

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (New York, 15 November 2000)

OBJECTIVES

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (the Protocol) establishes the first common international definition of "trafficking in persons". It is intended to prevent and combat such crime and facilitate international cooperation against it. The Protocol also highlights the problems associated with trafficking in persons that often leads to inhuman, degrading and dangerous exploitation of trafficked persons. As is the case with the parent United Nations Convention against Transnational Organized Crime, 2000 (the Convention), the Protocol is expected to standardize terminology, laws and practices of countries in this area of the law.

KEY PROVISIONS

While the Convention provides for basic measures to prevent and combat transnational organized crime, its Protocols provide for specific measures to deal with specific crimes. As such, the Protocols should be interpreted together with the Convention. The provisions of the Convention apply *mutatis mutandis* to each Protocol.

The above Protocol applies to the prevention, investigation and prosecution of trafficking offences, as well as to the protection of the trafficked persons.

The key definition, "trafficking in persons", is intended to include a range of cases where human beings are exploited by organized criminal groups, particularly where there is an element of duress involved and a transnational aspect, such as the movement of people across borders. According to the definition, the consent of the victim is irrelevant where illicit means are established, although criminal law defenses are preserved.

The need for an appropriate balance between crime-control measures and measures to support or protect victims of trafficking arises in two primary places in the Protocol: the provisions expressly providing for protection and support; and provisions dealing with the return of persons to their countries of origin.

The Protocol contains a series of general protection and support measures for victims. These include a list of social support benefits such as counselling, housing, education, medical and psychological assistance and an opportunity for victims to obtain legal status allowing them to remain in the country of the receiving Party, either temporarily or permanently.

Law enforcement agencies of countries which ratify the Protocol would be required to cooperate with each other in identifying offenders and trafficked persons; sharing information about the methods of offenders; and training investigators, enforcement and victim-support personnel. Parties would also be required to implement security and border controls to detect and prevent trafficking. This includes strengthening their own border controls; imposing requirements on commercial carriers to check passports and visas; setting standards for the technical quality of passports and other travel documents; and cooperating in establishing the validity of their own documents when used abroad.

The conference of the Parties, which is established by the Convention, will have similar functions under the Protocol.

ENTRY INTO FORCE

The Protocol entered into force on 25 December 2003 (article 17).

HOW TO BECOME A PARTY

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The Protocol is closed for signature. The Protocol is subject to ratification, acceptance or approval by Signatories. The Protocol is open for accession by any State or any regional economic integration organization of which at least one member State is a Party to the Protocol. In order to become a Party to the Protocol, a State or a regional economic integration organization must also be a Party to the United Nations Convention against Transnational Organized Crime, 2000 (article 16 of the Protocol and article 37 of the Convention).

OPTIONAL AND/OR MANDATORY DECLARATIONS AND NOTIFICATIONS

A regional economic integration organization shall declare the extent of its competence with respect to matters governed by the Protocol. Such organizations must also inform the depositary of any relevant modification in the extent of its competence (article 16).

RESERVATIONS

Pursuant to article 15 (3), Parties may declare that they do not consider themselves bound by article 15 (2), according to which disputes among Parties relating to the interpretation or application of the Protocol which are not settled by negotiation will be submitted to arbitration and, failing agreement on the organization of the arbitration six months after the date of the request for arbitration, to the International Court of Justice (article 15 (3)). The Protocol is otherwise silent with regard to reservations.

DENUNCIATION/WITHDRAWAL

A Party may denounce the Protocol by written notification to the Secretary-General of the United Nations. Such denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General. A regional economic integration organization shall cease to be a Party to the Protocol when all of its member States have denounced it (article 19). Denunciation of the Convention also entails the denunciation of the Protocol (article 40 of the Convention).

**Protocol to Prevent, Suppress and Punish Trafficking in Persons,
Especially Women and Children, supplementing the United Nations
Convention against Transnational Organized Crime**

New York, 15 November 2000

ENTRY INTO FORCE: 25 December 2003, in accordance with article 17 which reads as follows: "1. This Protocol shall enter into force on the ninetieth day after the date of deposit of the fortieth instrument of ratification, acceptance, approval or accession, except that it shall not enter into force before the entry into force of the Convention. For the purpose of this paragraph, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization. 2. For each State or regional economic integration organization ratifying, accepting, approving or acceding to this Protocol after the deposit of the fortieth instrument of such action, this Protocol shall enter into force on the thirtieth day after the date of deposit by such State or organization of the relevant instrument or on the date this Protocol enters into force pursuant to paragraph 1 of this article, whichever is the later."

REGISTRATION: 25 December 2003, No. 39574.
STATUS: Signatories: 117. Parties: 124.
TEXT: Doc. A/55/383.

Note: The Protocol was adopted by resolution A/RES/55/25 of 15 November 2000 at the fifty-fifth session of the General Assembly of the United Nations. In accordance with its article 16, the Protocol will be open for signature by all States and by regional economic integration organizations, provided that at least one Member State of such organization has signed the Protocol, from 12 to 15 December 2000 at the Palazzi di Giustizia in Palermo, Italy, and thereafter at United Nations Headquarters in New York until 12 December 2002.

<i>Participant</i>	<i>Signature</i>	<i>Ratification, Acceptance(A), Approval(AA), Accession(a), Succession(d)</i>	<i>Participant</i>	<i>Signature</i>	<i>Ratification, Acceptance(A), Approval(AA), Accession(a), Succession(d)</i>
Albania	12 Dec 2000	21 Aug 2002	Cameroon	13 Dec 2000	6 Feb 2006
Algeria	6 Jun 2001	9 Mar 2004	Canada	14 Dec 2000	13 May 2002
Argentina	12 Dec 2000	19 Nov 2002	Cape Verde	13 Dec 2000	15 Jul 2004
Armenia	15 Nov 2001	1 Jul 2003	Central African Republic		6 Oct 2006 a
Australia	11 Dec 2002	14 Sep 2005	Chile	8 Aug 2002	29 Nov 2004
Austria	12 Dec 2000	15 Sep 2005	Colombia	12 Dec 2000	4 Aug 2004
Azerbaijan	12 Dec 2000	30 Oct 2003	Congo	14 Dec 2000	
Bahamas	9 Apr 2001	26 Sep 2008	Costa Rica	16 Mar 2001	9 Sep 2003
Bahrain		7 Jun 2004 a	Croatia	12 Dec 2000	24 Jan 2003
Barbados	26 Sep 2001		Cyprus	12 Dec 2000	6 Aug 2003
Belarus	14 Dec 2000	25 Jun 2003	Czech Republic	10 Dec 2002	
Belgium	12 Dec 2000	11 Aug 2004	Democratic Republic of the Congo		28 Oct 2005 a
Belize		26 Sep 2003 a	Denmark ¹	12 Dec 2000	30 Sep 2003
Benin	13 Dec 2000	30 Aug 2004	Djibouti		20 Apr 2005 a
Bolivia	12 Dec 2000	18 May 2006	Dominican Republic	15 Dec 2000	5 Feb 2008
Bosnia and Herzegovina	12 Dec 2000	24 Apr 2002	Ecuador	13 Dec 2000	17 Sep 2002
Botswana	10 Apr 2002	29 Aug 2002	Egypt	1 May 2002	5 Mar 2004
Brazil	12 Dec 2000	29 Jan 2004	El Salvador	15 Aug 2002	18 Mar 2004
Bulgaria	13 Dec 2000	5 Dec 2001	Equatorial Guinea	14 Dec 2000	7 Feb 2003
Burkina Faso	15 Dec 2000	15 May 2002	Estonia	20 Sep 2002	12 May 2004
Burundi	14 Dec 2000		European Community	12 Dec 2000	6 Sep 2006 AA
Cambodia	11 Nov 2001	2 Jul 2007			

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Finland.....	12 Dec 2000	7 Sep	2006 A	Mauritania		22 Jul	2005 a
France.....	12 Dec 2000	29 Oct	2002	Mauritius		24 Sep	2003 a
Gambia	14 Dec 2000	5 May	2003	Mexico.....	13 Dec 2000	4 Mar	2003
Georgia.....	13 Dec 2000	5 Sep	2006	Monaco.....	13 Dec 2000	5 Jun	2001
Germany.....	12 Dec 2000	14 Jun	2006	Mongolia		27 Jun	2008 a
Greece.....	13 Dec 2000			Montenegro ²		23 Oct	2006 d
Grenada		21 May	2004 a	Mozambique.....	15 Dec 2000	20 Sep	2006
Guatemala.....		1 Apr	2004 a	Myanmar		30 Mar	2004 a
Guinea		9 Nov	2004 a	Namibia	13 Dec 2000	16 Aug	2002
Guinea-Bissau	14 Dec 2000	10 Sep	2007	Nauru.....	12 Nov 2001		
Guyana		14 Sep	2004 a	Netherlands ³	12 Dec 2000	27 Jul	2005 A
Haiti.....	13 Dec 2000			New Zealand ⁴	14 Dec 2000	19 Jul	2002
Honduras		1 Apr	2008 a	Nicaragua		12 Oct	2004 a
Hungary.....	14 Dec 2000	22 Dec	2006	Niger.....	21 Aug 2001	30 Sep	2004
Iceland.....	13 Dec 2000			Nigeria.....	13 Dec 2000	28 Jun	2001
India.....	12 Dec 2002			Norway.....	13 Dec 2000	23 Sep	2003
Indonesia	12 Dec 2000			Oman		13 May	2005 a
Ireland.....	13 Dec 2000			Panama	13 Dec 2000	18 Aug	2004
Israel.....	14 Nov 2001	23 Jul	2008	Paraguay.....	12 Dec 2000	22 Sep	2004
Italy.....	12 Dec 2000	2 Aug	2006	Peru	14 Dec 2000	23 Jan	2002
Jamaica.....	13 Feb 2002	29 Sep	2003	Philippines.....	14 Dec 2000	28 May	2002
Japan.....	9 Dec 2002			Poland.....	4 Oct 2001	26 Sep	2003
Kazakhstan		31 Jul	2008 a	Portugal	12 Dec 2000	10 May	2004
Kenya		5 Jan	2005 a	Republic of Korea	13 Dec 2000		
Kiribati		15 Sep	2005 a	Republic of Moldova.....	14 Dec 2000	16 Sep	2005
Kuwait		12 May	2006 a	Romania	14 Dec 2000	4 Dec	2002
Kyrgyzstan.....	13 Dec 2000	2 Oct	2003	Russian Federation	12 Dec 2000	26 May	2004
Lao People's Democratic Republic.....		26 Sep	2003 a	Rwanda.....	14 Dec 2000	26 Sep	2003
Latvia.....	10 Dec 2002	25 May	2004	San Marino	14 Dec 2000		
Lebanon.....	9 Dec 2002	5 Oct	2005	Sao Tome and Principe..		23 Aug	2006 a
Lesotho.....	14 Dec 2000	24 Sep	2003	Saudi Arabia.....	10 Dec 2002	20 Jul	2007
Liberia		22 Sep	2004 a	Senegal	13 Dec 2000	27 Oct	2003
Libyan Arab Jamahiriya.....	13 Nov 2001	24 Sep	2004	Serbia.....	12 Dec 2000	6 Sep	2001
Liechtenstein	14 Mar 2001	20 Feb	2008	Seychelles.....	22 Jul 2002	22 Jun	2004
Lithuania.....	25 Apr 2002	23 Jun	2003	Sierra Leone	27 Nov 2001		
Luxembourg.....	13 Dec 2000			Slovakia	15 Nov 2001	21 Sep	2004
Madagascar.....	14 Dec 2000	15 Sep	2005	Slovenia.....	15 Nov 2001	21 May	2004
Malawi.....		17 Mar	2005 a	South Africa	14 Dec 2000	20 Feb	2004
Mali	15 Dec 2000	12 Apr	2002	Spain.....	13 Dec 2000	1 Mar	2002
Malta.....	14 Dec 2000	24 Sep	2003	Sri Lanka	13 Dec 2000		
				St. Kitts and Nevis.....		21 May	2004 a
				St. Vincent and the Grenadines.....	20 Nov 2002		

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Suriname.....		25 May 2007 a	Uganda	12 Dec 2000	
Swaziland	8 Jan 2001		Ukraine.....	15 Nov 2001	21 May 2004
Sweden	12 Dec 2000	1 Jul 2004	United Kingdom of Great Britain and Northern Ireland	14 Dec 2000	9 Feb 2006
Switzerland.....	2 Apr 2002	27 Oct 2006	United Republic of Tanzania	13 Dec 2000	24 May 2006
Syrian Arab Republic	13 Dec 2000		United States of America	13 Dec 2000	3 Nov 2005
Tajikistan.....		8 Jul 2002 a	Uruguay.....	13 Dec 2000	4 Mar 2005
Thailand.....	18 Dec 2001		Uzbekistan.....	28 Jun 2001	12 Aug 2008
The former Yugoslav Republic of Macedonia	12 Dec 2000	12 Jan 2005	Venezuela (Bolivarian Republic of).....	14 Dec 2000	13 May 2002
Togo	12 Dec 2000		Zambia.....		24 Apr 2005 a
Trinidad and Tobago	26 Sep 2001	6 Nov 2007			
Tunisia.....	13 Dec 2000	14 Jul 2003			
Turkey	13 Dec 2000	25 Mar 2003			
Turkmenistan.....		28 Mar 2005 a			

Notes:

¹ With a territorial exclusion in respect of the Faroe Islands and Greenland.

² See note 1 under "Montenegro" in the "Historical Information" section in the front matter of this volume.

³ For the Kingdom in Europe. On 18 January 2007 : extension to Aruba.

⁴ With the following territorial exclusion:

".....consistent with the constitutional status of Tokelau and taking into account the commitment of the Government of New Zealand to the development of self-government for Tokelau through an act of self-determination under the Charter of the United Nations, this ratification shall not extend to Tokelau unless and until a Declaration to this effect is lodged by the Government of New Zealand with the Depository on the basis of appropriate consultation with that territory....."