



General Assembly

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Ad Hoc Committee for the Negotiation of a Convention against Corruption

Sixth Session

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Agenda item 3

Consideration of the draft United Nations Convention against Corruption

Proposals and contributions received from Governments

Result of the work undertaken by an informal open-ended working group coordinated by South Africa on article 53, paragraph 9*

Article 53: Mutual legal assistance

Paragraph 9 and new paragraphs 9 bis and 9 ter

The informal working group has agreed to submit to the plenary the following text:

“9. States Parties may decline to provide mutual legal assistance pursuant to this article on the ground of absence of dual criminality. However, to the extent permitted by the domestic law of a State Party, this ground for refusal shall only apply insofar as the assistance sought involves coercive action. Coercive action shall be defined by the requested State Party.

“9 bis. Each State Party shall consider taking such measures as may be necessary to enable it to provide assistance pursuant to this article in the absence of dual criminality.

* The informal working group was coordinated by South Africa at the request of the Chairman.



“9 ter. States Parties may decline to provide assistance pursuant to this article if, in the opinion of the requested State Party, the importance¹ of the case to which the request relates does not justify the taking of the action sought and in other exceptional circumstances.

¹ The word ‘importance’ in this paragraph 9 ter refers to the cost of the request in relation to the severity of the underlying offence or the amount of money at stake. It may also include an assessment of the importance of the requested evidence to the underlying case. States Parties are encouraged to consult one another before declining a request for assistance under this paragraph.”
