



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

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Relationship of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime with the Commission on Crime Prevention and Criminal Justice and the future Conference of the States Parties to the United Nations Convention against Corruption

Report of the Secretariat

I. Introduction

1. At its first session, the Conference of the Parties to the United Nations Convention against Transnational Organized Crime decided to consider at its second session, under the agenda item "Other matters", its relationship with the Commission on Crime Prevention and Criminal Justice and the future Conference of the States Parties to the United Nations Convention against Corruption and requested the Secretariat to prepare a concept paper, in consultation with Member States, to assist it in its consideration (CTOC/COP/2004/6 and Corr.1, para. 80).
2. The present document is submitted to the Conference of the Parties at its second session in response to that decision. It contains information about the mandates of the three intergovernmental bodies in question.

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

A. Establishment

3. The Conference of the Parties to the United Nations Convention against Transnational Organized Crime was established in accordance with article 32, paragraph 1, of the United Nations Convention against Transnational Organized Crime (General Assembly resolution 55/25, annex I).



B. Objectives and mandates

4. According to article 32, paragraph 1, of the Organized Crime Convention, the two main objectives of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime are to improve the capacity of States parties to combat transnational organized crime and to promote and review the implementation of the Convention. This provision applies, *mutatis mutandis*, to each of the Protocols supplementing the Organized Crime Prevention, in accordance with article 1, paragraph 2, of each of the Protocols.

5. In accordance with article 32, paragraph 3, of the Organized Crime Convention, the Conference of the Parties to the United Nations Convention against Transnational Organized Crime is expected to agree upon mechanisms for achieving the above-mentioned objectives, including: facilitating activities under articles 29-31 of the Convention, including by encouraging the mobilization of voluntary contributions; facilitating the exchange of information on patterns and trends in transnational organized crime and on successful practices for combating it; cooperating with relevant intergovernmental and non-governmental organizations; reviewing periodically the implementation of the Convention and the Protocols thereto; and making recommendations to improve the Convention and the Protocols and their implementation.

C. Working methods

6. Unless otherwise decided by the Conference, its second and third regular sessions shall be held annually and thereafter its regular sessions shall be held at least biennially (rule 3 of the rules of procedure for the Conference of the Parties to the United Nations Convention against Transnational Organized Crime). In addition to representatives of the States parties to the instruments attending the Conference (rules 12 and 13 of the rules of procedure), signatories, non-signatories, entities and intergovernmental organizations and non-governmental organizations are entitled to participate in the Conference as observers (rules 14-17).

II. Commission on Crime Prevention and Criminal Justice

A. Establishment

7. The General Assembly, in its resolution 46/152 of 18 December 1991, entitled "Creation of an effective United Nations crime prevention and criminal justice programme" approved the statement of principles and programme of action, contained in the annex to that resolution, establishing a United Nations crime prevention and criminal justice programme; and requested the Economic and Social Council to establish a commission on crime prevention and criminal justice as a functional commission of the Council.

8. In accordance with Article 68 of the Charter of the United Nations, the Economic and Social Council, in its resolution 1992/1 of 6 February 1992, entitled "Establishment of the Commission on Crime Prevention and Criminal Justice", decided to establish the Commission on Crime Prevention and Criminal Justice as a

functional commission of the Council, in accordance with the statement of principles and programme of action, paragraphs 23-26 of which contain the terms of reference of the Commission.

B. Objectives and mandates

9. In paragraph 26 of the statement of principles and programme of action approved by the General Assembly in its resolution 46/152, it is stated that the Commission should have the following functions:

(a) To provide policy guidance to the United Nations in the field of crime prevention and criminal justice;

(b) To develop, monitor and review the implementation of the United Nations Crime Prevention and Criminal Justice Programme on the basis of a system of medium-term planning in accordance with the priority principles provided in paragraph 21 of the statement of principles and programme of action;

(c) To facilitate and help to coordinate the activities of the United Nations institutes for the prevention of crime and the treatment of offenders;

(d) To mobilize the support of Member States for the Programme;

(e) To prepare for the United Nations congresses on the prevention of crime and the treatment of offenders (now called the United Nations congresses on crime prevention and criminal justice) and to consider suggestions regarding possible subjects for the programme of work as submitted by the congresses.

10. In section IV of its resolution 1992/22 of 30 July 1992, entitled "Implementation of General Assembly resolution 46/152 concerning operational activities and coordination in the field of crime prevention and criminal justice", the Economic and Social Council recognized the Commission on Crime Prevention and Criminal Justice as the "principal policymaking body" of the United Nations in the field of crime prevention and criminal justice; and requested it to coordinate, as appropriate, relevant activities in that field.

11. In section V of its resolution 1992/22, the Economic and Social Council reaffirmed the crucial role of the Commission in mobilizing the support of Member States for the United Nations Crime Prevention and Criminal Justice Programme. In section VII of that resolution, the Council decided that the Commission should include in its agenda a standing item on technical assistance, which would deal with the most practical course of action to be followed to render the Programme fully operational and enable it to respond to the specific needs of Governments, including financial needs, if possible.

12. The United Nations Crime Prevention and Criminal Justice Programme is designed to assist the international community in meeting its pressing needs in the field of crime prevention and criminal justice and to provide States with timely and practical assistance in dealing with problems of both national and transnational crime. In developing the Programme, areas of priority should be determined in response to the needs and concerns of Member States, with particular consideration being given to the following (General Assembly resolution 46/152, annex, para. 21):

- (a) Empirical evidence, including research findings and other information on the nature and extent of crime and on trends in crime;
- (b) The social, financial and other costs of various forms of crimes and/or crime control to the individual, the local, national and international community, and to the development process;
- (c) The need of developing or developed countries, which are confronting specific difficulties related to national or international circumstances, to have recourse to experts and other resources necessary for establishing and developing programmes for crime prevention and criminal justice that are appropriate at the national and local levels;
- (d) The need for a balance within the programme of work between programme development and practical action;
- (e) The protection of human rights in the administration of justice and the prevention and control of crime;
- (f) The assessment of areas in which concerted action at the international level and within the framework of the programme would be most effective;
- (g) Avoidance of overlapping with the activities of other entities of the United Nations system or of other organizations.

C. Working methods

13. In accordance with its terms of reference (General Assembly resolution 46/152, annex, paras. 23-26) the Commission holds annual sessions. Its membership consists of 40 Member States, elected by the Economic and Social Council on the basis of the principle of equitable geographical distribution. Its members serve for a term of three years.

IV. Conference of the States Parties to the United Nations Convention against Corruption

A. Establishment

14. The Conference of the States Parties to the United Nations Convention against Corruption is expected to be established upon the entry into force of the Convention. Its inaugural session shall be convened by the Secretary-General of the United Nations no later than one year after its entry into force and following the holding of the eighth session of the Ad Hoc Committee for the Negotiation of a Convention against Corruption, which is to prepare the draft text of the rules of procedure for the Conference of the States Parties to the United Nations Convention against Corruption.

B. Objectives and mandates

15. The objectives of the Conference of the States Parties to the United Nations Convention against Corruption are twofold (article 63, paragraph 1, of the Convention): (a) to improve the capacity of and cooperation between States parties to achieve the objectives set forth in the Convention; and (b) to promote and review the implementation of the Convention.

16. Once established, the Conference of the States Parties is expected to agree upon activities, procedures and methods of work to achieve the above-mentioned objectives, including (article 63, para. 4):

(a) Facilitating activities under articles 60 and 62 and chapters II-V of the Convention, including by encouraging the mobilization of voluntary contributions;

(b) Facilitating the exchange of information on patterns and trends in corruption and on successful practices for preventing and combating it and for the return of proceeds of crime, through, inter alia, the publication of relevant information;

(c) Cooperating with relevant international and regional organizations and mechanisms and non-governmental organizations;

(d) Making appropriate use of relevant information produced by other international and regional mechanisms for combating and preventing corruption in order to avoid unnecessary duplication of work;

(e) Reviewing periodically the implementation of the Convention by its States parties;

(f) Making recommendations to improve the Convention and its implementation;

(g) Taking note of the technical assistance requirements of States parties with regard to the implementation of the Convention and recommending any action it may deem necessary in that respect.

C. Working methods

17. In accordance with General Assembly resolution 58/4, the Ad Hoc Committee for the Negotiation of a Convention against Corruption will hold a meeting in order to prepare the draft text of the rules of procedure of the Conference of the States Parties and of other rules described in article 63 of the Convention, which will be submitted to the Conference of the States Parties at its first session for consideration.

18. It is expected that the Conference of the States Parties will determine its methods of work at its first session.

V. Concluding remarks

19. The relationship of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime with the Commission on Crime

Prevention and Criminal Justice is a matter that would need to be considered by both of those bodies. (The same would apply to the relationship of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime and with the Conference of the States Parties to the United Nations Convention against Corruption, once the latter body has been established.) The Commission at its fourteenth session, in 2005, considered and approved a draft resolution entitled “International cooperation in the fight against transnational organized crime”, which the Economic and Social Council subsequently adopted as its resolution 2005/17 of 22 July 2005. In that resolution, the Council noted that the first session of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime had been held in Vienna from 28 June to 9 July 2004 and requested the Secretary-General to continue to provide the United Nations Office on Drugs and Crime with the resources necessary to enable it to promote, in an effective manner, the implementation of the Convention and the Protocols thereto and to discharge its functions as secretariat of the Conference of the Parties.

20. The relationship of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime with the Commission and with the Conference of the States Parties to the United Nations Convention against Corruption ought to be considered not only at the institutional level but also by the States participating in those bodies individually or in their capacity as members of regional groups, to the extent that policy coordination might be desirable. The Commission did not specifically consider that matter at its fourteenth session, even though some discussion on the matter took place among delegations during that session.

21. In considering the relationship of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime with the Commission on Crime Prevention and Criminal Justice and with the Conference of the States Parties to the United Nations Convention against Corruption, States may wish to take into account, *inter alia*, the following issues:

(a) The nature and scope of the mandates of the two bodies. The Commission has been established as the principal policymaking body of the United Nations in the field of crime prevention and criminal justice, while the Conference of the Parties to the United Nations Convention against Transnational Organized Crime is responsible for the promotion and review of the implementation of the Organized Crime Convention and the Protocols thereto;

(b) The role that each body has been mandated to play in connection with the work of the Secretariat and the provision of technical assistance;

(c) The membership of each body. The Commission is composed of 40 members, each elected by the Economic and Social Council, while the composition of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime is evolving, as more and more States are ratifying or acceding to the Convention and its Protocols.

22. Similar issues may need to be taken into consideration with regard to the relationship of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime with the Conference of the States Parties to the United Nations Convention against Corruption at a later stage.