



# General Assembly

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## Ad Hoc Committee for the Negotiation of a Convention against Corruption

Second session

Vienna, 17-28 June 2002

Agenda item 3

### Consideration of the draft United Nations Convention against Corruption, with particular emphasis on articles 40-50 and chapters IV-VIII

## Proposals and contributions received from Governments

### Austria, Colombia, Mexico and Netherlands: amendments to article 50

#### Article 50: Jurisdiction

It is proposed to amend article 50 to read as follows:

*“Article 50*

*“Jurisdiction*

“1. Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offences established in accordance with [articles [...] [articles on criminalization] of this Convention]<sup>1</sup> [articles [...] [Criminalization of corruption], [...] [Criminalization of obstruction of justice] and [...] [Criminalization of the laundering of proceeds of crime] of this Convention]<sup>2</sup> [this Convention]<sup>3</sup> when:

“(a) The offence is committed [in whole or in part]<sup>4</sup> in the territory of that State Party; or

“(b) The offence is committed on board a vessel that is flying the flag of that State Party or an aircraft that is registered under the laws of that State Party at the time that the offence is committed. [; or]

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<sup>1</sup> Proposal submitted by Austria and the Netherlands.

<sup>2</sup> Proposal submitted by Mexico.

<sup>3</sup> Proposal submitted by Colombia.

<sup>4</sup> Proposal submitted by Austria and the Netherlands



“[(c) The offence is committed against the State Party.<sup>5</sup>]

“[(c) bis The offence is committed against the affected State Party, as established in this Convention.<sup>6</sup>]

“2. Subject to article [...] [Protection of sovereignty] of this Convention, a State Party may also establish its jurisdiction over any such offence when:

“(a) The offence is committed against a national of that State Party; or

“(b) The offence is committed by a national of that State Party or a stateless person who has his or her habitual residence in its territory; or

“(c) The offence is:

(i) One of those established in accordance with article [...] [Criminalization of acts of corruption], paragraph [...], of this Convention and is committed outside its territory with a view to the commission of a related crime within its territory;

(ii) One of those established in accordance with article [...] [Criminalization of the laundering of proceeds of crime], paragraph 1 (b) (ii), of this Convention and is committed outside its territory with a view to the commission of an offence established in accordance with article [...] [Criminalization of the laundering of proceeds of crime], paragraph 1 (a) (i) or (ii) or (b) (i), of this Convention within its territory.

“3. For the purposes of article [...] [Extradition] of this Convention, each State Party shall adopt 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 solely on the ground that he or she is one of its nationals.

“4. A State Party may also adopt 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 him or her.

“5. If a State Party exercising its jurisdiction under paragraph 1 or 2 of this article has been notified, or has otherwise learned, that any other States Parties are conducting an investigation, prosecution or judicial proceeding in respect of the same conduct, the competent authorities of those States Parties shall, as appropriate, consult one another with a view to coordinating their actions.

“6. Without prejudice to norms of general international law, this Convention shall not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.”

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<sup>5</sup> Proposal submitted by Mexico.

<sup>6</sup> Proposal submitted by Colombia. Colombia will submit a further proposal defining the concept “affected State Party”.