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Ad Hoc Committee for the Negotiation of a Convention against Corruption

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Item 3 of the provisional agenda*

Consideration of the draft United Nations Convention against Corruption, with particular emphasis on articles 2 (remaining definitions), 3, 4, 20, 30, 32-39 and 40-85

Proposals and contributions received from Governments

Algeria: amendments to articles 40, 40 bis, 42, 43, 45, 49, 54, 55, 59-61, 63-65, 67-70, 72 and 73

Article 40: Prosecution, adjudication and sanctions

Paragraph 3

1. Paragraph 3 raises the problem of applicability with regard to domestic laws that make legal powers discretionary in cases where this is not compatible with maximizing the effectiveness of law enforcement measures in respect of offences linked to corruption.

Article 40 bis: Statute of limitations

2. The statute of limitations also applies to the enforcement of sentences.

3. Algeria proposes to delete the sentence beginning “That period of time shall be longer” because the period of time can be extended simply by instituting a new prosecution.

Article 42: Confiscation and seizure

Paragraph 3

4. In paragraph 3, Algeria proposes to add the words “or abandoned” after the word “confiscated”.

* A/AC.261/10.



Paragraph 4

5. In paragraph 4, it is proposed to add the word “necessary” after the word “reasonable”.

Article 43: Protection of witnesses and victims

Paragraph 2

6. Algeria proposes to add the following words at the end of subparagraph (a): “and helping them, if necessary, to embark on a new occupation”.

Article 45: Compensation for damages

Option 1

7. Algeria supports option 1, with deletion of the first sentence in paragraph 1.

8. In paragraph 2, it is proposed to replace the words “views and concerns of victims” with the words “rights of victims”.

Article 49: Establishment of criminal record

9. Algeria proposes to add a reference to the communication of criminal records related to acts of corruption through the establishment of a special criminal record listing convictions for corruption.

Article 54: Transfer of criminal proceedings

10. Algeria proposes to replace the title “Transfer of criminal proceedings” with “Communication with regard to criminal proceedings”.

11. In the article itself, the words “the possibility of transferring to one another” should be replaced with the words “the possibility of communicating with one another with regard to”.

Article 55: Law enforcement cooperation

Paragraph 1, option 2

12. In paragraph 1 (b) (i) of option 2, Algeria proposes to add the word “status”, after the word “identity”.

13. It is proposed to amend paragraph 1 (b) (ii) to read:

“(ii) The movement of proceeds of crime or property derived from the commission of such offences and all available information concerning such proceeds and any subsequent change in their form.”

Article 59: Special investigative techniques

Paragraph 4

14. In paragraph 4, Algeria proposes to replace the word “goods” with the words “proceeds of corruption”.

Article 60: International cooperation for purposes of confiscation*Paragraph 1*

15. In paragraph 1, Algeria proposes to specify that confiscation may result from a criminal, civil or administrative court ruling.

Article 61: Disposal of confiscated proceeds of crime or property*Paragraph 1*

16. In paragraph 1, Algeria proposes to replace the words “in accordance with its domestic law and administrative procedures” with the words “in accordance with the provisions of this Convention”.

Paragraph 2

17. In paragraph 2, Algeria proposes to add a reference to the principle of returning the proceeds of crime or property to the requesting State when the request is considered to be justified and to the right of the victims of the offence to assert their rights in the requesting State.

Article 63: Use of terms

18. In subparagraph (c), Algeria proposes to replace the words “through misappropriation, theft or embezzlement of public funds or the unlawful conversion of state property or through acts of bribery or extortion committed by a public official” with the words “through the commission of offences covered by this Convention”.

Article 64: General provisions

19. Algeria proposes to change the title of this article from “General provisions” to “Special provisions”.

Paragraph 1

20. Paragraph 1 (d) should also include the possibility for a State Party to request technical assistance from an international organization.

Article 65: Detection [and prevention] of transfers of illicitly acquired assets

21. Algeria proposes to delete the word “senior” in this article.

Paragraph 2

22. In paragraph 2 (a) (i), it is proposed to replace the words “[senior] [designated] foreign public officials” with the words “foreign public officials of certain categories”.

23. In paragraphs 2 (b) and (c), it is proposed to replace the words “high-value accounts” with the words “large accounts”.

Article 67: Recovery mechanisms

24. Algeria proposes to amend subparagraph (a) (i) to read:

“(i) Information supporting the presumption of title or ownership”.

25. At the end of subparagraph (a) (ii), it is proposed to add the words “under the conditions provided for in the country’s domestic law”.

26. Subparagraph (c) should refer to the prosecution and punishment of “corruption offences and the laundering of assets that are proceeds of corruption offences”, rather than only the laundering of illicitly acquired assets of foreign origin, which is the wording of the revised draft.

27. In subparagraph (d), it is proposed to add the word “provisional” before the word “measures”.

Article 68: Special cooperation provisions

Paragraph 4

28. In paragraph 4, Algeria proposes to delete the word “appropriate” and amend the reference to “a requested State” to read “a requested State Party”.

Article 69: Contents of a request

29. At the end of subparagraph (a), Algeria proposes to add the words “and the persons responsible for managing them”.

30. In subparagraph (c), it is proposed to replace the words “assets to be seized, restrained or confiscated” with the words “assets and property to be seized, restrained or confiscated”.

Article 70: Limitations on cooperation

Option 2

31. Algeria proposes to select option 2 and to delete the title “Limitations on cooperation”.

Article 72: Additional provisions

32. Algeria proposes to change the title “Additional provisions” to “Other provisions”.

Article 73: Collection, exchange and analysis of information on the nature of corruption

Paragraph 3

33. Paragraph 3 bears no relation to the title of this article because it deals with other matters.
