



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

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## Fourth session

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### Draft report

*Rapporteur:* Camila Polo Flórez (Colombia)

### Addendum

## IV. Information-gathering and possible mechanisms to review implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto

1. At its 3rd and 4th meetings, on 9 October 2008, the Conference considered agenda item 2 (a), on information-gathering and possible mechanisms to review implementation of the Convention and the Protocols thereto. For its consideration of the item, the Conference had before it the following documents:

(a) Report of the Secretariat on the implementation of the United Nations Convention against Transnational Organized Crime: consolidated information received from States for the first reporting cycle (CTOC/COP/2005/2/Rev.2);

(b) Report of the Secretariat on the implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime: consolidated information received from States for the first reporting cycle (CTOC/COP/2005/3/Rev.2);

(c) Report of the Secretariat on the implementation of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime: consolidated information received from States for the first reporting cycle (CTOC/COP/2005/4/Rev.2);

(d) Report of the Secretariat on the implementation of the United Nations Convention against Transnational Organized Crime: consolidated information received from States for the second reporting cycle (CTOC/COP/2006/2/Rev.1);

(e) Report of the Secretariat on the implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and



Children, supplementing the United Nations Convention against Transnational Organized Crime: consolidated information received from States for the second reporting cycle (CTOC/COP/2006/6/Rev.1);

(f) Report of the Secretariat on the implementation of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime: consolidated information received from States for the second reporting cycle (CTOC/COP/2006/7/Rev.1);

(g) Report of the Secretariat on the implementation of the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime: consolidated information received from States (CTOC/COP/2006/8/Rev.1);

(h) Report of the Secretariat on the development of tools to gather information from States on the implementation of the United Nations Convention against Transnational Organized Crime and each of the Protocols thereto (CTOC/COP/2008/2);

(i) Note by the Secretariat on possible mechanisms to review implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto (CTOC/COP/2008/3).

2. The President of the Conference made an introductory statement. The Deputy Director, Division for Treaty Affairs, and Chief of the Treaty and Legal Assistance Branch of UNODC made an introductory statement on behalf of the Secretariat. The Conference also heard statements by the representatives of Argentina, Norway, Croatia, the European Community, the Islamic Republic of Iran, Pakistan, Nigeria, China, Peru, Egypt, the Republic of Korea, the United States of America, Australia, France (on behalf of the European Union), Kenya, the Sudan and South Africa. A representative of the Secretariat made a short presentation on the interim computer-based checklist that had been developed at the request of the Open-ended Working Group of Government Experts on Technical Assistance (see CTOC/COP/2008/7).

## **A. Deliberations**

3. In her statement, the President of the Conference noted that information-gathering and the review of implementation of the Convention and the Protocols thereto were intertwined topics. In this regard, it was important for States parties to communicate their status of implementation in order to provide an informed basis on which to direct future action, including the provision of technical assistance. She welcomed the user-friendly checklist developed by the Secretariat and noted its wide support among speakers; that support would facilitate the process of monitoring of the Convention and its Protocols. The President also noted that the checklist had reversed the trend of low reporting rates, which had resulted in the production of more accurate and comprehensive analytical reports. She further noted the broad support expressed for the Secretariat to continue the development of a comprehensive software package to minimize the burden of countries having to answer questions more than once. She called on donor States to provide funding to the Secretariat in order to carry out its work, including to translate the checklist into

all six official languages of the United Nations; and observed that the fourth session of the Conference provided an initial opportunity to discuss a possible review mechanism for implementation of the Convention and the Protocols.

4. In his statement, the Deputy Director, Division for Treaty Affairs, and Chief of the Treaty and Legal Assistance Branch of UNODC recalled the state of progress both of information-gathering within the context of the Conference and of the development of software-based tools. Five years after the entry into force of the Convention, the Conference needed to consider how to exercise fully its mandated function of reviewing implementation of the Convention. The experience gained from existing review mechanisms would be useful in formulating an efficient mechanism for that review.

5. Many speakers stated that the interim computer-based checklist was a valuable tool and that it was important to continue to raise awareness of the importance and usefulness of completing the checklist. Some speakers highlighted the need to strengthen information-gathering activities further and to make available to the Secretariat additional resources in order to enhance information-gathering and other legal tools. Speakers also proposed conducting technical assistance projects designed to facilitate the submission of information.

6. Speakers noted that the development of a database containing the responses to the questionnaires and checklists would be vital to assessing the implementation of the Convention. Speakers underlined the importance of collecting information not only on legislation but also on actual implementation of the provisions of the Convention. This included, for example, information on the number of investigations, prosecutions or convictions resulting from such legislation or measures, the number of requests for specific forms of assistance and the outcome of such requests. One speaker proposed the creation of a series of separate secure web pages through which States parties could complete the questionnaires.

7. One speaker stated that his Government was not able to provide information through the checklist because the checklist was available only in English, French and Spanish, and asked the Secretariat to advise whether the comprehensive software package currently under development would be made available in all official languages of the United Nations. The Secretariat expressed its regret at the limited availability of the checklist in only three of the official languages, owing to financial and human resources constraints, and at the limited time within which the software had to be produced and distributed to States; and confirmed that the comprehensive software package would be made available in all the official languages.

8. Speakers called for resources to be made available to the Secretariat in order to enhance the information-gathering tools, including expansion of the online legal library, which was an invaluable source of information.

9. With regard to the comprehensive software package, which would cover both the Organized Crime Convention and the United Nations Convention against Corruption,<sup>1</sup> speakers shared the view that combining the two conventions was a positive development in so far as they sometimes overlapped, and stressed that

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<sup>1</sup> United Nations, *Treaty Series*, vol. 2349, No. 42146.

information regarding the drug conventions could be included. It was noted that such software could avoid duplication of work and questionnaire fatigue.

10. The procedural question was raised whether the software needed to be formally endorsed at the fifth session of the Conference in the event that agreement was reached at the third session of the Conference of the States Parties to the United Nations Convention against Corruption, to be held in 2009. Alternatively, an interim forum might be created in order to move forward on this initiative.

11. Some speakers noted the importance of making effective use of all the information gathered by the questionnaires and checklists, and it was felt that it was time for the Conference to reach a decision on the next steps for information-gathering and monitoring of implementation. Self-assessment by States was helpful and important, but did not go far enough to ensure a credible and effective review of implementation. Support was expressed for a phased mechanism, whereby initial self-assessments would be followed by a peer review. The self-assessment could also include information already gathered through the questionnaires.

12. Some speakers emphasized that an effective review of implementation was key to achieving and measuring progress. For effective implementation of the Convention to be achieved, a framework was needed for the review of implementation required pursuant to article 32 of the Convention.

13. Speakers shared the view that the Conference should initiate at its fourth session a process of reflection and related action with regard to a possible review mechanism for the Organized Crime Convention and its Protocols. It was felt that a thorough discussion regarding the aims and purposes of such a mechanism would be a necessary starting point.

14. Elaborating on the aims and characteristics of the possible review mechanism, some speakers stated that the mechanism should promote cooperation, be linked to the provision of technical assistance and respect the principle of State sovereignty, while taking due account of the specific features of the Convention and its Protocols. It was emphasized that any mechanism agreed upon should be fair, effective, non-intrusive, transparent, flexible and reliable. In addition, the involvement of experts from the region under review was deemed necessary.

15. Experience gained with the pilot project for the review of implementation of the Convention against Corruption was referred to, as it seemed promising to some speakers. However, others felt that it was too early to ascertain whether that project could be used as a model for reviewing implementation of the Organized Crime Convention. Some speakers were of the view that a mechanism used in a different context should not automatically be considered as a model. Some speakers reflected on the possibility of establishing specific monitoring mechanisms for each instrument, mentioning in particular the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.<sup>2</sup> Other speakers underlined that a pilot project would allow testing the feasibility and modalities of a review mechanism. A number of speakers stressed that, for a project to be informative, it needed to lead to conclusions, to be inclusive and to allow participation by all States parties.

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<sup>2</sup> Ibid., vol. 2237, No. 39574.

16. Some speakers agreed with a proposal to convene an open-ended working group, that would meet starting in 2009, to define parameters and gaps to be addressed with regard to reviewing the implementation of the Convention and to present recommendations to the Conference at its fifth session. Some other speakers said they could not agree to the convening of a working group until the goals and purposes were further elaborated in the form of a written document.

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