Working Group on Trafficking in Persons
Vienna, 27-29 January 2010

Report on the meeting of the Working Group on Trafficking in Persons held in Vienna, 27-29 January 2010

I. Introduction

1. In its decision 4/4, the Conference of the Parties to the United Nations Convention against Transnational Organized Crime decided that the Chair of the Working Group should submit a report on the activities of the Working Group to the Conference at its fifth session, in 2010, and would review and take a decision on the effectiveness and future of the working group at its sixth session, in 2012.

II. Recommendations adopted by the Working Group


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

3. States parties should make better use of UNODC and other tools and materials such as the OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking, which have been produced to support the implementation of the Trafficking in Persons Protocol.

2. Victims of trafficking
4. With regard to developing a comprehensive, multi-dimensional response to trafficking in persons, States parties should apply a victim-centred approach, with full respect for the human rights of victims.

5. States parties should consider developing guidance for law enforcement officials on cultural, gender and age sensitive responses to victims of trafficking in persons, including standards and procedures for identification and interviewing victims of trafficking in persons and methods for appraising such victims of their rights.

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

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

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

8. Noting the low rate of human trafficking convictions globally, as reported in the Global Report on Trafficking in Persons, States parties should increase their efforts to investigate and prosecute trafficking in persons crimes, including the early use of financial investigation techniques, special investigative techniques and other tools used to combat other forms of organized crime.

9. 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**

10. Noting recommendation 17 of the previous report of this Working Group, States parties should establish domestic coordinating mechanisms, also at the level of investigation and prosecution.

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

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

5. **Partnerships**

13. With regard to partnerships, States parties should acknowledge the importance of developing partnerships across as well as within borders, recognizing the important role that civil society plays in partnering with government at all levels.

14. States parties are encouraged to partner with the private sector in their efforts to combat trafficking in persons.
6. **Training**

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

16. In addition, noting the related tools and materials developed by UNODC at a global level, States parties are encouraged to develop country-specific training materials, if needed and upon request, with technical assistance from UNODC.

17. Further to recommendation 19 contained in the previous report, UNODC should continue to provide technical assistance, upon request, to assist the enhancement of regional coordination and cooperation, including the related capacity-building of States and regions.

7. **Research**

18. 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 a computerized database allowing the regular submission of contributing information. The Conference should also consider requesting UNODC to compile good practices in preventing and combating trafficking in persons, especially in the area of prosecution and victim protection.

19. States parties should, further to recommendation 18 from the previous report of the Working Group, consider supporting greater research on all forms of trafficking in persons, including labour exploitation.

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

21. UNODC should continue to provide technical assistance to Member States, upon request, to improve data collection.

22. States parties should consider conducting research on factors that make certain events, locations, communities, countries and regions more likely to be the source, transit or destinations for trafficking in persons. States parties should also consider further research on socio-economic factors and how these factors affect markets, especially the demand, for trafficking in persons.

8. **Review**

23. States parties should monitor and evaluate the results and impact of measures undertaken at the domestic level. Member States should consider establishing a mechanism (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 domestic level.

24. This Working Group endorses the recommendation of the Open-ended intergovernmental meeting of experts on possible mechanisms to review implementation that the Conference of the Parties 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.
25. To avoid duplication of efforts, States parties should take advantage of existing experience at the regional level.


1. Clarification of concepts regarding trafficking in persons

26. With regard to those concepts in the Trafficking Protocol on which States parties may require clarification:

i. The Conference of the Parties to the UNTOC Convention should provide guidance to States parties on these concepts;

ii. Further to recommendation 7 of the previous report of this Working Group, the Secretariat should prepare, in consultation with States parties, concept papers in order to assist criminal justice officers in penal proceedings, including on consent; harbouring, receipt and transport; abuse of a position of vulnerability; exploitation; and transnationality, and ensure that any new concepts are integrated into existing tools and materials.

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

i. Where deception, coercion or other means under the Protocol are present, the consent of the victim is irrelevant to establishing trafficking in persons;

ii. Trafficking in persons may be established before an act of exploitation has occurred.

28. In accordance with paragraph 3(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 offence can be satisfied by those acts even in the absence of transit or transportation.

2. National/domestic implementation of the Trafficking in Persons Protocol

29. With regard to the implementation of the Trafficking Protocol, States parties should interpret the Protocol in the context of the UNTOC Convention.

30. Noting that the Protocol does not provide model legislative provisions, States parties should draft or improve national legislation in line with their domestic circumstances.

3. Victim/witness testimony

31. States parties should acknowledge the importance of voluntary victim/witness cooperation in seeking convictions of trafficking. In conformity with Article 25 of the UNTOC, States parties should adopt appropriate measures to assist and protect victims, regardless of their cooperation with criminal justice authorities. The absence of testimony will not rule out the provision of assistance.

32. States parties might use the authority suggested by articles 26 (2) and (3) of the UNTOC Convention in order to secure testimony of members of criminal
organizations in trafficking investigations and prosecutions for the purpose of prosecuting other members of the trafficking organization.

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

1. **General recommendations**

   33. States parties are encouraged to consider the issues of supply and demand as interconnected and should take a holistic approach in their responses to human trafficking, to address both phenomena.

   34. States parties should view the reduction of demand as requiring an integrated and coordinated response.

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

   36. Further to recommendation 11 from the previous report of this Working Group, 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.

   37. The Working Group recommends that the Conference of the Parties continue its examination of demand as regards trafficking in persons, as a topic per se on the agenda.

2. **Awareness-raising**

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

   39. 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; sensitizing employers to ensure their supply chains are free of human trafficking; enforcing labour standards through labour inspections and other relevant means; enforcement of labour regulations; increasing the protection of rights of migrant workers; and/or adopting measures to discourage the use of services of victims of trafficking.

3. **Research and data collection**

   40. 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 that increase the demand, and on the consumers of trafficked goods and services, disaggregated by the form of exploitation, such as labour or sexual exploitation or trafficking of persons for the removal and trafficking of organs.

   41. States parties are encouraged to share information on the impact that legislation criminalizing, de-criminalizing or legalizing prostitution has on human trafficking.

4. **Technical assistance**
42. The Secretariat should compile and distribute examples of good practice measures to address the demand side of trafficking, including measures to broaden awareness, and research into all forms of exploitation and the factors that underpin demand, measures to raise public awareness on products and services that are produced by exploitative and forced labour. To facilitate this process, States parties should provide such examples to the Secretariat.

43. States parties should undertake targeted awareness-raising campaigns for specific groups. This should include raising awareness of potential trafficking victims in vulnerable groups and regions of the dangers of human trafficking, and raising awareness of potential users of goods or services provided by trafficking victims, of the illegality of traffickers’ actions and the criminal nature of human trafficking.

44. States parties should ensure that demand reduction strategies include anti-trafficking training of all relevant sectors 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


46. States parties should ensure that, where provisions of non-punishment and non-prosecution of trafficked persons are contained in domestic legislation, guidelines, regulations, preambles or other instruments, they should be 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 and principles and guidelines such as the United Nations High Commissioner for Human Rights Recommended Principles and Guidelines on Human Rights and Human Trafficking, as well as any other regional standards and guidelines that are relevant.

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

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

48. States parties should ensure that acts and procedures of their criminal justice systems do not secondarily victimize victims of trafficking.

1 Recommendation 12 reads: With regard to ensuring the non-punishment and non-prosecution of trafficked persons, States Parties should:
   (a) Establish appropriate procedure for identifying victims of trafficking in persons and for giving such victims support;
   (b) Consider, in line with their domestic legislation, not punishing or prosecuting trafficked persons for unlawful acts committed by them as a direct consequence of their situation as trafficked persons or where they were compelled to commit such unlawful acts.

In relation to the Working Group’s discussion on this recommendation, see paragraph 113 of the Chair’s report below.

2 Secondary victimization refers to victimization that occurs not as a direct result of the criminal act but through the response of
49. States parties should acknowledge and support the important role that civil society plays in protecting and assisting victims and supporting the criminal justice process.

50. States parties should provide specialized training to criminal justice practitioners, including law enforcers and prosecutors on human trafficking and the human rights abuses that may have been endured by the victims, and seek to involve judges. The Conference of Parties should consider requesting UNODC to continue providing technical assistance to the States, upon request, on the training of criminal justice practitioners.

51. States parties should endeavour to ensure the establishment and accessibility of a compensation fund or similar mechanism for victims of crime, including trafficking in persons.

3. Technical support

52. The Secretariat should collect and disseminate:
   i. Good practices regarding non-prosecution or non-punishment of victims provisions from domestic trafficking in persons legislation;
   ii. Best practices in relation to victim identification, protection and assistance.

53. To support this process, States parties should provide information regarding national practices with the Secretariat so that others may 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

54. States parties should endeavour to ensure that case management approaches encompass 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 are knowledge-based by regularly reviewing processes against changing situations and circumstances.

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

2. Training

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

57. States parties should ensure that special training is provided for criminal justice practitioners. Such training should also be extended to all court staff and victim institutions and individuals to the victim [Source: UNODC Model Law against Trafficking in Persons].
service providers and should include sensitization to trauma, and appropriate gender, age, cultural and other considerations.

3. Capacity building

58. The Conference of the Parties should consider the advisability of requesting UNODC to collect best practices in the management of trafficking in persons cases that incorporate a cooperative approach among and between 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, incorporate a gender, age and culturally-sensitive approach that also addresses the special needs of children; language assistance for potential victims from the point of interception through to the point of reintegration, and health and psychological assistance in consideration of the particular challenges faced by victims of trafficking.

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

60. Upon request, the Secretariat should assist States parties to increase their capacity to collect, analyse and share data regarding the trafficking situation and response.

III. Report of the Chair

61. In its decision 4/4, the Conference welcomed the results of the consultations of Government experts held during its fourth session, recalled the Organized Crime Convention and, in particular, the Trafficking in Persons Protocol, 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 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 humans.

62. 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, to advise and assist the Conference in the implementation of its mandate with regard to the Trafficking in Persons Protocol.

63. 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. It requested the Secretariat to assist the working group in the performance of its functions and to inform the working group on the activities of UNODC, including on its coordinating role for the Inter-Agency Coordination 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.

64. 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.

65. 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 interest by the States, it would be useful to hold another meeting of the Working Group prior to the fifth session of the Conference of the Parties. The present report documents discussions held at that additional meeting in Vienna on 27 to 29 January 2010.

66. The Chair informed the working group that its recommendations, contained in chapter I of the present report, which had been discussed thoroughly and adopted by the Working Group, and chapters II-VIII of the present report, would be submitted to the Conference at its fifth session, along with the Report on the Meeting of the Working Group held on 14 and 15 April 2009, pursuant to Conference decision 4/4.

A. Organization of the meeting

1. Opening of the meeting

67. The Working Group held its meeting in Vienna on 27 to 29 January 2010. The meeting of the Working Group was chaired by Ms. Dominika Krois (Poland).

68. In her opening remarks, the Chair recalled that, pursuant to decision 4/4, the Working Group had been requested to perform the following functions:

(a) Facilitate implementation of the Trafficking in Persons Protocol through the exchange of experience and practices between experts and practitioners, including by contributing to the identification of weaknesses, gaps and challenges;

(b) Make recommendations to the Conference on how States parties could better implement the provisions of the Trafficking in Persons Protocol;

(c) Assist the Conference in providing guidance to its secretariat on its activities relating to the implementation of the Trafficking in Persons Protocol;

(d) Make recommendations to the Conference on how it could better coordinate with the various international bodies combating trafficking in persons with respect to implementing, supporting and promoting the Trafficking in Persons Protocol.

2. Adoption of the agenda

69. 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.


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 of the Working Group on its meeting.

3. Attendance

70. 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).

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

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

73. The following Observer States to the Trafficking in Persons Protocol were represented: Andorra, Angola, China, Côte d’Ivoire, Cuba, Holy See, Iran (Islamic Republic of), Pakistan, Singapore, Sudan, Viet Nam and Yemen.

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

75. The following United Nations entities and institutes of the United Nations Crime Prevention and Criminal Justice Programme network were represented by observers: Office of the United Nations High Commissioner for Human Rights,

76. 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.

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

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

B. 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

79. 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.

80. The Chair informed the Working Group that since the holding of the fourth session of the Conference of the Parties in October 2008, eleven 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, China noted it had taken the necessary domestic steps and would shortly complete the formal procedure to accede to the Protocol.

81. 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 for 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. It was noted that UNODC 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 of the International Framework for Action to Implement the Trafficking in Persons Protocol in New York on 9 October 2009. The Framework for Action — the product of a broad range of anti-trafficking partners — is a technical assistance tool

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3 Anti-Slavery International, Council of Europe, End child prostitution, child pornography and trafficking of children for sexual purposes (ECPAT), International Organization for Migration (IOM), International Labour Organization (ILO), Intervention Centre for Victims of Trafficking
specifically designed to support States parties in taking practical actions to support 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 had been released in October 2008. The UNODC Toolkit to Combat Migrant Smuggling had also been completed and would be launched at the fifth session of the Conference of the Parties in October 2010. She stressed that progress had been made in the development of a comprehensive software programme to gather information on the implementation of the Convention against Transnational Organized Crime and its Protocols and the United Nations Convention against Corruption. 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 was finalized. The model law is 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 which was nearing finalization.

82. In terms of the core mandate of UNODC, i.e. building up of criminal justice capacity, an advanced training manual for criminal justice practitioners combating trafficking in persons had been recently released. The manual was launched in Bangkok, Thailand by the United States Ambassador-at-large, Luis CdeBaca and simultaneously launched on UNODC’s website. UNODC had also published a Basic Training Manual for law enforcement and prosecutors on combating migrant smuggling. At a side event of the Conference of State Parties to the United Nations Convention against Corruption held in Doha on 9 to 13 November 2009, UNODC and Transparency International 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 of trafficking in persons and for providing assistance to victims of such trafficking, which is available in all UN languages on its website. In connection with the issue of providing protection and support to 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 on trafficking in persons. UNODC also reported on its activities on prevention and awareness-raising and, in that regard, mentioned that it had launched the Blue Heart Campaign and developed a film called “Affected for Life”. The purpose of the film which can be downloaded on UNODC’s website — is for use in the training of...
criminal justice practitioners and other specialists and for awareness-raising purposes more generally.

83. Mention was made of a conference hosted by Sheikha Sabeeka Bint Ibrahim Al-Khalifa of Bahrain entitled “Human Trafficking at the Crossroads”, which had been held in Manama on 2 and 3 March 2009, and of a high-level international forum which was held in Bulgaria in May 2009. The Working Group was informed that the International Labour Organization, in the framework of UN.GIFT and the Global Compact (a network involving Governments, companies and the United Nations), had conducted an exploratory survey targeting 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; 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 helped raise awareness of the plight of child soldiers and rehabilitation programmes aimed at child victims of trafficking. UN.GIFT also held a photo exhibition in Vienna, showcasing situations of trafficking for purposes of domestic labour exploitation. UN.GIFT had also collaborated jointly with UNODC, INTERPOL, law enforcers and relevant NGOs to develop an interactive computer-based tool in 40 languages to help victim service providers identify and assist victims of human trafficking. This tool is currently in the testing phase.

84. The Chair presented the documents before the Working Group for its consideration of agenda item 2. For its consideration of this item, 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. Agenda item 2 of that meeting on 14 April 2009 specifically considered 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.

85. Under item 2 of the agenda, the Working Group heard statements from the following States and organizations: Colombia, Azerbaijan, Argentina, Belarus, Montenegro, Netherlands, Namibia, Panama, Philippines, Austria, China, India, United States of America, Canada, Israel, Kuwait, the European Union, Norway, Egypt, Belgium, Indonesia, Qatar, Lebanon, Estonia, Pakistan, Iran (Islamic Republic of), Russian Federation, Algeria, Chile, Peru, United Arab Emirates, Thailand and Brazil.

86. Speakers discussed the following issues: the absence of specific legislation addressing trafficking in persons posing a challenge to combating the phenomena; definitional challenges with regard to implementing the Trafficking in Persons Protocol into domestic legislation and inadequate understandings of the definition of trafficking in persons; challenges of international cooperation as a result of different understandings of trafficking in persons; the value of multidisciplinary approaches to combating trafficking being coordinated by a specialized agency to ensure

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coordination and avoid duplication; the need to identify linkages between transnational organized crime and human trafficking; 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.


88. The Chair presented the background paper drafted by the Secretariat. For its consideration of agenda item 3, the Working Group had before it a background paper presenting an analysis of key concepts of the Trafficking in Persons Protocol, in particular the concepts of “exploitation” and “exploitation of the prostitution of others”.

89. The Chair highlighted that the lack of definition for 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 these issues and the measures that they had put in place to address them.

90. The Chair welcomed to the panel the following esteemed panellists; Ms Venla Roth of Finland, Ms Nicole Zuendorf-Hinte of Germany, Mr. Wael Abou-El-Magd of Egypt and Mr. Olivier Weber of France and invited Ms Roth to take the floor.

91. Ms Venla Roth, Finland’s National Rapporteur discussed Finland’s challenges in combating trafficking in persons. Particularly she raised the challenge posed by different understandings of concepts such as prostitution, sexual exploitation and trafficking in persons. Ms Roth also noted that Finland’s National Rapporteur to combat trafficking was appointed in June 2008 with the revision of the country’s National Action Plan against trafficking. The National Rapporteur functions as an independent monitoring mechanism and also coordinates counter-trafficking measures to ensure a coordinated response and reduce duplication. Part of its mandate is to address the definitional challenges which can undermine a coordinated response to trafficking in persons.

92. The Chair introduced Ms Nicole Zuendorf-Hinte of Germany who discussed the purpose and scope of the Trafficking in Persons Protocol and key provisions therein that are crucial for criminalization, protection and assistance of victims of trafficking.

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trafficking, prevention and cooperation. Ms Zuendorf-Hinte stressed that the Trafficking in Persons Protocol had to be read in light of the United Nations Transnational Organized Crime Convention. The various provisions of the Trafficking in Persons Protocol must be interpreted in this context.

93. The Chair introduced Mr. Wael Abou El Magd of Egypt who shared the challenges that Egypt had faced in domesticating 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. Mr. El Magd also highlighted the fact that the Trafficking in Persons Protocol should be viewed as offering a minimum standard that can and should be exceeded by domestic legislation.

94. The Chair introduced Mr. Olivier Weber of France who noted the achievements of the Trafficking in Persons Protocol in achieving a universal understanding of trafficking in persons. Mr. Weber stressed that tools created by UNODC and others should be relied on in having holistic anti-trafficking approaches which are victim-centred.

95. The Chair thanked the panellists for their presentations and opened the floor for discussion.

96. Under agenda item 3, the Working Group heard statements from the following States and organizations: Norway, Colombia, United States, Nigeria, Israel, Belarus, Switzerland, Canada, Mexico, Poland, Belgium, Italy, China, Brazil, Namibia, Thailand, Argentina, Russian Federation, Spain, France, League of Arab States.

97. Speakers discussed the following issues: the need to implement law according to domestic circumstances to achieve the purpose of the Protocol and increase the rate of convictions; the fact that transportation is only one of the acts which can comprise the elements 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; conceptual challenges of differentiating between trafficking in persons and smuggling of migrants; the issue of consent; the relationship between the Trafficking in Persons Protocol and the Transnational Organized Crime Convention; the need to support the involvement of victims as witnesses in criminal justice processes.

D. Good practices and tools in discouraging the demand for exploitative services

98. On 28 January, the Working Group considered agenda item 4, on good practices and tools in discouraging the demand for exploitative services.

99. For its consideration of this item, the Working Group had before it a background paper introducing good practices and tools in discouraging the demand for exploitative services.6

100. The Chair underlined the mutually reinforcing relationship between supply and demand and stressed the need to address both phenomena. She invited the Working

6 Background paper prepared by the Secretariat “Good practices and tools in discouraging demand for exploitative services” (CTOC/COP/WG.4/2010/3).
Group to discuss and formulate recommendations on developing measures to reduce demand for exploitative services. She further 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 for 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 on a person who has used the services of a victim of trafficking.

101. The Chair welcomed to the panel the following esteemed panellists: Ms. Sitona Abde la Osman of Sudan, Mr. Jan Austad of Norway and Mr. Berlan Pars Alan of Turkey.

102. The Chair introduced Ms. Sitona Abde la Osman who shared the experience of Sudan in the fight against trafficking in persons. She stated that between 2005-2009 the government conducted a study which included a number of findings on why civil wars led to the proliferation of crime. The study then guided the government in terms of issuing instructions to relevant ministries, enacting various legislation to combat the most egregious forms of organized crime, including trafficking in persons and a process for self-assessment.

103. The Chair introduced Mr. Jan Austad who discussed the ways in which Norway has dealt with reducing the demand for sexual services. With an increase of prostitution in Norway in recent years, public opinion formed that the seller of such services needed to be protected because she or he might be a victim of trafficking. A national discussion developed regarding whether to criminalize the purchase of such services and whether a change of law would make the situation better or worse for the seller. Parliament criminalized the purchase of sexual services in 2008 resulting in a reduction in street prostitution and less clients in search of sexual services. Norway is conducting research to ascertain how the law affects attitudes and the people working in prostitution, and on those who purchase the sexual services of prostitutes. He stated that while the United Nations Trafficking Protocol is neutral on the issue of prostitution, States cannot be neutral.

104. The Chair introduced the third panellist, Mr. Berlan Pars Alan of Turkey who presented good practices and tools in reducing demand for exploitative services in Turkey. Mr. Alan also shared the findings of research on the supply and demand considerations at play in trafficking in persons. He stressed the power relationships involved in the relationship between traffickers, trafficked victims and persons who use exploitative sexual services. Mr. Alan stressed that where unequal relationships are legitimized by culture, demand must be reduced by a concerted and coherent approach to change the social, economic and international inequalities underlying the phenomenon. In relation to organ trafficking and trafficking of persons for the purpose of organ removal, Mr. Alan stressed that measures should be taken to closely monitor clinics and hospitals where organs are transplanted. Generally, Mr. Alan underlined that increased cooperation, increased knowledge, awareness-raising initiatives and multi-agency responses are required to reduce demand.

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

106. 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 de-criminalization of prostitution on the demand for exploitative services provided by trafficking victims; legislative measures to penalize persons who purchase exploitative services or goods and awareness-raising measures among potential victims.

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

107. On 28 January, the Working Group considered agenda item 5, on non-punishment and non-prosecution of victims of trafficking in persons, incorporating administrative and judicial approaches to offences committed in the process of trafficking.

108. For its consideration of this item, the Working Group had before it a background paper presenting an overview of the notion of non-liability of victims of trafficking in persons. The Chair stressed the relevance of resources such as the UNODC Model Law against Trafficking in Persons which offers an example of a non-criminalization provision in its Article 10. States were also invited to refer to the United Nations High Commissioner for Human Rights Recommended Principles and Guidelines on Human Rights and Human Trafficking and any other regional standards and guidelines that are available. The Chair invited the Working Group to discuss the challenges in identifying trafficked persons; the principle of non-liability of 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 Chair introduced the panellists for this working group, namely, Mr. John Richmond of the United States of America, and Mr. Wanchai Roujanavong of Thailand.

109. Panellist Mr. John Richmond shared his experiences as a prosecutor of human traffickers. He explained that a victim-centred approach increases the chance of securing a prosecution of traffickers by empowering victims to take part in the criminal justice process. Beyond non-prosecution of trafficking victims being supported by law in the United States, Mr. Richmond also stressed that this is a practical prosecutorial strategy. The challenges that may arise by virtue of non-prosecution are overcome by cross-collaboration. Mr. Richmond noted that much of the evidence that is needed to convict traffickers comes from testimony; without securing the cooperation of victims, this evidence will not be brought. A victim-centred approach was therefore not only crucial to victim recovery but also for prosecution of traffickers.

7 Background paper prepared by the Secretariat “Non-punishment and non-prosecution of victims of trafficking in persons: administrative and judicial approaches to offences committed in the process of such trafficking” (CTOC/COP/WG.4/2010/4).
110. Panellist Mr. Wanchai Roujanavong shared the experiences of Thailand, where a victim-centred approach strives to protect victims of trafficking and secure their assistance as witnesses to the crime of trafficking. Mr. Roujanavong offered examples of the ways that victim-witnesses are supported through the criminal justice process and shared Article 41 of the Anti-Trafficking in Persons Act of 2008 of Thailand which prohibits the prosecution of trafficking victims for listed offenses. He emphasized that States parties must decide who and what they are fighting when discussing human trafficking and stressed that in combating human trafficking, it is necessary to secure the support of victims of trafficking; if we fail to do this, Mr. Roujanavong noted, we undermine our own efforts to combat trafficking.

111. Under agenda item 5, the Working Group heard statements from the following states: Egypt, the Netherlands, Belarus, Jordan, Israel, Philippines, Germany, the Russian Federation, Austria, Australia, Argentina, European Union, Peru, Canada, Nigeria, Namibia, India, Mexico, Indonesia, United States of America, Iran, China, Brazil, Panama, United Kingdom, Algeria.

112. Speakers discussed the following issues: the importance of a victim-centred approach, the importance of upholding the victim protection purpose of the Protocol; the challenge of determining the point at which a victim of trafficking becomes so; 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 plays in the criminal justice process; the need to balance the interests of justice with the interests of victims; the importance of civil society in assisting victims through the criminal justice process.

113. 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 an additional recommendation on non-prosecution to that agreed in its first meeting, while a few delegations did not support the decision to restate that recommendation as an outcome of this second meeting.

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

114. On 29 January, the Working Group considered agenda item 6, on good practices and tools for use in case management, including by front-line law enforcement authorities responding to trafficking in persons.

115. The Chair presented the document before the Working Group for its consideration of agenda item 6. For its consideration of this item, the Working Group had before it a background paper on good practices and tools for use in case management, including by front-line law enforcement authorities responding to trafficking in persons.8

8 Background paper prepared by the Secretariat “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).
116. The Chair invited the Working Group to discuss the incorporation of cooperative approaches among and between anti-trafficking actors; safety measures in case management; uniform procedures and policies to prevent revictimization and reduce delays in case management; and gender-sensitivity and measures to address the special needs of children into case management.

117. The Chair invited Ms. Irene Herrerías Guerra to share the experience of case management in Mexico. Ms. Guerra noted the good practice of information sharing to enhance cooperation and coordinated response and the significance of victim protection at trial. Mexican cooperation with the United States was raised as a good practice of cross border multi-agency cooperation. Ms. Guerra also underlined the value of specialized units to bring together various anti-trafficking actors in both investigation and prosecution.

118. The Chair invited Mr. Jean-François Minet who is in charge of national coordination in the field of anti-trafficking in Belgium. Mr. Minet stressed that case management means two things: on the one hand, research and prosecution and on the other hand, victim identification. These issues are distinct but related. Mr. Minet showcased three mechanisms used in Belgium. One, the appointment of specialized magistrates to serve as focal points for anti-trafficking responses in their jurisdiction; two, the organization of coordination meetings to bring anti-trafficking actors together; and three, ongoing and effective evaluation of the work of these initiatives. Mr. Minet highlighted the fact that coordination should not just be national and international, but also regional and local.

119. Under agenda item 6, the Working Group heard statements from the following states: Japan, Oman, Philippines, Greece, Peru, Israel, Albania, United Arab Emirates, Nigeria, Argentina, Germany, China, Pakistan, Sudan, Brazil, Indonesia, Qatar.

120. 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; trainings for criminal justice practitioners; sensitization of gender issues and children’s special needs as well as cultural training and sensitivity; language and interpretation challenges; and the role that UNODC can play in proposing a model of case management.