
Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (New York, 15 November 2000)

OBJECTIVES

The Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (the Protocol) aims at preventing and combating smuggling, promoting cooperation among Parties and protecting the rights of smuggled migrants. As in the United Nations Convention against Transnational Organized Crime, 2000 (the Convention), and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (the Protocol on Trafficking in Persons), many provisions are intended to ensure that the approaches taken by Member States under their domestic legislative and law-enforcement regimes are as coordinated as possible to make collective international measures both efficient and effective.

KEY PROVISIONS

As is the case with the Protocol on Trafficking in Persons, provisions of the Convention apply *mutatis mutandis* to this Protocol unless otherwise stated in the Protocol.

The Protocol applies to the prevention, investigation and prosecution of the smuggling of migrants as well as to the protection of the rights of persons who have been the object of such offences. Parties to the Protocol are required to criminalize the smuggling of migrants and other forms of activity that support such smuggling. The Protocol specifies that migrants should not become liable for having been smuggled.

Specific provisions for smuggling by sea are included because of the seriousness and volume of the problem. Under one such provision, Parties are requested to cooperate to prevent smuggling of migrants by sea and to take necessary measures when it is suspected that a vessel is engaging in the smuggling of migrants. Parties may board and search vessels believed to be of their own registry.

Parties to the Protocol are also required to strengthen border measures and oblige commercial carriers of passengers to check the travel documents of those passengers.

Another important element of the Protocol is the Parties' cooperation in the field of public information. Parties are required to cooperate with each other to raise awareness of the dangers of smuggling to the migrants involved and to raise general awareness of the growing involvement of organized criminal groups.

The return of smuggled migrants to their countries of origin is foreseen. The State of origin is required to accept repatriation when the migrants in question have a right of residence in that State at the time of the return. The conference of the Parties, which is established by the Convention, will have similar functions under the Protocol.

ENTRY INTO FORCE

The Protocol entered into force on 28 January 2004 (article 22).

HOW TO BECOME A PARTY

The Protocol is closed for signature. The Protocol is subject to ratification, acceptance or approval by Signatories. The Protocol is open for accession by any State or any regional economic integration organization of which at least one member State is a Party. In order to become a Party to the Protocol, a State or a regional economic integration organization must also be a Party to the Convention (article 21 of the Protocol and article 37 of the Convention).

OPTIONAL AND/OR MANDATORY DECLARATIONS AND NOTIFICATIONS

A regional economic integration organization shall declare the extent of its competence with respect to matters governed by the Protocol. Such organizations must also inform the depositary of any relevant modification in the extent of its competence (article 21).

RESERVATIONS

Pursuant to article 20 (3) States may declare that they do not consider themselves bound by article 20 (2), according to which disputes among Parties relating to the interpretation or application of the Protocol, which are not settled by negotiation, will be submitted to arbitration and, failing agreement on the organization of the arbitration six months after the date of the request for arbitration, to the International Court of Justice (article 20 (3)). The Protocol is otherwise silent with regard to reservations.

DENUNCIATION/WITHDRAWAL

A Party may denounce the Protocol by written notification to the Secretary-General of the United Nations. Such denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General. A regional economic integration organization shall cease to be a Party to the Protocol when all of its member States have denounced it (article 24). Denunciation of the Convention also entails the denunciation of the Protocol (article 40 (3) of the Convention).

**Protocol against the Smuggling of Migrants by Land, Sea and Air,
supplementing the United Nations Convention against Transnational
Organized Crime**

New York, 15 November 2000

ENTRY INTO FORCE: 28 January 2004, in accordance with article 22 which reads as follows: "1. This Protocol will enter into force on the ninetieth day after the date of deposit of the fortieth instrument of ratification, acceptance, approval or accession, except that it shall not enter into force before the entry into force of the Convention. For the purpose of this paragraph, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member states of such organization. 2. For each State or regional economic integration organization ratifying, accepting, approving or acceding to this Protocol after the deposit of the fortieth instrument of such action, this Protocol shall enter into force on the thirtieth day after the date of deposit by such State or organization of the relevant instrument or on the date this Protocol enters into force pursuant to paragraph 1 of this article, whichever is the later."

REGISTRATION: 28 January 2004, No. 39574.
STATUS: Signatories: 112. Parties: 117.
TEXT: Doc. A/55/383.

Note: The Protocol was adopted by resolution A/RES/55/25 of 15 November 2000 at the fifty-fifth session of the General Assembly of the United Nations. In accordance with its article 21, the Protocol will be open for signature by all States and by regional economic integration organizations, provided that at least one Member State of such organization has signed the Protocol, from 12 to 15 December 2000 at the Palazzi di Giustizia in Palermo, Italy, and thereafter at United Nations Headquarters in New York until 12 December 2002.

<i>Participant</i>	<i>Signature</i>	<i>Ratification, Acceptance(A), Approval(AA), Accession(a), Succession(d)</i>	<i>Participant</i>	<i>Signature</i>	<i>Ratification, Acceptance(A), Approval(AA), Accession(a), Succession(d)</i>
Albania	12 Dec 2000	21 Aug 2002	Cameroon	13 Dec 2000	6 Feb 2006
Algeria	6 Jun 2001	9 Mar 2004	Canada	14 Dec 2000	13 May 2002
Argentina	12 Dec 2000	19 Nov 2002	Cape Verde.....	13 Dec 2000	15 Jul 2004
Armenia	15 Nov 2001	1 Jul 2003	Central African Republic.....		6 Oct 2006 a
Australia	21 Dec 2001	27 May 2004	Chile	8 Aug 2002	29 Nov 2004
Austria	12 Dec 2000	30 Nov 2007	Congo	14 Dec 2000	
Azerbaijan	12 Dec 2000	30 Oct 2003	Costa Rica	16 Mar 2001	7 Aug 2003
Bahamas	9 Apr 2001	26 Sep 2008	Croatia	12 Dec 2000	24 Jan 2003
Bahrain		7 Jun 2004 a	Cyprus	12 Dec 2000	6 Aug 2003
Barbados	26 Sep 2001		Czech Republic	10 Dec 2002	
Belarus	14 Dec 2000	25 Jun 2003	Democratic Republic of the Congo.....		28 Oct 2005 a
Belgium	12 Dec 2000	11 Aug 2004	Denmark ¹	12 Dec 2000	8 Dec 2006
Belize		14 Sep 2006 a	Djibouti		20 Apr 2005 a
Benin	17 May 2002	30 Aug 2004	Dominican Republic.....	15 Dec 2000	10 Dec 2007
Bolivia	12 Dec 2000		Ecuador	13 Dec 2000	17 Sep 2002
Bosnia and Herzegovina	12 Dec 2000	24 Apr 2002	Egypt		1 Mar 2005 a
Botswana	10 Apr 2002	29 Aug 2002	El Salvador	15 Aug 2002	18 Mar 2004
Brazil	12 Dec 2000	29 Jan 2004	Equatorial Guinea.....	14 Dec 2000	
Bulgaria	13 Dec 2000	5 Dec 2001	Estonia	20 Sep 2002	12 May 2004
Burkina Faso.....	15 Dec 2000	15 May 2002	European Community.....	12 Dec 2000	6 Sep 2006 AA
Burundi	14 Dec 2000		Finland.....	12 Dec 2000	7 Sep 2006 A
Cambodia	11 Nov 2001	12 Dec 2005			

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France	12 Dec 2000	29 Oct 2002	Mexico.....	13 Dec 2000	4 Mar 2003
Gambia	14 Dec 2000	5 May 2003	Monaco.....	13 Dec 2000	5 Jun 2001
Georgia	13 Dec 2000	5 Sep 2006	Mongolia		27 Jun 2008 a
Germany	12 Dec 2000	14 Jun 2006	Montenegro ²		23 Oct 2006 d
Greece.....	13 Dec 2000		Mozambique.....	15 Dec 2000	20 Sep 2006
Grenada		21 May 2004 a	Myanmar		30 Mar 2004 a
Guatemala.....		1 Apr 2004 a	Namibia	13 Dec 2000	16 Aug 2002
Guinea		8 Jun 2005 a	Nauru.....	12 Nov 2001	
Guinea-Bissau	14 Dec 2000		Netherlands ³	12 Dec 2000	27 Jul 2005 A
Guyana		16 Apr 2008 a	New Zealand ⁴	14 Dec 2000	19 Jul 2002
Haiti.....	13 Dec 2000		Nicaragua		15 Feb 2006 a
Honduras		18 Nov 2008 a	Nigeria.....	13 Dec 2000	27 Sep 2001
Hungary.....	14 Dec 2000	22 Dec 2006	Norway.....	13 Dec 2000	23 Sep 2003
Iceland.....	13 Dec 2000		Oman.....		13 May 2005 a
India.....	12 Dec 2002		Panama	13 Dec 2000	18 Aug 2004
Indonesia	12 Dec 2000		Paraguay.....		23 Sep 2008 a
Ireland.....	13 Dec 2000		Peru	14 Dec 2000	23 Jan 2002
Italy.....	12 Dec 2000	2 Aug 2006	Philippines.....	14 Dec 2000	28 May 2002
Jamaica	13 Feb 2002	29 Sep 2003	Poland.....	4 Oct 2001	26 Sep 2003
Japan.....	9 Dec 2002		Portugal	12 Dec 2000	10 May 2004
Kazakhstan		31 Jul 2008 a	Republic of Korea	13 Dec 2000	
Kenya		5 Jan 2005 a	Republic of Moldova.....	14 Dec 2000	16 Sep 2005
Kiribati		15 Sep 2005 a	Romania	14 Dec 2000	4 Dec 2002
Kuwait		12 May 2006 a	Russian Federation	12 Dec 2000	26 May 2004
Kyrgyzstan.....	13 Dec 2000	2 Oct 2003	Rwanda.....	14 Dec 2000	4 Oct 2006
Lao People's Democratic Republic.....		26 Sep 2003 a	San Marino	14 Dec 2000	
Latvia.....	10 Dec 2002	23 Apr 2003	Sao Tome and Principe..		12 Apr 2006 a
Lebanon	26 Sep 2002	5 Oct 2005	Saudi Arabia.....	10 Dec 2002	20 Jul 2007
Lesotho	14 Dec 2000	24 Sep 2004	Senegal	13 Dec 2000	27 Oct 2003
Liberia		22 Sep 2004 a	Serbia.....	12 Dec 2000	6 Sep 2001
Libyan Arab Jamahiriya.....	13 Nov 2001	24 Sep 2004	Seychelles.....	22 Jul 2002	22 Jun 2004
Liechtenstein	14 Mar 2001	20 Feb 2008	Sierra Leone	27 Nov 2001	
Lithuania.....	25 Apr 2002	12 May 2003	Slovakia.....	15 Nov 2001	21 Sep 2004
Luxembourg	12 Dec 2000		Slovenia.....	15 Nov 2001	21 May 2004
Madagascar.....	14 Dec 2000	15 Sep 2005	South Africa	14 Dec 2000	20 Feb 2004
Malawi.....		17 Mar 2005 a	Spain.....	13 Dec 2000	1 Mar 2002
Mali	15 Dec 2000	12 Apr 2002	Sri Lanka	13 Dec 2000	
Malta.....	14 Dec 2000	24 Sep 2003	St. Kitts and Nevis.....		21 May 2004 a
Mauritania		22 Jul 2005 a	St. Vincent and the Grenadines.....	20 Nov 2002	
Mauritius		24 Sep 2003 a	Suriname		25 May 2007 a
			Swaziland.....	8 Jan 2001	
			Sweden	12 Dec 2000	6 Sep 2006

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Switzerland.....	2 Apr 2002	27 Oct 2006	Ukraine.....	15 Nov 2001	21 May 2004
Syrian Arab Republic	13 Dec 2000		United Kingdom of Great Britain and Northern Ireland	14 Dec 2000	9 Feb 2006
Tajikistan.....		8 Jul 2002 a	United Republic of Tanzania	13 Dec 2000	24 May 2006
Thailand.....	18 Dec 2001		United States of America	13 Dec 2000	3 Nov 2005
The former Yugoslav Republic of Macedonia	12 Dec 2000	12 Jan 2005	Uruguay.....	13 Dec 2000	4 Mar 2005
Togo	12 Dec 2000		Uzbekistan.....	28 Jun 2001	
Trinidad and Tobago	26 Sep 2001	6 Nov 2007	Venezuela (Bolivarian Republic of).....	14 Dec 2000	19 Apr 2005
Tunisia.....	13 Dec 2000	14 Jul 2003	Zambia.....		24 Apr 2005 a
Turkey	13 Dec 2000	25 Mar 2003			
Turkmenistan.....		28 Mar 2005 a			
Uganda	12 Dec 2000				

Notes:

¹ With a territorial exclusion in respect of the Faroe Islands and Greenland.

² See note 1 under "Montenegro" in the "Historical Information" section in the front matter of this volume.

³ For the Kingdom in Europe.

Further, on 18 January 2007, the Kingdom of the Netherlands informed the Secretary-General that the Protocol would apply to Aruba with the following :

In accordance with article 8, paragraph 6, of the Convention the central authority of Aruba is:

The Procurator-General of Aruba

Havenstraat 2,

Oranjestad

Aruba

Tel: (297) 582 1415

Fax: (297) 583 8891

om.aruba@setarnet.aw

⁴ With the following territorial exclusion:

".....consistent with the constitutional status of Tokelau and taking into account the commitment of the Government of New

Zealand to the development of self-government for Tokelau through an act of self-determination under the Charter of the United Nations, this ratification shall not extend to Tokelau

unless and until a Declaration to this effect is lodged by the Government of New Zealand with the Depositary on the basis of appropriate consultation with that territory....."