



General Assembly

Distr.: Limited
5 October 2000

Original: English

Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime

Eleventh session

Vienna, 2-27 October 2000

Agenda item 3

**Finalization and approval of the additional international legal instrument
against trafficking in persons, especially women and children**

Proposals and contributions

Recommendations of the informal working group on article 2 bis of the revised draft Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, submitted at the request of the Chairperson

The informal working group proposes to continue work on article 2 *bis* on the basis of the following text:

“Article 2 bis

“Definitions

“For the purposes of this Protocol,

“(a) ‘Trafficking in persons’ shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force, of abduction, of fraud, of deception, of coercion, of the abuse of power or of a position of vulnerability¹ or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the

¹ The *travaux préparatoires* should indicate that the reference to the abuse of a position of vulnerability is understood to refer to any situation in which the person involved has no real and acceptable alternative but to submit to the abuse involved.

prostitution of others or other forms of sexual exploitation,² forced labour or services, slavery or practices similar to slavery,³ servitude or the removal of organs;

“[(a *bis*) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) shall be irrelevant where any of the means set forth in subparagraph (a) are established;]⁴

“[(b) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered ‘trafficking in persons’ even if this does not involve any of the means set forth in subparagraph (a) of this article;]

“(c) [*Deleted.*];

“(d) ‘Child’ shall mean any person under eighteen years of age.”

² The *travaux préparatoires* should indicate that this Protocol addresses the exploitation of prostitution and other forms of sexual exploitation only in the context of trafficking in persons. The terms “exploitation of the prostitution of others” or “other forms of sexual exploitation” are not defined in the Protocol. The Protocol is therefore without prejudice to how States Parties address prostitution in their respective domestic laws.

³ The *travaux préparatoires* should indicate that where illegal adoption amounts to a practice similar to slavery as defined in article 1 (d) of the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, it will also fall within the scope of the Protocol.

⁴ The *travaux préparatoires* should indicate that this subparagraph should not be construed as imposing any restriction on the right of accused persons to a full defence and to the presumption of innocence. The *travaux préparatoires* will also refer to article 11, paragraph 6, of the United Nations Convention against Transnational Organized Crime, which preserves applicable legal defences and other related legal principles of the domestic laws of States Parties.