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Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime

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Agenda item 3

**Consideration of the draft United Nations Convention against Transnational Organized Crime,
with particular emphasis on articles 1-3**

Proposals and contributions received from Governments on the draft United Nations Convention against Transnational Organized Crime

Kuwait: amendments to the draft United Nations Convention against Transnational Organized Crime

1. Having reviewed the Arabic version of the revised draft United Nations Convention against Transnational Organized Crime (A/AC.254/L.1/Add.2 of 27 January 1999), the State of Kuwait has the following comments to make on the draft (articles 1, 2, 2 *bis* and 3).

Article 1

2. The State of Kuwait proposes to dispense with the text of paragraph 2 of this article as the provisions of paragraph 1 of the article have adequately covered the purpose of the Convention and the obligation of States Parties to take the measures specified in that paragraph.

Article 2

3. We propose the deletion of the word “prevention” in paragraph 1 of this article, which would then read:

“This Convention shall, except as otherwise provided herein, apply to serious crime involving an organized criminal group as defined in article 2 *bis* and to the offences established in articles 3 and 4, their investigation and prosecution.”

This is proposed because, according to its title, article 2 deals with the scope of application with no regard to the prevention or tolerance considerations.

* Reissued for technical reasons.

4. We propose the deletion of subparagraph 2 (c) insofar as this provision related to money-laundering has been covered in subparagraph 3 (a).

5. We propose adding to subparagraph 3 (f), relating to acts contained in the United Nations Conventions against Terrorism, the following phrase: “Within the scope of the definition specified in article 2 *bis* of the draft Convention” so that the provision is not common to crimes of terrorism and so that there is a distinction between acts of terrorism covered by the Convention and any other acts of terrorism not covered by it.

Protocols

6. In its first comments (A/AC.254/CRP.5 of 19 January 1999), the State of Kuwait pointed out that the protocols were deemed separate instruments and becoming party to them was optional for States Parties. That viewpoint was shared by other countries.

Article 2 bis, Use of terms

7. We propose the deletion of subparagraphs (b) (i) and (ii), provided that the period of punishment is fixed at three years, and the addition of the following phrase: “pursuant to the provisions of domestic laws of States Parties”. This would specify what was left unspecified under “serious crime” and include the provisions of subparagraphs (b) (i) and (ii), which we therefore are proposing to delete.

8. We support the adoption of the two alternative phrases mentioned in subparagraphs (f) and (j) of this article and the phrase “of an offence covered by this Convention” should therefore also be inserted.

9. We refer to what was previously mentioned by the State of Kuwait in its comments submitted to the first session of the Ad Hoc Committee (A/AC.254/CRP.5 of 19 January 1999), as well as to its proposal indicated in document A/AC.254/L.6 of 21 January 1999 as regards article 29 of the draft Convention.
