, length and format of the outcome of the reviews, including various proposals as to the exact form the outcome should take and the role of the secretariat in that regard; the question of confidentiality of the information provided by States parties under review and the availability of some information, including through the knowledge management portal known as Sharing Electronic Resources and Laws on Crime (SHERLOC); the timelines for the completion of the various stages of the review and the review phases; and the role of the working groups of the Conference in assisting the Conference in its review of the Convention and the Protocols thereto. One speaker noted that, in view of article 2, paragraph (j), of the Convention, the geographical scope of the implementation review reports and United Nations regional group membership for regional economic integration organizations were technical issues which still needed to be addressed.

21. Speakers exchanged views on the following additional topics during the last day of the meeting: the applicability of the rules of procedure of the Conference to the participation of civil society under the review mechanism, in particular rule 17 (participation of non-governmental organizations); the role of civil society as provided for in the Organized Crime Convention, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol against the Smuggling of Migrants by Land, Sea and Air, both supplementing the United Nations Convention against Transnational Organized Crime, and how it could be reflected in the review mechanism; the inclusion of the private sector and academia in the section of the draft procedures and rules dealing with the participation of civil society in the review mechanism; and the inclusion of a section dedicated to the role and/or participation of civil society in the procedures and rules for the review mechanism. In response to a query from one speaker the secretariat stated that determining in more detail the cost implications of the review mechanism would be feasible only when the activities envisaged as part of the mechanism had been defined more clearly.

III. Organization of the meeting

A. Opening of the meeting

22. The meeting was opened by the Vice-President of the Conference on behalf of the President of the Conference and Chair of the meeting.

B. Statements

23. Under agenda item 2 statements were made by representatives of the following parties to the Convention: Algeria (also on behalf of the Group of African States), Argentina, Australia, Brazil, Brunei Darussalam, Canada, China, Côte d'Ivoire, Cuba, Ecuador, Egypt, European Union, Finland, Germany, Holy See, India, Iraq, Israel, Italy, Kuwait, Libya, Malaysia, Mexico, Netherlands, Nigeria, Norway, Oman, Pakistan, Philippines, Romania, Russian Federation, Saudi Arabia, Singapore, South Africa, Spain, State of Palestine, Sudan, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, and Viet Nam.

24. Statements were made by the observers for the following signatory States: Iran (Islamic Republic of) and Japan.

C. Adoption of the agenda and organization of work

25. At its 1st meeting, on 24 April 2017, the meeting adopted the following agenda:

1. Organizational matters:
 - (a) Opening of the meeting;
 - (b) Adoption of the agenda and organization of work.
2. Consideration of a first draft of the procedures and rules for a review mechanism based on the elements contained in resolution 8/2.
3. Other matters.
4. Adoption of the report.

D. Attendance

26. The following parties to the Convention were represented at the meeting: Albania, Algeria, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Bangladesh, Belgium, Bolivia (Plurinational State of), Brazil, Brunei Darussalam, Burkina Faso, Canada, Chile, China, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czechia, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, European Union, Finland, France, Germany, Greece, Guatemala, Holy See, Hungary, India, Iraq, Israel, Italy, Jordan, Kenya, Kuwait, Lebanon, Libya, Lithuania, Luxembourg, Malta, Mexico, Morocco, Namibia, Netherlands, New Zealand, Nigeria, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Saudi Arabia, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, State of Palestine, Sudan, Swaziland, Sweden, Switzerland, Syrian Arab Republic, the former Yugoslav Republic of Macedonia, Tunisia, Turkey, United Kingdom, United States, Uruguay, Venezuela (Bolivarian Republic of), Viet Nam and Yemen.

27. The following States signatories to the Convention were represented by observers: Iran (Islamic Republic of) and Japan.

28. A list of participants is contained in document CTOC/COP/WG.9/2017/INF/1/Rev.1.

E. Documentation

29. The meeting had before it the following documents:

- (a) Annotated provisional agenda (CTOC/COP/WG.9/2017/1);

(b) Note by the Secretariat on the mechanism for the review of implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto: draft procedures and rules for the functioning of the mechanism (CTOC/COP/WG.9/2017/2);

(c) Note by the Secretariat on the estimated financial requirements for the mechanism for the review of implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto, including a breakdown of costs for its functioning (CTOC/COP/WG.9/2017/3);

(d) Note by the Secretariat on the mechanism for the review of implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto: existing information, tools, resources and technology (CTOC/COP/WG.9/2017/CRP.1).

IV. Adoption of the report

30. On 26 April 2017, the meeting adopted the present report.
