



Conference of the Parties to the United Nations Convention against Transnational Organized Crime

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Addendum

III. Review of the implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime

1. At its 4th to 7th meetings, on 10 and 11 October 2006, the Conference of the Parties considered agenda item 3, "Review of the implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime". The Conference had before it two analytical reports of the Secretariat on the implementation of the Protocol, presenting updated information based on additional responses received from States parties and signatories for the first reporting cycle (CTOC/COP/2005/3/Rev.1) and information received from States for the second reporting cycle (CTOC/COP/2006/6). The latter document contained a summary and an analysis of the replies sent by States parties and signatories to the Protocol, in response to the questionnaire on its implementation, prepared by the Secretariat and endorsed by the Conference of the Parties at its second session. The Conference also had before it an analytical report on clarification from States parties to the Protocol on non-compliance with some of its requirements for the first reporting cycle (CTOC/COP/2006/3). It also had before it a note by the Secretariat containing figures reflecting responses received from States for the first and second reporting cycles (CTOC/COP/2006/4 and Corr.1), as well as a note by the Secretariat on the status of responses of States to the questionnaires for the second reporting cycle on the implementation of the Convention and the Protocols thereto (CTOC/COP/2006/13).

2. Introducing the agenda item, the Secretary indicated that, in addition to States listed in the tables contained in document CTOC/COP/2006/[...] as having provided



the information requested in the questionnaire on the implementation of the Trafficking in Persons Protocol, the following States had provided replies after the expiration of the deadline set by the Secretariat for the preparation of the analytical reports: Australia, Colombia, Lebanon, Malta, Norway, Netherlands, Russian Federation and Tunisia. The European Commission had provided replies on behalf of the European Community. Mauritius had provided a new, duly completed set of replies to the questionnaire, as well as further comments on its initial response. Portugal had provided an updated version of its initial response to the questionnaire. Australia had provided late responses to the questionnaires on the implementation of the Protocol for the first and second reporting cycles. Georgia had also provided information on national action taken towards the ratification of the Protocol.

3. The Secretary also informed the Conference on the status of replies received from States in response to individual communications that the Secretariat had sent to seek clarification on certain issues where national legislation or practices had reportedly departed from, or had not been in full compliance with, the requirements of the Protocol. He noted that, of the 20 States parties requested to provide such clarifications as above, only 8 had done so: Argentina, Azerbaijan, Bulgaria, Estonia, Latvia, Portugal, Romania and Turkey. New Zealand had replied after the expiration of the deadline.

4. Statements were made by the representatives of the following States: Argentina, Australia, Belgium, Brazil, Burundi, Canada, Chile, China, Colombia, Croatia, Egypt, Finland (on behalf of the European Union), Germany, Greece, Japan, Indonesia, Iran (Islamic Republic of), Lao People's Democratic Republic, Malaysia, Mali, Malta, Mexico, Nigeria, Norway, Philippines, Romania, South Africa, Switzerland, United Kingdom and United States. The observer for the European Commission delivered a statement on behalf of the European Community. Observers for the following non-governmental organizations also addressed the Conference: National Council of German Women's Organization, Coalition against Trafficking in Women, International Alliance of Women and Global Alliance against Traffic in Women.

Deliberations

5. Many speakers provided the Conference with information on national legislation and practices already in place or on ongoing or planned legal reforms aimed at bringing their countries' legal systems in line with the requirements of the Protocol.

6. In relation to the prevention of trafficking in persons, many speakers referred to relevant measures taken, ranging from the establishment of inter-agency coordinating or policymaking bodies or steering committees to the adoption of strategic plans of action to ensure the coordination of operations at the national and regional levels. Other speakers noted the implementation of communication and awareness-raising strategies and campaigns (involving commercials, television and radio campaigns, seminars, workshops and the dissemination of informative material) to caution potential victims, as well as to inform and educate target audiences about the nature of trafficking in persons and its close links to organized crime and ways to report suspected trafficking activities. In one particular case, a video was produced and distributed, in cooperation with the International Organization for Migration, to raise awareness among vulnerable adolescents. One

initiative undertaken to promote awareness-raising programmes and training involved the financial support of non-governmental organizations. The 2006 soccer World Cup tournament in Germany was mentioned as an event with high visibility that had been used to raise awareness of the problem of persons, especially women and children, being trafficked for the purpose of sexual exploitation.

7. A number of speakers underlined the funding and support of research efforts at the national and international levels, while one speaker referred to the undertaking of survey missions in foreign countries. Another speaker reported on the establishment of a multi-agency centre to provide a focal point for conducting research, improving training material and developing best practices and enhanced knowledge and understanding regarding the operations of organized criminal groups involved in trafficking in persons. Another task of the centre was to ensure the coordination of operations and deliver a diverse set of programmes, including targeted campaigns to prevent or at least reduce trafficking in persons.

8. Some speakers referred to regional initiatives aimed at preventing trafficking in persons by, *inter alia*, strengthening regional cooperation and legal policy frameworks through national contact points and training programmes for law enforcement and immigration officers, judges and prosecutors. Another speaker pointed out that further substantial work was needed to ensure that law enforcement officers were properly trained and equipped, in particular to identify and assist victims of trafficking in persons.

9. It was also noted that particular attention should be paid to the root causes of trafficking in persons, especially the poverty, underdevelopment and lack of equal opportunity that made persons vulnerable to trafficking. One speaker stressed that countering trafficking in persons was closely linked to achieving sustainable development in countries of origin; that speaker referred to national initiatives to develop projects targeting women and children who were vulnerable to recruitment by traffickers. Other speakers underlined the importance of discouraging the demand fostering the exploitation of trafficked persons. One speaker urged Member States to implement article 9, paragraph 5, of the Protocol in a way that did not promote the demand for prostitution and sexual exploitation.

10. A number of speakers made reference to the report and recommendations of the Special Rapporteur on the human rights aspects of the victims of trafficking in persons, especially women and children (E/CN.4/2006/62). It was noted that a panel discussion entitled "Protection of Trafficked Persons: a Human Rights Approach" had been organized by relevant non-governmental organizations during the current session of the Conference of the Parties, on 11 October 2006.

11. Many speakers reported on inter-state cooperation in the form of sharing and exchanging information in order to track victims and pinpoint the activities of traffickers. Some speakers specifically referred to the posting of liaison officers or attachés in foreign countries to work with host Governments and facilitate cooperation. Other speakers highlighted the establishment of national bodies to foster the exchange of information or the conclusion of memorandums of understanding for sharing information and monitoring cases using a centralized database. One speaker, reporting on the setting up of a system for the management of information on trafficking in persons, referred to the difficulties that had arisen

from the need to comply with domestic privacy laws and confidentiality requirements.

12. The observer for ILO provided a brief overview of the work of that organization on the development of indicators for forced labour. Referring to the ILO Convention concerning Forced or compulsory Labour (Convention No. 29)¹ and the definition of forced or compulsory labour contained in that Convention, he indicated that in most cases coercion and involuntariness in performing some work or service were subtle and part of a more complicated pattern of deception and debt manipulation; for that reason, despite the existence of domestic legislation, there was a need to develop at the national level a set of clear indicators for improving the gathering of data and statistics on forced labour and trafficking. Reference was also made to the 2005 ILO report *A Global Alliance against Forced Labour*,² which gave an absolute minimum estimate of 12.3 million people in forced labour worldwide, of whom about 2.5 million had been victims of trafficking. It was noted that manuals and guidance documents developed by ILO were used as technical assistance tools in countries of origin and countries of destination.

[13. The outcome of the related discussions was reflected in a draft decision submitted by [...] (CTOC/COP/2006/L.[...]).]

[Action taken by the Conference]

[14. [...]]

Informal interactive discussion on issues related to the implementation of the Trafficking in Persons Protocol

15. Informal interactive discussions on issues related to the implementation of the Trafficking in Persons Protocol were held prior to the consultations of government experts. The expert from Canada, in her capacity as the chairman of the informal discussions, reported on the summary of the informal interactive discussions.

16. Several challenges in victim identification were raised during the informal discussions, such as confusion of victims of trafficking in persons with smuggled migrants. It was noted that, while there were difficulties involved in developing a robust identification system, the ILO guidelines and checklists for identifying victims had proved useful. Another challenge referred to during the informal discussions was how to respond when victims hesitated or refused to identify themselves as victims. It was stressed that implementing authorities were sometimes confused by the term “trafficking”, in view of its perceived focus on movement rather than on the exploitative conditions defining the offence.

17. With regard to investigations of cases involving trafficking in persons, it was noted that the way of conducting them tended to focus on three particular areas: (a) people, as States had found it useful to develop profiles or proxies to help identify potential victims, despite the danger of profiles being misused in a manner discriminating against persons and the danger of the proxy being used as a replacement for individual analysis (in a case-by-case approach); (b) places, through targeting venues that might be assumed to include potential victims of trafficking in

¹ United Nations, *Treaty Series*, vol. 39, No. 612.

² *A Global Alliance against Forced Labour*, (Geneva, International Labour Office, 2005).

persons; and (c) the purpose, by ensuring that immigration measures were not misused it was pointed out that some States took a multidisciplinary approach to investigations, relying upon all three of the above-mentioned factors to help identify victims. Another issue raised was how to address cases where victims hesitated or refused to identify themselves, for various reasons, such as fear of law enforcement, fear of retaliation or being unaware of an exploitative situation.

18. Awareness-raising was considered to be especially useful at airports and ports of entry and exit, as well as at embassies abroad. The discussions also addressed the issue of demand strategies, which were complicated by different considerations for different types of demand, while identified demand would necessarily trigger different responses to such demand.

19. The importance of training for law enforcement and immigration officers was underscored. Programmes for training, including multi-sectoral training, were also viewed as useful to prosecutors, judges and victims' service providers. One of the models identified was the placement by Governments of social service attachés in their embassies in countries where their nationals were known to be particularly vulnerable to being trafficked, with a view to providing victim assistance in a more direct manner.

20. It was agreed that efforts should be made to ensure that similar interactive discussions be included in the agenda of the fourth session of the Conference of the Parties. Such discussions should be aimed at exchanging information about implementation efforts and actual experiences, practices and challenges encountered.

Consultations of government experts on protection of witnesses and victims: assistance to and protection of victims of trafficking in persons and the status of such victims in receiving States; and repatriation of victims of trafficking in persons

21. At its 7th and 8th meetings, on 12 October, the Conference of the Parties held consultations of government experts on protection of witnesses and victims, assistance to and protection of victims of trafficking in persons, the status of such victims in receiving States and repatriation of victims of trafficking in persons, under agenda items 2 (b), 3 (a) and (b) and 4 (a) and (b).

22. During the consultations, views were expressed by government experts from the following States: Azerbaijan, Belgium, Brazil, Canada, Germany, Iran (Islamic Republic of), Italy, Japan, Latvia, Mexico, Morocco, Norway, Philippines, South Africa, United Kingdom, United States, Venezuela (Bolivarian Republic of) and Zimbabwe. The observer for the Office of the United Nations High Commissioner for Refugees made a statement. The observers for the following non-governmental organizations also made statements: [...].

23. With a view to sharing lessons learned from implementing the relevant provisions of the instruments, government experts exchanged views and experiences in the areas listed below.

Distinction between the protection of witnesses and the protection of victims of trafficking in persons

24. Several speakers underscored the fact that the protection of witnesses was not necessarily the same as the protection of victims, for the former was often aimed at dealing with severe threats such as those associated with organized crime, while the latter was usually broader in scope.

Linkage between the protection of victims of trafficking in persons and their cooperation with authorities

25. Extensive discussion was held on the linkage between the protection of victims of trafficking in persons and their cooperation with authorities.

26. Several government experts indicated that the authorities in their countries did not require cooperation from victims for the provision of protection and assistance. One expert indicated that, in his country, the level of cooperation from victims was very low, which meant in practical terms that protection was provided for those who accepted to be interviewed. Another expert shared the result of a scientific study on the correlation between the level of protection provided to victims and the success of prosecution.

Reflection periods

27. It was noted that the duration of reflection periods varied or was determined on a case-by-case basis. It was also noted that the reflection period was necessary for victims to make informed decisions.

28. One speaker expressed her concern that the reflection periods might delay investigations and prosecution. In response, several experts indicated that their authorities had not encountered any practical problems caused by the reflection periods.

Special needs for child victims

29. There was extensive discussion on protection and assistance measures that would ensure the best interests of child victims. The view was expressed that family unification might not necessarily be in the best interest of child victims because of the possible involvement of family members in trafficking.

30. The importance of recognizing differences in attitudes of child victims was discussed. For example, one expert reported that, in some cases, foreign-born child victims would put up with suffering to support their families and would feel guilt or shame because of their predicament, while child victims not born in other countries would commonly flee abusive households.

Housing services for trafficking victims

31. A discussion was held on the choice of large-scale shelters or safe houses for trafficking victims. One expert noted that, although they were more expensive, her Government used safe houses instead of large-scale shelters in order to avoid a feeling of institutionalization. She stated that research indicated that the use of safe houses improved victims' rehabilitation and their ability to cooperate as witnesses.

Funding for protection and assistance

32. Attention was also given to funding mechanisms of protection and assistance measures for trafficking victims. One expert indicated that community-based rehabilitation centres were more cost-effective than those run at the national level.

Coordination between national and local authorities

33. The division of responsibilities between authorities at the national and local levels, including internal coordination mechanisms, was discussed, in particular among federal States. One expert reported the case of a Government that utilized an existing coordination mechanism for refugee resettlement to assist trafficking victims.

Cooperation between Governments and non-governmental organizations

34. Participating government experts discussed a number of measures for cooperation between Governments and non-governmental organizations, such as counselling services for trafficking victims. The observer for a non-governmental organization emphasized the cost-effectiveness of services provided by non-governmental organizations in the area of assisting trafficking victims.

Cooperation between countries of origin and countries of destination

35. Concern was expressed at the lack of contact between the country of destination and the country of origin during investigation and repatriation. While emphasizing that the existence of bilateral agreements facilitated repatriation in several cases, one speaker stressed that decisions to contact countries of origin in the repatriation process should be made on a case-by-case basis, taking into due consideration the risk that returned victims might be stigmatized. The need to provide assistance during the post-return and reintegration periods was also underscored.

36. One expert shared an experience of obtaining a trafficking victim's cooperation in prosecuting the traffickers only after the victim's children had been relocated from the victim's country of origin to his country.

Secondary traumatization

37. One speaker raised the issue of the secondary traumatization experienced by all those working to help the victims of trafficking, such as the burn-out experienced by workers of non-governmental organizations. Another expert pointed out that the work overload of assistance providers reduced the effectiveness of assistance to trafficking victims.

[38. The outcome of the related discussions was reflected in a draft decision submitted by [...] (CTOC/COP/2006/L.[...]).]

[Action taken by the Conference]

[39. [...]]

IV. Review of the implementation of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime

Consultations of government experts on the protection of witnesses and victims: protection and assistance measures for smuggled migrants; and return of smuggled migrants

40. At its 9th meeting, on 13 October, the Conference of the Parties held the consultations of government experts on the protection of witnesses and victims: protection and assistance measures for smuggled migrants and on the return of smuggled migrants, under agenda items 2 (b), 3 (a) and (b) and 4 (a) and (b).

41. The representatives of the following States expressed their views on those agenda items: Algeria, Australia, Burundi, Canada, Croatia, Finland (on behalf of the European Union), Mexico, Nigeria, United Kingdom and United States. The observer for the European Commission also expressed his view on those items.

42. Speakers summarized the progress made at the policy and the legislative levels in implementing the Migrants Protocol.

Protection and assistance measures for smuggled migrants

43. In addition to criminalization of the smuggling of migrants and the falsification of travel or identity documents, several other measures had been adopted to protect and assist smuggled migrants, including the provision of shelter, food and health care prior to the return of smuggled migrants to their countries of origin.

Root causes of irregular migration

44. Underlying causes for irregular migration, such as poverty and ethnic tensions, were mentioned, and various forms of cooperation established at the regional level were underscored. While it was clarified that the Migrants Protocol had been designed to address the smuggling of migrants, not the broader issue of irregular migration, some speakers emphasized the need to explore the root causes of irregular migration, foster economic development and enhance policies for regular migration.

Return of smuggled migrants and protection of their human rights

45. Some speakers emphasized that a sound migration policy entailed adopting a comprehensive approach, striking a balance between the humanitarian dimension of migration and the need to comply with international obligations.

46. It was recognized that human rights abuses were often associated with the smuggling of migrants. Strengthened international cooperation, in particular with the countries of origin of smuggled migrants in order to facilitate their return while respecting their human rights, was deemed to be crucial. To that end, adherence to article 18 of the Migrants Protocol and the key role of countries of origin in

accepting their own citizens and issuing travel documents were underlined by some speakers.

Fraudulent travel or identity documents

47. Speakers stressed the importance of criminalizing the smuggling of migrants in order to provide the basis for the effective prosecution and dismantling of the organized criminal groups involved.

48. With respect to the criminalization of the production, procurement, provision and possession of fraudulent travel or identity documents, as defined in article 6, paragraph 1 (b), of the Migrants Protocol, a gap in implementation was brought to the attention of the Conference. While several speakers indicated that their national laws had criminalized such forms of conduct, and others reported on initiatives under way to improve the security and control of travel and identity documents, it was doubtful whether national legislation made it a crime to produce a fraudulent travel or identity document of another country. It was strongly recommended that that situation be addressed as a matter of urgency.

[49. The outcome of the relevant discussions was reflected in a draft decision submitted by [...] (CTOC/COP/2006/L.[...]).]

[Action taken by the Conference]

[50. [...]]

V. Review of the implementation of the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime

51. At its 5th, 7th and 8th meetings, on 11 and 12 October, the Conference of the Parties considered agenda item 5, "Review of the implementation of the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime". The Conference had before it an analytical report of the Secretariat (CTOC/COP/2006/8) containing a summary and a first analysis of the replies sent by States parties to, as well as by signatories and non-signatories of, the Firearms Protocol, in response to the questionnaire on its implementation, prepared by the secretariat and endorsed by the Conference of the Parties at its second session.

52. The representative of South Africa made an extensive audio-visual presentation on that country's comprehensive strategy to implement the Firearms Protocol, with a view to sharing its experience gained and lessons learned with the Conference. The presentation covered criminalization, markings, record-keeping, institutional mechanisms and other operational measures such as arrests for firearm-related offences, the confiscation and destruction of firearms and the voluntary surrender of firearms. With regard to the criminalization requirements

under the Protocol, he informed the Conference that national firearms control legislation made the six Protocol offences punishable by severe penalties. He also presented examples of the marking and licensing of firearms, as well as the Government's far-reaching systems for export, import and transit licensing. In conclusion, he shared key lessons learned in implementing the Protocol, such as the need for solid strategies and legislation, effective continuous communication, a change of culture and attitudes towards firearms, a flexible implementation plan, and, more generally, the enhancement of the quality and accessibility of government services by improving their efficiency and their accountability to the recipients of public goods and services.

53. The representative of Argentina informed the Conference of recent progress made, including a new plan for a voluntary surrender of weapons, the transfer of the national registry to the Ministry of the Interior with a view to ensuring a more integrated mechanism for monitoring legally possessed firearms and awareness-raising campaigns. She also reported that a working group had been established to coordinate efforts to control firearms at the national level.

54. The representative of Italy noted that Italian legislation was in full compliance with the Firearms Protocol and included even stricter measures in some areas. Under that country's dual-track system, war-related firearms, including all explosives and chemical weapons, had been placed under stricter control. He also noted that the Ministry of the Interior was developing new rules to control brokering more strictly.

55. The representative of Brazil expressed his Government's high expectations for the role that the Firearms Protocol would play in combating the illicit trade in small arms and informed the Conference of a number of disarmament initiatives that his country had taken in that area, including the strengthening of legislation in accordance with the provisions of the Protocol, peace education, voluntary weapons surrender, and international and regional cooperation. He proposed that cooperation between States parties under article 13 of the Protocol, as well as cooperation in tracing, should be developed through regular intersessional expert meetings. Underscoring that ammunition control was just as important as firearms control in the fight against organized criminal groups, he reported that a law had been adopted requiring police and the military to use only marked ammunition. He explained a newly developed technique that had proved economical in marking individual bullets and ammunition boxes. That technique, combined with sales registers, allowed the Government to trace a single bullet diverted through illicit trafficking.

56. The representative of Mali reported that his Government had strengthened national legislation and had established a national commission to combat the illicit trade in small arms and light weapons. With financial assistance from Belgium and Sweden, the Government had undertaken several weapon collection initiatives. He emphasized that the Government was a party to a number of international and regional agreements on small arms and light weapons, including the Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa and the recently adopted Economic Community of West African States (ECOWAS) Convention on Importation and Manufacture of Light Weapons.

57. The observer for the Wassenaar Arrangement on Export Controls for the Conventional Arms and Dual Use Goods and Technologies informed the Conference of the activities of the Wassenaar Arrangement relevant to the implementation of the Firearms Protocol. Since the Wassenaar Arrangement was the only export control forum aimed at promoting transparency and greater responsibility in the transfer of conventional arms and related dual-use goods and technologies, it undertook a number of activities on small arms and light weapons, including the adoption of the Best Practice Guidelines for Exports of Small Arms and Light Weapons and Elements for Effective Legislation on Arms Brokering, as well as the promotion of end-use control measures.

[58. The outcome of the relevant discussions was reflected in a draft decision submitted by [...] (CTOC/COP/2006/L.[...]).]

[Action taken by the Conference]

[59. [...]]
