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Ad Hoc Committee for the Negotiation of a Convention against Corruption

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Agenda item 3

Consideration of the draft United Nations Convention against Corruption, with particular emphasis on articles 1-39

Proposals and contributions received from Governments

Algeria: amendments to articles 1-4

Article 1: Statement of purpose

Subparagraphs (b) and (c)

1. It is proposed to add prevention to the scope of international cooperation in subparagraph (b) and to emphasize the objective of promoting ethics in subparagraph (c) so that article 1 reads as follows:

*“Article 1
“Statement of purpose*

“The purposes of this Convention are:

“(a) To promote and strengthen measures to prevent and combat more effectively corruption and criminal acts related specifically to corruption;

“(b) To promote, facilitate and support international cooperation in the prevention of and fight against corruption, including the return of the proceeds of corruption to their countries of origin;

“(c) To promote integrity, ethics and good governance.”

Article 2: Definitions [Use of terms]

2. It is proposed that, in option 1 of subparagraph (a) and in subparagraph (f), the words “public official” be replaced with the words “official holding public office”, which better convey the concept of a person holding a legislative, administrative or



judicial office at any level of the hierarchy or exercising a public function. It is further proposed that in those subparagraphs the word “executive” be added after the word “legislative” because executive functions are also a form of public office.

Option 1 of subparagraph (a)

3. Option 1 of subparagraph (a) should thus read as follows:

“(a) ‘Official holding public office’ shall mean any person holding a legislative, executive, administrative or judicial office in a State Party, at any level of its hierarchy, whether appointed or elected, and any person in the State Party exercising a public function, including for a public agency or public enterprise;”

Subparagraph (f)

4. Subparagraph (f) should thus read as follows:

“(f) ‘Foreign official holding public office’ shall mean any person holding a legislative, executive, administrative or judicial office of a foreign country, whether appointed or elected, and any person exercising a public function for a foreign State, including for a public agency or public enterprise;”

Subparagraph (d)

5. The delegation of Algeria wishes to clarify whether “international organization”, mentioned in subparagraph (d), includes non-governmental organizations. It is acceptable to the delegation of Algeria for officials of non-governmental organizations to be subject to the scope of application of the convention.

Subparagraphs (g)-(l)

6. Subparagraphs (g)-(l), relating to definitions of the terms “property”, “proceeds of crime”, “freezing” or “seizure”, “confiscation”, “predicate offence” and “controlled delivery”, respectively, are acceptable because they reproduce definitions contained in article 2 of the United Nations Convention against Transnational Organized Crime (General Assembly resolution 55/25, annex I).

Subparagraph (m)

7. The delegation of Algeria would like particular attention to be paid to the definition of corruption in subparagraph (m) because it is at the heart of the problem that the international instrument is to address. The delegation of Algeria would therefore like the following point to be taken into account in the definition of corruption:

“Corruption” means the solicitation or acceptance by an official of offers or promises, for his or her benefit or for that of a third party, or the solicitation or receipt of gifts, presents, commissions, bonuses, property or benefits of any kind in order that the official carry out or refrain from carrying out an act in the performance of his or her functions or an act that, though not part of his or her functions, has or may have been facilitated by his or her functions.

8. The delegation of Algeria sees no problem with this point being taken up when the issue of the criminalization of corruption is considered under article 19 (Criminalization of corruption involving a public official).

Subparagraph (o)

9. There is a contradiction in subparagraph (o), which refers to international non-governmental organizations whose presence and sphere of activity include two or more States, because States do not generally participate in non-governmental organizations.

Article 3: Scope of application

Paragraph 1

10. It is proposed that the issue of recovery of assets and proceeds derived from corruption be added to paragraph 1 on the scope of application of the convention. That would make the scope of application comprehensive and complete, covering all the constituent elements included in the body of the convention. The amended paragraph 1 should read as follows:

“1. This Convention shall apply, except as otherwise stated herein, to the prevention, investigation and prosecution of and recovery of assets and proceeds derived from corruption and criminal acts related to corruption, irrespective of whether they involve public officials or have been committed in the course of business activity.”

Article 4: Protection of sovereignty

Paragraph 1

11. Article 4 is a reproduction of article 4 of the United Nations Convention against Transnational Organized Crime. The delegation of Algeria would like to add to paragraph 1 the concept of non-interference in the domestic affairs of other States, in order to support more strongly the principle of protection of the sovereignty of States Parties that underlies the spirit of this article. The amended paragraph 1 should read as follows:

“1. States Parties shall carry out their obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention and non-interference in the domestic affairs of other States.”