



General Assembly

Distr.: Limited
1 March 2000

Original: English

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

Eighth session

Vienna, 21 February-3 March 2000

Agenda item 4

**Consideration of the additional international legal
instrument against illegal trafficking in and
transporting of migrants**

Proposals and contributions received from Governments

United States of America: amendment to article 4 of the revised draft Protocol against the Smuggling of Migrants by Land, Air and Sea, supplementing the United Nations Convention against Transnational Organized Crime

Article 4: Criminalization

Paragraph 1

1. It is proposed that option 2 of paragraph 1 of article 4, as amended by document A/AC.254/L.76 (see also A/AC.254/5/Add.21), be further amended to read as follows:

“1. States Parties that have not yet done so shall adopt the necessary legislative or other measures to establish the following conduct as criminal offences [when committed intentionally and when involving an organized criminal group:]

“(a) The smuggling of migrants; and

“(b) When committed in order to obtain, directly or indirectly, financial or other material benefit, and when done for the purpose of facilitating the smuggling of migrants:

“(i) Making of a fraudulent travel or identity document;

“(ii) Procuring or possessing such a document for the purpose of providing it to persons involved in the smuggling of migrants; or

“(iii) Acting on such a document when such conduct is committed by a government official.”

2. Option 2 of paragraph 1 of article 4 was originally submitted by South Africa. In document A/AC.254/L.76, Canada and the United States of America submitted a proposed amendment to the South African proposal, which has not yet been debated. The United States proposes these further amendments to address concerns raised thus far in the general debate.
