



General Assembly

Distr.: Limited
25 July 2003

English
Original: Russian

Ad Hoc Committee for the Negotiation of a Convention against Corruption

Sixth session

Vienna, 21 July-8 August 2003

Agenda item 3

Consideration of the draft United Nations Convention against Corruption

Proposals and contributions received from Governments

Belarus: general comment and amendments to articles 2, 13, 14, 28, 42, 45, 51-53, 61, 62 and 79*

1. As a result of their consideration of the draft United Nations Convention against Corruption, the relevant state authorities of Belarus would like to make the proposals described below.
2. Insofar as the subject and scope of application of the draft convention that is being prepared are covered by the United Nations Convention against Transnational Organized Crime (General Assembly resolution 55/25, annex I), it is proposed that the provisions of the draft convention against corruption be brought into line with the provisions of the United Nations Convention against Transnational Organized Crime.

Article 2: Definitions [Use of terms]

Subparagraph (k)

3. In the definition of the concept of “controlled delivery”, it is proposed that the words “into or through” and “in accordance with this Convention”, proposed by Yemen, be deleted.

Article 13: Participation of society

4. It is proposed that the legal basis for cooperation between officials and the media be more clearly defined.

* Reference is made to the text contained in document A/AC.261/3/Rev.3.



Article 14: Measures to combat money-laundering [resulting from corruption]

Paragraph 1

5. It is proposed that the wording of article 7, paragraph 1 (a) and (b), of the United Nations Convention against Transnational Organized Crime be used in article 14, paragraph 1 (a) and (b), of the draft convention.

Article 28: Improper benefits

6. It is proposed that article 28 be deleted, since the act for which it provides is covered by other types of offence.

Article 42: [Seizure and confiscation] [Freezing, seizure and confiscation]

7. It is important to provide in the draft convention for a mechanism for the return of frozen, seized or confiscated property. It is proposed that the procedure for confiscation established by the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, adopted by the Council of Europe on 8 November 1990,¹ be used as the basis for developing such a mechanism.

Article 45: Compensation for damages

8. Article 45 should be more precise, since it provides for the possibility of obtaining compensation for damage resulting from an act of corruption, but does not specify what forms compensation may take (whether such compensation covers material damage, lost financial profit or non-material damage).

Article 51: Extradition

Paragraph 2

9. It is proposed that paragraph 2 be deleted, since it contradicts one of the basic principles of international treaties on extradition, namely, that the most important condition for extradition is that the act is deemed punishable under the law of both the requested and the requesting State. It should also be borne in mind that States that accede to the draft convention will be obliged to criminalize all acts established as offences by the convention.

Article 52: Transfer of sentenced persons

10. It is proposed that the word “there” be replaced with the words “in the territory of States of which they are nationals or in which they have their permanent residence”.

Article 53: Mutual legal assistance

Paragraphs 12 and 27

11. Since paragraph 27 duplicates in part paragraph 12, it is proposed that the two paragraphs be merged.

¹ *European Treaty Series*, No. 141.

Paragraph 29

12. It is proposed that paragraph 29 be placed after paragraph 2.

Article 61

13. It is proposed that option 1 be selected, since it contains provisions analogous to those of article 14 of the United Nations Convention against Transnational Organized Crime.

Article 62: Return of property to the country of origin in cases of damage to state property

14. Article 62 should be deleted, since its provisions are covered by article 61.

Article 79: Relationship to other agreements and arrangements

15. Option 2 should be selected.
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