*Check against delivery*

**Oral statement to be delivered by OMCT at CAT half-day General Discussion on draft revised General Comment no. 1 on Article 3**

- OMCT thanks the Committee against Torture (“the Committee”) for the organisation of a half Day General Discussion in the framework of the public consultation launched to feed into the revision process of General Comment no. 1 on Article 3.

- We endorse the Statements made by our sister NGOs, drawn on the comprehensive package of suggestions, submitted to the Committee on behalf of 9 NGOs, including OMCT, to enhance the clarity and consistency of the draft revised General Comment. A few additional observations are made hereafter.

- We consider of vital importance the adoption by this Committee of a clear, comprehensive and systematic set of guidelines to instruct States’ obligations in the context of involuntary transfers with a view to enforcing the *jus cogens* prohibition of *refoulement* and put in place effective remedies against it. We therefore welcome that the draft General Comment strives to fill current protection gaps. However, OMCT fears its impact and relevance would be severely curtailed if the number of recipient States is limited to those which made the declaration under Article 22 CAT. It is thus critical to expand the scope of application of the revised General Comment to all States parties to the Convention.

- We also consider essential that the revised General comment clarifies what all regional and universal human rights bodies and courts have uniformly held, that is: That the absolute and non-derogable prohibition of torture and CIDT itself include the prohibition of refoulement for both torture and CIDT. Limiting Article 3 to torture would make the Committee the only human rights body that does not prohibit refoulement to CIDTP.

- Furthermore, we woul like to ask the Committee to clearly reject diplomatic assurances in the revised General Comment in order to ensure that under no circumstance the prohibition of torture is bypassed by any form of engagement which ignores or minimizes a risk of torture or ill-treatment. To this end, the revised General Comment should seek to set out an effective protection framework to shield article 3 from diplomatic promises which per se aim at displacing legally binding *jus cogens* obligations.

- In this regard, to counter attempts to circumvent the prohibition against involuntary transfers, robust procedural safeguards and remedies, including appropriate judicial remedies to address non-refoulement claims under domestic law, constitute basic pillars to ensure effective protection, as this Committee has developed over the years. In this context, paragraph 18 of the draft sets out essential preventive measures, whose mandatory character should be emphasized. The current formulation of “recommended best practices” undermines the legally binding character of the listed safeguards.

- Regarding immigration detention, States should neither systematically nor indefinitely resort to detention pending proceedings arising from claims under article 3. OMCT calls on the Committee to add a paragraph to ensure that detention in this setting and building on its own jurisprudence, is used only as a last resort, for a period as short as possible, while requiring that alternatives to detention are used for victims of torture and persons in need of international protection.

- Clarification and further guidance on the nature and scope of interim measures, the due diligence application to protect from gender-based violence and the inclusion of human rights work as a risk factor is also paramount as developed in the referred joint NGO submission.

Thank you Mr. Chairman.