Working Group on Trafficking in Persons
Vienna, 14 and 15 April 2009

Report on the meeting of the Working Group on Trafficking in Persons held in Vienna on 14 and 15 April 2009

I. Recommendations adopted by the Working Group


A. General recommendations

2. With regard to the overall mandate of the Working Group outlined in Conference decision 4/4, the Working Group recommended that States adopt a comprehensive and balanced approach to combating trafficking in persons, inter alia, through mutual cooperation, in recognition of States’ shared responsibility as countries of origin, destination and transit.

B. Universal adherence

3. With regard to achieving universal adherence to and effective implementation of the minimum requirements outlined in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime1 as an initial step toward combating trafficking in persons, States that have not yet done so should become parties to the United Nations Convention against Transnational Organized Crime2 and the Trafficking in Persons Protocol.

4. In order to achieve a better understanding of the obstacles that States, in particular signatories to the Trafficking in Persons Protocol, may have in becoming

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2 Ibid., vol. 2225, No. 39574.
parties to the Trafficking in Persons Protocol, the Conference should consider the inclusion of an optional question, on the status of the ratification process, in the assessment checklist on the implementation of the Organized Crime Convention and its Protocols.

C. Adequate national legislation

5. With regard to the adoption of adequate national legislation, the Secretariat should step up its legislative assistance activities to respond to the needs of requesting States.

6. States parties should:
   (a) Criminalize conduct that facilitates and supports trafficking in persons;
   (b) Enact legislation for the implementation of the Organized Crime Convention, in particular legislation that criminalizes participation in an organized criminal group and corruption, and establish trafficking in persons as a predicate offence for the laundering of the proceeds of crime.

D. Definition of concepts

7. With regard to the definition of concepts that might require further clarity, the Secretariat should prepare, in consultation with States parties, issue papers to assist States parties in better understanding and interpreting key concepts of the Trafficking in Persons Protocol, especially legally relevant definitions in order to assist criminal justice officers in penal proceedings.

E. Prevention and awareness-raising

8. With regard to prevention and awareness-raising, States parties should:
   (a) Consider the inclusion of trafficking in persons in public education curricula;
   (b) Launch awareness-raising campaigns directed at the general public, at specific groups and at communities vulnerable to being trafficked, taking into account local contexts. In doing so, they should consider making effective utilization of mass media (radio and television programmes, including soap operas able to reach vulnerable groups, and the press) and of important public events or personalities;
   (c) Consider discussing plans for awareness-raising campaigns with the Secretariat and other States parties that have launched similar campaigns;
   (d) Explore modalities to reinforce the educating and awareness-raising of users or potential users of sexual services and the products of forced labour and of other types of exploitation and to increase their understanding of trafficking in persons and violence against women and children.
F. Training

9. With regard to training, States parties should provide training to front-line law enforcement officials (police officers, labour inspectors, immigration officers and border guards), soldiers involved in peacekeeping missions, consular officers, prosecutorial and judicial authorities, medical services providers and social workers, involving relevant non-governmental organizations and civil society representatives, where appropriate and in line with national legislation, in order to enable national authorities to respond effectively to trafficking in persons, especially by identifying the victims of such trafficking.

10. The Secretariat should step up the provision of capacity-building activities to requesting States by organizing training courses and seminars.

G. Trafficking for labour exploitation

11. With regard to trafficking for labour exploitation, States parties should:

   (a) Strengthen partnerships with the private sector in order to effectively combat trafficking for labour exploitation;

   (b) Discourage the demand for exploitative services and the products of forced labour by ensuring that Governments first properly identify exploitative services and products of forced labour and then raise public awareness of such services and products.

H. Non-punishment and non-prosecution of trafficked persons

12. With regard to ensuring the non-punishment and non-prosecution of trafficked persons, States parties should:

   (a) Establish appropriate procedures 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.

I. Victim protection and assistance

13. With regard to victim protection and assistance, States parties should:

   (a) Adopt a human rights-based approach to victim protection and assistance that is not contingent on the citizenship and immigration status of the victim;

   (b) Develop and apply minimum standards for the protection and assistance of victims of trafficking in persons;

   (c) Ensure victims are provided with immediate support and protection, irrespective of their involvement in the criminal justice process. Such support may
include the right to stay temporarily or, in appropriate cases, permanently in the
territory where they are identified;

(d) Ensure that appropriate procedures are in place to protect the
confidentiality and privacy of victims of trafficking;

(e) Develop, disseminate to practitioners and systematically use criteria for
the identification of victims;

(f) Ensure that national legislation against trafficking in persons
criminalizes the threat or intimidation of victims of such trafficking or of witnesses
in related criminal proceedings;

(g) Address the need for a more effective allocation of funds for assisting
victims;

(h) Ensure that responses to child trafficking at all levels are always based
on the best interest of the child.

J. Compensation for victims of trafficking

14. With regard to the compensation for victims of trafficking, States parties
should consider the possibility of establishing appropriate procedures to allow
victims to obtain compensation and restitution.

K. Protection of victims as witnesses

15. With regard to the protection of victims as witnesses, States parties should
ensure measures for the protection of victims, including the provision of temporary
and safe shelter and witness protection procedures, where appropriate.

16. The Secretariat should evaluate whether its work on good practices for the
protection of witnesses in criminal proceedings involving organized crime could be
supplemented by additional work in the area of countering trafficking in persons.

L. Coordination of efforts at the national level

17. With regard to the coordination of efforts at the national level, States parties
should:

(a) Establish national coordinating bodies or inter-ministerial task forces
composed of officials from relevant Government ministries (dealing with justice,
internal affairs, health and welfare, labour, immigration, foreign affairs etc.), to
counter trafficking in persons. Such mechanisms could develop comprehensive and
coordinated policies against trafficking in persons while promoting better
cooperation, monitoring the implementation of national action plans and promoting
research on trafficking in persons, taking into account the work of relevant national
non-governmental organizations;

(b) Develop coordination mechanisms at the local or district level, including
non-governmental service providers whenever possible.
M. Data collection, research and analysis

18. With regard to data collection, research and analysis, the Conference should:

   (a) Explore the advisability of developing a real-time online tool to assess trends and patterns in trafficking in persons;

   (b) Consider the advisability of having the United Nations Office on Drugs and Crime (UNODC) continue to produce the *Global Report on Trafficking in Persons*, based on the information collected through existing data collection mechanisms;

   (c) Request States parties to contribute national data to a database administered by the Secretariat to measure the response to trafficking in persons.

N. Provision of technical assistance to implement the Trafficking in Persons Protocol

19. With regard to the provision of technical assistance to implement the Trafficking in Persons Protocol, the Secretariat should:

   (a) Continue to provide technical assistance to States parties, upon request, to assist them in implementing the Organized Crime Convention and its Protocols;

   (b) Prepare a list of cost-efficient measures and tools, in consultation with States parties, to respond to trafficking in persons;

   (c) Develop, disseminate and systematically use criteria for the identification of victims, in consultation with States parties.

O. The role of the Conference of the Parties in coordinating international action against trafficking in persons

20. With regard to the role of the Conference of the Parties in coordinating international action against trafficking in persons, the Conference should consider:

   (a) Establishing an online real-time mechanism to update the information submitted by States parties through the self-assessment checklist on the implementation of the Organized Crime Convention and its Protocols;

   (b) Requesting the intergovernmental meeting of experts referred to in Conference decision 4/1 to pay attention to ways and means of achieving and measuring progress as well as to define needs for technical assistance in implementing the Trafficking in Persons Protocol;

   (c) Establishing greater linkages and increasing exchange of information with other United Nations treaty bodies and the Special Rapporteur on trafficking in persons, especially women and children;

   (d) Requesting the Secretariat to continue coordinating the Inter-Agency Cooperation Group against Trafficking in Persons and report on its activities.
P. Regional approach to combating trafficking in persons

21. With regard to the adoption of a regional approach to combat trafficking in persons, the Conference should consider and encourage regional cooperation in responding to trafficking in persons and promoting the implementation of the Trafficking in Persons Protocol, while avoiding duplication of effort in that regard.

22. The Secretariat should exchange more information with regional and other international organizations involved in fighting trafficking in persons.

Q. International cooperation at the operational level

23. With regard to international cooperation at the operational level, the Secretariat should establish a network of national contact points for efforts to counter trafficking in persons based on existing available contact points with which work could be done to promote timely regional and international cooperation.

24. States parties should:
   
   (a) Utilize those provisions of the Organized Crime Convention that facilitate the use of joint investigation teams and special investigative techniques in the investigation of cases of trafficking in persons at the international level;

   (b) Utilize the Organized Crime Convention and other multilateral legal instruments to develop and strengthen international judicial cooperation, including with regard to extradition, mutual legal assistance and confiscation of the proceeds of trafficking in persons;

   (c) Organize and participate in training sessions for central authorities and others involved in judicial cooperation at the regional or interregional level, especially involving States parties connected through trafficking flows as countries of origin, transit or destination for trafficking in persons.

II. Introduction

25. 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 parties 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.

26. 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.

27. 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 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.

28. In its decision 4/4, the Conference also decided that the chairperson 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.

29. The Chairperson 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-VI of the present report, would be submitted to the Conference at its fifth session, pursuant to Conference decision 4/4.

III. Organization of the meeting

A. Opening of the meeting

30. The Working Group held its meeting in Vienna on 14 and 15 April 2009.

31. The meeting of the Working Group was chaired by Dominika Krois (Poland), Vice-President of the Conference.

32. In his opening remarks, the Chief of the Treaty and Legal Assistance Branch of UNODC recalled the mandate of the Working Group. He also drew the attention of the Working Group to General Assembly resolution 63/194, entitled “Improving the coordination of efforts against trafficking in persons”, in which the Assembly had called upon the Secretary-General to collect the views of all stakeholders on how to achieve the full and effective coordination of efforts against trafficking in persons and to ensure the full and effective implementation of all relevant legal instruments, in particular the Organized Crime Convention and the Trafficking in Persons Protocol, and to submit a background paper to the General Assembly at its sixty-third session. In that connection, the Chief of the Treaty and Legal Assistance Branch briefed the Working Group on the preparation of the background paper, which would be submitted to the General Assembly in May 2009.

33. In her opening remarks, the Chairperson 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.

B. Adoption of the agenda

34. On 14 April, the Working Group adopted the following agenda:

1. Organizational matters:
   (a) Opening of the meeting;
   (b) Adoption of the agenda and organization of work.


3. Consideration of ways to improve coordination among relevant bodies and entities combating trafficking in persons.

4. Adoption of the report of the Working Group on its meeting.

C. Attendance

35. The following States parties to the Trafficking in Persons Protocol were represented at the meeting of the Working Group: Algeria, Argentina, Austria, Belarus, Belgium, Bulgaria, Canada, Cape Verde, Chile, Colombia, Croatia, Dominican Republic, Egypt, El Salvador, France, Germany, Latvia, Lebanon, Malaysia, Mexico, Monaco, Namibia, Netherlands, Nigeria, Norway, Peru, Philippines, Poland, Portugal, Romania, Russian Federation, Saudi Arabia, Spain, Sweden, Switzerland, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela (Bolivarian Republic of) and Zimbabwe.

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

37. The following States signatories to the Trafficking in Persons Protocol were represented by observers: Burundi, Czech Republic, Greece, Indonesia, Ireland, Japan and Thailand.
38. The following States were also represented by observers: Andorra, Angola, China, Cuba, Morocco, Pakistan, Qatar, Iran (Islamic Republic of), Singapore and Sudan.


41. The International Federation of Red Cross and Red Crescent Societies and the Sovereign Military Order of Malta, entities maintaining permanent observer offices, were represented.

IV. 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

42. On 14 April, 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.

43. The Chief of the Organized Crime and Criminal Justice Section of UNODC presented the documents before the Working Group for its consideration of agenda item 2. She informed the Working Group that since the holding of the fourth session of the Conference of the Parties in October 2008, three more States had acceded to the Trafficking in Persons Protocol: Iraq, Malaysia and United Arab Emirates. Those accessions had brought the total number of States parties to the Protocol to 127. She 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. That work had included progress made in the development of a comprehensive software programme to gather information on the implementation of the Organized Crime Convention and its Protocols and the United Nations Convention against Corruption,3 and the finalization of the UNODC model law against trafficking in persons, 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 a new initiative

3 Ibid., vol. 2349, No. 42146.
for the development of a model law against the smuggling of migrants, to be finalized by the end of 2009. The Working Group was also briefed on activities in the area of 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.

44. Representatives of the Secretariat gave presentations about other recent activities and initiatives.

45. In the first presentation, the major findings contained in the Global Report on Trafficking in Persons, recently published by UNODC in February 2009, were shared. It was noted that the Global Report contained official data on trafficking in persons collected from 2003 to 2007 and covering 155 countries and territories. The information contained in the Global Report indicated that the entry into force of the Trafficking in Persons Protocol had had a positive impact. By November 2008, 98 of the 155 countries and territories covered had criminalized the act of trafficking in persons, mostly trafficking in persons for the purposes of sexual exploitation and forced labour, and had placed no restriction regarding the age or the sex of the victim. In the Global Report, however, it was highlighted that trafficking in persons was a crime that remained largely unpunished. In 40 per cent of the States covered, not a single conviction for the specific offence of trafficking in persons had been recorded (up until 2008). It was brought to the attention of the Working Group that many States in Africa lacked legislation on trafficking in persons, that trafficking was detected and punished less often when it was done for the purpose of forced labour than when it was done for sexual exploitation and that victims were often smuggled into neighbouring countries.

46. In another presentation, Working Group participants were informed about the provision of technical assistance by UNODC to Member States. It was noted that UNODC was currently carrying out projects in more than 75 countries in Africa, Asia, Central and Eastern Europe, the Middle East and Latin America. UNODC was working closely with national authorities to develop policies and action plans against trafficking in persons and to establish the related infrastructure. 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 and that the online version of the Toolkit had been launched in December 2008. An advanced training manual for criminal justice practitioners combating trafficking in persons had been completed in 2008 and would be made available in English in 2009. UNODC would soon launch a “first aid kit” for the detection of cases of trafficking in persons and for providing assistance to victims of such trafficking. 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 was currently developing a film on trafficking in humans to be used for the training of criminal justice practitioners and other specialists.

47. The Working Group was briefed on the latest activities carried out in the framework of the Global Initiative to Fight Human Trafficking (UN.GIFT) in support of the implementation of the Trafficking in Persons Protocol. 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 to be held in Bulgaria in May 2009. The Working Group was informed that UNODC and 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 level of awareness and knowledge about the ways in which trafficking in persons affected supply chains. In addition, UNODC was promoting greater awareness about trafficking in persons and direct victim support among travellers and assisting in the reintegration of victims of trafficking in persons into the regular labour market. 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 launched 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.

48. Before opening the discussion on agenda item 2, the Chairperson drew the attention of the Working Group to specific issues regarding the implementation of the Trafficking in Persons Protocol and invited participants to make comments. The issues included the following:

(a) The status of adherence to the Protocol;

(b) The fact that the lack of adequate national legislation on trafficking in persons remained an obstacle to the effective implementation of the Protocol;

(c) The importance of raising awareness about trafficking in persons in order to prevent vulnerable persons from becoming victims of trafficking and to decrease the demand for exploitative services;

(d) The issue of impunity of traffickers;

(e) The need to strengthen measures to combat trafficking in persons for labour exploitation;

(f) The issue of the criminalization of trafficked persons;

(g) The challenges connected with protecting, rehabilitating and reintegrating victims, as well as with compensating and providing restitution to victims;

(h) The coordination of efforts at the national and international level;

(i) The need for data collection, research and analysis;

(j) The question of reviewing implementation of the Trafficking in Persons Protocol.

49. Under item 2 of the agenda, the Working Group heard statements from the following States: Angola, Argentina, Australia, Austria, Belarus, Belgium, Canada, China, Colombia, Croatia, Egypt, France, Greece, Japan, Indonesia, Iran (Islamic Republic of), Ireland, Namibia, Netherlands, Norway, Pakistan, Peru, Philippines, United Nations publication, Sales No. E.09.V.5.
Russian Federation, Spain, Switzerland, Thailand, Turkey, United Kingdom and United States. Statements were also made by the representative of the European Commission and by observers for the African Union and the League of Arab States.

50. Speakers discussed the following issues: universal adherence to the Organized Crime Convention and the Trafficking in Persons Protocol; adequate national implementing legislation to give effect to those instruments; definition of concepts contained in the instruments; prevention and awareness-raising of trafficking in persons; training on trafficking in persons; trafficking for labour exploitation; non-punishment and non-prosecution of trafficking in persons; victim protection and assistance; compensation for victims of trafficking in persons; and protection of victims prepared to act as witnesses of trafficking in persons. The recommendations arising from the substantive discussion of the Working Group on agenda item 2 are contained in chapter II of the present report.

V. Consideration of ways to improve the coordination with relevant bodies and entities combating trafficking in persons

51. On 15 April, the Working Group considered agenda item 3, on consideration of ways to improve coordination with relevant bodies and entities combating trafficking in persons.

52. The Chief of the Organized Crime and Criminal Justice Section of UNODC presented the documents before the Working Group for its consideration of agenda item 3. A representative of the Secretariat informed the Working Group that UNODC was working closely with international, regional and non-governmental organizations involved in countering trafficking in persons to promote a comprehensive and multidisciplinary approach and that key international forums for inter-agency coordination of action against such trafficking included UN.GIFT and the Global Migration Group. In particular, an update on the activities and future meetings of the Inter-Agency Cooperation Group against Trafficking in Persons were provided.

53. The Chairperson invited the Working Group to discuss and formulate recommendations on ways to strengthen international cooperation at the operational level, including through cooperation among police authorities, border controls, joint investigations and judicial cooperation with regard to extradition, mutual legal assistance, confiscation requested by other States and international cooperation in repatriating victims. The Chairperson stressed that the issue of coordination of technical assistance provision was an essential issue that the Open-ended Intergovernmental Working Group on Technical Assistance of the Conference of the States Parties to the United Nations Convention against Corruption was mandated to address but that the Working Group on Trafficking could discuss in the specific context of technical assistance to combat trafficking in persons. In conclusion, she reminded the Working Group that it could also address ways to strengthen the impact of Inter-Agency Cooperation Group against Trafficking in Persons, the role of UN.GIFT and the role of the Conference in coordinating international action against trafficking in persons.

54. Under item 3 of the agenda, the Working Group heard statements from the representatives of the following States: Algeria, Argentina, Austria, Belarus,
Belgium, Canada, Cuba, China, Colombia, Croatia, Czech Republic, Egypt, France, Greece, Japan, Indonesia, Iran (Islamic Republic of), Mexico, Namibia, Netherlands, Norway, Pakistan, Philippines, Russian Federation, Spain, Turkey, United States and Venezuela (Bolivarian Republic of). The observer for the Council of Europe also made a statement.

55. Speakers discussed the following issues: coordination of efforts to combat trafficking at the national level; data collection, research and analysis; provision of technical assistance to implement the Trafficking in Persons Protocol; the role of the Conference of the Parties in coordinating international action against trafficking in persons; regional approaches to combating trafficking; international cooperation at the operational level; and a global strategy for combating trafficking in persons. The recommendations arising from the substantive discussion of the Working Group on agenda item 3 are contained in chapter II of the present report.

VI. Other matters

56. The Working Group discussed the advisability of holding another intersessional meeting and agreed that, subject to availability of resources and interest by States, it could be useful to hold another meeting of the Working Group prior to the fifth session of the Conference of the Parties.