



General Assembly

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

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Agenda item 4

Consideration of the revised draft United Nations Convention against Transnational Organized Crime, with particular emphasis on articles 2, 2 bis (subparagraph (a) only), 4 bis, 9, 10, 10 bis, 14, 14 bis, 15 and 16

Proposals and contributions received from Governments

United States of America: amendments to articles 9 and 10 of the revised draft United Nations Convention against Transnational Organized Crime

Articles 9 and 10

1. During informal consultations at the eighth session of the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime, there was recognition that restructuring of the text of current articles 9, paragraph 3, and 10, paragraph 11 (a), dealing with application of the principle of *aut dedere aut judicare*, would result in a clearer delineation of the obligations set forth therein and that the scope of those provisions required further review. The modification of those paragraphs, proposed below, is intended to accomplish those objectives. The proposal would create mandatory obligations only where extradition has been denied on grounds of nationality, because such a scope has attracted the widest support to date and would result in a more streamlined structure for those provisions.

2. Article 9, paragraph 3, would read as follows:

“3. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences covered by this Convention when the alleged offender is present in its territory and it does not extradite such person on the ground that he or she is one of its nationals.”

3. Article 10, paragraph 11 (a), would read as follows:

“11. (a) A State Party in whose territory an alleged offender is found, if it does not extradite such person in respect of an offence covered by this Convention

on the ground that he or she is one of its nationals, shall, at the request of the State Party seeking extradition, be obliged to submit the case without undue delay to its competent authorities for the purpose of prosecution. Those authorities shall take their decision in the same manner as in the case of any other offence of a grave nature under the laws of that State.”
