



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, 28-30 September 2015

Item 2 of the provisional agenda*

**Deliberations on all options regarding an appropriate and
effective review mechanism for the United Nations
Convention against Transnational Organized Crime and
the Protocols thereto**

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

Note by the Secretariat

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 Convention 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. Also in 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.

* CTOC/COP/WG.8/2015/1.



3. At the extended Bureau meeting held on 27 March 2015, the President of the Conference informed the meeting that, in accordance with resolution 7/1, the Secretariat would transmit a note verbale requesting input from States parties, and from other interested Member States, on a voluntary basis, in order to prepare the background documentation that would serve as a basis for discussions during the first open-ended intergovernmental meeting.
4. In accordance with resolution 7/1, a note verbale was sent to States parties and observers on 20 May 2015, inviting them to submit to the Secretariat their comments and views for the purpose of deliberations at the open-ended intergovernmental meeting. Comments and views were requested on three main areas, in accordance with resolution 7/1: all options regarding an appropriate and effective mechanism to assist the Conference in its review of the Convention and the Protocols thereto; recommendations for cooperating with relevant international and regional organizations; and recommendations for cooperating with non-governmental organizations. An extension of the deadline for receiving comments and views from States was communicated through a note verbale dated 16 June 2015.
5. A total of 14 responses were received from the following States parties: Albania, Canada, Cuba, France, Italy, Mexico, Morocco, Netherlands, Nicaragua, Peru, Portugal, Russian Federation, Switzerland, United States of America.
6. The comments received have been reproduced below.

II. All options regarding an appropriate and effective mechanism to assist the Conference in the review of the United Nations Convention against Transnational Organized Crime and the Protocols thereto

Albania

[Original: English]

7. Albania proposes taking the following two measures: cooperation with the International Organization for Migration and the Office of the United Nations High Commissioner for Refugees in the field of treating the illegal migration and refugees; cooperation with non-governmental organizations that deal with the treatment of vulnerable categories (women and children).
8. The Convention and its Protocols create varying levels of legal obligations. Some of the provisions are mandatory, some require either consideration or positive effort, and others are entirely optional. In order for the Convention and its Protocols to be interpreted the same way by Member States and also to remove any obstacles to its implementation, it is necessary to put in place some cooperation mechanism, such as establishing contact points.
9. As the actions of criminal organizations take place so fast, it is necessary that law enforcement agencies move at the same pace towards fighting those criminal organizations. So the communication between the relevant actors in the member States should be direct to be more efficient. The lack of communication and

cooperation between national law enforcement authorities has been identified as one of the obstacles to effective action against transnational organized crime.

10. There should be some specific provisions on the channels of communication in cases of mutual legal assistance and extradition. The Convention specifies that the Member States apply their domestic legislation in executing requests for mutual legal assistance. But we could take as an example the European Convention on Mutual Assistance in Criminal Matters (1959) and its Additional Protocols (1978 and 2001), which specifies the authorities which deal with such requests. Apart from the central authorities (such as the ministry of justice) and in urgent cases the International Criminal Police Organization (INTERPOL), there are provisions on the direct communication between judicial authorities. And the Organized Crime Convention and its Protocols should do just that. It should provide for the direct communication between the relevant judicial authorities, without letting aside the diplomatic channels.

11. There could be some more specific provisions on joint investigations teams, i.e. on the way they are set up, the conditions how a team is going to operate, and the organizational arrangements. Some specific provisions should be on covert investigations, controlled delivery and cross-border observations. The same should apply also to extradition cases. There should be some specific provisions on provisional arrests with a view to extradition and the documentation contained in an extradition request. It is important also that the provisions on transfer of criminal proceedings and the execution of foreign sentences be more detailed and structured.

12. As regards cooperation with various non-governmental organizations, it is important to enhance the cooperation with them, in particular in training law enforcement officers in relation to protection of victims of trafficking and the integration of immigrants. National authorities may establish with relevant non-governmental organizations memorandums of understanding, which should specify the distinct roles of all actors involved and define the operational procedures of cooperation among law enforcement agencies, the judiciary, other public actors, and civil society organizations, as well as specify the method of issuing data and information on the identification and initial support of victims of trafficking.

Canada

[Original: English]

13. Canada would encourage country delegates attending the above-noted meeting to take the following six recommendations into consideration when designing an effective, fiscally responsible review mechanism.

14. **Meaningful outcomes.** The review mechanism should be designed in such a way as to achieve meaningful outcomes for all States parties. The principal objective of any review process is to ensure that its outcome provides clear guidance on the steps States parties could, as necessary, take to strengthen their implementation of the elements of the Convention and its Protocols under review.

15. **Manageable scope.** In setting the scope for an eventual mechanism, the Conference should be mindful of the risk of overburdening small States parties which may have limited capacity to actively be reviewed on a large number of

provisions at once or to take part in the review of a large number of provisions in other States. Given the breadth of the issues addressed in the Convention and its three Protocols, fully reviewing all four instruments will take a significant amount of time, undoubtedly far longer than the 10 years initially envisioned for completion of the implementation review of the United Nations Convention against Corruption. The Conference of the Parties will need to be certain that the scope of the review and the time it takes to complete it does not negate the value of its outcomes.

16. **Inclusive approach.** It is the strong view of Canada that any review process should provide opportunities for relevant civil society organizations and other stakeholders to provide input into national reviews as well as input into any subsidiary body established to manage/oversee the review process.

17. **Focused mandate.** To ensure a focused approach to review, capable of achieving meaningful outcomes within a manageable scope, only parties to the respective instruments should be subject to review. Those tools developed for the review process could also be used by the Secretariat to assist non-parties, upon request, in identifying gaps in their implementation of the Convention and/or Protocols, but this should be on a voluntary basis.

18. **Coordinated approach.** The Convention already has a number of established, well-performing thematic working groups whose work should not be undermined or superseded by a review process. In designing a review mechanism, the Conference should coordinate mandates to ensure that the activities of its subsidiary bodies and a review mechanism process are complementary rather than duplicative, allowing work in areas not under review to continue.

19. **Appropriate funding model.** The cost of undertaking a review of the Convention and its Protocols cannot be accurately determined until such time as an actual mechanism has been fully scoped. Consequently, approaches to funding should only be considered by the Conference after a method to review the Convention and its Protocols is fully agreed, or, at a minimum, only after reasonable options are tabled with associated costs.

Cuba

[Original: Spanish]

20. The review mechanism should take into account and resemble as closely as possible the Review Mechanism of the Convention against Corruption, primarily as regards its terms of reference, including the general principles, methodological elements, and sources of funding, among other factors. This takes account of the effectiveness and positive results of the said Mechanism, and of the added benefit of having the same entity act as Secretariat, the United Nations Office on Drugs and Crime (UNODC).

21. It should remain intergovernmental in nature, non-punitive, universal and non-discriminatory, and should not categorize or rank countries, and it should promote the sharing of best practices and cooperation among States parties.

22. The review mechanism should operate, generally speaking, through the intergovernmental working group established for that purpose, which could meet twice a year.

23. It should be taken into account that in this case four instruments (the Convention and its three Protocols) would be assessed, unlike with the Convention against Corruption. Therefore, when creating pairs of reviewers, whether or not a State is a party to those instruments should be taken into account. A State that is not a party to an instrument should not review another State that is a party thereto.

24. Themes could be assessed on an instrument-by-instrument basis (similar to the methodology used in the first cycle of the review of the Convention against Corruption), or the review could be organized by thematic area (similar to the assessment guide proposed for the second cycle of that review).

25. The involvement of non-State actors, including non-governmental organizations, and their relationship with the review process, should be the same as that provided for in the Review Mechanism of the Convention against Corruption, as established in its terms of reference and in resolution 4/6 of the Conference of the States Parties to that Convention, adopted in Marrakech.

France

[Original: French]

26. France considers that the Organized Crime Convention and the Protocols thereto are among the most suitable instruments for implementing broad judicial cooperation and for effectively combating transnational organized crime, including new and emerging forms of crime.

27. Current developments, including the migration crisis in the Mediterranean, show us that the international community needs effective instruments in order to act. The first step is to invite the many States that have not yet done so to ratify the Convention.

28. As co-author of the resolution adopted at the seventh session of the Conference last October in Vienna, enabling the relaunch of the working group, France is committed to establishing an effective, transparent and financially sustainable review mechanism (based on mixed funding) to assess the implementation of the Convention and identify technical assistance needs.

29. Such a mechanism could be based on gradual, phased reviews and integrate existing working groups and data.

30. France hopes that the efforts of the working group will enable us to move forward in a constructive and structured manner on the establishment of the future review mechanism for the Convention.

Italy

[Original: English]

31. Italy looks forward to a fruitful and pragmatic discussion on options for the establishment of a mechanism to review the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto. In line with resolution 7/1 of the Conference of the Parties, Italy believes that Member States should spare no efforts to reach consensus on an appropriate and effective review mechanism in view of the eighth session of the Conference to be held in October 2016.

32. Twelve years after the entry into force of the Convention (29 September 2003), it is urgent to establish such a mechanism, in line with article 32 of the Convention. The review mechanism is not an objective per se, but a concrete and action-oriented tool to assist States parties in improving and strengthening the implementation of the Convention and its three Protocols, and a crucial instrument to strengthen international cooperation against organized crime.

33. In 2009, Member States agreed on a mechanism to review the implementation of the United Nations Convention against Corruption, only six years after the signature of the Convention and four years after its entry into force. Since then, the United Nations Office on Drugs and Crime (UNODC) has been carrying out its functions as Secretariat within a systematic framework in the field of corruption.

34. Fifteen years after the signing of the Convention, the Secretariat and Member States have still limited information about the implementation of the Convention and its Protocols. Therefore, the Conference and the wider international community (including academia, civil society and the private sector) are not in a position to fully understand and assess the gaps and challenges towards the full and universal implementation of the four international legal instruments.

35. An effective review process should assist the Conference in identifying the priorities for international cooperation, both from a thematic and national perspective, including for the provision of technical assistance, on the basis of consolidated information on requirements in this field.

36. The review process should guarantee a systematic framework for UNODC to perform in the most efficient and effective manner its functions of Secretariat to the four international legal instruments.

37. In order to facilitate consensus, the future debate should carefully take into consideration lessons learned from previous negotiations, including the informal consultations facilitated by Italy between October 2013 and September 2014, ahead of the seventh session of the Conference. The main outcomes of these informal consultations are contained in CTOC/COP/2014/CRP.3.

38. A systematic and agile information gathering process is a crucial first step for an effective review process. The Secretariat should gather information on the implementation of the Convention and the Protocols thereto by the relevant States parties. Non-Party Member States could take part in the review process on a voluntary basis.

39. In order to make the most effective use of available resources, both the substantive and procedural aspects of the review process should systematically avoid cost- and time-intensive solutions, while preserving the quality of the review. The review mechanism should allow Member States and the Secretariat to make the best use of all relevant existing tools, also in order to avoid duplications. With regard to the information-gathering process, an example is the use of the self-assessment checklist (the omnibus survey software) and of the knowledge management portal known as Sharing Electronic Resources and Laws on Crime (SHERLOC).

40. In the same spirit, the sessions of the Conference and of the existing working groups could be used for the review process. The working groups established by the Conference already perform a review function; their mandates and working methods could be improved accordingly.

41. The review mechanism should be funded both from the regular budget and through voluntary contributions. The review of the implementation of the Convention and the Protocols thereto being one of the core activities of the Secretariat, the recourse to the regular budget is well-grounded, also in order to guarantee the necessary degree of transparency, impartiality and sustainability.

42. Member States should identify all possible ways to establish a cost-effective mechanism, in light of the stringent public budget constraints and of the challenges experienced with the funding of the review mechanism of the Convention against Corruption. Italy recalls the specific cost-saving measures that were proposed during the 2013/2014 informal consultations.

43. Italy believes that a peer review has an added value, as it favours a deeper degree of cooperation and confidence among States parties. Together with a thematic assessment, the review should also have a country focus in order to provide States parties with an objective analysis of the implementation of the Convention and the Protocols thereto at the national level. Although country visits are a useful tool, they should take place on a voluntary basis and be funded with voluntary contributions.

44. The experience in preventing and countering transnational organized crime shows the crucial importance of a close engagement of civil society and the private sector. State institutions cannot fight crime on their own: they need the support and engagement of all individuals and of public opinion. Civil society plays a crucial role in preventing crime (e.g. through education and awareness-raising campaigns), in deepening the understanding and analysis of its multifaceted manifestations (e.g. through academia and research centres) and with regard to protection and assistance measures (e.g. against trafficking in persons and the smuggling of migrants).

45. The Conference should fully recognize and support the global role of civil society in promoting effective international cooperation against transnational organized crime. Therefore, an appropriate, efficient and transparent review mechanism should guarantee the most adequate involvement of civil society, in line with article 32, paragraph 3 (c) of the Convention.

Mexico

[Original: Spanish and English]

46. The Government of Mexico attaches great importance to the establishment of an agile and adequate review mechanism to support the implementation of the Organized Crime Convention and the Protocols thereto.
47. Peer review mechanisms have helped to build confidence and led to a constructive spirit of collaboration in various contexts. Practical and applicable recommendations have resulted, in many cases, from the exchange among counterparts.
48. The goals of the review mechanism should be to contribute to the full implementation of the Convention and its Protocols, for instance by enhancing coordination among agencies and defining priorities, and to promote international cooperation for a better understanding of specific opportunities and best available practices.
49. Discussions on the establishment of a review mechanism should incorporate lessons learned in the context of similar efforts taking place within other international and regional organizations. Relevant entities could be invited to participate in the deliberations on the establishment of the review mechanism.
50. The first step in country reviews should be responding to a questionnaire that could, in this case, be based on the comprehensive self-assessment software (omnibus survey software) developed by the secretariat of the Conference.
51. Each country could be requested to produce a short document in a format agreed by the Conference, which would include best practices, lessons learned and challenges identified in the implementation of these instruments. Subsequent cycles should allow for a follow-up of previous recommendations.
52. The participation of non-governmental experts and civil society organizations in the review mechanism is fundamental. The principles of transparency and inclusiveness should guide the process. States parties should hold broad consultations with non-governmental stakeholders in their preparation and follow-up of country reviews.
53. Dedicating sessions of the working groups of the Conference specifically to the review of implementation could offer an agile and substantive alternative which would be less burdensome to the regular budget of the United Nations.
54. The Conference could establish a new subsidiary body to carry out the review. It could also agree that the current working groups hold joint meetings for this purpose, considering that it has already decided that they will be encouraged to hold their meetings consecutively.
55. In turn, each country under examination would present within the assigned time slot the progress made, the challenges identified, and opportunities for cooperation in the implementation of the Convention and, as appropriate, the Protocols thereto. They would focus on a set of articles based on an agreed thematic distribution. Participants in the working group would provide recommendations on

necessary and additional measures to allow for a better implementation, and would collaborate in identifying best practices.

56. Previous discussions have identified the following thematic areas for the review, which could relate to the cycles of the mechanism: (a) criminalization and international cooperation: mutual legal assistance and extradition; (b) international cooperation and law enforcement; and (c) preventive measures, assistance and protection measures.

57. A drawing of lots could take place to appoint two States parties as facilitators for each country review, including in drafting the report of the session. States parties acting as facilitators could be parties to more Protocols to the Convention than the State under review.

58. The Secretariat could be requested to periodically produce a thematic report on the implementation of the Convention and the Protocols thereto. Such a document should include a compilation of achievements, best practices and challenges, observations relating to the instruments and decisions of the Conference, as well as the technical assistance needs identified by States parties.

Morocco

[Original: French]

59. The Permanent Mission of the Kingdom of Morocco to the International Organizations in Vienna presents its compliments to the United Nations Office on Drugs and Crime and, in anticipation of the holding, in September 2015, of the first meeting of the working group on the review mechanism for the United Nations Convention against Transnational Organized Crime, has the honour of informing the Office that the Moroccan Government proposes to explore at that meeting the possibility of establishing a permanent body, composed of independent experts, which will be responsible for:

- (a) Gathering information on the implementation of the United Nations Organized Crime Convention and the Protocols thereto;
- (b) Preparing an action plan to enhance international cooperation between States parties to the Convention;
- (c) Identifying technical assistance needs;
- (d) Taking concrete measures to address the slow pace of international cooperation;
- (e) Analysing the use of special investigative techniques and assessing whether they are properly applied and employed;
- (f) Sharing good practices.

Netherlands

[Original: English]

60. For the Netherlands, the Organized Crime Convention is an important multilateral legal instrument. It is an effective tool for countries to engage in international cooperation to combat transnational organized crime.

61. A key question for the working group on a possible review mechanism should be: how can we further strengthen our responses against transnational organized crime?

62. In the view of the Netherlands, challenges in the implementation of the Convention are already known to the experts and practitioners. These challenges relate, for instance, to shortcomings in legislation and limited capacity within relevant Government agencies. Also corruption and human rights violations are sometimes serious obstacles to international cooperation.

63. If a State party finds it has difficulties to properly implement the Convention, and wishes to address this problem, it should signal this in the working groups and liaise with the United Nations Office on Drugs and Crime (UNODC) or bilateral donors to inquire about possibilities for technical assistance. This approach can be based on direct experience of practitioners. This would be more effective and efficient than the proposed filling out and translation of questionnaires, which is currently the (time and resource demanding) basis for the existing proposals for a review mechanism.

64. Most likely the meeting in September of the working group on a possible review mechanism will be a repetition of the debate that has been ongoing for at least four years already. So far, no solution has been found for two crucial elements, namely the budget (review funded from the regular budget, from extrabudgetary resources, or a mix?) and the issue of participation by non-governmental organizations in meetings. Instead of repeating this debate, the Netherlands is in favour of direct contacts between experts, facilitated by working groups and UNODC, to agree on technical assistance projects to enable countries to make better use of the possibilities for cooperation under the Convention.

Nicaragua

[Original: Spanish]

65. With reference to the note relating to the Organized Crime Convention, in which the Government of Nicaragua was invited to participate in the first session of the open-ended intergovernmental meeting and also to submit comments and views on the establishment of an appropriate and effective mechanism for review of the implementation of the provisions of that Convention, we wish to state that, with a view to strengthening worldwide efforts to counter the scourge of organized crime and its harmful effects for the development of our peoples, on behalf of the Government of Reconciliation and National Unity of the State of Nicaragua we would propose that, in order to ensure a coherent approach to achieving the aims that underpinned the international consensus for adoption of the Convention, the review mechanism must follow the following guidelines and principles.

66. The construction of a review mechanism that contributes to the implementation of the provisions of the Convention should be oriented towards an overall policy of cooperation among States parties aimed at the following objectives:

- (a) Promoting implementation of the Convention and contributing to the achievement of its aims;
- (b) Giving effect to the commitments undertaken by the States parties to the Convention;
- (c) Facilitating technical cooperation activities and good practices.

67. Within the framework of the aims of the Convention and the principles of international law, the review mechanism must be governed by the following principles:

- (a) State sovereignty;
- (b) Non-intervention;
- (c) Legal equality of States;
- (d) Intergovernmentalism;
- (e) Impartiality;
- (f) Non-classification of States.

68. Throughout the entire review process, the intervening parties must maintain the confidentiality of information to which they are privy.

69. The review process must be funded from the regular budget of the United Nations, without prejudice to any voluntary contributions that might be made by States and/or international organizations free from any kind of condition and without any expectation of influence over the evaluation process in the future.

70. For the results of the implementation review to be effective, it is necessary to create international collaboration mechanisms that take account of the different forms of legislation and specific provisions that each State has developed in fighting organized crime, while maintaining consistency with the tenets set forth in the Convention.

71. The adoption and ratification of the Convention by the State of Nicaragua confirm the consistency and compliance with the objectives set forth by the Government of Reconciliation and National Unity in its efforts to counter organized crime.

Peru

[Original: Spanish]

72. The observations and opinions expressed herein are preliminary in nature and may be expanded and refined during the negotiations on the mechanism.

73. Peru considers the putting in place of a mechanism for reviewing the implementation of the Organized Crime Convention and the Protocols thereto a priority.

74. Peru believes that the primary objective of the mechanism must be to assist States parties in fully and effectively implementing the Convention and the instruments annexed thereto, thus promoting legislative harmonization, international cooperation and the provision of technical assistance to effectively prevent and fight transnational organized crime.

75. The participation of Peru in the implementation review pilot programme in 2010 was an expression of this support.

76. Peru believes that the structure of the future mechanism should be framed within the provisions of articles 1 and 32 of the Convention, General Assembly resolution 68/193 entitled “Strengthening the United Nations crime prevention and criminal justice programme, in particular its technical cooperation capacity” and resolution 5/5 of the Conference of the Parties to the Organized Crime Convention.

77. Peru reaffirms its position that the mechanism be guided by the principles established in resolution 5/5 of the Conference of the Parties to the Organized Crime Convention, namely that the mechanism should be transparent, efficient, non-invasive, inclusive, impartial, intergovernmental and technical.

78. The mechanism should not lead to any form of classification or the application of political or selective criteria in its work but, on the contrary, encourage the exchange of information on good practices and challenges encountered in implementing the Convention, and promoting the universalization of the Convention and the Protocols thereto.

79. Peru believes that, in line with rule 16 of the rules of procedure of the Conference of the Parties to the Organized Crime Convention, the mechanism should promote cooperation and complementarity with existing regional and international review mechanisms in order to strengthen the implementation of the Convention through them and to avoid duplication of effort. In that connection, Peru recalls that the Hemispheric Plan of Action against Transnational Organized Crime of the Organization of American States (OAS) is intended primarily to promote the implementation by OAS member States of the Organized Crime Convention and the Protocols thereto.

80. Peru shares the view expressed at the Conference that the mechanism should adopt a progressive and broad approach, implemented continuously and gradually, initially reviewing articles relevant to the Convention and continuing with a review of the Protocols thereto.

81. Peru believes that the Review Mechanism of the Convention against Corruption should be used first and foremost as a model.

82. In this regard, Peru is assessing whether the mechanism should include a self-assessment process, followed by a peer review and finally a review by experts chosen from a list proposed by the various States.

83. Peru attaches importance to the contribution of civil society to the themes and subjects under review and hopes that the mechanism, while it is an intergovernmental process, may provide for the participation of civil society, taking

as a reference point the participation of civil society in the Mechanism for the Review of Implementation of the United Nations Convention against Corruption, within the framework of rule 17 of the rules of procedure of the Conference of the Parties to the Organized Crime Convention.

84. Peru believes that the mechanism should be funded from the regular budget of the United Nations on the understanding that one of the Convention's objectives is for the Convention itself to be implemented and applied, which requires the establishment of the mechanism.

85. In order to move forward with the work of the future mechanism, Peru calls on States parties to harmonize their legislation with the Convention and the Protocols thereto, complete the self-assessment checklist (omnibus survey software) and include information on their existing legislation in the knowledge management portal known as Sharing Electronic Resources and Laws on Crime (SHERLOC).

Portugal

[Original: English]

86. Portugal supports the adoption of a review mechanism, in line with the commitment laid down in article 32, paragraph 3 (d) of the Organized Crime Convention.

87. This review mechanism should provide us with a valuable tool to assess the way the Convention and the Protocols thereto are implemented in order to determine the quality of the legislative action, the practice that derives from them or any possible obstacles to international cooperation that may persist.

88. Using a similar funding model as the one adopted for the Mechanism for the Review of Implementation of the United Nations Convention against Corruption, the review mechanism for the Organized Crime Convention should be financed through a mix of resources from the regular budget of the United Nations and voluntary contributions from Member States and other relevant partners. To the extent possible, the establishment of the review mechanism for the Organized Crime Convention should not lead to an overall increase in the regular budget of the United Nations.

89. International, regional and non-governmental organizations could play a positive role in the review mechanism, enhancing its transparency and providing States with valuable data and expertise. The establishment of a meaningful dialogue between member States and civil society, during the individual review processes and in any working group established by the Conference of the Parties, could provide a valuable contribution to strengthen the implementation of the Convention.

Russian Federation

[Original: English]

90. The possible future review mechanism for the Organized Crime Convention could borrow some elements of the Review Mechanism of the United Nations Convention against Corruption, especially those contained in Chapter II of the terms

of reference of the Review Mechanism of the Convention against Corruption, entitled “Guiding principles and characteristics of the Mechanism”.

91. The future review mechanism for the Organized Crime Convention could be transparent, efficient, non-intrusive, inclusive and impartial; not produce any form of ranking; provide opportunities to share good practices and challenges; assist States parties in the effective implementation of the Convention; take into account a balanced geographical approach; be non-adversarial and non-punitive and shall promote universal adherence to the Convention; 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 such an outcome; identify, at the earliest stage possible, difficulties encountered by States parties in the fulfilment of their obligations under the Convention and good practices adopted in efforts by States parties to implement the Convention; be of a technical nature and promote constructive collaboration.

92. The future mechanism for the Organized Crime Convention could be an intergovernmental process and shall 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.

93. The mechanism for the Organized Crime Convention could promote the implementation of the Convention by States parties, as well as cooperation among States parties.

94. The mechanism for the Organized Crime Convention could provide opportunities to exchange views, ideas and good practices, thus contributing to strengthening cooperation among States parties in preventing and fighting transnational organized crime.

95. The mechanism for the Organized Crime Convention could 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.

Switzerland

[Original: English]

Options regarding an appropriate and effective mechanism to assist the Conference in its review of the Convention and the Protocols thereto

96. Switzerland remains ready to explore all options regarding an effective, efficient and inclusive mechanism to review periodically the implementation of the Convention and the Protocols thereto.

97. In this context, it may be useful to analyse and compare existing implementation review mechanisms of other international and regional instruments. The following models, ranging from peer review to expert review, may be considered:

(a) The Mechanism for the Review of Implementation of the Convention against Corruption;

(b) The system established to monitor and support compliance with the international drug control conventions, featuring the International Narcotics Control Board;¹

(c) The thematic special procedures of the Human Rights Council, including special rapporteurs, independent experts, and working groups;²

(d) The monitoring mechanism established pursuant to article 36 of the Council of Europe Convention on Action against Trafficking in Human Beings.³

98. The analysis and discussion of these models should serve to determine the costs and benefits of different implementation review models as well as their applicability to the Convention and its Protocols. The open-ended intergovernmental meeting may wish to invite relevant institutions and mandate-holders for briefings, questions and discussion.

Recommendations for cooperating with relevant international and regional organizations and non-governmental organizations

99. Substantial contributions of the international and regional organizations and non-governmental organizations, including research institutes and the scientific and academic communities, to the gathering of information on the implementation of the Convention will be essential to supplement information provided by States parties. Information provided by such organizations will be particularly useful to gain knowledge of the situation and challenges in the field, e.g., the problems encountered by the victims of trafficking in persons, and to identify and substantiate specific needs for technical assistance.

100. Cooperation with existing relevant international and regional review mechanisms is desirable in order to avoid duplication of efforts. Recommendations on such cooperation should be developed in close cooperation with existing mechanisms. A comprehensive list of relevant review mechanisms in the areas of organized crime, money-laundering, trafficking in persons, the smuggling of migrants and trafficking of firearms ought to be established and representatives of the international and regional organizations operating such mechanisms should be invited to participate as observers in the open-ended intergovernmental meetings.

¹ More information available from www.incb.org/incb/en/treaty-compliance/index.html.

² See for example www.ohchr.org/EN/Issues/Trafficking/Pages/TraffickingIndex.aspx.

³ More information available from www.coe.int/t/dghl/monitoring/trafficking/docs/monitoring/greta_EN.asp.

United States of America

[Original: English]

101. The United States is committed to the meaningful and effective implementation of the Organized Crime Convention. In this context, we are pleased to note that in 2004, the Conference of the Parties first assumed its responsibility under article 32, paragraph 1 of the Convention to “improve the capacity of States Parties to combat transnational organized crime and to promote and review the implementation of this Convention.” Over the past 11 years, the Conference has remained continuously seized with this important duty, including by convening seven sessions of the Conference with dedicated agenda items to address implementation of the Convention and its Protocols. In this context, while the United States looks forward to a constructive discussion of practical, cost-effective steps that parties might wish to take to assist the Conference and its subsidiary bodies to carry out their responsibility under article 32, we believe that the creation of a costly, burdensome peer review process — particularly one modelled on the Mechanism for the Review of Implementation of the Convention against Corruption and/or the 2012 draft terms of reference — is unnecessary to achieve the core objectives of the Organized Crime Convention, and could even divert resources and personnel away from the practical implementation of the Convention.

102. In this context, the success of the Conference in carrying out its responsibilities under article 32 should not be judged by whether the Conference has established a review mechanism similar to the Review Mechanism of the Convention against Corruption, but instead by ensuring that States parties, through their criminal justice practitioners, make regular and effective use of the Conference and its subsidiary bodies to share information regarding when and how they use the Organized Crime Convention and its Protocols, as well as lessons learned, best practices, and challenges encountered in implementing the Convention and its Protocols. In this context, the meeting to explore all options regarding an appropriate and effective review mechanism to be held from 28 to 30 September 2015 will not succeed in generating consensus around a way forward without (a) exploring models for promoting information-sharing and mutual accountability that are different from the Review Mechanism of the Convention against Corruption; (b) working hard to minimize the cost implications of any new mechanism; (c) focusing not on creating new procedures and systems under the Conference, but rather on practical solutions to help practitioners to better fight transnational organized crime; and (d) finding ways to benefit from the technical knowledge and expertise on transnational organized crime that is found not only in Governments, but also in civil society.

103. During the course of the preparations for and deliberations at the open-ended intergovernmental meeting this September, the United States is prepared to engage in good-faith consideration of all proposals that aim to bolster the capacity of the Conference to carry out its functions under article 32. As we consider new proposals, the United States will be guided by four basic principles.

104. First, the Conference has a responsibility to protect national subject-matter experts against burdensome data calls or review processes that detract from their ability to effectively implement the Convention. For those countries that require or

encourage criminal justice practitioners to fully utilize the Convention and its Protocols, a multi-stage mechanism that includes a self-assessment process, peer review, expert review, and country visits would place additional burdens on these practitioners, divert resources, and compromise their ability to pursue concrete investigations and prosecutions. Thus, we encourage all new proposals to focus on strengthening the capacity of existing working groups under the Conference to review implementation by parties, rather than creating new subsidiary bodies or processes.

105. Second, any proposed effort to increase review of implementation by parties must include a clear process to evaluate lessons learned and to reform any such mechanism over time. In this context, the United States is unable to consider the Review Mechanism of the Convention against Corruption an ideal model for the Organized Crime Convention — a separate treaty with distinct objectives — in the absence of tailored safeguards to respond to new challenges and modify aspects of the mechanism over time to better meet the evolving needs of criminal justice practitioners involved in combating transnational organized crime.

106. Third, any initiative that proposes to review States parties must include active dialogue with and input from civil society. Thus far, the parties have not established a common understanding on how to involve civil society in the deliberations of the Conference and its subsidiary bodies. Progress on this front is inherently linked to the Conference's ability to effectively review implementation by States parties under article 32.

107. Finally, any proposal must be budget-neutral. We cannot afford new mandates that cannot realistically be funded through extrabudgetary means, and it is our experience that any protracted debate over proposals to draw from the United Nations regular budget will significantly decrease the likelihood of achieving consensus on a way forward prior to the eighth session of the Conference in 2016.

108. The United States remains committed to a constructive dialogue focused on identifying ways for the Conference to better review implementation of the Convention by States parties. This function is an important aspect of the Conference's mandate. While we do not support the establishment of a costly, burdensome, or formal review mechanism as the appropriate vehicle for achieving this goal, we remain committed to exploring alternative methods for the Conference to improve its capacity to review implementation, including by strengthening the existing working groups of the Conference as forums for dialogue, exchange of national experiences, and constructive mutual accountability between law enforcement and criminal justice practitioners.