



General Assembly

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Ad Hoc Committee for the Negotiation of a Convention against Corruption

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Agenda item 4

Consideration of the draft United Nations Convention against Corruption

Proposals and contributions received from Governments

Austria, France and Netherlands: amendment to article 11*

Article 11: Private sector

Austria, France and the Netherlands propose to replace article 11 of the draft convention against corruption with the following:

*“Article 11
“Private sector*

“1. States Parties shall endeavour, in accordance with fundamental principles of their domestic law, to reduce existing or future opportunities for engaging in corruption and criminal acts related specifically to corruption, involving one or more legal persons incorporated within their jurisdiction, through appropriate legislative, administrative or other measures. Those measures should focus on:

“(a) Strengthening cooperation between law enforcement agencies or prosecutors and relevant private entities;

“(b) Promoting the development of standards and procedures designed to safeguard the integrity of private entities, as well as codes of conduct for all relevant professions, such as lawyers, notaries public, tax consultants and accountants;¹

* The present proposal supersedes the proposals made by Austria and the Netherlands on article 11 that are reflected in document A/AC.261/3 (Part I).

¹ This indicative list is to be further developed in the *travaux préparatoires*.

“(c) Establishing an adequate supervisory framework for financial institutions, based on the principles of transparency, accountability and sound corporate governance and with appropriate capacity for international collaboration on cross-border financial transactions;²

“(d) Preventing the misuse of legal persons for committing or concealing acts of corruption by identifying constituents, holders of capital and shares, economic beneficiaries, through registration obligations, advertising rules and, more generally, by promoting transparency in financial, legal and accounting transactions, inter alia, through the establishment or maintenance of public records on legal and natural persons involved in the establishment, management and funding of legal persons;

“(e) Preventing the misuse of procedures governing subsidies and licences granted by public authorities for commercial activity.

“2. States Parties shall endeavour, in accordance with fundamental principles of their domestic law, to promote transparency and competition among companies incorporated within their jurisdiction, by avoiding any such regulations as may be redundant or prone to misuse as a result of corruption.

“3. Each State Party shall deny the tax deductibility of bribes, the latter being one of the constituent elements of the offences established in accordance with article [...] [Criminalization of corruption involving a public official] or [...] [Criminalization of corruption in the private sector] of this Convention.”

² France expressed reservations about this paragraph.