



## General Assembly

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

Third session

Vienna, 30 September-11 October 2002

Agenda item 3

**Consideration of the draft United Nations Convention  
against Corruption, with particular emphasis  
on articles 1-39**

### **Proposals and contributions received from Governments**

#### **Chile: amendments to article 2**

##### **Article 2: Definitions [Use of terms]**

###### *Subparagraph (a)*

1. The delegation of Chile proposes the following wording for subparagraph (a):

“(a) ‘Public official’ shall mean any official or employee holding public office or exercising a public function in a State Party, its entities, institutions, enterprises or bodies, whether of a legislative, administrative or judicial nature, including those persons who have been selected, appointed or elected to perform activities or functions in the name of or in the service of the State at any level of its hierarchy and, in general, all those who provide a public service in accordance with the definitions set out in the domestic law of the States Parties and the scope of application of their criminal law;”

###### *Subparagraph (m)*

2. It is proposed that subparagraph (m) be amended to read as follows:

“(m) ‘Corruption’ shall mean:

“(i) Any act in which a public official or an individual offers, grants, requests, receives or delivers economic advantages of any kind, for himself or herself or for a third party, in exchange for performing or refraining from performing an act incumbent upon such an official or



individual by virtue of his or her office or function or for performing an illicit act, whether criminal or not;

“(ii) Any act in which a public official exerts influence over another, for his or her own benefit or for that of a third party or in exchange for performing or refraining from performing an act incumbent upon him or her by virtue of his or her office or function;

“(iii) Any act of abuse of public or private functions resulting in an improper deviation from the general or public interest to the individual interest, mainly for profit-making purposes; and

“(iv) Any participation as the perpetrator, co-perpetrator, instigator or inciter, accomplice or abettor in the commission or attempted commission of, or conspiracy or plot to commit, any of the acts referred to above;”

*Subparagraph (n)*

3. It is proposed that subparagraph (n) be amended to read as follows:

“(n) ‘Public function’ shall mean any temporary or permanent activity, whether paid or unpaid, performed by a natural or legal person in the name of the State or in the service of the State, or its institutions or its entities, at any level of its hierarchy;”

*Subparagraph (q)*

4. It is proposed that subparagraph (q) be amended to read as follows:

“(q) ‘Legal person’ shall mean those entities, organizations or moral persons, in the public or private sector, defined as such in the law of States Parties;”

*New subparagraphs*

5. It is proposed that the following new subparagraphs be added to article 2:

“(...) ‘Money-laundering’ shall mean:

“(i) The conversion or transfer of property, in the knowledge that it is the proceeds of an offence, for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the predicate offence to evade the consequences of his or her conduct;

“(ii) The concealment or disguise of the true nature, source, location, disposition, movement or ownership of property, or of rights with respect to it, in the knowledge that such property is the proceeds of an offence;

“(iii) The acquisition, possession or use of property, in the knowledge, at the time of receipt, that such property is the proceeds of an offence;

“(iv) Participation in or association with the commission or attempted commission and also aiding, facilitating, inducing or counselling the commission of any offence related to the laundering of money derived

from corruption, as well as the administration, custody, disposition, exchange, conversion, surrender as a surety, transport, transfer, investment, alteration or destruction of property:

“a. In the knowledge that such property is the proceeds of an offence, for the purpose of concealing or disguising the illicit origin of the property or of helping any person involved in the commission of a corruption offence to evade the legal consequences of his or her action;

“b. Which derives from or is the proceeds of a corruption offence if the person involved is obliged, by virtue of his or her profession, position or office, to take the measures necessary to verify the licit origin of such property and has not done so;”

“(…) ‘Private official’ shall mean any employee, executive, manager or official of any entity, organization, enterprise or private legal person other than those in which public officials exercise their functions;”

“(…) ‘Effective collaborator’<sup>1</sup> shall mean any natural or legal person who provides relevant help in the investigation or prosecution of a corruption offence;”

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<sup>1</sup> It is suggested that the words “effective collaborator” should replace the word “whistle-blower” wherever it appears in the draft convention.