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

Second session

Vienna, 8-12 March 1999

Agenda item 5

Adoption of the report of the Ad Hoc Committee on its second session

Draft report

Rapporteur: Peter GASTROW (South Africa)

I. Introduction

1. The Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime was established by the General Assembly in its resolution 53/111 of 9 December 1998. In its resolution 53/114, also of 9 December 1998, the Assembly called upon the Ad Hoc Committee to devote attention to the drafting of the main text of the Convention, as well as the international instruments addressing trafficking in women and children, combating the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, and illegal trafficking in and transporting of migrants, including by sea.

II. Organization of the session

A. Opening of the session

2. The Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime held its second session in Vienna from 8 to 12 March 1999. The Ad Hoc Committee held 10 meetings.

3. At its first session, held in Vienna from 19 to 29 January 1999, the Ad Hoc Committee had decided to devote attention at its second session to the drafting of articles 1 to 3 of the Convention and to carry out a first reading of the additional international legal instrument on trafficking in women and children.

4. The second session of the Ad Hoc Committee was opened by its Chairman, who stressed the importance of maintaining the constructive spirit of negotiation that had been demonstrated at the first session. The Chairman also referred to a symposium on the draft Convention, organized by the Italian Senate and the United Nations Office for Drug Control and Crime Prevention, held in Rome on 26 and 27 February 1999. The symposium had been attended by a number of Ministers representing all regions and had afforded an opportunity to reiterate the political commitment of States to the draft Convention and to the conclusion of the negotiating process by the year 2000.

5. The representative of Japan announced that his Government had earmarked a voluntary contribution to the United Nations Crime Prevention and Criminal Justice Fund, amounting to \$200,000, in order to facilitate the drafting of the Convention. The representative of Japan stated that his Government would consult with the Secretariat regarding the appropriate use of its contribution. The representative also expressed the hope that other Governments would also consider making similar voluntary contributions. The Chairman and the representatives of many States expressed their appreciation to the Government of Japan for its generosity.

6. At the first session of the Ad Hoc Committee, several delegations had expressed concern about the accuracy of the terms used in the translation of documents into some of the official languages and had recommended that the Secretariat undertake the compilation of a glossary of terms. At the second session, the Secretariat announced that the compilation of the glossary was under way, with the support of the Translation Service. The Secretariat intended to distribute a first draft of the glossary to the Ad Hoc Committee at its third session. States could then review it and submit their input to the Secretariat with a view to finalizing the glossary by the fourth session. The glossary would ultimately be included in the official records of the Ad Hoc Committee.

B. Attendance

7. The second session of the Ad Hoc Committee was attended by representatives of [...] States. Also attending the second session were observers for entities maintaining permanent observer missions to the United Nations, organizations of the United Nations system, institutes of the United Nations Crime Prevention and Criminal Justice Programme network, intergovernmental organizations and non-governmental organizations. A list of participants is contained in annex I to the present report.

C. Adoption of the agenda and organization of work

8. At its 19th meeting, on 8 March 1999, the Ad Hoc Committee adopted the following agenda for its second session:

1. Opening of the second session of the Ad Hoc Committee.
2. Adoption of the agenda and organization of work.
3. Consideration of the draft United Nations Convention against Transnational Organized Crime, with particular emphasis on articles 1-3.
4. Consideration of the additional international legal instrument against trafficking in women and children.
5. Adoption of the report of the Ad Hoc Committee on its second session.

III. Discussion on the draft Convention

9. The Ad Hoc Committee based its work on a document containing the draft United Nations Convention against Transnational Organized Crime (A/AC.254/4/Rev.1) and on proposals and contributions submitted by Governments (A/AC.254/5/Add.3 and 4). The Chairman noted that the revised text contained in document A/AC.254/4/Rev.1 had been the result of discussions and consultations held during the first session.

10. The Ad Hoc Committee concluded its discussion on article 1. The agreed text was included in the new version of the draft Convention.*

11. In discussing article 2, the Ad Hoc Committee agreed that elements from paragraph 2 of the previous version could be useful to it in its consideration of other provisions, such as those pertaining to mutual legal assistance. Paragraph 2 of article 2 of the previous version read as follows:

“[2. Among the circumstances that may be taken into account in deciding whether there are reasonable grounds to believe that a criminal organization is involved are the following:

“(a) The nature of the offence;

“(b) The transnational character of the offence;

“(c) Whether money-laundering is involved; and

“(d) Whether the offence required significant planning or means for its commission.]”

12. In addition, the Ad Hoc Committee decided that a list of offences, which could be either indicative or exhaustive, such as the list originally contained in paragraph 3 of article 2, could be included either in an annex to the Convention or in the *travaux préparatoires*. The list from paragraph 3 of article 2 is contained in an attachment to the revised version of the draft Convention.

13. The above list would need to be supplemented with proposals from States. The Chairman called upon all interested States to consult with each other in order to reach agreement on the contents of the list.

14. Several delegations expressed their preference for including the list in an annex to the Convention.

15. The Ad Hoc Committee discussed articles 2 *bis* and 3. The comments and proposals made during the second session are reflected in the revised version of the draft Convention.

16. The Ad Hoc Committee also completed a first reading of articles 24 and 30 of the draft Convention. The comments and proposals made during the second session are reflected in the revised text of the draft Convention.

17. The Ad Hoc Committee requested the Secretariat to carry out an analytical study on provisions of national laws concerning offences punishable by deprivation of liberty, with an indication of the number of years of imprisonment. The study should be based on information

* To be issued subsequently as document A/AC.254/4/Rev.2.

to be solicited from Member States. Member States would also be asked to indicate whether their legislation qualified offences as serious and, if so, what criteria were used. Member States should submit the information before 30 April 1999 with a view to the study being completed and made available to the Ad Hoc Committee at its fourth session.

IV. Discussion on the additional international legal instrument on trafficking in women and children

18. The delegate of Argentina introduced amendments to the revised draft Protocol to Prevent, Suppress and punish Trafficking in Women and Children, supplementary to the United Nations Convention against Transnational Organized Crime (A/AC.254/L.17).

19. [*To be completed*]

V. Adoption of the report of the Ad Hoc Committee on its second session

20. At its 28th meeting, on 12 March 1999, the Ad Hoc Committee adopted the report on its second session (A/AC.254/L.18).

21. At the same meeting, the Ad Hoc Committee approved the provisional agenda and organization of work of its third session, to be held in Vienna from 28 April to 3 May 1999 (A/AC.254/L.18/Add.1).*

* To be issued subsequently as document A/AC.254/___.