



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

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**Review of the implementation of the United Nations
Convention against Transnational Organized Crime and
the Protocols thereto: expert consultation on 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**

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: additional questions for possible discussion

Note by the Secretariat

I. Introduction

1. At its fourth session, the Conference of the Parties to the United Nations Convention against Transnational Organized Crime, in the framework of its expert consultation on the implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime,¹ is to consider a number of documents, including the following:

(a) Report of the Secretariat on work done by the United Nations Office on Drugs and Crime to promote 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, and the Protocol against the Smuggling of Migrants by Land, Sea and Air,

* CTOC/COP/2008/1.

¹ United Nations, *Treaty Series*, vol. 2237, No. 39574.



supplementing the United Nations Convention against Transnational Organized Crime (CTOC/COP/2008/8);

(b) Note by the Secretariat transmitting the report of the Secretary-General on improving the coordination of efforts against trafficking in persons (CTOC/COP/2008/9);

(c) Note by the Secretariat transmitting the report of the Executive Director on the Global Initiative to Fight Human Trafficking (CTOC/COP/2008/10);

(d) Note by the Secretariat transmitting the report of the Secretary-General on strengthening international cooperation in preventing and combating trafficking in persons and protecting victims of such trafficking (CTOC/COP/2008/11);

(e) Reports of the Secretariat on 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: consolidated information received from States for the first reporting cycle (CTOC/COP/2005/3/Rev.2) and the second reporting cycle (CTOC/COP/2006/6/Rev.1);

(f) Note by the Secretariat on the protection of victims and witnesses (CTOC/COP/2008/12);

(g) Note by the Secretariat on travel and identity documents (CTOC/COP/2008/13).

2. Taking into account the large number of issues that the Conference is to consider with regard to its expert consultation on the implementation of the Trafficking in Persons Protocol, the present note contains a list of questions that are related to the investigation and prosecution of human trafficking cases and that have not been directly addressed in the other documents on the subject.

II. Questions for possible discussion by the Conference

3. Despite the efforts made by many States parties to criminalize trafficking in persons, develop national policies and action plans, establish coordination mechanisms and set up specialized law enforcement units to strengthen the capacity of criminal justice systems to respond to trafficking in persons, it appears that investigation, prosecution and conviction rates are globally low. Given that profits generated through human trafficking are high, that means that trafficking in persons is not only a high-profit crime; it is also a low-risk crime. The Conference may wish to discuss the following questions:

(a) With regard to the investigation and prosecution of human trafficking cases:

(i) What good practices exist that would lead to an increase in the number of investigations into cases of trafficking in persons?

(ii) What investigative strategies have proved effective in increasing the likelihood that investigations into trafficking in persons cases lead to prosecution?

(iii) What are the main challenges faced in carrying out joint investigations into trafficking in persons cases (see article 19 of the United Nations Convention against Transnational Organized Crime)² and in using special investigative techniques (see article 20 of the Organized Crime Convention)?³

(b) With regard to convictions in human trafficking cases:

(i) What factors could unduly hinder the conviction of individuals being prosecuted for trafficking in persons?

(ii) What factors could improve the likelihood of securing sentences that reflect the gravity of offences related to trafficking in persons (see article 11 of the Organized Crime Convention)?⁴

(iii) What experience has been gained with regard to the use of aggravating or mitigating circumstances in cases of trafficking in persons?

(c) With regard to protecting witnesses and victims in criminal proceedings:⁵

(i) What good practices exist that would increase the willingness of a victim to cooperate during the investigative and prosecutorial phases and to testify in court?

(ii) What approaches could be adopted to deal with victims who have committed offences in the course of being trafficked (e.g. immigration offences) or as a result of being trafficked (e.g. prostitution)?

(iii) What approaches could be adopted to ensure that prosecutions do not rely exclusively on victim testimony?

(iv) What legal frameworks exist regulating the compensation of victims of trafficking in persons for damage suffered and how effective are they (see article 6 of the Trafficking in Persons Protocol)?⁶

² Ibid., vol. 2225, No. 39574.

³ The use of special investigative techniques, such as electronic surveillance and undercover operations, is crucial in enabling intelligence-based, proactive investigations of trafficking in persons. With respect to controlled delivery, it should be noted that for ethical considerations and based on the primary concern for the safety of actual and potential victims, controlled delivery of trafficked persons is controversial.

⁴ Article 11 requires States parties to make the commission of offences under the Convention (and the Protocols thereto) liable to sanctions that take into account the gravity of such offences.

⁵ See also the note of the Secretariat on the protection of victims and witnesses.

⁶ Article 6 requires States parties to ensure that their domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.