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## Report on the meeting of the Working Group on Trafficking in Persons held in Vienna from 27 to 29 January 2010

### I. Introduction

1. In its decision 4/4, the Conference of the Parties to the United Nations Convention against Transnational Organized Crime welcomed the results of the consultations of Government experts held during its fourth session, recalled the United Nations Convention against Transnational Organized Crime<sup>1</sup> and, in particular, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime,<sup>2</sup> and other relevant international instruments and underlined the need to continue to work towards a comprehensive and coordinated approach to address the problem of trafficking in persons through the appropriate national, regional and international mechanisms. In that same decision, the Conference affirmed that a primary purpose of the Conference was to improve the capacity of States to combat trafficking in persons and called upon States parties to continue to strengthen their national legislations and policies for the implementation of the Trafficking in Persons Protocol. The Conference encouraged Member States to continue to strengthen their national policies and their cooperation with the United Nations system to combat trafficking in persons.

2. In its decision 4/4, the Conference decided to establish an open-ended working group, in accordance with article 32, paragraph 3, of the Organized Crime Convention, and rule 2, paragraph 2, of the rules of procedure for the Conference, to be chaired by a member of the Bureau, in order to advise and assist the Conference in the implementation of its mandate with regard to the Trafficking in Persons Protocol.

3. In its decision 4/4, the Conference decided that the Working Group should meet during the fifth session of the Conference and should hold at least one intersessional meeting before that session. The Conference requested the Secretariat

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<sup>1</sup> United Nations, *Treaty Series*, vol. 2225, No. 39574.

<sup>2</sup> *Ibid.*, vol. 2237, No. 39574.



to assist the Working Group in the performance of its functions and to inform the Working Group on the activities of the United Nations Office on Drugs and Crime (UNODC), including on its coordinating role for the Inter-Agency Cooperation Group against Trafficking in Persons and on coordination carried out with the secretariats of relevant international and regional organizations to promote and support implementation of the Trafficking in Persons Protocol.

4. In its decision 4/4, the Conference also decided that the Chair of the Working Group should submit a report on the activities of the Working Group to the Conference and to review and take a decision on the effectiveness and future of the Working Group at its sixth session, in 2012.

5. A meeting of the Working Group on Trafficking in Persons was held in Vienna on 14 and 15 April 2009. At that meeting, the Working Group decided that, subject to the availability of resources and the interest of States, it would be useful to hold another meeting of the Working Group prior to the fifth session of the Conference.

## **II. Recommendations adopted by the Working Group**

6. The Working Group on Trafficking in Persons, established pursuant to Conference decision 4/4, adopted the recommendations below for consideration by the Conference at its fifth session.

7. The Chair informed the Working Group that the recommendations of the Working Group, which had been discussed thoroughly and adopted by the Working Group, and chapters III and IV of the report of the Working Group would be submitted to the Conference at its fifth session, along with the report on the meeting of the Working Group held in Vienna on 14 and 15 April 2009 (CTOC/COP/WG.4/2009/2).

### **A. 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, including national and regional efforts**

#### **1. General recommendations**

8. States parties should make better use of tools and materials produced by UNODC and those produced by other organizations, such as the Recommended Principles and Guidelines on Human Rights and Human Trafficking of the Office of the United Nations High Commissioner for Human Rights,<sup>3</sup> which were produced to support the implementation of the Trafficking in Persons Protocol.

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<sup>3</sup> E/2002/68/Add.1.

## **2. Victims of trafficking in persons**

9. With regard to developing a comprehensive, multidimensional response to trafficking in persons, States parties should apply a victim-centred approach, with full respect for the human rights of victims of such trafficking.

10. States parties should consider developing guidelines for law enforcement officials on culture-, gender- and age-sensitive responses to victims of trafficking in persons, including standards and procedures for identifying and interviewing victims of trafficking in persons and methods for advising such victims of their rights.

11. States parties were encouraged to note the important role of civil society in the fight against trafficking in persons and should seek to effectively integrate civil society into national, regional and international strategies to prevent such trafficking, as well as into strategies to protect and care for victims of such trafficking, in accordance with domestic regulations.

12. States parties should consider providing, where appropriate, legal, medical and social assistance to all potential victims of trafficking in persons, including legal representation and assistance to victims of such trafficking who are minors, in accordance with article 6, subparagraph 2, of the Trafficking in Persons Protocol.

## **3. Criminal justice response to trafficking in persons**

13. Noting the low rate of convictions for trafficking in persons globally, as reported in the *Global Report on Trafficking in Persons* published by UNODC in 2009, States parties should increase their efforts to investigate and prosecute cases involving trafficking in persons, including by making timely use of financial investigation techniques, special investigative techniques and other tools designed to combat other forms of organized crime.

14. States parties should increase cross-border criminal justice action through enhanced use of joint investigations, information-sharing and confiscation of assets, in line with their domestic legislation.

## **4. Coordination**

15. States parties should take into account the recommendations contained in paragraph 17 of the report of the Working Group on its meeting held in Vienna on 14 and 15 April 2009,<sup>4</sup> and establish national coordination mechanisms, also at the level of investigation and prosecution.

16. With regard to coordination, States parties should increase efforts to enhance cross-border criminal justice action, including, where appropriate, by making increased use of joint investigations, special investigative techniques, information-sharing and the transfer of knowledge regarding the use of those measures.

17. States should make use of joint investigations as a practical means of offering technical assistance to other States and strengthening a transnational criminal justice response to trafficking in persons. In particular, joint operations should be undertaken between countries of origin and destination.

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<sup>4</sup> CTOC/COP/WG.4/2009/2.

## 5. Partnerships

18. States parties should acknowledge the importance of developing partnerships between as well as within countries, recognizing the important role that civil society plays when working in partnership with government at all levels.

19. States parties were encouraged to develop partnerships with the private sector in their efforts to combat trafficking in persons.

## 6. Training

20. With regard to training programmes, States parties should involve all stakeholders, including law enforcement agencies, victim service providers, prosecutors and consular representatives, and should seek to involve judges.

21. In addition, in view of the tools and materials developed by UNODC at the global level, States parties were encouraged to develop country-specific training materials, with UNODC providing any required technical assistance on request.

22. Further to the recommendations contained in paragraph 19 of the report on the 2009 meeting of the Working Group,<sup>5</sup> UNODC should continue to provide technical assistance, on request, to assist in the enhancement of regional coordination and cooperation, including capacity-building in that area in States and regions.

## 7. Research

23. With regard to research, the Conference should consider requesting UNODC to continue compiling and regularly producing the *Global Report on Trafficking in Persons*, including through the use of a computerized database for which information could be submitted on a regular basis. The Conference should also consider requesting UNODC to compile good practices in preventing and combating trafficking in persons, especially in the areas of prosecution and victim protection.

24. States parties should, further to the recommendations contained in paragraph 18 of the report on the 2009 meeting of the Working Group,<sup>6</sup> consider supporting more extensive research into all forms of trafficking in persons, including labour exploitation.

25. States parties should support research into profiling the crime of trafficking in persons, developing typologies and analysis regarding methodologies and offenders.

26. UNODC should continue to provide technical assistance to Member States, upon request, to improve the collection of data on trafficking in persons.

27. States parties should consider conducting research on the factors that make certain events, locations, communities, countries and regions more likely to be a place of origin of trafficked persons or a transit area or a destination used for trafficking in persons. States parties should also consider further research on socio-economic factors and how those factors affect markets, focusing in particular on the demand for trafficking in persons.

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<sup>5</sup> CTOC/COP/WG.4/2009/2.

<sup>6</sup> CTOC/COP/WG.4/2009/2.

## **8. Review**

28. States parties should monitor and evaluate the results and impact of measures undertaken at the national level. Member States should consider establishing an institution (such as a national rapporteur or committee, which could be independent) to carry out such evaluation and monitoring and to make recommendations for further action at the national level.

29. In accordance with the recommendation of the meeting of experts on possible mechanisms to review implementation of the Organized Crime Convention, the Conference should create an open-ended working group on the implementation of the Convention and its Protocols with a view to exploring options regarding an appropriate and effective mechanism to assist the Conference in the review of the implementation of the Convention and the Protocols thereto, as soon as feasible, taking into account the importance of the matter to all Member States.

30. To avoid duplication of effort, States parties should take advantage of existing experience at the regional level.

## **B. Analysis of key concepts 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. Clarification of concepts regarding trafficking in persons**

31. With regard to those concepts in the Trafficking in Persons Protocol on which States parties might require clarification:

(a) The Conference should provide guidance to States parties on those concepts;

(b) Further to the recommendations contained in paragraph 7 of the report of that Working Group on its 2009 meeting (CTOC/COP/WG.4/2009/2), the Secretariat should prepare, in consultation with States parties, issue papers to assist criminal justice officers in penal proceedings, on subjects such as consent; harbouring, receipt and transport; abuse of a position of vulnerability; exploitation; and transnationality. In addition, the Secretariat should ensure that any new concepts were integrated into existing tools and materials.

32. In applying the definition of trafficking in persons under the Protocol and consistent with the Protocol, States parties should ensure that:

(a) Where deception, coercion or other means as stipulated in article 3, subparagraph (a), of the Protocol, were present, the consent of the victim was irrelevant to establishing trafficking in persons;

(b) Trafficking in persons could be established before an act of exploitation had occurred.

33. In accordance with article 3, subparagraph (a), of the Protocol, States parties should pay close attention to the acts of trafficking (recruitment, transportation, transfer, harbouring or receipt of persons) and recognize that the presence of any of

those acts could mean that the offence of trafficking in persons had been committed, even in the absence of transit or transportation.

## **2. National implementation of the Trafficking in Persons Protocol**

34. With regard to the implementation of the Trafficking in Persons Protocol, States parties should interpret the Protocol in the context of the Organized Crime Convention.

35. In view of the fact that the Protocol did not provide model legislative provisions, States parties should draft or amend national legislation in line with their domestic circumstances.

## **3. Victim-witness testimony**

36. States parties should acknowledge the importance of voluntary victim-witness cooperation in seeking convictions for trafficking in persons. In conformity with article 25 of the Organized Crime Convention, States parties should adopt measures to assist and protect victims, regardless of whether or not they cooperated with the criminal justice authorities. The absence of testimony would not rule out the provision of assistance.

37. States parties might use the provisions of article 26, paragraphs 2 and 3, of the Organized Crime Convention to secure the testimony of members of an organized criminal group in investigations and prosecutions of cases involving trafficking in persons, for the purpose of prosecuting other members of the organized criminal group.

## **C. Good practices and tools in reducing the demand for exploitative services**

### **1. General recommendations**

38. States parties were encouraged to consider the issues of supply and demand to be interconnected and should take a holistic approach in their responses to trafficking in persons, in order to address both phenomena.

39. States parties should view the reduction of demand for exploitative services as requiring an integrated and coordinated response.

40. States parties should develop responses to the demand for all types of services where trafficking victims were exploited, including but not limited to sexual services.

41. Further to the recommendations contained in paragraph 11 of the report on the 2009 meeting of the Working Group,<sup>7</sup> in order to more forcefully discourage the demand for goods and services produced by victims of trafficking, States parties should consider adopting measures to discourage the use of such goods and services.

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<sup>7</sup> CTOC/COP/WG.4/2009/2.

42. The Conference should continue its examination of the demand for exploitative services in relation to trafficking in persons, retaining the relevant agenda item.

## **2. Awareness-raising**

43. States parties should develop awareness-raising initiatives for employers and consumers with the goal of rendering socially unacceptable the use of goods and services provided under exploitative circumstances by victims of trafficking.

44. States parties should adopt and strengthen practices aimed at discouraging demand for exploitative services, including considering measures to regulate, register and license private recruitment agencies; raising the awareness of employers to ensure their supply chains were free of trafficking in persons; enforcing labour standards through labour inspections and other relevant means; enforcing labour regulations; increasing the protection of the rights of migrant workers; and/or adopting measures to discourage the use of the services of victims of trafficking.

## **3. Research and data collection**

45. With regard to conducting research into demand for the services and products of trafficked persons, States parties should consider collecting relevant data, including on the socio-economic factors increasing the demand and on the consumers of goods and services provided by trafficked persons, disaggregated by the form of exploitation, such as labour or sexual exploitation or trafficking in persons for the removal of organs and trafficking in human organs.

46. States parties were encouraged to share information on the impact on trafficking in persons of legislation criminalizing, decriminalizing or legalizing prostitution.

## **4. Technical assistance**

47. The Secretariat should compile and distribute examples of good practices for addressing the demand for exploitative services, including research into all forms of exploitation and the factors underpinning demand and measures to raise public awareness of products and services produced by exploitative and forced labour. To facilitate that process, States parties should provide such examples to the Secretariat.

48. States parties should conduct campaigns targeting potential victims of trafficking in persons in vulnerable groups and regions and the potential users of goods or services provided by victims of trafficking, in order to raise awareness of the illegality of traffickers' actions and the criminal nature of trafficking in persons.

49. States parties should ensure that demand reduction strategies included anti-trafficking training for all the relevant segments of society.

## **D. Non-punishment and non-prosecution of victims of trafficking in persons: administrative and judicial approaches to offences committed in the process of such trafficking**

### **1. Implementation**

50. With regard to ensuring the non-punishment and non-prosecution of trafficked persons, the Working Group reaffirmed that States parties should implement the recommendations contained in paragraph 12 of the report on the 2009 meeting of the Working Group.<sup>8,9</sup>

51. States parties should ensure that, provisions for the non-punishment and non-prosecution of trafficked persons contained in domestic legislation, guidelines, regulations, preambles or other instruments were clearly stated. In doing so, States parties are encouraged to make use of technical assistance tools such as the UNODC Model Law against Trafficking in Persons<sup>10</sup> and principles and guidelines such as the Recommended Principles and Guidelines on Human Rights and Human Trafficking of the Office of the United Nations High Commissioner for Human Rights, as well as any other regional standards and guidelines.

### **2. Support for victims, including in the criminal justice process**

52. States parties should respect human rights standards in all measures concerning victims of trafficking in persons.

53. States parties should ensure that acts and procedures of their criminal justice systems did not cause secondary victimization.<sup>11</sup>

54. States parties should acknowledge and support the important role played by civil society in protecting and assisting victims and supporting the criminal justice process.

55. States parties should provide specialized training to criminal justice practitioners, including law enforcers and prosecutors, on trafficking in persons and the human rights abuses that the victims might have suffered, and should seek to involve judges. The Conference should consider requesting UNODC to continue providing to States, on request, technical assistance in the training of criminal justice practitioners.

56. States parties should endeavour to ensure the availability of a compensation fund or similar mechanism for victims of crimes, including trafficking in persons.

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<sup>8</sup> CTOC/COP/WG.4/2009/2.

<sup>9</sup> In relation to the Working Group's discussion on this recommendation, see paragraph 109 below.

<sup>10</sup> United Nations publication, Sales No. E.09.V.11.

<sup>11</sup> In accordance with the UNODC Model Law against Trafficking in Persons, secondary victimization refers to victimization that occurs not as a direct result of the criminal act but through the response of institutions and individuals to the victim.

### **3. Technical support**

57. The Secretariat should compile and disseminate:

(a) Good practices regarding provisions for the non-prosecution or non-punishment of victims in national legislation against trafficking in persons;

(b) Best practices in relation to victim identification, protection and assistance.

58. To support that process, States parties should provide to the Secretariat information regarding national practices so that others could learn from their experiences.

## **E. Good practices and tools for use in case management, including by front-line law enforcement authorities responding to trafficking in persons**

### **1. General recommendations**

59. States parties should endeavour to ensure that case management approaches covered all phases of the criminal justice process related to trafficking in persons, with appropriate follow-up, from the point of interception to the point of reintegration. States parties should ensure that case management systems were knowledge-based by regularly reviewing processes in the light of changing situations and circumstances.

60. States parties should take measures to ensure that anti-trafficking responses were coordinated and consistent at all levels.

### **2. Training**

61. States parties should ensure that specialized staff in law enforcement agencies and other parts of the criminal justice system received necessary training and support, including psychological care, as required.

62. States parties should ensure that special training was provided for criminal justice practitioners. Such training should also be extended to all court staff and victim service providers and should include sensitization to trauma and appropriate gender, age, cultural and other considerations.

### **3. Capacity-building**

63. The Conference should consider the advisability of requesting UNODC to collect best practices in the management of trafficking in persons cases that incorporated a cooperative approach between and among law enforcement agencies and other specialized services such as victim service providers, with the aim of, inter alia, providing clear procedures and policies and written agreements to avoid delays and secondary victimization of trafficking victims; incorporating a gender-, age- and culture-sensitive approach that also addressed the special needs of children; language assistance for potential victims from the point of interception to the point of reintegration; and health and psychological assistance in consideration of the particular challenges faced by victims of trafficking.

64. The Secretariat should consider compiling a roster of anti-trafficking training courses and United Nations experts to support States parties in their efforts to train their criminal justice practitioners.

65. The Secretariat should assist States parties, on request, in increasing their capacity to collect, analyse and share data on the situation with regard to trafficking in persons and responses to such trafficking.

### **III. Organization of the meeting**

#### **A. Opening of the meeting**

66. The Working Group held its meeting in Vienna from 27 to 29 January 2010. The meeting was opened by the Chair, Dominika Krois (Poland).

#### **B. Adoption of the agenda**

67. On 27 January, the Working Group adopted the following agenda:

1. Organizational matters:
  - (a) Opening of the meeting;
  - (b) Adoption of the agenda and organization of work.
2. 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, including national and regional efforts.
3. Analysis of key concepts of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.
4. Good practices and tools in discouraging the demand for exploitative services.
5. Non-punishment and non-prosecution of victims of trafficking in persons: administrative and judicial approaches to offences committed in the process of such trafficking.
6. Good practices and tools for use in case management, including by front-line law enforcement authorities responding to trafficking in persons.
7. Other matters.
8. Adoption of the report.

#### **C. Attendance**

68. The following States parties to the Trafficking in Persons Protocol were represented at the meeting of the Working Group: Albania, Algeria, Argentina, Armenia, Australia, Austria, Azerbaijan, Belarus, Belgium, Brazil, Bulgaria,

Burkina Faso, Canada, Cape Verde, Chile, Colombia, Costa Rica, Croatia, Dominican Republic, Ecuador, Egypt, El Salvador, Estonia, Finland, France, Germany, Guatemala, Hungary, Indonesia, Iraq, Israel, Italy, Jordan, Kazakhstan, Kenya, Kuwait, Lebanon, Libyan Arab Jamahiriya, Malaysia, Mauritius, Mexico, Montenegro, Namibia, Netherlands, Nigeria, Norway, Oman, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Saudi Arabia, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Tunisia, Turkey, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United States of America and Venezuela (Bolivarian Republic of).

69. The European Union, a regional economic integration organization that is a party to the Trafficking Protocol, was also represented at the meeting.

70. The following States signatories to the Trafficking in Persons Protocol were represented by observers: Czech Republic, Greece, India, Ireland, Japan, San Marino and Thailand.

71. The following States that are not parties or signatories to the Trafficking in Persons Protocol were represented by observers: Andorra, Angola, China, Côte d'Ivoire, Cuba, Holy See, Iran (Islamic Republic of), Pakistan, Singapore, Sudan, Viet Nam and Yemen.

72. Palestine, an entity maintaining a permanent observer mission, was represented.

73. The following United Nations entities were represented by observers: Office of the United Nations High Commissioner for Human Rights, Office of the United Nations High Commissioner for Refugees, United Nations Children's Fund and United Nations Development Fund for Women.

74. The following intergovernmental organizations maintaining permanent observer offices were represented by observers: Asian-African Legal Consultative Organization, International Centre for Migration Policy Development, International Organization for Migration and League of Arab States.

75. The Sovereign Military Order of Malta, an entity maintaining a permanent observer office, was represented.

76. The following intergovernmental organizations were represented by observers: Council of Europe, Council of the European Union, Eurojust, European Central Bank, Frontex, International Criminal Police Organization, Organization for Security and Cooperation in Europe and Organization of American States.

## **IV. Summary of the deliberations**

### **A. 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, including national and regional efforts**

77. On 27 January, the Working Group considered agenda item 2, on consideration of ways to promote and support 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.

78. For its consideration of agenda item 2, the Working Group had before it the report on the meeting of the Working Group on Trafficking in Persons held in Vienna on 14 and 15 April 2009 (CTOC/COP/WG.4/2009/2).

79. The Working Group heard statements from the representatives of the following States: Colombia, Azerbaijan, Argentina, Belarus, Montenegro, Netherlands, Namibia, Panama, Philippines, Austria, United States, Canada, Israel, Kuwait, Norway, Egypt, Belgium, Indonesia, Qatar, Lebanon, Estonia, Russian Federation, Algeria, Chile, Peru, United Arab Emirates and Brazil. The representative of the European Union also made a statement. Statements were also made by the observers for China, India, Pakistan, the Islamic Republic of Iran and Thailand.

80. Speakers discussed the following issues: the absence of specific legislation addressing trafficking in persons as a challenge to combating the phenomenon; problems with definitions in connection with incorporating the Trafficking in Persons Protocol into domestic legislation and with insufficient understanding of the definition of trafficking in persons; challenges for international cooperation as a result of different interpretations of trafficking in persons; the value of multidisciplinary approaches to combating trafficking being coordinated by a specialized agency to ensure coordination and avoid duplication; the need to identify links between transnational organized crime and trafficking in persons; review of implementation; and the need to focus on victim protection to give effect to the Trafficking in Persons Protocol and in order to empower victims to be witnesses in the criminal justice process.

81. The Chair informed the Working Group that, since the holding of the fourth session of the Conference in October 2008, 11 more States had acceded to the Trafficking in Persons Protocol: Chad, Indonesia, Iraq, Jordan, Luxembourg, Malaysia, Qatar, Syrian Arab Republic, Timor-Leste, Togo and United Arab Emirates. Those accessions had brought the total number of States parties to the Protocol to 135. During the course of the meeting, it was announced that China had taken the necessary steps at the domestic level and would shortly complete the formal procedure to accede to the Protocol.

82. The Officer-in-Charge of the Anti-Human Trafficking and Migrant Smuggling Unit of UNODC briefed the Working Group on some of the most recent developments in the work done by UNODC on the implementation of the

Trafficking in Persons Protocol. UNODC was currently carrying out projects in more than 80 countries in Africa, Asia, Central and Eastern Europe, the Middle East and Latin America. The Office was working closely with national authorities to develop policies and action plans against trafficking in persons and to establish the related infrastructure. That work had included the launch, in New York on 9 October 2009, of the International Framework for Action to Implement the Trafficking in Persons Protocol. That framework, the product of a broad range of entities involved in countering trafficking in persons,<sup>12</sup> was a technical assistance tool specifically designed to support States parties in taking practical actions to facilitate the implementation of the Trafficking in Persons Protocol. With regard to data collection and research, the Working Group was informed that the second edition of the UNODC *Toolkit to Combat Trafficking in Persons*<sup>13</sup> had been released in October 2008. The UNODC *Toolkit to Combat Smuggling of Migrants* had also been completed and would be launched during the fifth session of the Conference, to be held in October 2010. Progress had been made in the development of comprehensive software to gather information on the implementation of the Organized Crime Convention and its Protocols and the United Nations Convention against Corruption.<sup>14</sup> In terms of international cooperation, the Working Group was also briefed on activities in the area of international judicial cooperation, in particular on UNODC initiatives to train national authorities, judges, prosecutors and others in the use of the mechanisms of the Organized Crime Convention and UNODC tools for extradition, mutual legal assistance and cooperation for the purposes of confiscation. With regard to legislative assistance, the UNODC Model Law against Trafficking in Persons had been finalized. The model law was a tool aimed at facilitating and systematizing the provision of legislative assistance by UNODC and at facilitating the review and upgrading of existing legislation by States. In that framework, reference was also made to the development of a model law against the smuggling of migrants that was nearing finalization.

83. In terms of the core mandate of UNODC — to build criminal justice capacity — an advanced training manual for criminal justice practitioners combating trafficking in persons had recently been released. The manual had been launched in Bangkok by Ambassador-at-Large, Luis C. de Baca of the Office to Monitor and Combat Trafficking in Persons, United States Department of State, as well as on the UNODC website. UNODC had also published a *Basic Training Manual* for law enforcers and prosecutors on combating the smuggling of migrants. At a side event of the third session of the Conference of the States Parties to the United Nations Convention against Corruption, held in Doha from 9 to 13 November 2009,

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<sup>12</sup> Anti-Slavery International, Council of Europe, Foundation ECPAT International (End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes), International Organization for Migration, International Labour Organization, Intervention Centre for Victims of Trafficking in Women, Organization of American States, Organization for Security and Cooperation in Europe, Terre des Hommes International Federation, the Protection Project, Johns Hopkins University School of Advanced International Studies, Division for the Advancement of Women of the Secretariat, United Nations Children's Fund, United Nations Development Fund for Women, Office of the United Nations High Commissioner for Refugees, United Nations Interregional Crime and Justice Research Institute, Office of the United Nations High Commissioner for Human Rights and United Nations Office on Drugs and Crime.

<sup>13</sup> United Nations publication, Sales No. E.08.V.14.

<sup>14</sup> United Nations, *Treaty Series*, vol. 12349, No. 42146.

UNODC and Transparency International had jointly produced an issue paper on the role of corruption in trafficking in persons. UNODC had also launched a “first-aid kit” for the detection of cases involving trafficking in persons and for providing assistance to victims of such trafficking, which was available in all six official languages of the United Nations on the UNODC website. In connection with the issue of providing protection and support to such victims, the Working Group was informed that a victim-centred approach was advocated in the framework of the 26 technical assistance projects carried out by UNODC to counter trafficking in persons. The Working Group was also informed of UNODC activities related to prevention and awareness-raising; in that regard, it was mentioned that UNODC had launched the Blue Heart Campaign and developed a film entitled “Affected for Life”. The film, which could be downloaded from the UNODC website, was to be used in the training of criminal justice practitioners and other specialists and more generally for awareness-raising purposes.

84. Mention was made of a conference hosted by Sheikha Sabeeka Bint Ibrahim al-Khalifa of Bahrain entitled “Human Trafficking at the Crossroads”, held in Manama on 2 and 3 March 2009, and of a high-level international forum held in Bulgaria in May 2009. The Working Group was informed that the International Labour Organization, in the framework of the Global Initiative to Fight Human Trafficking (UN.GIFT) and the Global Compact (a network involving Governments, companies and the United Nations), had conducted an exploratory survey of businesses to assess their levels of awareness and knowledge about the ways in which trafficking in persons affected supply chains. Reference was also made to the launch by UNODC (in the framework of UN.GIFT) and the Inter-Parliamentary Union of *Combating Trafficking in Persons: a Handbook for Parliamentarians*,<sup>15</sup> the handbook had been released in Addis Ababa on 7 April 2009 on the occasion of the 120th Statutory Assembly of the Inter-Parliamentary Union, which had been attended by over 1,500 parliamentarians from around the world. In 2009, the Gulu Gala project had helped raise awareness of the plight of child soldiers and rehabilitation programmes aimed at child victims of trafficking. Also in the framework of UN.GIFT, a photo exhibition had been held in Vienna on 2 December 2009, showcasing situations of trafficking for the purposes of domestic labour exploitation. In the framework of UN.GIFT, UNODC, the International Criminal Police Organization, law enforcers and relevant non-governmental organizations had developed an interactive computer-based tool, to be made available in 40 languages, to help victim service providers identify and assist victims of trafficking in persons. That tool was currently in the testing phase.

## **B. Analysis of key concepts of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime**

85. On 27 January, the Working Group considered agenda item 3, “Analysis of key concepts of the Protocol to Prevent, Suppress and Punish Trafficking in Persons,

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<sup>15</sup> United Nations publication, Sales No. E.09.V.5.

Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime”.

86. For its consideration of that agenda item, the Working Group had before it a background paper prepared by the Secretariat on the analysis of key concepts of the Trafficking in Persons Protocol (CTOC/COP/WG.4/2010/2), which focused in particular on the concepts of “exploitation” and “exploitation of the prostitution of others”.

87. The Chair highlighted that the lack of definitions of various terms contained in the Protocol remained a key challenge for its implementation, as did the lack of criminal justice capacity and expertise to implement the Protocol. The Chair invited States parties to comment on some of the particular challenges they had encountered in addressing those issues and the measures that they had put in place to address them.

88. The panellists were Venla Roth (Finland), Nicole Zuendorf-Hinte (Germany), Wael Abou el Magd (Egypt) and Olivier Weber (France).

89. Venla Roth, Finland’s National Rapporteur, discussed Finland’s challenges in combating trafficking in persons. She laid particular stress on the challenge posed by varying interpretations of concepts such as prostitution, sexual exploitation and trafficking in persons. She noted that Finland’s National Rapporteur to combat trafficking had been appointed in June 2008 in connection with the revision of the country’s National Action Plan against trafficking. The National Rapporteur performed an independent monitoring function and also coordinated countermeasures to ensure a coordinated response to trafficking in persons and to reduce duplication. Part of the mandate of the Rapporteur was to address the challenges related to definitions which could hamper a coordinated response to trafficking in persons.

90. Nicole Zuendorf-Hinte discussed the purpose and scope of the Trafficking in Persons Protocol and key provisions therein that were crucial for criminalization, protection and assistance of victims of trafficking, prevention and cooperation. She stressed that the provisions of the Trafficking in Persons Protocol must be interpreted in the context of the Organized Crime Convention.

91. Wael Abou el Magd discussed the challenges that Egypt had faced in incorporating the Trafficking in Persons Protocol into Egyptian domestic law. He stressed the fact that the Trafficking in Persons Protocol had to be implemented in the context of domestic circumstances. He also highlighted the fact that the Trafficking in Persons Protocol represented a minimum standard which domestic legislation could and should build on.

92. Olivier Weber noted the success of the Trafficking in Persons Protocol in achieving a universal understanding of trafficking in persons. The tools created by UNODC and others were a reliable source of holistic, victim-centred approaches to combating trafficking in persons.

93. Under agenda item 3, the Working Group heard statements from the representatives of the following States: Norway, Colombia, United States, Nigeria, Israel, Belarus, Switzerland, Canada, Mexico, Poland, Belgium, Italy, Brazil, Namibia, Argentina, Russian Federation, Spain and France. The observers for China

and Thailand also made statements. The observer for the League of Arab States made a statement.

94. Speakers discussed the following issues: the need to implement laws according to domestic circumstances to achieve the purpose of the Trafficking in Persons Protocol and increase the rate of conviction; the fact that transportation was only one of the acts which could be an element of the crime of trafficking in persons; the application of the Trafficking in Persons Protocol even in the absence of any element of transnationality; the relativity of the concept of exploitation; the conceptual challenges in differentiating between trafficking in persons and smuggling of migrants; the issue of consent; the relationship between the Trafficking in Persons Protocol and the Organized Crime Convention; and the need to support the involvement of victims as witnesses in criminal justice processes.

### **C. Good practices and tools in discouraging the demand for exploitative services**

95. On 28 January, the Working Group considered agenda item 4, “Good practices and tools in discouraging the demand for exploitative services”. For its consideration of that item, the Working Group had before it a background paper prepared by the Secretariat on good practices and tools in discouraging the demand for exploitative services (CTOC/COP/WG.4/2010/3).

96. The Chair underlined the mutually reinforcing relationship between supply and demand and stressed the need to address both phenomena. She invited the Working Group to discuss and formulate recommendations on developing measures to reduce demand for exploitative services. She also invited the Working Group to consider the role that research could play in understanding and therefore addressing demand and asked the Working Group to discuss who could be targeted with measures aimed at reducing demand, suggesting that employers and consumers be considered as potential target groups for interventions. The Chair also asked the Working Group to consider the issue of criminal sanctions for persons who had used the services of a victim of trafficking.

97. The panellists were Sitona Abde la Osman (Sudan), Jan Austad (Norway) and Berlan Pars Alan (Turkey).

98. Sitona Abde la Osman shared the experience of Sudan in the fight against trafficking in persons. Between 2005 and 2009, the Government had conducted a study which had included a number of findings on why civil wars led to the proliferation of crime. The study had then guided the Government in issuing instructions to relevant ministries, enacting various legislation to combat the most egregious forms of organized crime, including trafficking in persons, and in developing a process for self-assessment.

99. Jan Austad discussed the ways in which Norway had dealt with reducing the demand for sexual services. In the context of an increase in prostitution in Norway in recent years, public opinion was that sex workers needed to be protected because they might be victims of trafficking. A national discussion had developed regarding whether criminalizing the purchase of sex workers’ services and changing the law would make the situation better or worse for such workers. Parliament had

criminalized the purchase of sexual services in 2008 resulting in a reduction in street prostitution and fewer clients in search of sexual services. Norway was conducting research to ascertain how the law affected attitudes and the people working in prostitution, as well as those who used the services of prostitutes. While the Trafficking in Persons Protocol took a neutral approach to prostitution, States could not do so.

100. Berlan Pars Alan presented good practices and tools used in reducing demand for exploitative services in Turkey and shared the findings of research on the supply and demand considerations at play in trafficking in persons. He stressed the power relationships between traffickers, trafficked victims and persons who used exploitative sexual services. Where unequal relationships were legitimized by the culture, demand must be reduced through a concerted and coherent approach to change the social, economic and international inequalities underlying the phenomenon. In relation to trafficking in organs and trafficking in persons for the purpose of organ removal, measures should be taken to closely monitor clinics and hospitals where organs were transplanted. Generally, increased cooperation, increased knowledge, awareness-raising initiatives and multiagency responses were required to reduce demand.

101. Under agenda item 4, the Working Group heard statements from the representatives of the following States: Nigeria, Ecuador, Estonia, Lebanon, Belarus, Israel, Philippines, United States, Poland, Netherlands, Brazil, United Kingdom, Mexico, Argentina, Kenya, Namibia, Dominican Republic, Australia, Chile, Peru, United Arab Emirates and France. The observers for China, the Islamic Republic of Iran and India also made statements.

102. Speakers discussed the following issues: the link between supply and demand in trafficking in persons cases; the effect of the relationship between legalization, criminalization and decriminalization of prostitution on the demand for exploitative services provided by the victims of trafficking in persons; legislative measures to penalize persons who purchased exploitative services or goods and awareness-raising measures among potential victims.

#### **D. Non-punishment and non-prosecution of victims of trafficking in persons: administrative and judicial approaches to offences committed in the process of such trafficking**

103. On 28 January, the Working Group considered agenda item 5, “Non-punishment and non-prosecution of victims of trafficking in persons: incorporating administrative and judicial approaches to offences committed in the process of trafficking”. For its consideration of that item, the Working Group had before it a background paper prepared by the Secretariat on non-punishment and non-prosecution of victims of trafficking in persons: incorporating administrative and judicial approaches to offences committed in the process of such trafficking (CTOC/COP/WG.4/2010/4), which contained an overview of the notion of non-liability of victims of trafficking in persons.

104. The Chair stressed the relevance of resources such as the UNODC *Model Law against Trafficking in Persons* which offered an example of a non-criminalization provision in its article 10. States were also invited to refer to the Recommended

Principles and Guidelines on Human Rights and Human Trafficking of the Office of the United Nations High Commissioner for Human Rights and any other regional standards and guidelines. The Chair invited the Working Group to discuss the challenges in identifying trafficked persons; the principle of non-liability for the illegal acts committed by victims of trafficking; the merits of both the “duress-based” and “causation-based” provisions; as well as the relationship between non-liability of victims and their cooperation with the criminal justice process. The panellists for that Working Group were John Richmond (United States) and Wanchai Roujanavong (Thailand).

105. John Richmond shared his experiences as a prosecutor of human traffickers. The non-prosecution of trafficking victims was supported by law in the United States, and a victim-centred approach increased the chance of securing the prosecution of traffickers. The challenges that might result from non-prosecution were outweighed by the benefits of collaboration. Much of the evidence needed to convict traffickers came from testimony; without securing the cooperation of victims, that evidence would not be brought.

106. Wanchai Roujanavong shared the experiences of Thailand, where a victim-centred approach aimed to protect victims of trafficking in persons and secure their assistance as witnesses to the crime of trafficking. He provided examples of the ways in which victim-witnesses were supported through the criminal justice process and presented article 41 of the 2008 Anti-Trafficking in Persons Act of Thailand which prohibited the prosecution of trafficking victims for listed offences. States parties must decide who and what they were fighting in combating trafficking in persons. If the support of victims of trafficking in persons were not secured, efforts to combat trafficking would be undermined.

107. Under agenda item 5, the Working Group heard statements from the representatives of the following States: Egypt, Netherlands, Belarus, Jordan, Israel, Philippines, Germany, Russian Federation, Austria, Australia, Argentina, Peru, Canada, Nigeria, Namibia, Mexico, Indonesia, United States, Brazil, Panama, United Kingdom and Algeria. The representative of the European Union also made a statement. The observers for India, the Islamic Republic of Iran and China also made statements.

108. Speakers discussed the following issues: the importance of a victim-centred approach, the importance of ensuring that the Trafficking in Persons Protocol fulfilled its purpose of protecting victims; the challenge of determining exactly when a person became a victim of trafficking; the challenge of identifying victims of trafficking; the challenge of protecting victims’ rights without applying a blanket approach to non-punishment; the key role that the victim played in the criminal justice process; the need to balance the interests of justice with the interests of victims; and the importance of civil society in assisting victims through the criminal justice process.

109. Discussions in relation to the issue of non-punishment and non-prosecution of victims of trafficking were wide-ranging, with strongly differing viewpoints expressed on aspects of the issue. The Working Group was unable to reach agreement on recommendations on non-prosecution additional to those agreed at its first meeting, while a few members did not support the decision to restate that recommendation as an outcome of the second meeting.

## **E. Good practices and tools for use in case management, including by front-line law enforcement authorities responding to trafficking in persons**

110. On 29 January, the Working Group considered agenda item 6, “Good practices and tools for use in case management, including by front-line law enforcement authorities responding to trafficking in persons”. For its consideration of that item, the Working Group had before it a background paper prepared by the Secretariat on good practices and tools for use in case management, including by front-line law enforcement authorities responding to trafficking in persons (CTOC/COP/WG.4/2010/5).

111. The Chair invited the Working Group to discuss the incorporation into case management of cooperative approaches among and between anti-trafficking actors; safety measures; uniform procedures and policies to prevent revictimization and reduce delays; and gender-sensitivity and measures to address the special needs of children.

112. Irene Herrerías Guerra shared experiences of case management in Mexico. She noted the good practice of information-sharing to enhance cooperation and coordinated responses and the significance of victim protection at trial. The cooperation between Mexico and the United States was cited as a good example of cross-border multiagency cooperation. She also underlined the value of specialized units to bring together various anti-trafficking actors in both investigation and prosecution.

113. Jean-François Minet, the official responsible for national coordination in the field of anti-trafficking in Belgium, stressed that case management involved investigation and prosecution on the one hand, and victim identification on the other. Those issues were distinct but related. Three mechanisms were used in Belgium: appointment of specialized magistrates to serve as focal points for anti-trafficking responses in their jurisdictions; organization of coordination meetings to bring anti-trafficking actors together; and ongoing and effective evaluation of those initiatives. Coordination should not just be national and international, but also regional and local.

114. Under agenda item 6, the Working Group heard statements from the representatives of the following States: Oman, Philippines, Peru, Israel, Albania, Nigeria, Argentina, Germany, Brazil, Indonesia, Qatar and United Arab Emirates. Statements were also made by the observers for Japan, Greece, China, Pakistan and the Sudan.

115. Speakers discussed the following issues: the necessity of coordination at local, regional, national and international levels; the value of information-sharing to strengthen measures to enhance international police cooperation; the establishment and usefulness of specialized units in law enforcement and prosecution; training for criminal justice practitioners; sensitization to gender issues and the special needs of children as well as cultural training and sensitivity; language and interpretation challenges; and the role that UNODC could play in proposing a model for case management.