



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

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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

Vienna, 6-7 June 2016

Report on the 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

I. Introduction

1. In its resolution 7/1, entitled “Strengthening 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 underlined that the review of the implementation of the Convention and the Protocols thereto was an ongoing and gradual process and that it was necessary to explore all options regarding an appropriate and effective mechanism to assist the Conference in that review.

2. In the same resolution, 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, to include government officials with practical expertise related to the implementation of the Convention and its Protocols, with a view to analysing the above-mentioned options and submissions by States parties, and to submit to the Conference at its eighth session a report containing concrete recommendations for reviewing, through a possible mechanism or mechanisms, the implementation of the Convention and the Protocols thereto, and recommendations for cooperating with relevant international and regional organizations and non-governmental organizations, in line with article 32 of the Convention and as guided by the principles and characteristics contained in its resolution 5/5.



3. In its resolution 7/1, the Conference requested States parties, and invited other interested Member States, on a voluntary basis, to submit to the Secretariat their comments and views for the purpose of deliberations at the above-mentioned meetings.
4. At the meeting of the extended Bureau of the Conference held on 27 March 2015, the President of the Conference welcomed Hussam Abdullah Hasan Ghodayeh Al Husseini (Jordan) to the meeting of the extended Bureau in his role as Chair of the open-ended intergovernmental meeting.
5. The first open-ended intergovernmental meeting to explore all options regarding an appropriate and effective review mechanism for the Convention and the Protocols thereto was held from 28 to 30 September 2015.
6. The extended Bureau of the Conference agreed, by tacit consensus, on 1 March 2016, that the second open-ended intergovernmental meeting to explore all options regarding an appropriate and effective review mechanism for the Convention and the Protocols thereto would take place on 6 and 7 June 2016.

II. Recommendations

7. Pursuant to article 32 of the Organized Crime Convention and guided by the principles and characteristics set out by the Conference of the Parties in its resolution 5/5 and by resolution 7/1, as well as by the developments within the Conference with regard to exploring all options regarding an appropriate and effective mechanism to assist the Conference with promoting and reviewing the implementation of the Convention and the Protocols thereto, the open-ended intergovernmental meeting made the following recommendations to the Conference.
8. The Conference may wish to decide that a review mechanism for the Convention and its Protocols should be guided by the following principles and characteristics set out in Conference resolution 5/5:
 - (a) Be transparent, efficient, non-intrusive, inclusive and impartial;
 - (b) Not produce any form of ranking;
 - (c) Provide opportunities to share good practices and challenges;
 - (d) Assist States parties in the effective implementation of the Convention and, where applicable, the Protocols thereto;
 - (e) Take into account a balanced geographical approach;
 - (f) Be non-adversarial and non-punitive and shall promote universal adherence to the Convention and its Protocols;
 - (g) Base its work on clear, established guidelines for the compilation, production and dissemination of information, including addressing issues of confidentiality and the submission of the outcome to the Conference, which is the competent body to take action on that outcome;
 - (h) Identify, at the earliest possible stage, difficulties encountered by States parties in the fulfilment of their obligations under the Convention and its Protocols,

as applicable, and good practices adopted in efforts by States parties to implement the Convention and, where applicable, the Protocols thereto;

(i) Be of a technical nature and promote constructive collaboration, *inter alia*, on issues concerning international cooperation, prevention, protection of witnesses and assistance and protection for victims;

(j) Complement existing relevant international and regional review mechanisms so that the Conference may, as appropriate, cooperate with those mechanisms and avoid duplication of efforts;

(k) Be an intergovernmental process;

(l) In conformity with article 4 of the Convention, not serve as an instrument for interfering in the domestic affairs of States parties but shall respect the principles of equality and sovereignty of States parties, and the review process shall be conducted in a non-political and non-selective manner;

(m) Promote the implementation of the Convention and its Protocols by States parties, as applicable, as well as cooperation among States parties;

(n) Provide opportunities to exchange views, ideas and good practices, thus contributing to strengthening cooperation among States parties in preventing and fighting transnational organized crime;

(o) Take into account the levels of development of States parties, as well as the diversity of judicial, legal, political, economic and social systems and differences in legal traditions;

(p) Endeavour to adopt a progressive and comprehensive approach, given that the review of implementation of the Convention is an ongoing and gradual process.

9. The Conference may wish to consider that such a review mechanism should also be cost-effective, complete and user-friendly. It should make optimal and efficient use of existing information, tools and technology so that the administrative burden it entails for States parties, their central authorities and experts involved in the review process is acceptable. It should also provide a clear benefit to those authorities and experts.

10. The Conference may wish to consider all options regarding the funding model of such a review mechanism, including that the core activities of that mechanism should be funded through the existing regular budget resources, to be complemented if necessary by voluntary contributions for other activities, once clear options and their associated costs have been identified. The Conference may also wish to consider whether additional resources would be appropriate, bearing in mind the principle of cost-efficiency.

11. The review mechanism as envisaged in article 32 of the Convention should be a gradual process, comprehensively addressing all the articles of the Convention and the Protocols thereto, and start with a review of a set of agreed articles, including, potentially, through thematic clusters to be created in accordance with the normative content of the provisions, and through the adoption of multi-year workplans. In that regard, the Conference may wish to take into account, where appropriate, the previous efforts of the Conference with regard to information-gathering and review

of implementation on the one hand and the identification of technical assistance needs on the other.

12. A peer review should be a tool for the review mechanism, provided it is adjusted to the sets of articles of the Convention and its Protocols, and conducted within the Conference and through its existing working groups or through a dedicated working group.

13. For the purpose of reviewing the implementation of the Convention and the Protocols thereto, the main tool for information-gathering could be questionnaires that are short, precise, focused and not burdensome, and more user-friendly tools, particularly the comprehensive self-assessment software (“omnibus survey software”) and the knowledge management portal known as Sharing Electronic Resources and Laws on Crime (SHERLOC), which should be adjusted to meet the requirements of the review process. Other tools, including country visits, could be considered, if necessary and if voluntary funding were provided.

14. The Conference may wish to encourage States parties under review to endeavour to hold broad consultations, as appropriate, with all relevant stakeholders, including the private sector, non-governmental organizations and academia. Furthermore, the Conference may wish to consider the role of other stakeholders, including international and regional organizations and non-governmental organizations, in a review mechanism for the Convention and the Protocols thereto, recalling the “Marrakech consensus” as a possible basis.

15. The Conference may wish to invite States parties, while continuing to discuss options for a review mechanism, to continue to provide information to the Secretariat about their use of the Convention and the Protocols to which they are parties, including with regard to criminalization and international cooperation.

16. In considering the above, the Conference may wish to decide to continue the discussion on the establishment of a review mechanism.

III. Summary of deliberations

17. At its meetings held in Vienna on 6 and 7 June 2016, the open-ended intergovernmental meeting discussed item 2 of the agenda, entitled “Deliberations on all options regarding an appropriate and effective review mechanism for the United Nations Convention against Transnational Organized Crime and the Protocols thereto”.

18. Under agenda item 2, the Chair invited States to make suggestions on how to include the views of those States parties that do not maintain representations in Vienna and that were not able to participate in the informal consultations led by the Chair prior to the second open-ended intergovernmental meeting. In that regard, some speakers suggested that the Secretariat could directly contact the competent national authorities of those States parties to request their input on the options for the establishment of a review mechanism. Other speakers noted that it would be best to continue the standard practice of contacting Governments through their permanent representations to the United Nations or through the regional groups within the extended Bureau of the Conference. Some speakers also noted that the topics under discussion had been considered previously by States and that the issue

of non-participation of some delegations in the discussions should not be an obstacle to their continuation. Speakers further proposed that the Secretariat could approach Member States in a similar manner as during the preparations for the special session of the General Assembly on the world drug problem held in 2016, that the issue of non-participation by some delegations was not exclusive to the context of the Conference of the Parties to the Convention, and that other United Nations entities could also be consulted on the best manner to enhance the participation of certain States.

19. Many speakers noted that a future review mechanism for the Convention and its Protocols would need to take into account the principles and characteristics set out in Conference resolution 5/5, including the following: that a review mechanism should be transparent, efficient, non-intrusive, inclusive, intergovernmental and impartial; should not produce any form of ranking; should provide opportunities to share good practices and challenges; should be non-adversarial and non-punitive; should respect the principles of sovereign equality of States; should complement existing relevant international and regional review mechanisms so that duplication of efforts could be avoided; be non-political and non-selective; and that it should identify technical assistance needs, gaps in implementation by States parties and serve to enhance international cooperation. Other speakers noted that the review process should be gradual and should cover both the Convention and its Protocols; several views were expressed on the way in which this could be done. Some delegations noted that the term “intergovernmental” is no longer clear. Other delegations stressed that the term “intergovernmental” is very clear and well-established in the United Nations system and practices.

20. Several speakers emphasized that a review mechanism should not overburden practitioners and that it should be cost-effective and efficient. Speakers also noted that further consideration should be given to other existing review mechanisms, which could serve as an option for shaping the review mechanism for the Convention and its Protocols, and that the Secretariat could prepare further information in that regard for consideration by States. Speakers also discussed the merits of using the model of the mechanism for the review of the implementation of the United Nations Convention against Corruption; many noted that lessons learned from that model should be taken into account when establishing a review mechanism for the Organized Crime Convention and its Protocols. Speakers also noted that a review mechanism should make efficient use of existing resources and tools for information-gathering and reviewing implementation, such as the SHERLOC portal and the working groups of the Conference.

21. Some speakers stressed that civil society organizations and academia should contribute to the review process, and different options were put forward in that regard. Some speakers noted that the Marrakech consensus, with regard to the role of civil society, was an agreed starting point for the consideration of the role of civil society in a review mechanism for the Organized Crime Convention (see resolution 4/6 of the Conference of the States Parties to the Convention against Corruption). Some speakers nevertheless noted that it should not be considered the final objective. Some speakers expressed the view that the Marrakech consensus should not be considered as the starting point, rather that it should be considered one of the options for considering the role of civil society in the review mechanism. Other speakers stressed the relevance of the Marrakech consensus in relation to the

future review mechanism. Speakers further noted that the Marrakech consensus applied only to the Convention against Corruption and that for the Organized Crime Convention, the Conference of the Parties should take a fresh look at that Convention and its Protocols themselves as a source of guidance.

22. Several speakers expressed appreciation for the work of the Chair and for the salient points included in his report on the open-ended intergovernmental meeting held in Vienna from 28 to 30 September 2015 (CTOC/COP/WG.8/2015/3). Some speakers noted that, while those salient points were a good starting point, further discussions were needed regarding the details of a review mechanism.

23. In relation to the funding model of a possible review mechanism, a number of speakers reiterated their view that regular budget resources should be used to ensure the stability, predictability and independence of the process. Other speakers favoured a mixed-funding model, whereby regular budget resources could be used for supporting core elements and functions of the mechanism and be supplemented by voluntary contributions that could cover, for example, the country visits. Speakers further pointed out that the cost of undertaking a review of the Convention and its Protocols could not be accurately determined and that an appropriate funding model could not be identified until all the substantive issues had been addressed and agreed upon. Some speakers underlined that no proposal for a new review mechanism should include additional regular budget funding.

24. The Chair expressed the view that, taking into consideration the set of principles contained in Conference resolution 5/5, the above-mentioned salient points and the informal consultations that had been carried out, the second open-ended intergovernmental meeting should recommend that the Conference establish a review mechanism and that it continue to discuss the terms of reference.

25. Speakers deliberated the various characteristics that a review mechanism could have. Consideration was given to the following topics, among others: whether the principles contained in Conference resolution 5/5 should be used in whole or in part in the establishment of a review mechanism; the role that the existing working groups of the Conference should play in the review process; the use of existing tools and of communication technology in a review mechanism; the definition of the concept of peer review; the provisions of the Convention and/or the Protocols that a gradual review process would cover; the ways in which a mixed-funding model could be applied to a review process; and the areas of a review process in which civil society participation would be relevant, including the idea of a model referred to as “Marrakech plus”.

26. Regarding the next steps in the work of the meeting, speakers noted that, in seeking to fulfil its mandate, the open-ended intergovernmental meeting should formulate recommendations to be forwarded to the eighth session of the Conference of the Parties. Some speakers also noted that the details of a review mechanism, including its terms of reference, could be further discussed by a new working group that would meet after the eighth session of the Conference. Other speakers noted that this would not be necessary.

IV. Organization of the meeting

A. Opening of the meeting

27. The meeting was opened by Hussam Abdullah Hasan Ghodayeh Al Husseini (Jordan), Chair of the meeting.

B. Statements

28. Under agenda item 2, statements were made by representatives of the following parties to the Convention: Pakistan, Canada, Australia, Mexico, Brazil, Italy, Jordan, Russian Federation, France, China, Portugal, Afghanistan, Indonesia, Switzerland, Algeria, United Kingdom of Great Britain and Northern Ireland, United States of America, Norway, Tunisia, Romania, Argentina, Sudan, Turkey, Germany, Kuwait, Israel, Iraq, Peru, Viet Nam, Colombia, Nigeria, South Africa, Finland, Philippines, Ecuador, Guatemala, Cuba, Spain, Egypt and European Union (also speaking on behalf of its member States). The following countries aligned themselves with the statement by the European Union: the former Yugoslav Republic of Macedonia, Montenegro, Serbia, Albania, Bosnia and Herzegovina, Iceland, Ukraine, Armenia, San Marino and Republic of Moldova. The representative of Namibia, speaking on behalf of the Group of 77 and China, also made a statement.

29. Statements were made by the observers for the signatory States Japan and the Islamic Republic of Iran.

C. Adoption of the agenda and organization of work

30. At its first meeting, on 6 June 2016, the meeting adopted the following agenda:

1. Organizational matters:
 - (a) Opening of the meeting;
 - (b) Adoption of the agenda and organization of work.
2. Deliberations on all options regarding an appropriate and effective review mechanism for the United Nations Convention against Transnational Organized Crime and the Protocols thereto.
3. Other matters.
4. Adoption of the report.

D. Attendance

31. The following States parties to the Convention were represented at the meeting: Afghanistan, Albania, Algeria, Angola, Argentina, Australia, Austria, Belgium, Bolivia (Plurinational State of), Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Canada, Chile, China, Colombia, Costa Rica, Croatia, Cuba, Cyprus,

Czech Republic, Dominican Republic, Ecuador, Egypt, El Salvador, Finland, France, Germany, Greece, Guatemala, Hungary, Indonesia, Iraq, Israel, Italy, Jordan, Kenya, Kuwait, Lebanon, Libya, Luxembourg, Malta, Mexico, Montenegro, Morocco, Myanmar, Namibia, Netherlands, Norway, Oman, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, San Marino, Saudi Arabia, Serbia, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Switzerland, Tunisia, Turkey, United Arab Emirates, United Kingdom, United States, Uruguay, Venezuela (Bolivarian Republic of), Viet Nam and Yemen.

32. The European Union, a regional economic integration organization that is a party to the Convention, was represented at the meeting.

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

34. The State of Palestine, a non-Member State maintaining a permanent observer mission to the United Nations, was represented at the meeting.

35. A list of participants is contained in document CTOC/COP/WG.8/2016/INF/1/Rev.1.

E. Documentation

36. The meeting had before it the following:

(a) Annotated provisional agenda (CTOC/COP/WG.8/2016/1);

(b) Compilation of contributions received from States on all options regarding an appropriate and effective review mechanism for the United Nations Convention against Transnational Organized Crime and the Protocols thereto (CTOC/COP/WG.8/2016/CRP.1);

(c) Compilation of comments and views received from States on all options regarding an appropriate and effective review mechanism for the United Nations Convention against Transnational Organized Crime and the Protocols thereto (CTOC/COP/WG.8/2015/2);

(d) Report of the Chair on the open-ended 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 from 28 to 30 September 2015 (CTOC/COP/WG.8/2015/3).

V. Adoption of the report

37. On 7 June 2016, the meeting adopted the present report.
