



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

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**Working Group of Government
Experts on Technical Assistance**

Vienna, 28–31 May 2018

**Working Group on
International Cooperation**

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Draft report on the meetings of the Working Group of Government Experts on Technical Assistance and the Working Group on International Cooperation held in Vienna from 28 to 31 May 2018

Addendum

II. Recommendations (*continued*)

1. The Working Group recommends that the Conference should consider and adopt the procedures and rules of the review mechanism of the Organized Crime Convention and the self-assessment questionnaires for all four documents as one integral instrument.
2. The Conference may wish to consider different arrangements to the questions of the questionnaire given the varying degree of obligations each provision of the Convention carries, in order to gain maximum efficiency of the review.
3. Questions relating to provisions of the Convention which are applicable *mutatis mutandis* to the Protocols, according to article 1, paragraph 2, of each of them, shall be handled only in the questionnaire on the review of implementation of the Convention.
4. The questionnaire to review the implementation of the Convention should not entail an undue burden for the expert practitioners who would be involved, either as reviewers or as experts of a country under review in a future review mechanism.



III. Summary of deliberations

C. Joint items of the Working Group of Government Experts on Technical Assistance and the Working Group on International Cooperation

1. Preparation of the questionnaire to review the implementation of the United Nations Convention against Transnational Organized Crime, in accordance with resolution 8/2 of the Conference of the Parties to the Convention (agenda item 3, Working Group of Government Experts on Technical Assistance; agenda item 3, Working Group on International Cooperation) (*continued*)

5. Particular attention was devoted to the distinction between mandatory and optional provisions of the Convention and to the question whether the content of the questionnaire should be adjusted to take this distinction under consideration. In this connection, there was an exchange of views on the scope of the term “optional”. One speaker noted that the term “optional” refers to questions that are based on provisions of the Convention that are either non-mandatory, or whose evaluation is judgmental in nature, thus benchmarks for technical evaluation of those provisions by third parties would not be easily set. Other speakers suggested the use of the term “non-mandatory” instead of “optional”. Another speaker referred to the updated version of the Legislative Guide for the implementation of the Organized Crime Convention and the distinction made therein among measures that are mandatory (either absolutely or where specified conditions have been met); measures that States parties should consider applying or endeavour to apply; and measures that are optional.

6. A “mapping exercise” was carried out, upon request of the Chair, and with the voluntary participation of some States parties, to indicate throughout the text of the questionnaire which questions relate to mandatory provisions of the Convention, which ones to non-mandatory provisions and which ones to provisions that require judgmental evaluation. This exercise took place only for the purpose of facilitating deliberations and with no further intention to provide or suggest specific qualifications of the requirements set forth in the provisions and accordingly reflected in the queries of the questionnaire.

7. It was generally agreed that the questionnaire, as an information-gathering tool, should cover both provisions of binding and non-binding nature of the Convention, as the opposite would distort the coherence, structure and “flow” of the questionnaire.

8. On the other hand, different views were expressed regarding the questions that States parties would be obliged to reply under a future review mechanism of the Convention. Some speakers underlined that it was not the task of the Working Group, but of the Conference itself to decide on this issue. Another speaker noted that the Working Group should defer this matter to 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.

9. There was consensus among the speakers that questions relating to general provisions of the Convention that are applicable *mutatis mutandis* to the Protocols, according to article 1, paragraph 2, of each of them, will be covered and dealt with only in the questionnaire on the review of implementation of the Convention. It was the view of the Working Group, that, in order to streamline the review process under a future review mechanism, one single reply to queries of the questionnaire on provisions of the Convention that are also applicable *mutatis mutandis* to the Protocols would suffice.

10. The Working Group did not reach an agreement on the issue of information on the implementation of certain provisions of the Convention that had already been provided in the context of other review mechanisms or intergovernmental processes.

Several speakers proposed responding to some questions in the questionnaire by providing links or references to their corresponding responses to other intergovernmental processes, including the mechanism for the review of implementation of the Convention against Corruption, to avoid duplication of efforts and make best use of resources. However, other speakers expressed caution about the use of other sources of information which may involve national practitioners from different institutions or agencies.

11. In general, the Working Group was of the opinion that the issue under discussion was complex and, particularly in relation to the review mechanism for the implementation of the Convention against Corruption, it was subject to certain conditionalities. Furthermore, there were open practical questions for further consideration, such as the fact that not only the full country review reports (to the extent that they are publicly available), but also the responses themselves to the self-assessment checklist from States parties to the Convention against Corruption may need to be used as cross-reference material; and, in that scenario, whether and how the consent of States parties could be given for further use in the context of a future review mechanism of the Organized Crime Convention. One speaker argued in favour of acknowledging that there was a corpus of knowledge available within the Secretariat and that the Working Group was not responsible for making a decision on how to utilize such information for the purposes of a future review mechanism, as appropriate. Another speaker noted that this issue could be dealt with through informal consultations among States parties or by the Conference itself, but not by the Extended Bureau of the Conference.

12. It was noted that, particularly in relation to the review of implementation of articles 8 and 9 of the Organized Crime Convention, the reporting obligation was only for those States parties to the Organized Crime Convention that were not parties to the Convention against Corruption, unless a State party deemed appropriate to update the information provided during that review process.
