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

Sixth session

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Agenda item 3 (a)

Consideration of additional international legal instruments:

**draft instrument against illegal trafficking in and transporting of migrants,
with particular emphasis on articles 7-19**

Proposal and contributions received from Governments

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

Argentina proposes that the following section be inserted after article 7 and the subsequent sections renumbered accordingly;

III. Trafficking in migrants by land

“Article [...]

“1. States Parties shall make provision in their respective legislations to establish the liability of commercial overland carriers for the transport of passengers and crew members, in conformity with the immigration law of the country of destination or transit. To that end, the legislation of States Parties shall provide that commercial overland carriers shall, as an absolute prerequisite for undertaking the carriage, demand all due documentation required for admission of their passengers to the territory of the State of destination or transit in any of the categories of admission stipulated in domestic immigration law.

“2. States Parties shall establish in their domestic legislation the obligation for commercial overland carriers, in cases of transit through one or more States, to declare the names of passengers whom they are transporting to the immigration authority competent for the latter. States Parties shall also adopt measures in their domestic legislation to render

* Based on the text of the revised draft Protocol contained in document A/AC.254/Add.1/Rev.2.

the commercial overland carrier responsible for the actual exit of such persons from the corresponding territories and shall provide that, in the event that passengers declared as being transported fail to leave the country in the manner, at the place and within the time limit stipulated in the immigration law of the transit country, the immigration authority of that country may arrange for the return of such persons at the exclusive cost of the carrier.

“3. It shall be possible for the provisions of this article not to apply within the territorial scope of economic unions, customs unions or free-trade zones that have specific regulations governing the entry into and movement of persons within such integrated geographical areas that do not conform to the provisions of this article.

“4. Any State Party that has sufficient grounds to believe that a commercial overland carrier is involved in activities related to trafficking in migrants may request the necessary assistance to counter such activities from the State Party in which that carrier is lawfully constituted, or in which the vehicles used by such carrier in the provision of its services are situated or registered, or in which such carrier has its actual place of business, in conformity with the legal provisions of the country concerned.

“5. States Parties shall establish ongoing cooperation mechanisms for the detection of any carriage of persons, from one country to another or in transit to a third country, undertaken by persons on an individual or organized, regular or occasional basis without due authorization, by a means of overland transport.

“6. States Parties shall establish institutional cooperation mechanisms for the detection and punishment of freight carriers who engage in the smuggling of migrants.

“7. States Parties shall offer the fullest assistance with regard to the investigation of methods of overland trafficking coming within their jurisdiction. Authorities involved shall act with all due diligence in order to ensure that such assistance is furnished expeditiously with a view to avoiding any impairment of such cooperation.”
