

# LAMPIRAN

**DEKLARASI UNIVERSAL  
HAK-HAK ASASI MANUSIA**

*Diterima dan diumumkan oleh Majelis Umum PBB  
pada tanggal 10 Desember 1948 melalui resolusi 217 A (III)*

**Mukadimah**

Menimbang, bahwa pengakuan atas martabat alamiah dan hak-hak yang sama dan tidak dapat dicabut dari semua anggota keluarga manusia adalah dasar kemerdekaan, keadilan dan perdamaian di dunia,

Menimbang, bahwa mengabaikan dan memandang rendah hak-hak manusia telah mengakibatkan perbuatan-perbuatan bengis yang menimbulkan rasa kemarahan hati nurani umat manusia, dan terbentuknya suatu dunia tempat manusia akan mengecap nikmat kebebasan berbicara dan beragama serta kebebasan dari rasa takut dan kekurangan telah dinyatakan sebagai cita-cita yang tertinggi dari rakyat biasa,

Menimbang, bahwa hak-hak manusia perlu dilindungi dengan peraturan hukum, supaya orang tidak akan terpaksa memilih jalan pemberontakan sebagai usaha terakhir guna menentang kelaliman dan penjajahan,

Menimbang, bahwa pembangunan hubungan persahabatan di antara negara-negara perlu ditingkatkan,

Menimbang, bahwa bangsa-bangsa dari Perserikatan Bangsa-Bangsa di dalam Piagam Perserikatan Bangsa-Bangsa telah menegaskan kembali kepercayaan mereka pada hak-hak dasar dari manusia, akan martabat dan nilai seseorang manusia dan akan hak-hak yang sama dari laki-laki maupun perempuan, dan telah memutuskan akan mendorong kemajuan sosial dan tingkat hidup yang lebih baik dalam kemerdekaan yang lebih luas,

Menimbang, bahwa Negara-negara Anggota telah berjanji untuk mencapai kemajuan dalam penghargaan dan penghormatan umum terhadap hak-hak asasi manusia dan kebebasan-kebebasan yang asasi, dalam kerja sama dengan Perserikatan Bangsa-Bangsa,

Menimbang, bahwa pemahaman yang sama mengenai hak-hak dan kebebasan-kebebasan tersebut sangat penting untuk pelaksanaan yang sungguh-sungguh dari janji tersebut,

maka dengan ini,

Majelis Umum,

Memproklamasikan Deklarasi Universal Hak Asasi Manusia sebagai suatu standar umum untuk keberhasilan bagi semua bangsa dan semua negara, dengan tujuan agar setiap orang dan setiap badan di dalam masyarakat, dengan senantiasa mengingat Deklarasi ini, akan berusaha dengan cara mengajarkan dan memberikan pendidikan guna menggalakkan penghargaan terhadap hak-hak dan kebebasan-kebebasan tersebut, dan dengan jalan tindakan-tindakan yang progresif yang bersifat nasional maupun internasional, menjamin pengakuan dan penghormatannya yang universal dan efektif, baik oleh bangsa-bangsa dari Negara-negara Anggota sendiri maupun oleh bangsa-bangsa dari wilayah-wilayah yang ada di bawah kekuasaan hukum mereka.

#### **Pasal 1**

Semua orang dilahirkan merdeka dan mempunyai martabat dan hak-hak yang sama. Mereka dikaruniai akal dan hati nurani dan hendaknya bergaul satu sama lain dalam persaudaraan.

#### **Pasal 2**

Setiap orang berhak atas semua hak dan kebebasan-kebebasan yang tercantum di dalam Deklarasi ini dengan tidak ada pengecualian apa pun, seperti pembedaan ras, warna kulit, jenis kelamin, bahasa, agama, politik atau pandangan lain, asal-usul kebangsaan atau kemasyarakatan, hak milik, kelahiran ataupun kedudukan lain.

Selanjutnya, tidak akan diadakan pembedaan atas dasar kedudukan politik, hukum atau kedudukan internasional dari negara atau daerah dari mana seseorang berasal, baik dari negara yang merdeka, yang berbentuk wilayah-wilayah perwalian, jajahan atau yang berada di bawah batasan kedaulatan yang lain.

**Pasal 3**

Setiap orang berhak atas kehidupan, kebebasan dan keselamatan sebagai individu.

**Pasal 4**

Tidak seorang pun boleh diperbudak atau diperhambakan; perhambaan dan perdagangan budak dalam bentuk apa pun mesti dilarang.

**Pasal 5**

Tidak seorang pun boleh disiksa atau diperlakukan secara kejam, diperlakukan atau dikukum secara tidak manusiawi atau dihina.

**Pasal 6**

Setiap orang berhak atas pengakuan di depan hukum sebagai manusia pribadi di mana saja ia berada.

**Pasal 7**

Semua orang sama di depan hukum dan berhak atas perlindungan hukum yang sama tanpa diskriminasi. Semua berhak atas perlindungan yang sama terhadap setiap bentuk diskriminasi yang bertentangan dengan Deklarasi ini, dan terhadap segala hasutan yang mengarah pada diskriminasi semacam ini.

**Pasal 8**

Setiap orang berhak atas pemulihan yang efektif dari pengadilan nasional yang kompeten untuk tindakan-tindakan yang melanggar hak-hak dasar yang diberikan kepadanya oleh undang-undang dasar atau hukum.

**Pasal 9**

Tidak seorang pun boleh ditangkap, ditahan atau dibuang dengan sewenang-wenang.

**Pasal 10**

Setiap orang, dalam persamaan yang penuh, berhak atas peradilan yang adil dan terbuka oleh pengadilan yang bebas dan tidak memihak, dalam menetapkan hak dan kewajiban-kewajibannya serta dalam setiap tuntutan pidana yang dijatuhkan kepadanya.

### **Pasal 11**

(1) Setiap orang yang dituntut karena disangka melakukan suatu tindak pidana dianggap tidak bersalah, sampai dibuktikan kesalahannya menurut hukum dalam suatu pengadilan yang terbuka, di mana dia memperoleh semua jaminan yang diperlukan untuk pembelaannya.

(2) Tidak seorang pun boleh dipersalahkan melakukan tindak pidana karena perbuatan atau kelalaian yang tidak merupakan suatu tindak pidana menurut undang-undang nasional atau internasional, ketika perbuatan tersebut dilakukan. Juga tidak diperkenankan menjatuhkan hukuman yang lebih berat daripada hukum yang seharusnya dikenakan ketika pelanggaran pidana itu dilakukan.

### **Pasal 12**

Tidak seorang pun boleh diganggu urusan pribadinya, keluarganya, rumah tangganya atau hubungan surat menyuratnya dengan sewenang-wenang; juga tidak diperkenankan melakukan pelanggaran atas kehormatan dan nama baiknya. Setiap orang berhak mendapat perlindungan hukum terhadap gangguan atau pelanggaran seperti ini.

### **Pasal 13**

(1) Setiap orang berhak atas kebebasan bergerak dan berdiam di dalam batas-batas setiap negara.

(2) Setiap orang berhak meninggalkan suatu negeri, termasuk negerinya sendiri, dan berhak kembali ke negerinya.

### **Pasal 14**

(1) Setiap orang berhak mencari dan mendapatkan suaka di negeri lain untuk melindungi diri dari pengejaran.

(2) Hak ini tidak berlaku untuk kasus pengejaran yang benar-benar timbul karena kejahatan-kejahatan yang tidak berhubungan dengan politik, atau karena perbuatan-perbuatan yang bertentangan dengan tujuan dan dasar Perserikatan Bangsa-Bangsa.

### **Pasal 15**

(1) Setiap orang berhak atas sesuatu kewarganegaraan.

(2) Tidak seorang pun dengan semena-mena dapat dicabut kewarganegaraannya atau ditolak hanya untuk mengganti kewarganegaraannya.

#### **Pasal 16**

(1) Laki-laki dan Perempuan yang sudah dewasa, dengan tidak dibatasi kebangsaan, kewarganegaraan atau agama, berhak untuk menikah dan untuk membentuk keluarga. Mereka mempunyai hak yang sama dalam soal perkawinan, di dalam masa perkawinan dan di saat perceraian.

(2) Perkawinan hanya dapat dilaksanakan berdasarkan pilihan bebas dan persetujuan penuh oleh kedua mempelai.

(3) Keluarga adalah kesatuan yang alamiah dan fundamental dari masyarakat dan berhak mendapatkan perlindungan dari masyarakat dan Negara.

#### **Pasal 17**

(1) Setiap orang berhak memiliki harta, baik sendiri maupun bersama-sama dengan orang lain.

(2) Tidak seorang pun boleh dirampas harta miliknya dengan semena-mena.

#### **Pasal 18**

Setiap orang berhak atas kebebasan pikiran, hati nurani dan agama; dalam hal ini termasuk kebebasan berganti agama atau kepercayaan, dengan kebebasan untuk menyatakan agama atau kepercayaannya dengan cara mengajarkannya, melakukannya, beribadat dan mentaatinya, baik sendiri maupun bersama-sama dengan orang lain, di muka umum maupun sendiri.

#### **Pasal 19**

Setiap orang berhak atas kebebasan mempunyai dan mengeluarkan pendapat; dalam hal ini termasuk kebebasan menganut pendapat tanpa mendapat gangguan, dan untuk mencari, menerima dan menyampaikan keterangan-keterangan dan pendapat dengan cara apa pun dan dengan tidak memandang batas-batas.

#### **Pasal 20**

(1) Setiap orang mempunyai hak atas kebebasan berkumpul dan berserikat tanpa kekerasan.

(2) Tidak seorang pun boleh dipaksa untuk memasuki suatu perkumpulan.

### **Pasal 21**

(1) Setiap orang berhak turut serta dalam pemerintahan negaranya, secara langsung atau melalui wakil-wakil yang dipilih dengan bebas.

(2) Setiap orang berhak atas kesempatan yang sama untuk diangkat dalam jabatan pemerintahan negeranya.

(3) Kehendak rakyat harus menjadi dasar kekuasaan pemerintah; kehendak ini harus dinyatakan dalam pemilihan umum yang dilaksanakan secara berkala dan murni, dengan hak pilih yang bersifat umum dan sederajat, dengan pemungutan suara secara rahasia ataupun dengan prosedur lain yang menjamin kebebasan memberikan suara.

### **Pasal 22**

Setiap orang, sebagai anggota masyarakat, berhak atas jaminan sosial dan berhak akan terlaksananya hak-hak ekonomi, sosial dan budaya yang sangat diperlukan untuk martabat dan pertumbuhan bebas pribadinya, melalui usaha-usaha nasional maupun kerjasama internasional, dan sesuai dengan pengaturan serta sumber daya setiap negara.

### **Pasal 23**

(1) Setiap orang berhak atas pekerjaan, berhak dengan bebas memilih pekerjaan, berhak atas syarat-syarat perburuhan yang adil dan menguntungkan serta berhak atas perlindungan dari pengangguran.

(2) Setiap orang, tanpa diskriminasi, berhak atas pengupahan yang sama untuk pekerjaan yang sama.

(3) Setiap orang yang bekerja berhak atas pengupahan yang adil dan menguntungkan, yang memberikan jaminan kehidupan yang bermartabat baik untuk dirinya sendiri maupun keluarganya, dan jika perlu ditambah dengan perlindungan sosial lainnya.

(4) Setiap orang berhak mendirikan dan memasuki serikat-serikat pekerja untuk melindungi kepentingannya.

#### **Pasal 24**

Setiap orang berhak atas istirahat dan liburan, termasuk pembatasan-pembatasan jam kerja yang layak dan hari liburan berkala, dengan tetap menerima upah.

#### **Pasal 25**

(1) Setiap orang berhak atas tingkat hidup yang memadai untuk kesehatan dan kesejahteraan dirinya dan keluarganya, termasuk hak atas pangan, pakaian, perumahan dan perawatan kesehatan serta pelayanan sosial yang diperlukan, dan berhak atas jaminan pada saat menganggur, menderita sakit, cacat, menjadi janda/duda, mencapai usia lanjut atau keadaan lainnya yang mengakibatkan kekurangan nafkah, yang berada di luar kekuasaannya.

(2) Ibu dan anak-anak berhak mendapat perawatan dan bantuan istimewa. Semua anak-anak, baik yang dilahirkan di dalam maupun di luar perkawinan, harus mendapat perlindungan sosial yang sama.

#### **Pasal 26**

(1) Setiap orang berhak memperoleh pendidikan. Pendidikan harus dengan cuma-cuma, setidak-tidaknya untuk tingkatan sekolah rendah dan pendidikan dasar. Pendidikan rendah harus diwajibkan. Pendidikan teknik dan kejuruan secara umum harus terbuka bagi semua orang, dan pendidikan tinggi harus dapat dimasuki dengan cara yang sama oleh semua orang, berdasarkan kepantasan.

(2) Pendidikan harus ditujukan ke arah perkembangan pribadi yang seluas-luasnya serta untuk mempertebal penghargaan terhadap hak asasi manusia dan kebebasan-kebebasan dasar. Pendidikan harus menggalakkan saling pengertian, toleransi dan persahabatan di antara semua bangsa, kelompok ras maupun agama, serta harus memajukan kegiatan Perserikatan Bangsa-Bangsa dalam memelihara perdamaian.

(3) Orang tua mempunyai hak utama dalam memilih jenis pendidikan yang akan diberikan kepada anak-anak mereka.



### **Pasal 27**

(1) Setiap orang berhak untuk turut serta dalam kehidupan kebudayaan masyarakat dengan bebas, untuk menikmati kesenian, dan untuk turut mengesap kemajuan dan manfaat ilmu pengetahuan.

(2) Setiap orang berhak untuk memperoleh perlindungan atas keuntungan-keuntungan moral maupun material yang diperoleh sebagai hasil karya ilmiah, kesusasteraan atau kesenian yang diciptakannya.

### **Pasal 28**

Setiap orang berhak atas suatu tatanan sosial dan internasional di mana hak-hak dan kebebasan-kebebasan yang termaktub di dalam Deklarasi ini dapat dilaksanakan sepenuhnya.

### **Pasal 29**

(1) Setiap orang mempunyai kewajiban terhadap masyarakat tempat satu-satunya di mana dia dapat mengembangkan kepribadiannya dengan bebas dan penuh.

(2) Dalam menjalankan hak-hak dan kebebasan-kebebasannya, setiap orang harus tunduk hanya pada pembatasan-pembatasan yang ditetapkan oleh undang-undang yang tujuannya semata-mata untuk menjamin pengakuan serta penghormatan yang tepat terhadap hak-hak dan kebebasan-kebebasan orang lain, dan untuk memenuhi syarat-syarat yang adil dalam hal kesusilaan, ketertiban dan kesejahteraan umum dalam suatu masyarakat yang demokratis.

(3) Hak-hak dan kebebasan-kebebasan ini dengan jalan bagaimana pun sekali-kali tidak boleh dilaksanakan bertentangan dengan tujuan dan prinsip-prinsip Perserikatan Bangsa-Bangsa.

### **Pasal 30**

Tidak sesuatu pun di dalam Deklarasi ini boleh ditafsirkan memberikan sesuatu Negara, kelompok ataupun seseorang, hak untuk terlibat di dalam kegiatan apa pun, atau melakukan perbuatan yang bertujuan merusak hak-hak dan kebebasan-kebebasan yang mana pun yang termaktub di dalam Deklarasi ini.

# *Konvensi dan Protokol*

## MENGENAI STATUS PENGUNGS

Komisariat Tinggi Badan Perserikatan Bangsa-Bangsa

Urusan Pengungsi

Regional Representation Jakarta – Indonesia

AKTA FINAL

### KONFERENSI PERSERIKATAN BANGSA-BANGSA DARI WAKIL- WAKIL BERKUASA PEHUH TENTANG STATUS PENGUNGS DAN ORANG TANPA KEWARGANEGARAAN

I. Majelis umum Perserikatan Bangsa-Bangsa, dengan Resolusi 429 (V) Desember 1950, memutuskan untuk mengadakan di Jenewa Konferensi Wakil-wakil Berkuasa Penuh guna menyelesaikan penyusunan, dan untuk menandatangani sebuah Konvensi mengenai Status Pengungsi dan sebuah Protokol mengenai Status Orang tanpa kewarganegaraan.

Konferensi berlangsung di Kantor Eropa Perserikatan Bangsa-Bangsa di Jenewa dari 2 sampai 25 Juli 1951.

Pemerintah-pemerintah dari dua puluh enam Negara berikut ini diwakili oleh delegasi-delegasi yang semuanya menyampaikan surat-surat kepercayaan yang memenuhi persyaratan atau komunikasi-komunikasi yang menguasai mereka untuk berpartisipasi dalam Konferensi:

Australia

Austria

Belgia

Brazil

Kanada

Kolombia

Denmark

Mesir

Perancis

Jerman, Republik Federasi

Yunani

Tahta Suci

Irak

Israel

Italia

Luksemburg

Monaco

Belanda

Norweigia

Swedia

Swiss (Delegasi Swiss mewakili Liechtenstein)

Turki

Inggris

Amerika Serikat

Venezuela

Yugoslavia

Iran

Pemerintah-pemerintah dua Negara berikut diwakili oleh peninjau-peninjau :

Kuba

Sesuai dengan permintaan Majelis Umum, Kocisaris Tinggi Perserikatan Bangsa-Bangsa untuk Pengungsi berpartisipasi. tanpa hak suara, dalam perdebatan-perdebatan Konferensi.

Organisasi Perburuhan Internasional dan Organisasi Pengungsi Internasional diwakili dalam Konferensi tanpa hak suara. Konferensi mengundang Wakil Dewan Eropa untuk diwakili dalam Konferensi tanpa hak suara.

Wakil-wakil Organisasi-organisasi Non-Pemerintah yang mempunyai hubungan konsultatif dengan Dewan Ekonomi dan Sosial berikut juga hadir sebagai peninjau-peninjau :

Kategori A

International Confederation of Free Trade Union  
International Federation of Christian Trade Union  
Inter-Parliamentary Union

Kategori B

Agudas Israel World Organization  
Caritas Internationalis  
Catholic International Union for Social Service  
Commission of the Churches on International Affairs  
Consultative Council of Jewish Organizations  
Coordinating Board of Jewish Organizations  
Friends' World Committee for Consultation  
International Association of Penal Law  
International Bureau for the Unification of Penal Law  
International Committee of the Red Cross  
International Council of Women  
International Federation of Friends of Young Women  
International League of the Rights of Man  
International Social Service  
International Union for Child Welfare  
International Union of -Catholic Women's Leagues  
Pax Romana  
Women's International League for Peace and Freedom.  
World Jewish Congress  
World Union for Progressive Judaism  
World Young Women's Christian Association

Daftar

International Relief Committee for intellectual Workers

League of Red Cross Societies

Standing Conference of Voluntary Agencies

World Association of Girl Guides and Girl Scouts

World University Service

Wakil-wakil Organisasi-organisasi Non-Pemerintah yang telah diberi status konsultatif oleh Dewan Ekonomi dan Sosial dan organisasi-organisasi Non-Pemerintah yang dimasukkan oleh Sekretaris Jenderal ke dalam Daftar sebagaimana disebut: dalam Resolusi dewan Ekonomi dan Sosial 288 B (X), paragraf 17, berdasarkan peraturan tata tertib yang diterima oleh konferensi mempunyai hak untuk menyampaikan pernyataan-pernyataan tertulis atau lisan kepada Konferensi.

Konferensi memilih Tuan Knud Larsen, dari Denmark, sebagai Ketua, dan Tuan A. Hernent, dari Belgia, dan Tuan Talat Miras dari Turki, sebagai wakil-wakil Ketua.

Dalam rapatnya yang kedua, Konferensi, yang bertindak atas usul Mesir, memutuskan dengan suara bulat untuk menyampaikan undangan kepada Takhta Suci guna menunjuk wakil berkuasa penuh untuk berpartisipasi dan kegiatan Konferensi. Wakil Takhta Suci mengambil tempatnya dalam Konferensi pada 10 Juli 1951.

Konferensi telah menerima sebagai agendanya Agenda Sementara yang disusun oleh Sekretaris Jenderal (A/CONF. 2/2/Rev .1) . Konferensi juga menerima Peraturan Tata Tertib Sementara yang disusun oleh Sekretaris Jenderal, dengan tambahan ketentuan yang mengizinkan Dewan Eropa untuk menghadiri Konferensi tanpa hak suara dan untuk menyampaikan usul-usul (A/CONF.2/3/Rev.1).

Sesuai dengan Peraturan Tata Tertib Konferensi, Ketua dan Wakil-wakil Ketua meneliti surat-surat kepercayaan para wakil dan pada 17 Juli 1951 melaporkan kepada Konferensi hasil-hasil penelitian termaksud, dimana Konferensi menerima laporan itu.

Konferensi menggunakan sebagai dasar pembahasan-pembahasannya rancangan Konvensi mengenai Status Pengungsi dan rancangan Protokol

mengenai Status Orang Tanpa Kewarganegaraan yang disiapkan oleh Komite ad hoc tentang Pengungsi dan Orang Tanpa Kewarganegaraan dalam sidangnya yang kedua yang diadakan di Jenewa dari 14 sampai 25 Agustus 1950, kecuali pembukaan dan Pasal 1 (Definisi istilah "pengungsi") rancangan Konvensi. Naskah pembukaan yang berada di depan Konferensi adalah naskah pembukaan yang diterima oleh Dewan Ekonomi dan Sosial pada 11 Agustus 1950 dalam Resolusi 319 B II (XI). Naskah Pasal I yang berada di depan Konferensi adalah naskah Pasal 1 yang direkomendasikan oleh Majelis Umum pada 14 Desember 1950 dan tercantum Lampiran Resolusi 429(V). Naskah yang tersebut beikangan adalah modifikasi naskah yang telah diterima oleh Dewan Ekonomi dan Sosial dalam Resolusi 319 B II (XI).

Konferensi menerima Konvensi mengenai status Pengungsi dalam dua pembahasan. Sebelum pembahasan yang kedua Konferensi membentuk Komite Gaya yang sendiri dari Ketua dan wakil-wakil dari Belgia, Prancis / Israel, Italia, Inggris dan Amerika Serikat, bersama dengan Komisaris Tinggi untuk Pengungsi, yang memilih sebagai Ketuanya Tuan G. Warren, dari Amerika Serikat. Komite Gaya menyusun kembali naskah yang sudah diterima oleh Konferensi dalam pembahasan percama, cerucama dari cicik pandang bahasa dan persesuaian antara naskah bahasa Inggris dan naskah bahasa Prancis.

Konferensi diterima pada 25 Juli dengan 24 suara setuju tanpa ada yang menentang dan tidak ada yang abstain. dan dibuka untuk penandatanganan di Kantor Eropa dari Perserikatan Bangsa-bangsa dari 28 Juli sampai 31 Agustus 1951. Penandatanganan akan dibuka kembali di markas besar tetap Perserikatan Bangsa-bangsa di New York dari 17 September 1951 sampai 31 Desember 1952.

Naskah-naskah Konvensi dalam bahasa Inggris dan Prancis, yang sama autentiknya, dilampirkan pada Akta Final ini.

II. Konferensi memutuskan, dengan 17 suara lawan 3 dan 3 abstain, barada judul-judul bab-bab dan pasal-pasal Konvensi dimasukkan untuk maksud-maksud praktis dan tidak merupakan unsur penafsiran.

III. Tentang rancangan Protokol mengenai Status Orang Tanpa kewarganegaraan, Konferensi menerima resolusi berikut:

## KONFERENSI

**Setelah mempertimbangkan** rancangan Protokol mengenai Status orang Tanpa Kawarganegaraan,

**Menimbang** bahwa subjek itu masih memerlukan kajian lebih rinci.

**Memutuskan** tidak mengambil keputusan tentang subjek itu dalam Konferensi ini dan menyerahkan kembali rancangan Protokol itu kepada organ-organ perserikatan Bangsa-bangsa yang cocok untuk dikaji lebih lanjut.

IV. Konferensi dengan suara bulat menerima rekomendasi-rekomendasi berikut;

### A

*(Permudahan Perjalanan Pengungsi)*<sup>1</sup>

## **KONFERENSI**

**Menimbang** bahwa pengeluaran dan pengakuan dokumen-dokumen.

*Perjalanan adalah perlu untuk memudahkan para pengungsi bepergian, dan terutama bagi pemukiman mereka,*

**Mendesak** Pemerintah-pemerintah pihak pada Persetujuan Antara pemerintah tentang Dokumen-dokumen Perjalanan Pengungsi yang ditanda tangani di London pada 15 Oktober 1946, atau yang mengakui dokumen-dokumen perjalanan yang dikeluarkan sesuai dengan. Persetujuan tersebut, untuk terus mengeluarkan atau mengakui dokumen-dokumen. perjalanan termaksud, dan untuk memperluas pengeluaran dokumen-dokumen termaksud bagi para pengungsi sebagaimana didefinisikan dalam Pasal 1 Konvensi mengenai status Pengungsi atau untuk mengakui dokumen-dokumen perjalanan yang dikeluarkan untuk maksud itu bagi orang-orang termaksud, sampai Pemerintah-pemerintah termaksud menanggung kewajiban-kewajiban menurut Pasal 28 Konvensi

### **B.**

*(Prinsip Kesatuan Keluarga)*<sup>1</sup>

## **KONVERENSI**

**Menimbang** bahwa kesatuan keluarga, unit kelompok alamiah dan fundamental dari masyarakat, adalah hak esensial pengungsi, dan bahwa kesatuan tersebut rerus-menerus terancam, dan

***Mencatat** dengan kepuasan bahwa, menurut penjelasan dari Komite ad hoc tentang Hal Tanpa Kewarganegaraan dan Masalah-masalah Terkait (E/1618, him. AO), hak-hak yang diberikan kepada. Seorang pengungsi mencakup anggota-anggota keluarganya ,*

***Merekomendasikan** Pemerintah-pemerintah unyuk mengambil tindakan-tindakan yang perlu bagi perlindungan keluarga pengungsi, terutama dengan tujuan untuk:*  
*(1) Memastikan bahwa kesatuan keluarga pengungsi dipertahankan terutama dalam hal-hal di mana kepala keluarga telah memenuhi syarat-syarat untuk diterima masuk kenegara tertentu.,*

*(2) Menjalin perlindungan para pengungsi yang dibawah umur, terutama anak-anak dan anak-anak perenpuan yang tidak didampingi. yang benar-benar terutama dengan pengampunan dan adopsi :*

C.

*(Pelayanan Kesejahteraan)<sup>1</sup>*

#### KONFERENSI

**menimbang** bahwa, dalam bidang moril, hukum dan materiil, para pangungsi membutuhkan bantuan pelayanan-pelayanan kesejahteraan yang sesuai, terutama dari organisasi-organisasi non pemerintah yang cocok,

**Merekomendasikan** pemerintah-pemerintah dari badan-badan antar pemerintah untuk menudahkan, mendorong dan mendukung upaya-upaya organisasi-organisasi yang benar-benar berkeahlian.

D.

*(Cerja Sama Internasional di Bidang Suaka dan Pemukiman)<sup>1</sup> konferensi,*  
*menimbang bahwa banyak orang masih meninggalkan negara asal mereka karena alasan-alasan, persekusi dan berhak atas perlindungan khusus karena kedudukan mereka,*

**Merekomendasikan** agar Pemerintah-pemerintah terus menerima para pengungsi diwilayah-wilayahnya dan agar Peraerintah-pemerintah bertindak dengan serempak dalam semangat kerja sama internasional yang sejati agar para pengungsi tersebut. Dapat memperoleh suaka dan kemungkinan pemukiman.

E.



*(Perluasan Perlakuan yang Diberikan oleh Konvensi)<sup>1</sup>*

## KONFERENSI

**Menyatakan** harapan agar Konvensi mengenai Status Pengungsi akan bernilai sebagai contoh yang melampaui ruang lingkup kontraktualnya dan agar semua bangsa akan dibimbing olehnya dalam memberikan sejauh mungkin kepada orang-orang diwilayahnya sebagai pengungsi dan yang tidak akan tercakup oleh ketentuan-ketentuan Konvensi, perlakuan sebagaimana diaur oleh ketentuan-ketentuan tersebut.

**UNTUK MENYAKSIKANNYA**, Ketua, Wakil-wakil Ketua dan sekretaris eksekutif Konferensi telah menandatangani Akta final ini.

**DIBUAT** di Jenewa pada hari kedua puluh delapan Juli seribu sermbiliah ratus lima puluh satu dalam satu kopi tunggal dalam Bahasa Inggris dan Prancis, tiap naskah sama autentiknya. Terjemahan-terjemahan Akta Final ini ke dalam bahasa Tionghoa, Rusia dan Spanyol akan disiapkan oleh Sekretaris Jenderal Perserikatan Bangsa-Bangsa, yang akan, atas permintaan, mengirim kopi-kopi terjemahan kepada tiap Pemerintah yang diundang untuk menghadiri Konferensi.

Ketua konferensi: KNUD LARSEN

Wakil-wakil ketua konferensi: A. HERMENT

TALAT MIRAS

Sekretaris eksekutif konferensi: JOHN P. HUMPHREY

## **KONVENSI MENGENAI STATUS PENGUNGI**

**Dibuat di Jenewa pada 28 Juli 1951** <sup>1)</sup>

Mulai berlaku: 22 April 1954, sesuai dengan Pasal 43 Naskah:

United Nations Treaty Series No. 2545. Vo. 189. hlm. 137

## PEMBUKAAN

### PIHAK-PIHAK AGUNG YANG BERJANJ,

**Menimbang** bahwa Piagam Perserikatan Bangsa-bangsa dan Deklarasi Universal Hak Asasi Manusia yang disetujui oleh Majelis Umum pada 10 Desember 1948 menegaskan prinsip bahwa manusia harus menikmati hak-hak dan kebebasan-kebebasan fundamental tanpa diskriminasi,

**Menimbang** bahwa Perserikatan Bangsa-bangsa, pada berbagai kesempatan, telah memanasifestasikan keprihatinannya yang dalam mengenai para pengungsi dan telah berikhtiar untuk menjamin para pengungsi atas penggunaan seluas mungkin hak-hak dan kebebasan-kebebasan fundamental ini,

**Menimbang** bahwa seyogianya dilakukan perubahan dan penyatuan persetujuan-persetujuan internasional sebelumnya mengenai status pengungsi serta perluasan ruang lingkup dan perlindungan yang diberikan oleh persetujuan-persetujuan termaksud dengan jalan pembuatan persetujuan baru,

**Menimbang** bahwa pemberian suaka dapat menimbulkan beban terlalu berat pada negara-negara tertentu, dan bahwa penyelesaian secara memuaskan atas masalah yang oleh Perserikatan Bangsa-Bangsa telah diakui sebagai masalah yang beruang lingkup dan bersifat internasional, oleh karena itu tidak dapat dicapai tanpa kerja sama internasional,

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<sup>1)</sup> Konvensi ini diterima oleh Konferensi Perserikatan Bangsa-Bangsa dari wakil-wakil Berkuasa Penuh tentang Status Pengungsi dan Orang Tanpa Kewarganegaraan, yang diadakan di Jenewa dari 2 sampai 25 Juli 1951. Konferensi tersebut diselenggarakan sesuai dengan resolusi 429 (V), yang diterima oleh Majelis Umum Perserikatan Bangsa-bangsa pada

14 Desember 1950. Naskah resolusi ini dapat dilihat dalam Official Records of the General Assembly, fifth session,

Supplement No. 20 (A/1775), hlm. 48. Naskah Akta Final Konferensi tersebut dimuat kembali dalam Apendiks.

**Menyatakan** keinginan bahwa semua Negara, yang mengakui sifat sosial dan humaniter masalah pengungsi, akan melakukan segalanya yang berada di dalam kekuasaannya, untuk nencegah masalah ini menjadi sebab ketegangan antara Negara-negara,

**Mencatat** bahwa Komisaris Tinggi Perserikatan Bangsa-bangsa untuk urusan pengungsi ditugaskan untuk mengawasi konvensi-konvensi yang mengatur perlindungan para pengungsi, dan mengakui bahwa koordinasi yang efektif,

tindakan-tindakan yang diambil guna menangani masalah ini akan tergantung pada kerja sama Negara-negara dengan Komisaris Tinggi,

TELAH BERSEPAKAT SEBAGAI BERIKUT :

## **BAB 1: Ketentuan Umum**

### Pasal 1

#### DEFINISI ISTILAH "PENGUNGSI"

A. Untuk maksud-maksud Konvensi ini, istilah "pengungsi" akan berlaku bagi seseorang yang :

(1) Telah dianggap sebagai pengungsi menurut Pengaturan-pengaturan 12 Mei 1926 dan 30 Juni 1928 atau menurut konvensi-konvensi 28 Oktober 1933 dan 10 Februari 1938. Protokol 14 September 1939 atau Konstitusi Organisasi Pengungsi internasional ;

Keputusan-keputusan tentang tidak dapat diakuinya seseorang sebagai pengungsi yang diambil oleh Organisasi Pengungsi Internasional dalam periode kegiatan-kegiatannya tidak akan menghalangi pemberian status pengungsi kepada orang-orang yang memenuhi syarat-syarat ayat 2 bagian ini;

(2) Sebagai akibat peristiwa-peristiwa yang terjadi sebelum 1 Januari 1951 dan yang disebabkan oleh kecemasan yang sungguh-sungguh berdasar akan persekusi karena alasan-alasan ras, agama, kebangsaan, keanggotaan pada kelompok sosial tertentu atau opini politik, berada di luar negara kewarganegaraannya dan tidak dapat atau, karena kecemasan tersebut, tidak mau memanfaatkan perlindungan negara itu; atau seseorang yang tidak mempunyai kewarganegaraan dan berada di luar negara di mana ia sebelumnya biasanya bertempat tinggal, sebagai akibat peristiwa-peristiwa termaksud, tidak dapat atau, karena kecemasan tersebut, tidak mau kembali ke negara itu.

Dalam hal seseorang mempunyai lebih dari satu kewarganegaraan, istilah "negara kewarganegaraannya" akan berarti masing-masing negara di mana ia adalah warga negara, dan se-seorang tidak akan dianggap tidak memperoleh perlindungan negara kewarganegaraannya jika, tanpa alasan yang sah yang berdasarkan kecemasan yang sungguh-sungguh berdasar, ia tidak memanfaatkan perlindungan salah satu negara di mana ia adalah warga negara.

B. (1) Untuk maksud-maksud Konvensi ini, kaca-kaca "peristiwa-peristiwa yang terjadi sebelum 1 Januari 1951" dalam Pasal 1, Bagian A, berarti.

(a) "peristiwa-peristiwa yang terjadi di Eropa sebelum 1 Januari 1951"; atau

(b) "Peristiwa-peristiwa yang terjadi di Eropa atau di tempat lain sebelum 1 Januari 1951",

Dan tiap Negara Pihak, pada waktu penandatanganan, ratifikasi atau aksesi, akan membuat deklarasi yang menyebutkan secara khusus arti-arti mana dari arti-arti ini yang berlaku untuk maksud kewajiban-kewajibannya berdasarkan Konvensi ini.

(2) Suatu Negara Pihak yang menerima alternatif (a) Setiap waktu dapat memperluas kewajiban-kewajibannya dengan menerima alternatif (b) melalui notifikasi yang disampaikanlah kepada Sekretaris Jenderal Perserikatan Bangsa-Bangsa.

C. Konvensi ini akan berhenti berlaku bagi seseorang yang termasuk dalam ketentuan-ketentuan bagian A jika:

(1) Ia secara sukarela memanfaatkan perlindungan negara kewarga-negaraannya ; atau

(2) Setelah kehilangan kewarganegaraannya, ia secara sukarela telah memperolehnya kembali; atau

(3) Ia telah memperoleh kewarganegaraan baru, dan menikmati perlindungan negara kewarganegaraan barunya; atau

(4) Ia secara sukarela telah menetap kembali di negara yang ditinggalkannya atau di luar negara itu di mana ia tetap tinggal karena kecemasan akan persekusi; atau

(5) Ia tidak dapat lagi, karena keadaan-keadaan yang berhubungan dengan pengakuan atas dirinya sebagai pengungsi sudah tidak ada lagi, tetap menolak untuk memanfaatkan perlindungan negara kewarganegaraannya;

Dengan ketentuan bahwa ayat ini tidak akan berlaku bagi pengungsi yang termasuk dalam bagian A (1) Pasal ini yang dapat mengajukan alasan-alasan yang bersifat memaksa yang timbul dari persekusi sebelumnya atas penolakannya untuk memanfaatkan perlindungan negara kewarganegaraannya ;

(6) Sebagai seorang yang tidak mempunyai kewarganegaraan, karena keadaan-keadaan yang berhubungan dengan pengakuan atas dirinya sebagai pengungsi sudah tidak ada lagi, ia dapat kembali ke negara di mana ia sebelumnya bertempat tinggal;

Dengan ketentuan bahwa ayat ini tidak akan berlaku bagi pengungsi yang termasuk dalam bagian A(1) Pasal ini yang dapat mengajukan alasan-alasan yang bersifat memaksa yang timbul dari persekusi sebelumnya atas penolakannya untuk kembali ke negara di mana ia sebelumnya bertempat tinggal.

D. Konvensi ini tidak akan berlaku bagi orang-orang dewasa menerima perlindungan atau bantuan dari organ-organ atau badan-badan Perserikatan Bangsa-Bangsa selain Komisariat Tinggi Perserikatan Bangsa-bangsa untuk urusan pengungsi.

Apabila perlindungan atau bantuan tersebut telah berhenti karena suatu alasan, tanpa terselesaikannya secara definitif kedudukan orang-orang termaksud sesuai dengan resolusi-resolusi yang relawan yang diterima oleh Majelis Umum Perserikatan Bangsa-Bangsa, orang-orang tersebut *ipso facto* akan berhak atas keuntungan-keuntungan Konvensi ini.

E. Konvensi ini tidak akan berlaku bagi seseorang yang oleh instansi-instansi yang berwenang dari negara di mana ia telah bertempat tinggal diakui mempunyai hak-hak dan kewajiban-kewajiban yang terkait dimilikinya kewarganegaraan negara itu .

F. Ketentuan-ketentuan Konvensi ini tidak akan berlaku bagi seseorang yang mengenai dirinya terdapat alasan-alasan serius untuk menganggap bahwa:

(a) ia telah melakukan tindak pidana terhadap perdamaian, tindak pidana perang, atau tindak pidana terhadap kemanusiaan, sebagaimana didefinisikan dalam instrumen-instrumen internasional yang dibuat untuk menetapkan ketentuan mengenai tindak-tindak pidana termaksud;

(b) ia telah melakukan tindak pidana nonplitis yang serius di luar negara pengungsian sebelum ia diterima masuk ke negara itu sebagai pengungsi;

(c) ia telah dinyatakan bersalah atas perbuatan-perbuatan yang bertentangan dengan tujuan-tujuan dan prinsip-prinsip Perserikatan Bangsa-Bangsa .

## Pasal 2

### KEWAJIBAN UMUM

Tiap pengungsi mempunyai kewajiban-kewajiban pada negara dimana ia berada, yang mengharuskannya terutama untuk mentaati undang-undang serta peraturan-peraturan negara itu dan juga tindakan-tindakan yang diambil untuk memelihara ketertiban umum,

## Pasal 3

### NON-DISKRIMINASI

Negara-negara Pihak akan menerapkan ketentuan-ketentuan Konvensi ini pada para pengungsi tanpa diskriminasi mengenai ras, agama atau negara asal.

## Pasal 4

### AGAMA

Negara-negara Pihak akan memberikan kepada para pengungsi yang berada di dalam wilayahnya perlakuan yang setidak-tidaknya sama dengan perlakuan yang diberikan kepada warganegaranya mengenai kebebasan menjalankan agama dan kebebasan tentang pendidikan anak-anak mereka.

## Pasal 5

### HAK YANG DIBERIKAN YANG TERPISAH DARI KONVENSI INI

Tiada suatu ketentuan pun dalam Konvensi ini yang akan dianggap Mengurangi hak-hak dan keuntungan-keuntungan apa pun yang terpisah dari Konvensi ini yang diberikan oleh suatu Negara Pihak kepada para pengungsi.

## Pasal 6

### ISTILAH "DALAM KEADAAN YANG SAMA"

Untuk maksud Konvensi ini, istilah "dalam keadaan yang sama" mengandung arti bahwa tiap persyaratan (termasuk persyaratan tentang jangka waktu dan syarat-syarat untuk berdiam atau bertempat tinggal) yang harus dipenuhi oleh individu tertentu untuk menikmati hak yang bersangkutan, jika ia bukan pengungsi, harus dipenuhinya kecuali persyaratan yang karena sifatnya tidak dapat dipenuhi oleh seorang pengungsi.

## Pasal 7

### PEMBEBASAN DARI RESIPROSITAS

1. Kecuali apabila Konvensi ini memuat ketentuan-ketentuan yang lebih baik, Negara Pihak akan memberikan kepada para pengungsi perlakuan yang sama dengan perlakuan yang diberikan kepada orang-orang asing umumnya.
2. Setelah periode tiga tahun bertempat tinggal, sesuai pengungsi akan menikmati pengecualian dari resiprositas legislatif di Negara-negara Pihak.
3. Tiap Negara Pihak akan terus memberikan kepada para pengungsi hak-hak dan keuntungan-keuntungan yang telah dimilikinya, apabila tidak ada resiprositas, pada tanggal mulai diberlakukannya Konvensi ini untuk Negara itu.
4. Negara Pihak akan mempertimbangkan dengan baik kemungkinan pemberian kepada para pengungsi, apabila tidak ada resiprositas, hak-hak dan keuntungan-keuntungan yang melebihi hak-hak dan keuntungan-keuntungan yang dimilikinya menurut ayat 2 dan 3, dan untuk memperluas pengecualian dari resiprositas pada para pengungsi yang tidak memenuhi syarat-syarat yang dalam ayat 2 dan 3.
5. Ketentuan-ketentuan ayat 2 dan 3 berlaku baik bagi hak-hak dan keuntungan-keuntungan sebagaimana disebut dalam Pasal 13, 18, 19, 21 dan 22 Konvensi ini maupun bagi hak-hak dan keuntungan-keuntungan yang tidak ditetapkan oleh Konvensi ini.

#### Pasal 8

##### PEMBEBASAN DARI TINDAKAN LUAR BIASA

Mengenai tindakan-tindakan yang mungkin diambil terhadap pribadi, hak milik atau kepentingan-kepentingan warga negara suatu Negara asing, Negara-negara Pihak tidak akan menerapkan tindakan-tindakan demikian terhadap pengungsi yang secara formal adalah warga negara dari Negara asing itu semata-mata karena kewarganegaraan tersebut. Negara-negara Pihak, yang menurut peraturan perundang-undangannya, tidak dapat menerapkan prinsip umum yang dinyatakan dalam Pasal ini, dalam kasus-kasus yang cocok, akan memberikan pembebasan-pembebasan kepada para pengungsi termaksud.

#### Pasal 9

##### TINDAKAN SEMENTARA

Tiada suatu ketentuan pun dalam Konvensi ini yang mencegah suatu Negara Pihak, dalam waktu perang atau keadaan-keadaan gawat atau luar biasa lainnya,

untuk mengambil tindakan-tindakan sementara yang di anggapnya esensial bagi keamanan nasional dalam kasus seseorang tertentu, sementara menunggu penentuan oleh Negara Pihak itu bahwa orang tersebut sebenarnya adalah seorang pengungsi dan bahwa kelanjutan tindakan-tindakan demikian adalah perlu dalam kasus orang tersebut demi kepentingan keamanan nasional

#### Pasal 10

##### KESINAMBUNGAN TEMPAT TINGGAL

1. Dalam hal seorang pengungsi telah tersingkir secara paksa pada waktu Perang Dunia Kedua dan dipindahkan ke wilayah suatu Negara Pihak dan menjadi penduduk Negara Pihak itu, periode berdiam yang dipaksakan tersebut akan dianggap sebagai bertempat tinggal secara sah dalam wilayah itu.
2. Dalam hal seorang pengungsi telah tersingkir secara paksa pada waktu Perang Dunia Kedua dari wilayah suatu Negara Pihak dan, sebelum tanggal mulai berlakunya Konvensi ini, telah kembali ke wilayah tersebut dengan maksud untuk bertempat tinggal, periode bertempat tinggal sebelum dan sesudah tersingkirnya secara paksa tersebut akan dipandang sebagai satu periode yang tidak terputus untuk maksud-maksud yang mensyaratkan tidak terputusnya periode bertempat tinggal.

#### Pasal 11

##### PELAUT PENGUNGI

Dalam hal pengungsi yang secara teratur bekerja sebagai awak kapal' berbendera suatu Negara Pihak, Negara itu akan mempertimbangkan secara simpatik pemukiman para pengungsi tersebut di wilayahnya dan dikeluarkannya dokumen perjalanan kepada mereka atau diizinkan mereka masuk untuk sementara ke wilayahnya untuk memudahkan pemukiman mereka di negara lain.

## **BAB II : Status Hukum**

#### Pasal 12

##### STATUS PRIBADI

1. Status pribadi seorang pengungsi akan ditentukan oleh hukum negara domisilinya atau, jika ia tidak mempunyai domisili, oleh hukum negara tempat tinggalnya.



2. Hak-hak yang sebelumnya dipunyai seorang pengungsi dan yang tergantung pada status pribadi, terutama sekali hak-hak yang berkaitan dengan perkawinan, akan dihormati oleh Negara Pihak, tergantung pada dipenuhinya jika hal ini perlu, formalitas-formalitas yang disyaratkan oleh hukum Negara itu, dengan ketentuan bahwa hak termaksud adalah hak yang akan diakui oleh hukum Negara tersebut seandainya ia tidak menjadi pengungsi.

#### Pasal 13

##### MILIK BERGERAK DAN TIDAK BERGERAK

Negara-negara Pihak akan memberikan kepada pengungsi perlakuan yang sebaik mungkin dan biar bagaimana pun, tidak kurang baiknya dari pada perlakuan yang diberikan kepada orang-orang asing umumnya dalam keadaan yang sama mengenai perolehan milik bergerak dan tidak bergerak serta hak-hak lain yang berkaitan dengannya, dan mengenai sewa serta kontrak-kontrak lainnya yang berkaitan dengan milik bergerak atau tidak bergerak.

#### Pasal 14

##### HAK KARYA SENI PERINDUSTRIAN

Mengenai perlindungan milik Perindustrian, seperti penemuan, desain atau model, merek dagang, nama dagang, dan hak-hak atas karya-karya sastra, seni dan ilmu, seorang pengungsi akan diberikan di negara di mana ia biasanya bertempat tinggal perlindungan yang sama seperti yang diberikan kepada warga negara dari negara tersebut. Di wilayah suatu Negara pihak lainnya, ia akan diberikan perlindungan yang sama seperti yang diberikan di wilayah tersebut kepada warga negara dari negara dimana ia biasanya bertempat tinggal.

#### Pasal 15

##### HAK BERSERIKAT

Mengenai asosiasi-asosiasi nonpolitis dan yang tidak mencari keuntungan serta serikat-serikat pekerja, Negara-negara Pihak akan memberikan kepada para pengungsi yang tinggal secara sah di wilayah negara-negara tersebut perlakuan yang paling baik yang diberikan kepada warga negara dari negara asing, dalam keadaan yang sama.

#### Pasal 16

## AKSES KE PENGADILAN

1. Seorang pengungsi akan mempunyai akses bebas ke pengadilan-pengadilan di wilayah semua Negara Pihak.
2. Seorang pengungsi akan menikmati di Negara Pihak di mana ia biasanya bertempat tinggal perlakuan yang sama seperti warga negara dalam hal-hal yang berkaitan dengan akses ke Pengadilan-pengadilan, termasuk bantuan hukum dan pembebasan dari *cautio judicatum solvi*.
3. Seorang pengungsi akan diberikan dalam hal-hal sebagaimana disebut dalam ayat 2 di negara-negara selain negara di mana ia biasanya bertempat tinggal perlakuan yang diberikan kepada warga negara dari negara di mana ia biasanya bertempat tinggal.

## **BAB III : Pekerjaan yang Memberi Penghasilan**

### Pasal 17

#### PEKERJAAN YANG MENGHASILKAN UPAH

1. Negara Pihak akan memberikan kepada para pengungsi yang tinggal secara sah di wilayah Negara tersebut perlakuan yang paling baik yang diberikan kepada warga negara dari negara asing dalam keadaan yang sama mengenai hak untuk melakukan pekerjaan yang menghasilkan upah.
2. Biar bagaimanapun, tindakan-tindakan pembatasan yang diterapkan pada orang-orang asing atau pada penggunaan tenaga kerja orang-orang asing untuk melindungi pasar kerja nasional tidak akan diterapkan pada pengungsi yang sudah bebas dari tindakan-tindakan pembatasan tersebut pada tanggal mulai berlakunya Konvensi ini bagi Negara Pihak yang bersangkutan, atau yang memenuhi salah satu dari syarat-syarat berikut:
  - a) Ia telah bertempat tinggal selama tiga tahun di Negara Pihak tersebut.
  - b) Ia mempunyai suami atau istri yang berkewarganegaraan negara tempat tinggalnya. Seorang pengungsi tidak boleh memohon keuntungan-keuntungan dari ketentuan ini jika ia telah meninggalkan istri *atau* suaminya.
  - c) Ia mempunyai seorang anak atau lebih yang memiliki kewarga-negaraan negara tempat tinggalnya.

3. Negara-negara Pihak akan mempertimbangkan secara simpatik asimilasi hak-hak semua pengungsi mengenai pekerjaan yang menghasilkan upah dengan hak-hak warga negara mengenai hal tersebut, dan terutama pengungsi yang masuk ke dalam wilayah Negara-negara Pihak sesuai dengan program-program perekrutan pekerja atau berdasarkan rencana-rencana keimigrasian.

#### Pasal 18

##### SWAKARYA

Negara-negara Pihak akan memberikan kepada pengungsi yang berada secara sah di wilayahnya perlakuan yang sebaik mungkin dan biar bagaimanapun, tidak kurang baiknya dari pada perlakuan yang diberikan kepada orang-orang asing umumnya dalam keadaan yang sama, mengenai hak untuk melakukan usaha sendiri dalam pertanian, industri, kerajinan dan perdagangan dan untuk mendirikan perusahaan dagang dan perusahaan industri .

#### Pasal 19

##### PROFESI BEBAS

1. Tiap Negara Pihak akan memberikan kepada pengungsi yang tinggal secara sah di wilayahnya yang mempunyai ijazah yang diakui oleh instansi-instansi yang berwenang Negara tersebut, dan yang ingin menjalankan profesi bebas perlakuan yang sebaik mungkin dan, biar bagaimanapun, tidak kurang baiknya daripada perlakuan yang diberikan kepada orang-orang asing umumnya dalam keadaan yang sama.

2. Negara-negara Pihak akan berusaha sebaik-baiknya sesuai dengan undang-undang dan konstitusinya untuk memukimkan para pengungsi termaksud di wilayah-wilayah, selain wilayah metropolitan, yang hubungan internasionalnya menjadi tanggung jawab Negara-negara tersebut.

#### **BAB IV: Kesejahteraan**

#### Pasal 20

##### PENCATUAN

Bila terdapat sistem pensatuan, yang berlaku bagi penduduk umumnya dan yang mengatur distribusi umum produk-produk yang persediaannya kurang, para pengungsi akan diberikan perlakuan yang sama dengan warga negara.

### Pasal 21

#### PERUMAHAN

Mengenai perumahan, Negara-negara Pihak, sejauh masalah itu diatur oleh undang-undang atau peraturan-peraturan atau ditempatkan di bawah pengawasan instansi-instansi publik, akan memberikan kepada para pengungsi yang tinggal secara sah di wilayahnya perlakuan yang sebaik mungkin dan, biar bagaimana pun, tidak kurang baiknya daripada perlakuan yang diberikan kepada orang-orang asing umumnya dalam keadaan yang sama.

### Pasal 22

#### PENDIDIKAN UMUM

1. Negara-negara Pihak akan memberikan kepada para pengungsi perlakuan yang sama dengan perlakuan yang diberikan kepada warga negara mengenai pendidikan dasar.
2. Negara-negara Pihak akan memberikan kepada para pengungsi perlakuan yang sebaik mungkin, dan biar bagaimanapun tidak kurang baiknya dari pada perlakuan yang diberikan kepada orang-orang asing umumnya dalam keadaan yang sama, mengenai pendidikan selain pendidikan dasar dan terutama, mengenai akses ke studi, pengakuan sertifikat-sertifikat sekolah asing, ijazah-ijazah dan gelar-gelar, pembebasan biaya-biaya dan pungutan-pungutan suara pemberian beasiswa-beasiswa.

### Pasal 23

#### PERTOLONGAN PUBLIK

Negara-negara Pihak akan memberikan kepada para pengungsi yang tinggal secara sah diwilayahnya perlakuan yang sama mengenai pertolongan dan bantuan publik seperti yang diberikan kepada negara- negaranya .

### Pasal 24

#### PERATURAN PERUNDANG-UNDANGAN KETENAGAKERJAAN DAN JAMINAN SOSIAL

1. Negara-negara Pihak akan memberikan kepada para pengungsi yang secara sah di wilayahnya perlakuan sama seperti yang diberikan kepada warga negaranya mengenai hal-hal berikut :

(a) Sejauh hal-hal termaksud diatur dengan undang-undang atau peraturan-peraturan atau berada dibawah pengawasan instansi-instansi pemerintah : upah, termasuk tunjangan-tunjangan, keluarga dimana tunjangan-tunjangan tersebut merupakan bagian dari upah, jam-jam kerja, pengaturan-pengaturan lembur, liburan dengan pembayaran, pembatasan-pembatasan tentang pekerjaan rumah, usia kerja minimum, pemagangan dan pelatihan, pekerjaan wanita dan pekerjaan orang muda, serta penikmatan keuntungan-keuntungan kesepakatan kolektif ;

(b) Jaminan sosial (ketentuan-ketentuan yuridis mengenai cedera dalam pekerjaan, penyakit-penyakit karena pekerjaan, kehamilan, gangguan kesehatan, cacat, usia lanjut, kematian, pengangguran, tanggung jawab keluarga dan hal-hal lain yang mungkin terjadi, yang menurut undang-undang atau peraturan-peraturan diliput oleh pengaturan jaminan sosial), tergantung pada pembatasan-pembatasan berikut:

(i) Mungkin ada pengaturan-pengaturan yang cocok bagi di pertahankannya hak-hak yang sudah diperoleh dan yang sedang dalam perolehan;

(ii) Undang-undang atau peraturan-peraturan nasional negara tempat tinggal mungkin menerapkan pengaturan-pengaturan khusus mengenai keuntungan-keuntungan atau bagian-bagian keuntungan-keuntungan yang seluruhnya dapat dibayarkan dari dana publik, dan mengenai tunjangan-tunjangan yang dibayarkan kepada orang-orang yang tidak memenuhi syarat-syarat pemberian pensiun normal.

2. Hak untuk memperoleh kompensasi atas kematian seorang pengungsi sebagai akibat dari cedera karena pekerjaan atau dari penyakit karena pekerjaan tidak akan terpengaruh oleh kenyataan bahwa tempat tinggal penerima berada di luar wilayah Negara Pihak.

3. Negara-negara Pihak akan memberikan kepada para pengungsi keuntungan-keuntungan persetujuan-persetujuan yang telah dibuat antara negara-negara itu, atau yang mungkin dibuat antara negara-negara itu dikemudian hari, mengenai dipertahankannya hak-hak yang sudah diperoleh dan hak-hak yang sedang dalam proses perolehan tentang jaminan sosial, tergantung semata-mata pada syarat-syarat yang berlaku bagi warga negara dari negara-negara penandatanganan persetujuan yang bersangkutan.

4. Negara-negara Pihak akan memberikan pertimbangan secara simpatik pemberian kepada para pengungsi, apabila mungkin keuntungan-keuntungan persetujuan-persetujuan sejenis yang mungkin sewaktu-waktu berlaku antara Negara-negara pihak tersebut dan Negara-negara bukan pihak.

## **Bab V**

### **TINDAKAN ADMINISTRATIF**

#### Pasal 25

##### **BANTUAN ADMINISTRATIF**

1. Apabila pelaksanaan suatu hak oleh seorang pengungsi biasanya akan memerlukan bantuan instansi-instansi negara asing yang kepadanya ia tidak dapat mengajukannya, Negara-negara Pihak di mana pengungsi itu bertempat tinggal akan mengatur agar bantuan termaksud diberikan kepadanya oleh instansi-instansinya sendiri atau oleh suatu instansi internasional.
2. Instansi atau instansi-instansi sebagaimana disebut dalam ayat 1 akan menyampaikan atau di bawah pengawasannya membuat disampaikannya dokumen-dokumen atau sertifikasi-sertifikasi yang biasanya disampaikan kepada orang-orang asing oleh atau melalui instansi-instansi nasional.
3. Dokumen-dokumen atau sertifikasi-sertifikasi yang disampaikan demikian akan berlaku sebagai pengganti dokumen-dokumen resmi yang disampaikan kepada orang-orang asing oleh atau melalui instansi-instansi nasional Negara-negara Pihak, dan akan dipercaya kesahannya apabila tidak terdapat bukti sebaliknya.
4. Tergantung pada perlakuan khusus yang mungkin diberikan kepada orang-orang miskin biaya-biaya dapat dipungut bagi pelayanan sebagaimana disebut dalam Pasal ini, namun biaya-biaya termaksud harus moderat dan sebanding dengan biaya-biaya yang dibebankan pada warga negara untuk pelayanan sejenis.
5. Ketentuan-ketentuan pasal ini tidak akan mengurangi arti pasal 27 dan pasal 28.

#### Pasal 26

##### **KEBEBASAN BERPINDAH TEMPAT**

Tiap Negara Pihak akan memberikan kepada para pengungs yang berada secara sah diwilayahnya hak untuk memilih tempat tinggal mereka dan untuk berpindah

tempat secara bebas dalam wilayahnya sesuai, dengan peraturan-peraturan yang berlaku bagi orang-orang asing umumnya dalam keadaan yang lama .

#### Pasal 27

##### SURAT IDENTITAS

Negara-negara Pihak akan mengeluarkan surat-surat identitas untuk tiap pengunjung di wilayahnya yang tidak memiliki dokumen perjalanan yang berlaku.

#### Pasal 28

##### DOKUMEN PERJALANAN

1. Negara-negara Pihak akan mengeluarkan untuk para pengunjung yang tinggal secara sah di wilayahnya, dokumen-dokumen perjalanan untuk maksud bepergian keluar wilayahnya, kecuali apabila alasan-alasan keamanan nasional atau ketertiban umum yang memaksa mengharuskan lain, dan ketentuan- ketentuan skedul yang terlampir pada Konvensi ini akan berlaku bagi dokumen-dokumen termaksud. Negara-negara Pihak dapat mengeluarkan dokumen perjalanan termaksud untuk tiap pengunjung lain yang berada di wilayahnya; Negara-negara Pihak terutama mempertimbangkan secara simpatik dikeluarkannya dokumen perjalanan termaksud untuk para pengunjung yang berada di dalam wilayahnya yang tidak dapat memperoleh dokumen perjalanan di negara tempat tinggal mereka yang sah.

2. Dokumen-dokumen perjalanan yang dikeluarkan untuk pengunjung berdasarkan persetujuan-persetujuan internasional sebelumnya oleh pihak-pihak pada persetujuan-persetujuan Internasional tersebut akan diakui dan diperlakukan oleh negara-negara Pihak secara seakan-akan perjalanan itu dikeluarkan berdasarkan Pasal ini.

#### Pasal 29

##### PUNGUTAN FISKAL

1. Negara-negara Pihak tidak akan membebankan pada para pengunjung bea-bea, pungutan-pungutan atau pajak-pajak, apa pun deskripsinya, yang lain atau yang lebih tinggi dari pada bea-bea, pungutan-pungutan atau pajak-pajak yang dikenakan pada warga negara dalam keadaan yang sama.

2. Tiada suatu ketentuan pun dalam ayat di atas yang akan menghalangi pemberlakuan pada para pengungsi undang-undang dan peraturan-peraturan mengenai pungutan-pungutan yang berkaitan dengan pengeluaran dokumen-dokumen administratif termasuk surat-surat identitas untuk orang-orang asing.

### Pasal 30

#### PEMINDAHAN ASET

1. Suatu Negara Pihak, sesuai dengan undang-undang dan peraturan-peracurannya, akan mengirinkan para pengungsi untuk memindahkan aset yang telah mereka bawa ke dalam wilayah NegaraPihak tersebut ke negara lain di mana mereka telah diterima masuk untuk maksud-maksud penukiman.

2. Suatu Negara Pihak akan mempertimbangkan secara simpatik permintaan para pengungsi untuk meoperoleh izin bagi pemindahan aset di mana pun aset itu berada dan yang perlu bagi pemukiman mereka di negara lain dimana mereka telah diterima masuk.

### Pasal 31

#### PENGUNGSY YANG BERADA SECARA TIDAK SAH DI NEGARA PENGUNGSYAN

1. Negara-negara Pihak tidak akan raengenakan hukuman pada para pengungsi, karena masuk atau keberadaannya secara tidak sah, yang datang langsung dari wilayah di mana hidup atau kebebasannya terancam dalam arti Pasal 1, masuk ke atau berada di wilayah Negara-negara Pihak tanpa izin, asalkan mereka segera melaporkan diri kepada instansi-instansi setempat dan menunjukkan alasan yang layak atas masuk atau keberadaan mereka secara tidak sah itu.

2. Negara-negara Pihak tidak akan mengenakan pembatasan-pembatasan terhadap perpindahan para pengungsi termaksud ke-cuali pembatasan-pembatasan yang perlu dan pembatasan-pembatasan demikian. hanya akan diberlakukan sampai status mereka di negara itu disahkan atau mereka mendapat izin masuk ke negara lain. Negara-negara Pihak akan memberi waktu yang layak dan segala kemudahan yang perlu kepada para pengungsi tersebut untuk mendapat izin masuk ke negara lain.

### Pasal 32



## PENGUNGSIAN

1. Negara-negara Pihak tidak akan mengusir pengungsi yang berada secara tidak sah di wilayahnya kecuali karena alasan-alasan keamanan nasional atau ketertiban umum.
2. Pengusiran pengungsi demikian hanya akan dilakukan sebagai pelaksanaan suatu keputusan yang dicapai sesuai dengan proses hukum yang semestinya. Kecuali "apabila alasan-alasan keamanan nasional yang bersifat memaksa mengharuskan lain, pengungsi itu akan diizinkan menyampaikan bukti untuk membersihkan dirinya, serta untuk mengajukan banding kepada, dan untuk maksud itu diwakili di depan, instansi yang berwenang atau seorang atau orang-orang yang khusus dirujuk oleh instansi yang berwenang.
3. Negara-negara Pihak akan memberikan kepada pengungsi tersebut jangka waktu yang layak untuk mengupayakan diterima masuknya secara sah ke negara lain dalam jangka waktu yang diberikan itu. Negara-negara Pihak mencadangkan haknya untuk menerapkan dalam jangka waktu tersebut tindakan-tindakan internal yang dianggapnya perlu.

### Pasal 33

#### Larangan Pengusiran atau Pengembalian

#### (“Refoulement”)

1. Tidak ada Negara Pihak yang akan mengusir atau mengembalikan ("refouler") pengungsi dengan cara apa pun ke perbatasan wilayah-wilayah di mana hidup atau kebebasannya akan terancam karena ras, agama, kebangsaan, keanggotaan pada kelompok sosial tertentu atau opini politiknya.
2. Namun, keuntungan ketentuan ini tidak boleh diklaim oleh pengungsi di mana terdapat alasan-alasan yang layak untuk menganggapnya sebagai bahaya terhadap keamanan negara di mana ia berada atau, karena telah dijatuhi hukuman oleh putusan hakim yang bersifat final atas tindak pidana sangat berat ia merupakan bahaya bagi masyarakat negara itu.

### Pasal 34

#### Pewarganegaraan

Negara-negara Pihak sejauh mungkin akan memudahkan asimilasi dan pewarganegaraan para pengungsi. Negara-negara Pihak terurama akan melakukan segala upaya untuk mempercepat proses pewarganegaraan itu dan untuk mengurangi sejauh mungkin pungutan-pungutan dan biaya-biaya proses termaksud.

## **BAB VI**

### **KETENTUAN PELAKSANAAN DAN PERALIHAN**

#### Pasal 35

Kerja SaMa InsTansi Nasional dengan PersErikatan Bangsa-Bangsa

1. Negara-negara Pihak berjanji untuk bekerja sama dengan komisariat Tinggi Perserikatan Bangsa-Bangsa Urusan Pengungsi, atau suatu badan Perserikatan Bangsa-Bangsa lain yang mungkin menggantikannya, dalam menjalankan fungsinya, dan khususnya akan memudahkan tugasnya dalam mengawasi penerapan ketentuan-ketentuan konvensi ini

2. Agar Komisariat Tinggi Perserikatan Bangsa-Bangsa, atau suatu badan Perserikatan Bangsa-Bangsa lain yang mungkin menggantikannya, dapat membuat laporan-laporan kepada organ-organ Perserikatan Bangsa-Bangsa yang berwenang, Negara Pihak berjanji untuk memberikan kepada organ-organ termaksud informasi dan data statistik yang diminta, dalam bentuk sebagaimana mestinya, mengenai :

(a) Kondisi pengungsi;

(b) Pelaksanaan Konvensi ini, dan

(c) Undang-undang, peraturan-peraturan dan keputusan-keputusan yang berlaku, atau yang kemudian berlaku mengenai para pengungsi.

#### Pasal 36

Informasi tentang Peraturan Perundang-undangan Nasional

Negara-negara Pihak akan menyampaikan kepada Sekretaris Jenderal Perserikatan Bangsa-Bangsa undang-undang dan peraturan-peraturan yang mungkin dibuat oleh Negara-negara Pihak untuk memastikan pelaksanaan Konvensi ini.

#### Pasal 37

Hubungan dengan Konvensi-konvensi Sebelumnya

Tanpa mengurangi arti Pasal 28, ayat 2 Konvensi ini, Konvensi ini menggantikan, bagi pihak-pihak padanya, Pengaturan-pengaturan 5 Juli 1922, 31 Mei 1924, 12 Mei 1926, 30 Juni 1928 dan 30 Juli 1935, Konvensi-konvensi 28 Oktober 1933 dan 10 Februari 1933, Protokol 14 September 1939 dan Persetujuan 15 Oktober 1946

## **BAB VII**

### **KETENTUAN PENUTUP**

#### Pasal 38

Penyelesaian Perselisihan

Tiap perselisihan antara pihak-pihak pada Konvensi ini yang menyangkut penafsiran atau pelaksanaannya, yang tidak dapat diselesaikan dengan cara lain, akan diajukan kepada Mahkamah Internasional atas permintaan salah satu pihak dalam perselisihan.

#### Pasal 39

Penandatanganan, Ratifikasi dan Akses

1. Konvensi ini akan dibuka bagi penandatanganan di Jenewa pada 28 Juli 1951 dan sesudah itu akan disimpan pada Sekretaris Jenderal Perserikatan Bangsa-Bangsa. Konvensi ini akan terbuka bagi penandatanganan di Kantor Eropa dari Perserikatan Bangsa-Bangsa dari 28 Juli sampai 31 Agustus 1951 dan akan dibuka kembali bagi penandatanganan di Markas Besar Perserikatan Bangsa-Bangsa dari 17 September 1951 sampai 31 Desember 1952.

2. Konvensi ini akan terbuka bagi penandatanganan untuk semua Negara Anggota Perserikatan Bangsa-Bangsa, dan juga untuk tiap Negara lain yang diundang untuk menghadiri Konferensi Wakil-wakil Berkuasa Penuh tentang Status Pengungsi dan Orang Tanpa Kewarganegaraan atau untuk Negara-negara yang telah menerima undangan yang disampaikan oleh Majelis Umum untuk menandatangani. Konvensi ini akan diratifikasi dan piagam ratifikasi akan disimpan pada Sekretaris Jenderal Perserikatan Bangsa-Bangsa.

3. Konvensi ini akan terbuka mulai 28 Juli 1951 untuk aksesinya oleh Negara-negara sebagaimana disebut dalam ayat 2 Pasal ini. Aksesinya akan dilakukan dengan penyinpanan piagam aksesinya pada Sekretaris Jenderal Perserikatan Bangsa-Bangsa.

#### Pasal 40

##### Ketentuan Pemberlakuan Toritorial

1. Tiap Negara, pada waktu penandatanganan, ratifikasi atau aksesinya, dapat mengeluarkan deklarasi yang menyatakan bahwa Konvensi ini diperluas berlakunya sampai kesemua atau suatu wilayah yang hubungannya internasionalnya menjadi tanggung jawab Negara itu. Deklarasi demikian akan berlaku bila Konvensi ini mulai berlaku bagi Negara yang bersangkutan.

2. Setiap waktu sesudah itu tiap perluasan demikian akan dibuat dengan notifikasi yang disampaikan kepada Sekretaris Jenderal Perserikatan Bangsa-Bangsa dan akan berlaku terhitung mulai hari

kesembilan puluh setelah diterimanya notifikasi tersebut oleh Sekretaris Jenderal Perserikatan Bangsa-Bangsa, atau terhitung mulai tanggal mulai berlakunya Konvensi bagi Negara yang bersangkutan, tanggal mana saja dari dua tanggal tersebut yang belakangan.

3. Mengenai wilayah-wilayah di mana Konvensi ini tidak diberlakukan pada waktu penandatanganan ratifikasi atau aksesinya, tiap Negara yang bersangkutan akan mempertimbangkan kemungkinan diambilnya langkah-langkah yang perlu guna memperluas berlakunya Konvensi ini ke wilayah-wilayah termaksud, apabila perlu karena alasan-alasan konstitusional, dengan persetujuan pemerintah wilayah-wilayah tersebut.

#### Pasal 41

##### Klausul Federal

Dalam hal Negara Federal atau bukan kesatuan akan berlaku ketentuan-ketentuan berikut: :

(a) Mengenai Pasal-pasal Konvensi ini yang termasuk dalam yurisdiksi legislatif kekuasaan legislatif federal kewajiban-kewajiban Pemerintah Federal pada tingkat ini akan sama dengan kewajiban-kewajiban Pihak-pihak yang bukan Negara-negara Federal;

(b) Mengenai Pasal-pasal Konvensi ini yang termasuk dalam yurisdiksi legislatif Negara-negara bagian, provinsi-provinsi atau kanton-kanton yang menurut sistem kontitutional federasi tidak berkewajiban untuk mengambil tindakan legislatif, Pemerincih Federal akan menyampaikan Pasal-pasal termaksud dengan rekoimendasi yang baik kepada penguasa-penguasa yang tepat dari Negara-negara bagian, provinsi-provinsi atau kanton-kanton secepat mungkin untuk diperhatikan.

(c) Negara Federal Pihak pada Konvensi ini, atas permintaan suatu Negara Pihak lain yang disampaikan melalui Sekretaris Jenderal Perserikatan Bangsa-Bangsa, akan memberi keterangan tentang undang-undang dan praktik Federasi dan unit-unit yang menjadi bagian Federasi mengenai ketentuan tertentu yang menunjukkan jangkauan berlakunya ketentuan tersebut yang ditentukan oleh tindakan legislatif atau tindakan lain.

#### Pasal 42

##### Reservasi

1. Pada waktu penandatanganan, ratifikasi atau aksesi, tiap Negara dapat membuat reservasi terhadap pasal-pasal Konvensi selain Pasal-pasal 1, 3, 4, 16 (1), 33, 36 sampai .dengan 46.

2. Tiap Negara yang membuat reservasi sesuai dengan ayat (1) Pasal ini setiap waktu dapat-menarik kembali reservasi tersebut dengan pemberitahuan untuk maksud itu yang disampaikan kepada Sekretaris Jenderal Perserikatan Bangsa-Bangsa .

#### Pasal 43

##### Mulai Berlaku

1. Konvensi ini akan mulai berlaku pada hari kesembilan puluh setelah penyimpanan piagam ratifikasi atau aksesi yang ke enam .

2. Dagi tiap Negara yang meratifikasi atau beraksesi pada Konvensi setelah penyimpanan. piagam ratifikasi atau aksesi yang keenam, Konvensi akan mulai berlaku pada hari kesembilan setelah penyimpanan piagam ratifikasi atau aksesi oleh negara termaksud.

#### Pasal 44

##### Pembatalan

1. Tiap Negara Pihak dapat membatalkan Konvensi ini setiap waktu dengan notifikasi yang disampaikan kepada Sekretaris Jenderal Perserikatan Bangsa-Bangsa.
2. Pembatalan termaksud akan berlaku bagi Negara Pihak yang bersangkutan satu tahun sejak tanggal diterimanya pembatalan itu oleh Sekretaris Jenderal Perserikatan Bangsa-Bangsa.
3. Tiap Negara yang telah membuat deklarasi atau notifikasi berdasarkan Pasal 40, setiap waktu sesudahnya, dengan notifikasi kepada Sekretaris Jenderal Perserikatan Bangsa-bangsa, dapat menyatakan bahwa Konvensi akan berhenti berlaku untuk wilayah termaksud satu tahun setelah tanggal diterimanya notifikasi itu oleh Sekretaris Jenderal.

#### Pasal 45

##### Revisi

1. Tiap Negara Pihak setiap waktu dapat menerima revisi Konvensi ini dengan notifikasi yang disampaikan kepada Sekretaris Jenderal Perserikatan Bangsa-Bangsa.
2. Majelis Umum Perserikatan Bangsa-bangsa akan merekomendasikan. Langkah-langkah, jika ada, yang harus diambil mengenai permintaan termaksud.

#### Pasal 46

##### Motifikasi oleh Sekretaris Jenderal Perserikatan Bangsa-Bangsa

Sekretaris Jenderal Perserikatan Bangsa-bangsa akan menyampaikan pemberitahuan kepada semua Negara Anggota dan Negara-negara bukan anggota Perserikatan Bangsa-bangsa sebagaimana disebut dalam Pasal 39:

- (a) Tentang deklarasi-deklarasi dan notifikasi-notifikasi sesuai dengan Bagian B Pasal 1;
- (b) tentang penandatanganan-penandatanganan, ratifikasi-ratifikasi dan akses-aksesi sesuai dengan Pasal 39;
- (c) tentang deklarasi-deklarasi dan notifikasi-notifikasi sesuai dengan Pasal 40;
- (d) tentang reservasi-reservasi dan penarikan-penarikan kembali sesuai dengan Pasal 42;
- (e) tentang tanggal akan mulai berlakunya Konvensi ini sesuai dengan Pasal 43;

(f) tentang pembatalan-pembatalan dan notifikasi-notifikasi sesuai dengan Pasal 44;

(g) tentang permintaan-permintaan revisi sesuai dengan pasal 45.

UNTUK MENYAKSIKANNYA yang bertanda tangan di bawah ini, yang dikuasakan sebagaimana mestinya, telah menandatangani Konvensi ini atas nama Pemerintahannya masing-masing.

DIBUAT di Jenewa, pada hari ke dua puluh delapan Juli, seribu sembilan ratus lima puluh satu, dalam kopi tunggal, yang naskah-naskahnya dalam bahasa Inggris dan Perancis sama autentiknya dan yang akan tetap disimpan dalam arsip perserikatan Bangsa-bangsa, dan yang salinan-salinannya yang benar dan disahkan akan disampaikan kepada semua Anggota perserikatan Bangsa-bangsa dan kepada Negara-negara bukan anggota sebagaimana disebut dalam Pasal 39.

## **SKEDUL**

### Paragraf 1

1. Dokumen perjalanan sebagaimana dimaksud "dalam Pasal-Pasal 25 Konvensi ini akan sama dengan spesimen yang terpikir pada Skedul ini.
2. Dokumen tersebut akan dibuat sedikit-sedikitnya dalam dua bahasa, satu di antaranya bahasa Inggris atau Perancis.

### Paragraf 2

Tergantung pada peraturan-peraturan yang berlaku di negara yang mengeluarkannya. Anak-anak dapat dimasukkan ke dalam dokumen salah satu orang tuanya atau dalam keadaan luar biasa kedalam dokumen seorang pengungsi lain yang sudah dewasa

### Paragraf 3

Biaya-biaya yang dipungut untuk pengeluaran dokumen tersebut tidak akan melampaui skala ongkos terendah bagi paspor nasional.

### Paragraf 4

Kecuali dalam hal-hal khusus atau luar biasa, dokumen tersebut akan dibuat berlaku untuk sebanyak mungkin negara.

### Paragraf 5

Dokumen tersebut akan mempunyai masa berlaku satu atau dua tahun, atas diskresi instansi yang mengeluarkannya.

#### Paragraf 6

1. Pembaruan atau perpanjangan masa berlakunya dokumen tersebut adalah urusan instansi yang mengeluarkannya, selama pemegangnya tidak bermukim secara sah di wilayah lain dan bertempat tinggal secara sah di wilayah instansi tersebut. Pengeluaran dokumen baru, berdasarkan syarat-syarat yang sama, adalah urusan instansi yang mengeluarkan dokumen sebelumnya.

2. Instansi-instansi diplomatik atau konsuler. yang dikuasakan secara khusus untuk maksud itu, akan diberi wewenang untuk memperpanjang, untuk jangka waktu tidak melebihi enam bulan, masa berlaku dokumen-dokumen perjalanan yang dikeluarkan oleh. Pemerintahnya.

3. Negara-negara Pihak akan mempertimbangkan secara simpatik pembaruan atau perpanjangan masa berlaku dokumen-dokumen perjalanan atau pengeluaran dokumen-dokumen baru bagi para pengungsi yang tidak lagi bertempat tinggal secara sah di wilayah Negara-negara Pihak yang tidak dapat memperoleh dokumen perjalanan dari negara tempat tinggalnya yang sah.

#### Paragraf 7

Negara-negara Pihak akan mengakui berlakunya dokumen-dokumen perjalanan yang dikeluarkan sesuai dengan ketentuan Pasal 28 Konvensi ini.

#### Paragraf 8

Instansi-instansi yang berwenang negara yang ingin dituju oleh pengungsi, jika mereka bersedia mengizinkannya masuk dan jika visa diperlukan, akan membutuhkan visa pada dokumen yang pemegangnya adalah pengungsi itu.

#### Paragraf 9

1. Negara-negara Pihak berjanji untuk mengeluarkan visa-visa transit kepada para pengungsi yang telah memperoleh visa-visa masuk untuk suatu wilayah yang menjadi tujuan akhirnya.

2. Pengeluaran visa-visa termaksud dapat ditolak karena alasan-alasan yang membenarkan penolakan suatu visa kepada tiao orang asing.

#### Paragraf 10



Biaya-biaya untuk pengeluaran visa-visa keluar, masuk atau transit tidak akan melebihi skala terendah pungutan-pungutan untuk visa-visa bagi paspor-paspor asing.

#### Paragraf 11

Apabila seorang pengungsi yang telah bermukim secara sah di wilayah suatu Negara Pihak lain, pengeluaran dokumen baru, berdasarkan ketentuan-ketentuan dan syarat-syarat Pasal 23, adalah tanggung jawab instansi yang berwenang wilayah tersebut yang kepadanya pengungsi itu akan berhak memintanya.

#### Paragraf 12

Instansi yang mengeluarkan dokumen baru akan menarik dokumen lama dan akan mengembalikan dokumen tersebut ke negara yang mengeluarkannya, jika dinyatakan di dalam dokumen itu bahwa dokumen tersebut harus dikembalikan; apabila tidak ada pernyataan demikian instansi tersebut akan menarik dan menbatalkan dokumen itu.

#### Paragraf 13

1. Tiap Negara pihak berjanji bahwa pemegang dokumen perjalanan yang dikeluarkannya sesuai dengan Pasal 28 Konvensi akan diterima masuk kembali ke wilayahnya setiap waktu dalam jangka waktu berlakunya dokumen perjalanan itu.
2. Tergantung pada ketentuan-ketentuan subparagraf sebelumnya suatu Negara Pihak dapat mengharuskan pemegang dokumen itu untuk memenuhi formalitas-formalitas yang mungkin diterapkan mengenai hal keluar dari dan kembali ke wilayahnya.
3. Negara-negara Pihak mencadangkan hak, dalam hal-hal luar biasa, atau dalam hal-hal di mana berdiatnnya pengungsi diizinkan untuk jangka waktu tertentu, ketika mengeluarkan dokumen itu, untuk membatasi jangka waktu di mana pengungsi itu dapat kembali sampai jangka waktu kurang dari tiga bulan.

#### Paragraf 14

Tergantung semata-mata pada ketentuan-ketentuan paragraf 13, ketentuan-ketentuan skedul ini sama sekali tidak mempengaruhi undang-undang dan peraturan-peraturan mengenai syarat-syarat masuk, ke transit melalui bertempat tinggal dan menetap di serta pergi dari wilayah-wilayah negara-negara pihak.

Paragraf 15

Baik pengeluaran dokumen maupu pengisian-pengisian yang dibuat dalam dokumen tersebut tidak menentukan atau mempengaruhi status pemegangnya, terutama mengenai kewarganegaraanya.

Paragraf 16

Pengeluaran dokumen sama sekali tidak mberikan hak kepada pemegangnya atas perlindunagn instansi-instansi diplomatik atau kosuler negara yang mengeluarkan dokumen itu, dan tidak memberikan hak perlindungan kepada instansi-instansi tersebut.

**PROTOKOL MENGENAI STATUS PENGUNGSI**

**31 JANUARI 19671**

Mulai berlaku 4 Oktober 1967, sesuai dengan Pasal.VIII Naskah: United Nations Treaty Series No. 8791. Vol. 606, hie. 267

NEGARA-NEGARA PIHAK PADA PROTOKOL INI ,

**Menimbang** bahwa Konvensi mengenai Status Pengungsi yang dibuat di Jenewa pada 28 Juli 1951 (untuk selanjutnya disebut Konvensi)hanya mencakup orang-orang yang elah menjadi pengungsi sebagai akibat peristiwa-peristiwa yang terjadi sebelum 1 Januari 1951,

**Menimbang** bahwa situasi-situasi pengungsi baru telah timbul sejak direrirnya Konvensi dan bahwa berhubung dengan itu. Para pengungsi yang bersangkutan mungkin tidak termasuk ruang lingkup Konvensi,

**menimabang** bahwa seyogianya status yang sama dinikmati oleh semua pengungsi yang diliput oleh definisi dalam Konvensi terlepas dari batas waktu 1 Januari 1951,

**Telah bersepakat** sebagai berikut :

*Pasal I*

Ketentuan umum

1. Negara-negara Pihak pada Protokol ini berjanji uncur r.er.erapkan Pasal 2 sampai dengan Pasal 34 Konvensi pada para pengungsi sebagaimana didefinisikan berikut ini.

2. Untuk maksud Protokol ini, istilah "pengungsi", kecuali mengenai pelaksanaan ayat 3 Pasal ini akan berarti tiap orang yang termasuk dalam definisi Pasal 1 Konvensi sekan-akan kata-kata "Sebagai akibat peristiwa-peristiwa yang terjadi sebelum 1 Januari 1951 dan ..." dan kata-kata "... sebagai akibat peristiwa-peristiwa termaksud", dalam pasal 1A (2) ditiadakan.

3. Protokol ini akan dilaksanakan oleh Negara-negara Pihak pada Protokol ini tanpa suatu penbatasan geografis, kecuali apabila deklarasi-deklarasi yang ada yang dibuat oleh Negara-negara yang telah menjadi pihak pada Konvensi sesuai dengan Pasal 1B (1) (a) Konvensi, kecuali apabila; diperluas berdasarkan Pasal 13 (2) Konvensi, akan berlaku juga berdasarkan Protokol ini.

### *Pasal II*

Kerja Sama Instansi Nasional dengan Perserikatan Bangsa-bangsa

1. Negara-negara Pihak pada Protokol ini berjanji untuk bekerja sama dengan Komisaris Tinggi Perserikatan Bangsa-Bangsa untuk Pengungsi, atau suatu badan Perserikatan Bangsa-Bangsa lain yang mungkin menggantikannya, dalam menjalankan fungsi-fungsinya, dan terutama akan memudahkan tugasnya dalam mengawasi pelaksanaan ketentuan-ketentuan Protokol ini.

2. Agar Komisariat Tinggi, atau suatu badan Perserikatan Bangsa-Bangsa lain yang mungkin menggantikannya, dapat membuat laporan-laporan kepada organ-organ Perserikatan Bangsa-Bangsa yang berwenang, Negara-negara Pihak pada Protokol ini berjanji untuk memberikan kepada organ-organ termaksud informasi dan data statistik yang diminta, dalam bentuk sebagaimana mestinya, mengenai:

(a) Kondisi para pengungsi;

(b) Pelaksanaan Protokol ini;

(c) Undang-undang, peraturan-peraturan dan keputusan-keputusan yang berlaku, atau yang kemudian mungkin berlaku, mengenai pengungsi.

### *Pasal III*

Informasi tentang Peraturan Perundang-undangan Nasional

Negara-negara Pihak pada Protokol ini akan menyampaikan kepada Sekretaris Jenderal Perserikatan bangsa-bangsa undang-undang dan peraturan-peraturan yang mungkin dibuat untuk Memastikan pelaksanaan Protokol ini.

#### *Pasal IV*

##### Penyelesaian Perselisihan

Tiap perselisihan antara Negara-negara Pihak pada Protokol ini yang berkaitan dengan penafsiran atau pelaksanaannya dan yang tidak dapat diselesaikan dengan cara lain akan diajukan kepada mahkamah Internasional atas permintaan salah satu pihak dalam perselisihan.

#### *Pasal V*

##### Aksesi

Protokol ini akan terbuka untuk aksesi bagi semua Negara Pihak pada Konvensi dan tiap Negara Anggota Perserikatan Bangsa-Bangsa lainnya, atau tiap anggota badan khusus atau tiap negara yang mungkin diundang oleh Majelis Umum Perserikatan Bangsa-Bangsa untuk beraksesi. Aksesi akan dilakukan dengan penyimpanan piagam aksesi pada Sekretaris Jenderal Perserikatan Bangsa-Bangsa.

#### *Pasal VI*

##### Klausul Federal

Dalam hal Negara Federal atau Negara yang bukan negara kesatuan akan berlaku ketentuan-ketentuan berikut:

- (a) Mengenai pasal-pasal Konvensi yang akan diterapkan sesuai dengan Pasal I, ayat 1 Protokol ini yang termasuk dalam yurisdiksi legislatif kekuasaan legislatif federal, kewajiban-kewajiban Pemerintah Federal pada tingkat ini sama dengan kewajiban-kewajiban Negara-negara Pihak yang bukan Negara-negara Federal;
- (b) Mengenai pasal-pasal Konvensi yang akan diterapkan sesuai dengan Pasal I, ayat 1 Protokol ini yang termasuk dalam yurisdiksi legislatif Negara-negara bagian, provinsi-provinsi atau kanton-kanton, yang menurut sistem konstitusional federasi, tidak berkewajiban untuk mengambil tindakan legislatif, Pemerintah Federal akan menyampaikan pasal-pasal termaksud dengan rekomendasi yang baik kepada instansi-instansi yang cocok dari Negara-negara bagian, provinsi-provinsi atau kanton-kanton secepat mungkin untuk diperhatikan;
- (c) Negara Federal Pihak pada Protokol ini, atas permintaan Negara pihak lain pada Protokol ini yang disampaikan melalui Sekretaris Jenderal Perserikatan

Bangsa-Bangsa, akan memberikan keterangan tentang undang-undang dan praktik Federasi & unit-unit bagiannya mengenai ketentuan tertentu Konvensi yang akan dilaksanakan sesuai dengan Pasal I, ayat 1 Protokol ini, yang menunjukkan jangkauan berlakunya ketentuan itu yang ditentukan oleh tindakan legislatif atau tindakan lain.

#### *Pasal VII*

##### Reservasi dan Deklarasi

1. Ada waktu akses, tiap Negara dapat membuat reservasi mengenai Pasal IV Protokol ini dan mengenai pelaksanaan. sesuai dengan Pasal I Protokol ini dari suatu ketentuan Konvensi selain yang tercantum dalam Pasal-pasal 1, 2, 3, 4, 16(1) dan 33 Konvensi, dengan ketentuan bahwa dalam hal Negara Pihak pada Konvensi reservasi-reservasi yang dibuat berdasarkan Pasal ini tidak akan mencakup para pengungsi yang termasuk liputan berlakunya Konvensi.
2. Reservasi-reservasi yang dibuat oleh Negara-negara Pihak pada Konvensi sesuai dengan Pasal 42 Konvensi, kecuali apabila ditarik kembali, akan berlaku dalam hubungan dengan kewajiban-kewajiban Negara-negara termaksud berdasarkan protokol ini.
3. Tiap Negara yang membuat reservasi sesuai dengan ayat 1 Pasal ini setiap waktu dapat menarik kembali reservasi tersebut dengan pemberitahuan untuk maksud itu yang disampaikan kepada Sekretaris Jenderal Perserikatan Bangsa-Bangsa.
4. Deklarasi-deklarasi yang dibuat berdasarkan Pasal 60, ayat 1 dan 2 Konvensi oleh suatu Negara Pihak pada Konvensi yang beraksesi pada Protokol ini akan dianggap berlaku bagi Protokol, kecuali apabila pada waktu akses notifikasi yang menyatakan sebaliknya disampaikan oleh Negara Pihak yang bersangkutan kepada Sekretaris Jenderal Perserikatan Bangsa-Bangsa. Ketentuan-ketentuan Pasal 40. ayat 2 dan 3, serta Pasal 44, ayat 3 konvensi akan dianggap berlaku mutatis mutandis untuk Protokol ini.

#### *Pasal VIII*

##### Mulai Berlaku

1. Protokol ini akan mulai berlaku pada tanggal penyimpanan piagam aksesi yang keenam.
2. Bagi tiap Negara yang beraksesi pada Protokol ini setelah penyimpanan piagam aksesi yang keenam, Protokol ini dengan mulai berlaku pada tanggal penyimpanan piagam aksesi oleh Negara termaksud.

#### *Pasal IX*

##### Pembatalan

1. Tiap Negara Pihak pada Protokol ini setiap waktu dapat membatalkan Protokol ini dengan notifikasi yang disampaikan kepada Sekretaris Jenderal Perserikatan Bangsa-Bangsa.
2. Pembatalan termaksud akan berlaku bagi Negara Pihak yang bersangkutan satu tahun sejak tanggal diterimanya penempatan itu oleh Sekretaris Jenderal Perserikatan Bangsa-Bangsa.

#### *Pasal X*

##### Notifikasi oleh Sekretaris Jenderal Perserikatan Bangsa-Bangsa

Sekretaris Jenderal Perserikatan Bangsa-Bangsa akan memberitahukan kepada Negara-negara sebagaimana disebut dalam Pasal V di atas mulai berlakunya aksesi-aksesi pada reservasi-reservasi terhadap & pembatalan-pembatalan Protokol ini, serta deklarasi-deklarasi dan notifikasi-notifikasi mengenai Protokol ini.

#### *Pasal XI*

##### Penyimpanan dalam Arsip Sekretariat Perserikatan Bangsa-Bangsa

Kopi Protokol ini yang naskah-naskahnya dalam bahasa Tionghoa, Inggris, Perancis, Rusia dan Spanyol sama autentiknya, yang ditandatangani oleh Presiden Majelis Umum dan Sekretaris Jenderal Perserikatan Bangsa-Bangsa, akan disimpan dalam arsip Sekretariat Perserikatan Bangsa-Bangsa. Sekretaris Jenderal akan menyampaikan salinan-salinannya yang disahkan kepada semua Negara Anggota Perserikatan Bangsa-Bangsa dan kepada Negara-negara lain sebagaimana disebutkan dalam Pasal V di atas.

**RESOLUSI MAJELIS UMUM 2198 (XXI)**

## **MAJELIS UMUM,**

**Menimbang** bahwa Konvensi mengenai Status Pengungsi yang ditanda-tangani di Jenewa pada 28 Juli 1951, hanya mencakup orang-orang yang telah menjadi pengungsi sebagai akibat peristiwa-peristiwa yang terjadi sebelum 1 Januari 1951,

**Menimbang** bahwa situasi pengungsi baru telah timbul sejak diterimanya Konvensi itu dan bahwa, berhubung dengan itu para pengungsi yang bersangkutan mungkin tidak termasuk dalam ruang lingkup Konvensi,

**Menimbang** bahwa seyogianya status yang sama dinikmati oleh semua pengungsi yang diliput oleh definisi dalam Konvensi tersebut, terlepas dari batas waktu 1 Januari 1951,

**Menimbang** rekomendasi Komite Eksekutif Program Komisaris Tinggi Perserikatan Bangsa-Bangsa untuk Pengungsi bahwa rancangan Protokol mengenai Status Pengungsi hendaknya diajukan kepada Majelis Umum setelah pembahasannya oleh Dewan Ekonomi dan Sosial, agar Sekretaris Jenderal dapat diberi kuasa untuk membuka Protokol tersebut bagi aksesinya oleh Pemerintah-pemerintah dalam waktu sesingkat mungkin,

**Menimbang** bahwa Dewan Ekonomi dan Sosial, dalam resolusinya 1186 (XLI) 13 November 1966, telah mencatat dengan persetujuan rancangan Protokol tersebut yang tercantum dalam adendum laporan Komisariat Tinggi Perserikatan Bangsa-Bangsa untuk Pengungsi dan mengenai tindakan-tindakan untuk memperluas ruang lingkup perorangan Konvensi<sup>2</sup> dan adendum tersebut kepada Majelis Umum, ruang lingkup perorangan Konvensi dan telah mengajukan

1. **Mencatat** Protokol mengenai Status Pengungsi, yang naskah-naskahnya<sup>3</sup> tercantum dalam adendum laporan Komisariat Tinggi Perserikatan Bangsa-Bangsa untuk Pengungsi;
2. **Meminta** Sekretaris Jenderal untuk menyampaikan naskah Protokol tersebut kepada Negara-negara yang disebut dalam Pasal V Protokol itu, dengan maksud agar Negara-negara tersebut aksesinya pada Protokol itu<sup>4</sup>.

*Rapat Paripurna ke-16, 16 Desember 1966*

PROTOCOL TO PREVENT, SUPPRESS AND PUNISH  
TRAFFICKING IN PERSONS, ESPECIALLY WOMEN  
AND CHILDREN, SUPPLEMENTING THE UNITED  
NATIONS CONVENTION AGAINST TRANSNATIONAL  
ORGANIZED CRIME

PROTOCOL TO PREVENT, SUPPRESS AND PUNISH TRAFFICKING  
IN PERSONS, ESPECIALLY WOMEN AND CHILDREN,  
SUPPLEMENTING THE UNITED NATIONS CONVENTION AGAINST  
TRANSNATIONAL ORGANIZED CRIME

Preamble

*The States Parties to this Protocol,*

*Declaring* that effective action to prevent and combat trafficking in persons, especially women and children, requires a comprehensive international approach in the countries of origin, transit and destination that includes measures to prevent such trafficking, to punish the traffickers and to protect the victims of such trafficking, including by protecting their internationally recognized human rights,

*Taking into account* the fact that, despite the existence of a variety of international instruments containing rules and practical measures to combat the exploitation of persons, especially women and children, there is no universal instrument that addresses all aspects of trafficking in persons,

*Concerned* that, in the absence of such an instrument, persons who are vulnerable to trafficking will not be sufficiently protected,

*Recalling* General Assembly resolution 53/111 of 9 December 1998, in which the Assembly decided to establish an open-ended intergovernmental ad hoc committee for the purpose of elaborating a comprehensive international convention against transnational organized crime and of discussing the elaboration of, inter alia, an international instrument addressing trafficking in women and children,

*Convinced* that supplementing the United Nations Convention against Transnational Organized Crime with an international instrument for the



prevention, suppression and punishment of trafficking in persons, especially women and children, will be useful in preventing and combating that crime.

*Have agreed as follows:*

## I. General provisions

### *Article 1*

#### *Relation with the United Nations Convention*

#### *against Transnational Organized Crime*

1. This Protocol supplements the United Nations Convention against Transnational Organized Crime. It shall be interpreted together with the Convention.

2. The provisions of the Convention shall apply, *mutatis mutandis*, to this Protocol unless otherwise provided herein.

3. The offences established in accordance with article 5 of this Protocol shall be regarded as offences established in accordance with the Convention.

### *Article 2*

#### *Statement of purpose*

The purposes of this Protocol are:

- (a) To prevent and combat trafficking in persons, paying particular attention to women and children;
- (b) To protect and assist the victims of such trafficking, with full respect for their human rights; and
- (c) To promote cooperation among States Parties in order to meet those objectives.

### *Article 3*

#### *Use of terms*

For the purposes of this Protocol:

- (a) "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the

giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article;

(d) "Child" shall mean any person under eighteen years of age.

#### *Article 4*

##### *Scope of application*

This Protocol shall apply, except as otherwise stated herein, to the prevention, investigation and prosecution of the offences established in accordance with article 5 of this Protocol, where those offences are transnational in nature and involve an organized criminal group, as well as to the protection of victims of such offences.

#### *Article 5*

##### *Criminalization*

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in article 3 of this Protocol, when committed intentionally.

2. Each State Party shall also adopt such legislative and other measures as may be necessary to establish as criminal offences:

(a) Subject to the basic concepts of its legal system, attempting to commit an offence established in accordance with paragraph 1 of this article;

(b) Participating as an accomplice in an offence established in accordance with paragraph 1 of this article; and

(c) Organizing or directing other persons to commit an offence established in accordance with paragraph 1 of this article.

## II. Protection of victims of trafficking in persons

### *Article 6*

#### *Assistance to and protection of victims of trafficking in persons*

1. In appropriate cases and to the extent possible under its domestic law, each State Party shall protect the privacy and identity of victims of trafficking in persons, including, inter alia, by making legal proceedings relating to such trafficking confidential.

2. Each State Party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, in appropriate cases:

(a) Information on relevant court and administrative proceedings;

(b) Assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defence.

3. Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:

(a) Appropriate housing;

(b) Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;

(c) Medical, psychological and material assistance; and

(d) Employment, educational and training opportunities.

4. Each State Party shall take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care.

5. Each State Party shall endeavour to provide for the physical safety of victims of trafficking in persons while they are within its territory.

6. Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.

#### *Article 7*

##### *Status of victims of trafficking in persons in receiving States*

1. In addition to taking measures pursuant to article 6 of this Protocol, each State Party shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases.

2. In implementing the provision contained in paragraph 1 of this article, each State Party shall give appropriate consideration to humanitarian and compassionate factors .

#### *Article 8*

##### *Repatriation of victims of trafficking in persons*

1. The State Party of which a victim of trafficking in persons is a national or in which the person had the right of permanent residence at the time of entry into the territory of the receiving State Party shall facilitate and accept, with due regard for the safety of that person, the return of that person without undue or unreasonable delay.

2. When a State Party returns a victim of trafficking in persons to a State Party of which that person is a national or in which he or she had, at the time of entry into the territory of the receiving State Party, the right of permanent residence, such return shall be with due regard for the safety of that person and for the status of any legal proceedings related to the fact that the person is a victim of trafficking and shall preferably be voluntary.

3. At the request of a receiving State Party, a requested State Party shall, without undue or unreasonable delay, verify whether a person who is a victim of trafficking in persons is its national or had the right of permanent

residence in its territory at the time of entry into the territory of the receiving State Party.

4. In order to facilitate the return of a victim of trafficking in persons who is without proper documentation, the State Party of which that person is a national or in which he or she had the right of permanent residence at the time of entry into the territory of the receiving State Party shall agree to issue, at the request of the receiving State Party, such travel documents or other authorization as may be necessary to enable the person to travel to and re-enter its territory.

5. This article shall be without prejudice to any right afforded to victims of trafficking in persons by any domestic law of the receiving State Party.

6. This article shall be without prejudice to any applicable bilateral or multilateral agreement or arrangement that governs, in whole or in part, the return of victims of trafficking in persons.

III. Prevention, cooperation and other measures

#### *Article 9*

##### *Prevention of trafficking in persons*

I. States Parties shall establish comprehensive policies, programmes and other measures:

- (a) To prevent and combat trafficking in persons; and
- (b) To protect victims of trafficking in persons, especially women and children, from revictimization.

2. States Parties shall endeavour to undertake measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons.

3. Policies, programmes and other measures established in accordance with this article shall, as appropriate, include cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.

4. States Parties shall take or strengthen measures, including

through bilateral or multilateral cooperation, to alleviate the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity.

S. States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.

#### *Article 10*

##### *Information exchange and training*

I. Law enforcement, immigration or other relevant authorities of States Parties shall, as appropriate, cooperate with one another by exchanging information, in accordance with their domestic law, to enable them to determine:

- (a) Whether individuals crossing or attempting to cross an international border with travel documents belonging to other persons or without travel documents are perpetrators or victims of trafficking in persons;
- (b) The types of travel document that individuals have used or attempted to use to cross an international border for the purpose of trafficking in persons; and
- (c) The means and methods used by organized criminal groups for the purpose of trafficking in persons, including the recruitment and transportation of victims, routes and links between and among individuals and groups engaged in such trafficking, and possible measures for detecting them.

2. States Parties shall provide or strengthen training for law enforcement, immigration and other relevant officials in the prevention of trafficking in persons. The training should focus on methods used in preventing such trafficking, prosecuting the traffickers and protecting the rights of the victims, including protecting the victims from the traffickers. The training should also take into account the need to consider human rights and child- and gender-sensitive issues and it should encourage cooperation with

non-governmental organizations, other relevant organizations and other elements of civil society.

3. A State Party that receives information shall comply with any request by the State Party that transmitted the information that places restrictions on its use.

#### *Article 11*

##### *Border measures*

I. Without prejudice to international commitments in relation to the free movement of people, States Parties shall strengthen, to the extent possible, such border controls as may be necessary to prevent and detect trafficking in persons.

2. Each State Party shall adopt legislative or other appropriate measures to prevent, to the extent possible, means of transport operated by commercial carriers from being used in the commission of offences established in accordance with article 5 of this Protocol.

3. Where appropriate, and without prejudice to applicable international conventions, such measures shall include establishing the obligation of commercial carriers, including any transportation company or the owner or operator of any means of transport, to ascertain that all passengers are in possession of the travel documents required for entry into the receiving State.

4. Each State Party shall take the necessary measures, in accordance with its domestic law, to provide for sanctions in cases of violation of the obligation set forth in paragraph 3 of this article.

5. Each State Party shall consider taking measures that permit, in accordance with its domestic law, the denial of entry or revocation of visas of persons implicated in the commission of offences established in accordance with this Protocol.

6. Without prejudice to article 27 of the Convention, States Parties shall consider strengthening cooperation among border control agencies by, inter alia, establishing and maintaining direct channels of communication.

## *Article 12*

### *Security and control of documents*

Each State Party shall take such measures as may be necessary, within available means:

- (a) To ensure that travel or identity documents issued by it are of such quality that they cannot easily be misused and cannot readily be falsified or unlawfully altered, replicated or issued; and
- (b) To ensure the integrity and security of travel or identity documents issued by or on behalf of the State Party and to prevent their unlawful creation, issuance and use.

## *Article 13*

### *Legitimacy and validity of documents*

At the request of another State Party, a State Party shall, in accordance with its domestic law, verify within a reasonable time the legitimacy and validity of travel or identity documents issued or purported to have been issued in its name and suspected of being used for trafficking in persons.

IV. Final provisions.

## *Article 14*

### *Saving clause*

1. Nothing in this Protocol shall affect the rights, obligations and responsibilities of States and individuals under international law, including international humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and the principle of non-refoulement as contained therein.
2. The measures set forth in this Protocol shall be interpreted and applied in a way that is not discriminatory to persons on the ground that they are victims of trafficking in persons. The interpretation and application of those measures shall be consistent with internationally recognized principles of non-discrimination.



## *Article 15*

### *Settlement of disputes*

1. States Parties shall endeavour to settle disputes concerning the interpretation or application of this Protocol through negotiation.
2. Any dispute between two or more States Parties concerning the interpretation or application of this Protocol that cannot be settled through negotiation within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.
3. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Protocol, declare that it does not consider itself bound by paragraph 2 of this article. The other States Parties shall not be bound by paragraph 2 of this article with respect to any State Party that has made such a reservation.
4. Any State Party that has made a reservation in accordance with paragraph 3 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

## *Article 16*

### *Signature, ratification, acceptance, approval and accession*

1. This Protocol shall be open to all States for signature from 12 to 15 December 2000 in Palermo, Italy, and thereafter at United Nations Headquarters in New York until 12 December 2002.
2. This Protocol shall also be open for signature by regional economic integration organizations provided that at least one member State of such organization has signed this Protocol in accordance with paragraph 1 of this article.
3. This Protocol is subject to ratification, acceptance or approval.

Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations. A regional economic integration organization may deposit its instrument of ratification, acceptance or approval if at least one of its member States has done likewise. In that instrument of ratification, acceptance or approval, such organization shall declare the extent of its competence with respect to the matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

4. This Protocol is open for accession by any State or any regional economic integration organization of which at least one member State is a Party to this Protocol. Instruments of accession shall be deposited with the Secretary-General of the United Nations. At the time of its accession, a regional economic integration organization shall declare the extent of its competence with respect to matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

#### *Article 17*

##### *Entry into force*

1. This Protocol shall 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.

## *Article 18*

### *Amendment*

I. After the expiry of five years from the entry into force of this Protocol, a State Party to the Protocol may propose an amendment and file it with the Secretary-General of the United Nations, who shall thereupon communicate the proposed amendment to the States Parties and to the Conference of the Parties to the Convention for the purpose of considering and deciding on the proposal. The States Parties to this Protocol meeting at the Conference of the Parties shall make every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted and no agreement has been reached, the amendment shall, as a last resort, require for its adoption a two-thirds majority vote of the States Parties to this Protocol present and voting at the meeting of the Conference of the Parties.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote under this article with a number of votes equal to the number of their member States that are Parties to this Protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs and vice versa.

3. An amendment adopted in accordance with paragraph I of this article is subject to ratification, acceptance or approval by States Parties.

4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party ninety days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment.

s. When an amendment enters into force, it shall be binding on those States Parties which have expressed their consent to be bound by it. Other States Parties shall still be bound by the provisions of this Protocol and any earlier amendments that they have ratified, accepted or approved.

## *Article 19*

### *Denunciation*

I. A State Party may denounce this 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.

2. A regional economic integration organization shall cease to be a Party to this Protocol when all of its member States have denounced it.

*Article 20*

*Depositary and languages*

1. The Secretary-General of the United Nations is designated depositary of this Protocol.

2. The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF, the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Protocol.

UNITED NATIONS OFFICE ON DRUGS AND CRIME

Vienna

**UNITED NATIONS CONVENTION AGAINST  
TRANSNATIONAL ORGANIZED CRIME  
AND THE PROTOCOLS THERETO**

**Foreword**

With the signing of the United Nations Convention against Transnational Organized Crime in Palermo, Italy, in December 2000, the international community

demonstrated the political will to answer a global challenge with a global response. If crime crosses borders, so must law enforcement. If the rule of law is undermined not only in one country, but in many, then those who defend it cannot limit themselves to purely national means. If the enemies of progress and human rights seek to exploit the openness and opportunities of globalization for their purposes, then we must exploit those very same factors to defend human rights and defeat the forces of crime, corruption and trafficking in human beings.

One of the starkest contrasts in our world today is the gulf that exists between the civil and the uncivil. By “civil” I mean civilization: the accumulated centuries of learning that form our foundation for progress. By “civil” I also mean tolerance: the pluralism and respect with which we accept and draw strength from the world’s diverse peoples. And finally, I mean civil society: the citizens’ groups, businesses, unions, professors, journalists, political parties and others who have an essential role to play in the running of any society.

Arrayed against these constructive forces, however, in ever greater numbers and with ever stronger weapons, are the forces of what I call “uncivil society”.

They are terrorists, criminals, drug dealers, traffickers in people and others who undo the good works of civil society. They take advantage of the open borders, free markets and technological advances that bring so many benefits to the

world's people. They thrive in countries with weak institutions, and they show no scruple about resorting to intimidation or violence. Their ruthlessness is the very antithesis of all we regard as civil. They are powerful, representing entrenched interests and the clout of a global enterprise worth billions of dollars, but they are not invincible.

The Millennium Declaration adopted by the Heads of State meeting at the United Nations in September 2000 reaffirmed the principles underlying our efforts and should serve to encourage all who struggle for the rule of law. The Declaration states that “men and women have the right to live their lives and raise their children in dignity, free from hunger and from the fear of violence, oppression or injustice”.

At the Millennium Summit, world leaders proclaimed freedom—from fear and from want—as one of the essential values in the twenty-first century. Yet the right to live in dignity, free from fear and want, is still denied to millions of people around the world. It is denied to the child who is working as an indentured labourer in a sweatshop; to the father who must pay a bribe to get medical care for his son or daughter; to the woman who is condemned to a life of forced prostitution.

I believe the trafficking of persons, particularly women and children, for forced and exploitative labour, including for sexual exploitation, is one of the most egregious violations of human rights that the United Nations now confronts. It is widespread and growing. It is rooted in social and economic conditions in the countries from which the victims come, facilitated by practices that discriminate against women and driven by cruel indifference to human suffering on the part of those who exploit the services that the victims are forced to provide. The fate of these most vulnerable people in our world is an affront to human dignity and a challenge to every State, every people and every community. I therefore urge the Member States to ratify not only the United Nations Convention against Transnational Organized Crime, but also the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and

Children, which can make a real difference in the struggle to eliminate this reprehensible trade in human beings.

Criminal groups have wasted no time in embracing today's globalized economy and the sophisticated technology that goes with it. But our efforts to combat them have remained up to now very fragmented and our weapons almost obsolete. The Convention gives us a new tool to address the scourge of crime as a global problem. With enhanced international cooperation, we can have a real impact on the ability of international criminals to operate successfully and can help citizens everywhere in their often bitter struggle for safety and dignity in their homes and communities.

The signing of the Convention in Palermo in December 2000 was a watershed event in the reinforcement of our fight against organized crime. I urge all States to ratify the Convention and the Protocols thereto at the earliest possible date and to bring these instruments into force as a matter of urgency.

Kofi A. Annan  
Secretary-General

**General Assembly resolution 55/25**  
**of 15 November 2000**  
**United Nations Convention against**  
**Transnational Organized Crime**

*The General Assembly,*

*Recalling* its resolution 53/111 of 9 December 1998, in which it decided to establish an open-ended intergovernmental ad hoc committee for the purpose of elaborating a comprehensive international convention against transnational organized crime and of discussing the elaboration, as appropriate, of international instruments addressing trafficking in women and children, combating the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, and illegal trafficking in and transporting of migrants, including by sea, *Recalling also* its resolution 54/126 of 17 December 1999, in which it requested the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime to continue its work, in accordance with resolutions 53/111 and 53/114 of 9 December 1998, and to intensify that work in order to complete it in 2000, *Recalling further* its resolution 54/129 of 17 December 1999, in which it accepted with appreciation the offer of the Government of Italy to host a highlevel political signing conference in Palermo for the purpose of signing the United Nations Convention against Transnational Organized Crime (Palermo Convention) and the protocols thereto, and requested the Secretary-General to schedule the conference for a period of up to one week before the end of the Millennium Assembly in 2000, *Expressing its appreciation* to the Government of Poland for submitting to it at its fifty-first session a first draft United Nations convention against transnational organized crime<sup>1</sup> and for hosting the meeting of the inter-sessional open-ended intergovernmental group of experts, established pursuant to resolution 52/85 of 12 December 1997, on the elaboration of a preliminary draft of a possible comprehensive international convention against transnational organized crime, held in Warsaw from 2 to 6 February 1998, *Expressing its appreciation* to the Government of Argentina for



hosting the informal preparatory meeting of the Ad Hoc Committee, held in Buenos Aires from 31 August to 4 September 1998, *Expressing its appreciation* to the Government of Thailand for hosting the Asia-Pacific Ministerial Seminar on Building Capacities for Fighting Transnational Organized Crime, held in Bangkok on 20 and 21 March 2000, *Deeply concerned* by the negative economic and social implications related to organized criminal activities, and convinced of the urgent need to strengthen cooperation to prevent and combat such activities more effectively at the national, regional and international levels, *Noting with deep concern* the growing links between transnational organized crime and terrorist crimes, taking into account the Charter of the United Nations and the relevant resolutions of the General Assembly, *Determined* to deny safe havens to those who engage in transnational organized crime by prosecuting their crimes wherever they occur and by cooperating at the international level, *Strongly convinced* that the United Nations Convention against Transnational Organized Crime will constitute an effective tool and the necessary legal framework for international cooperation in combating, inter alia, such criminal activities as money-laundering, corruption, illicit trafficking in endangered species of wild flora and fauna, offences against cultural heritage and the growing links between transnational organized crime and terrorist crimes,

1. *Takes note* of the report of the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime,<sup>2</sup> which carried out its work at the headquarters of the United Nations Office for Drug Control and Crime Prevention in Vienna, and commends the Ad Hoc Committee for its work;

2. *Adopts* the United Nations Convention against Transnational Organized Crime and 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, supplementing the United Nations Convention against Transnational Organized Crime annexed to the present resolution, and opens them for signature at the High-level Political

Signing Conference to be held in Palermo, Italy, from 12 to 15 December 2000 in accordance with resolution 54/129;

3. *Requests* the Secretary-General to prepare a comprehensive report on the High-level Political Signing Conference to be held in Palermo in accordance with resolution 54/129;

4. *Notes* that the Ad Hoc Committee has not yet completed its work on the draft Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime;

5. *Requests* the Ad Hoc Committee to continue its work in relation to this draft Protocol, in accordance with resolutions 53/111, 53/114 and 54/126, and to finalize such work as soon as possible;

6. *Calls upon* all States to recognize the links between transnational organized criminal activities and acts of terrorism, taking into account the relevant General Assembly resolutions, and to apply the United Nations Convention against Transnational Organized Crime in combating all forms of criminal activity, as provided therein;

7. *Recommends* that the Ad Hoc Committee established by the General Assembly in its resolution 51/210 of 17 December 1996, which is beginning its deliberations with a view to developing a comprehensive convention on international

terrorism, pursuant to resolution 54/110 of 9 December 1999, should take into consideration the provisions of the United Nations Convention against Transnational Organized Crime;

8. *Urges* all States and regional economic organizations to sign and ratify the United Nations Convention against Transnational Organized Crime and the protocols thereto as soon as possible in order to ensure the speedy entry into force of the Convention and the protocols thereto;

9. *Decides* that, until the Conference of the Parties to the Convention established pursuant to the United Nations Convention against Transnational Organized Crime decides otherwise, the account referred to in article 30 of the

Convention will be operated within the United Nations Crime Prevention and Criminal Justice Fund, and encourages Member States to begin making adequate voluntary contributions to the above-mentioned account for the provision to developing countries and countries with economies in transition of the technical assistance that they might require for implementation of the Convention and the protocols thereto, including for the preparatory measures needed for that implementation;

10. *Decides also* that the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime will complete its tasks arising from the elaboration of the United Nations Convention against Transnational Organized Crime by holding a meeting well before the convening of the first session of the Conference of the Parties to the Convention, in order to prepare the draft text of the rules of procedure for the Conference of the Parties and other rules and mechanisms described in article 32 of the Convention, which will be communicated to the Conference of the Parties at its first session for consideration and action;

11. *Requests* the Secretary-General to designate the Centre for International Crime Prevention of the United Nations Office for Drug Control and Crime Prevention to serve as the secretariat for the Conference of the Parties to the Convention in accordance with article 33 of the Convention;

12. *Also requests* the Secretary-General to provide the Centre for International Crime Prevention with the resources necessary to enable it to promote in an effective manner the expeditious entry into force of the United Nations Convention against Transnational Organized Crime and to discharge the functions of secretariat of the Conference of the Parties to the Convention, and to support the Ad Hoc Committee in its work pursuant to paragraph 10 above.

*Annex I*

**United Nations Convention against  
Transnational Organized Crime**

*Article 1. Statement of purpose*

The purpose of this Convention is to promote cooperation to prevent and combat transnational organized crime more effectively.

*Article 2. Use of terms*

For the purposes of this Convention:

(a) “Organized criminal group” shall mean a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit;

(b) “Serious crime” shall mean conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty;

(c) “Structured group” shall mean a group that is not randomly formed for the immediate commission of an offence and that does not need to have formally defined roles for its members, continuity of its membership or a developed structure;

(d) “Property” shall mean assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to, or interest in, such assets;

(e) “Proceeds of crime” shall mean any property derived from or obtained, directly or indirectly, through the commission of an offence;

(f) “Freezing” or “seizure” shall mean temporarily prohibiting the transfer,

conversion, disposition or movement of property or temporarily assuming custody or control of property on the basis of an order issued by a court or other competent authority;

(g) “Confiscation”, which includes forfeiture where applicable, shall mean the permanent deprivation of property by order of a court or other competent authority;

(h) “Predicate offence” shall mean any offence as a result of which proceeds have been generated that may become the subject of an offence as defined in article 6 of this Convention;

(i) “Controlled delivery” shall mean the technique of allowing illicit or suspect consignments to pass out of, through or into the territory of one or more States, with the knowledge and under the supervision of their competent authorities, with a view to the investigation of an offence and the identification of persons involved in the commission of the offence;

(j) “Regional economic integration organization” shall mean an organization constituted by sovereign States of a given region, to which its member States have transferred competence in respect of matters governed by this Convention

and which has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to it; references to “States Parties” under this Convention shall apply to such organizations within the limits of their competence.

### *Article 3. Scope of application*

1. This Convention shall apply, except as otherwise stated herein, to the prevention, investigation and prosecution of:

(a) The offences established in accordance with articles 5, 6, 8 and 23 of this Convention; and

(b) Serious crime as defined in article 2 of this Convention;

where the offence is transnational in nature and involves an organized criminal group.

2. For the purpose of paragraph 1 of this article, an offence is transnational

in nature if:

- (a) It is committed in more than one State;
- (b) It is committed in one State but a substantial part of its preparation, planning, direction or control takes place in another State;
- (c) It is committed in one State but involves an organized criminal group that engages in criminal activities in more than one State; or
- (d) It is committed in one State but has substantial effects in another State.

7

*Article 4. Protection of sovereignty*

1. States Parties shall carry out their obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.

2. Nothing in this Convention entitles a State Party to undertake in the territory of another State the exercise of jurisdiction and performance of functions that are reserved exclusively for the authorities of that other State by its domestic law.

*Article 5. Criminalization of participation in an organized criminal group*

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) Either or both of the following as criminal offences distinct from those involving the attempt or completion of the criminal activity:

(i) Agreeing with one or more other persons to commit a serious crime for a purpose relating directly or indirectly to the obtaining of a financial or other material benefit and, where required by domestic law, involving an act undertaken by one of the participants in furtherance of the agreement or involving an organized criminal group;

(ii) Conduct by a person who, with knowledge of either the aim and general criminal activity of an organized criminal group or its intention to commit the crimes in question, takes an active part in:

- a. Criminal activities of the organized criminal group;
  - b. Other activities of the organized criminal group in the knowledge that his or her participation will contribute to the achievement of the above-described criminal aim;
- (b) Organizing, directing, aiding, abetting, facilitating or counselling the commission of serious crime involving an organized criminal group.
2. The knowledge, intent, aim, purpose or agreement referred to in paragraph 1 of this article may be inferred from objective factual circumstances.
3. States Parties whose domestic law requires involvement of an organized criminal group for purposes of the offences established in accordance with paragraph 1 (a) (i) of this article shall ensure that their domestic law covers all serious crimes involving organized criminal groups. Such States Parties, as well as States Parties whose domestic law requires an act in furtherance of the agreement for purposes of the offences established in accordance with paragraph 1 (a) (i) of this article, shall so inform the Secretary-General of the United Nations at the time of their signature or of deposit of their instrument of ratification, acceptance or approval of or accession to this Convention.

*Article 6. Criminalization of the laundering of proceeds of crime*

1. Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:
- (a) (i) The conversion or transfer of property, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the predicate offence to evade the legal consequences of his or her action;
  - (ii) The concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of crime;
- (b) Subject to the basic concepts of its legal system:
- (i) The acquisition, possession or use of property, knowing, at the

time of receipt, that such property is the proceeds of crime;

(ii) Participation in, association with or conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the offences established in accordance with this article.

2. For purposes of implementing or applying paragraph 1 of this article:

(a) Each State Party shall seek to apply paragraph 1 of this article to the widest range of predicate offences;

(b) Each State Party shall include as predicate offences all serious crime as defined in article 2 of this Convention and the offences established in accordance

with articles 5, 8 and 23 of this Convention. In the case of States Parties whose legislation sets out a list of specific predicate offences, they shall, at a minimum, include in such list a comprehensive range of offences associated with organized criminal groups;

(c) For the purposes of subparagraph (b), predicate offences shall include offences committed both within and outside the jurisdiction of the State Party in question. However, offences committed outside the jurisdiction of a State Party shall constitute predicate offences only when the relevant conduct is a criminal offence under the domestic law of the State where it is committed and would be a criminal offence under the domestic law of the State Party implementing

or applying this article had it been committed there;

(d) Each State Party shall furnish copies of its laws that give effect to this article and of any subsequent changes to such laws or a description thereof to the Secretary-General of the United Nations;

(e) If required by fundamental principles of the domestic law of a State Party, it may be provided that the offences set forth in paragraph 1 of this article do not apply to the persons who committed the predicate offence;

(f) Knowledge, intent or purpose required as an element of an offence set forth in paragraph 1 of this article may be inferred from objective factual



circumstances.

*Article 7. Measures to combat money-laundering*

1. Each State Party:

(a) Shall institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions and, where appropriate, other bodies particularly susceptible to money-laundering, within its competence, in order to deter and detect all forms of money-laundering, which regime shall emphasize requirements for customer identification, record-keeping and the reporting of suspicious transactions;

(b) Shall, without prejudice to articles 18 and 27 of this Convention, ensure that administrative, regulatory, law enforcement and other authorities dedicated to combating money-laundering (including, where appropriate under domestic law, judicial authorities) have the ability to cooperate and exchange information at the national and international levels within the conditions prescribed by its domestic law and, to that end, shall consider the establishment of a financial intelligence unit to serve as a national centre for the collection, analysis and dissemination of information regarding potential moneylaundering.

2. States Parties shall consider implementing feasible measures to detect and monitor the movement of cash and appropriate negotiable instruments across their borders, subject to safeguards to ensure proper use of information and without impeding in any way the movement of legitimate capital. Such measures may include a requirement that individuals and businesses report the cross-border transfer of substantial quantities of cash and appropriate negotiable instruments.

3. In establishing a domestic regulatory and supervisory regime under the terms of this article, and without prejudice to any other article of this Convention, States Parties are called upon to use as a guideline the relevant initiatives of regional, interregional and multilateral organizations against money-laundering.

4. States Parties shall endeavour to develop and promote global, regional, subregional and bilateral cooperation among judicial, law enforcement and

financial regulatory authorities in order to combat money-laundering.

*Article 8. Criminalization of corruption*

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) The promise, offering or giving to a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties;

(b) The solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.

2. Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences conduct referred to in paragraph 1 of this article involving a foreign public official or international civil servant. Likewise, each State Party shall consider establishing as criminal offences other forms of corruption.

3. Each State Party shall also adopt such measures as may be necessary to establish as a criminal offence participation as an accomplice in an offence established in accordance with this article.

4. For the purposes of paragraph 1 of this article and article 9 of this Convention, “public official” shall mean a public official or a person who provides a public service as defined in the domestic law and as applied in the criminal law of the State Party in which the person in question performs that function.

*Article 9. Measures against corruption*

1. In addition to the measures set forth in article 8 of this Convention, each State Party shall, to the extent appropriate and consistent with its legal system, adopt legislative, administrative or other effective measures to promote

integrity and to prevent, detect and punish the corruption of public officials.

2. Each State Party shall take measures to ensure effective action by its authorities in the prevention, detection and punishment of the corruption of public officials, including providing such authorities with adequate independence to deter the exertion of inappropriate influence on their actions.

*Article 10. Liability of legal persons*

1. Each State Party shall adopt such measures as may be necessary, consistent with its legal principles, to establish the liability of legal persons for participation in serious crimes involving an organized criminal group and for the offences established in accordance with articles 5, 6, 8 and 23 of this Convention.

2. Subject to the legal principles of the State Party, the liability of legal persons may be criminal, civil or administrative.

3. Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offences.

4. Each State Party shall, in particular, ensure that legal persons held liable in accordance with this article are subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions.

*Article 11. Prosecution, adjudication and sanctions*

1. Each State Party shall make the commission of an offence established in accordance with articles 5, 6, 8 and 23 of this Convention liable to sanctions that take into account the gravity of that offence.

2. Each State Party shall endeavour to ensure that any discretionary legal powers under its domestic law relating to the prosecution of persons for offences covered by this Convention are exercised to maximize the effectiveness of law enforcement measures in respect of those offences and with due regard to the need to deter the commission of such offences.

3. In the case of offences established in accordance with articles 5, 6, 8 and 23 of this Convention, each State Party shall take appropriate measures, in accordance with its domestic law and with due regard to the rights of the defence, to seek to ensure that conditions imposed in connection with decisions on release pending trial or appeal take into consideration the need to ensure the

presence of the defendant at subsequent criminal proceedings.

4. Each State Party shall ensure that its courts or other competent authorities bear in mind the grave nature of the offences covered by this Convention

when considering the eventuality of early release or parole of persons convicted of such offences.

5. Each State Party shall, where appropriate, establish under its domestic law a long statute of limitations period in which to commence proceedings for any offence covered by this Convention and a longer period where the alleged offender has evaded the administration of justice.

6. Nothing contained in this Convention shall affect the principle that the description of the offences established in accordance with this Convention and of the applicable legal defences or other legal principles controlling the lawfulness of conduct is reserved to the domestic law of a State Party and that such offences shall be prosecuted and punished in accordance with that law.

*Article 12. Confiscation and seizure*

1. States Parties shall adopt, to the greatest extent possible within their domestic legal systems, such measures as may be necessary to enable confiscation of:

(a) Proceeds of crime derived from offences covered by this Convention or property the value of which corresponds to that of such proceeds;

(b) Property, equipment or other instrumentalities used in or destined for use in offences covered by this Convention.

2. States Parties shall adopt such measures as may be necessary to enable the identification, tracing, freezing or seizure of any item referred to in paragraph 1 of this article for the purpose of eventual confiscation.

3. If proceeds of crime have been transformed or converted, in part or in full, into other property, such property shall be liable to the measures referred to in this article instead of the proceeds.

4. If proceeds of crime have been intermingled with property acquired from legitimate sources, such property shall, without prejudice to any powers

relating to freezing or seizure, be liable to confiscation up to the assessed value of the intermingled proceeds.

5. Income or other benefits derived from proceeds of crime, from property into which proceeds of crime have been transformed or converted or from property with which proceeds of crime have been intermingled shall also be liable to the measures referred to in this article, in the same manner and to the same extent as proceeds of crime.

6. For the purposes of this article and article 13 of this Convention, each State Party shall empower its courts or other competent authorities to order that bank, financial or commercial records be made available or be seized. States Parties shall not decline to act under the provisions of this paragraph on the ground of bank secrecy.

7. States Parties may consider the possibility of requiring that an offender demonstrate the lawful origin of alleged proceeds of crime or other property liable to confiscation, to the extent that such a requirement is consistent with the principles of their domestic law and with the nature of the judicial and other proceedings.

8. The provisions of this article shall not be construed to prejudice the rights of bona fide third parties.

9. Nothing contained in this article shall affect the principle that the measures to which it refers shall be defined and implemented in accordance with and subject to the provisions of the domestic law of a State Party.

*Article 13. International cooperation for purposes of confiscation*

1. A State Party that has received a request from another State Party having jurisdiction over an offence covered by this Convention for confiscation of proceeds of crime, property, equipment or other instrumentalities referred to in article 12, paragraph 1, of this Convention situated in its territory shall, to the greatest extent possible within its domestic legal system:

(a) Submit the request to its competent authorities for the purpose of obtaining an order of confiscation and, if such an order is granted, give effect to it; or

*(b)* Submit to its competent authorities, with a view to giving effect to it to the extent requested, an order of confiscation issued by a court in the territory of the requesting State Party in accordance with article 12, paragraph 1, of this Convention insofar as it relates to proceeds of crime, property, equipment or other instrumentalities referred to in article 12, paragraph 1, situated in the territory of the requested State Party.

2. Following a request made by another State Party having jurisdiction over an offence covered by this Convention, the requested State Party shall take measures to identify, trace and freeze or seize proceeds of crime, property, equipment or other instrumentalities referred to in article 12, paragraph 1, of this Convention for the purpose of eventual confiscation to be ordered either by the requesting State Party or, pursuant to a request under paragraph 1 of this article, by the requested State Party.

3. The provisions of article 18 of this Convention are applicable, *mutatis mutandis*, to this article. In addition to the information specified in article 18, paragraph 15, requests made pursuant to this article shall contain:

*(a)* In the case of a request pertaining to paragraph 1 *(a)* of this article, a description of the property to be confiscated and a statement of the facts relied upon by the requesting State Party sufficient to enable the requested State Party to seek the order under its domestic law;

*(b)* In the case of a request pertaining to paragraph 1 *(b)* of this article, a legally admissible copy of an order of confiscation upon which the request is based issued by the requesting State Party, a statement of the facts and information

as to the extent to which execution of the order is requested;

*(c)* In the case of a request pertaining to paragraph 2 of this article, a statement of the facts relied upon by the requesting State Party and a description of the actions requested.

4. The decisions or actions provided for in paragraphs 1 and 2 of this article shall be taken by the requested State Party in accordance with and subject to the provisions of its domestic law and its procedural rules or any bilateral or

multilateral treaty, agreement or arrangement to which it may be bound in relation to the requesting State Party.

5. Each State Party shall furnish copies of its laws and regulations that give effect to this article and of any subsequent changes to such laws and regulations or a description thereof to the Secretary-General of the United Nations.

6. If a State Party elects to make the taking of the measures referred to in paragraphs 1 and 2 of this article conditional on the existence of a relevant treaty, that State Party shall consider this Convention the necessary and sufficient treaty basis.

7. Cooperation under this article may be refused by a State Party if the offence to which the request relates is not an offence covered by this Convention.

8. The provisions of this article shall not be construed to prejudice the rights of bona fide third parties.

9. States Parties shall consider concluding bilateral or multilateral treaties, agreements or arrangements to enhance the effectiveness of international cooperation undertaken pursuant to this article.

*Article 14. Disposal of confiscated proceeds of crime or property*

1. Proceeds of crime or property confiscated by a State Party pursuant to articles 12 or 13, paragraph 1, of this Convention shall be disposed of by that State Party in accordance with its domestic law and administrative procedures.

2. When acting on the request made by another State Party in accordance with article 13 of this Convention, States Parties shall, to the extent permitted by domestic law and if so requested, give priority consideration to returning the confiscated proceeds of crime or property to the requesting State Party so that it can give compensation to the victims of the crime or return such proceeds of crime or property to their legitimate owners.

3. When acting on the request made by another State Party in accordance with articles 12 and 13 of this Convention, a State Party may give special consideration to concluding agreements or arrangements on:

(a) Contributing the value of such proceeds of crime or property or funds derived from the sale of such proceeds of crime or property or a part thereof to the account designated in accordance with article 30, paragraph 2 (c), of this Convention and to intergovernmental bodies specializing in the fight against organized crime;

(b) Sharing with other States Parties, on a regular or case-by-case basis, such proceeds of crime or property, or funds derived from the sale of such proceeds of crime or property, in accordance with its domestic law or administrative procedures.

*Article 15. Jurisdiction*

1. Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offences established in accordance with articles 5, 6, 8 and 23 of this Convention when:

(a) The offence is committed in the territory of that State Party; or

(b) The offence is committed on board a vessel that is flying the flag of that State Party or an aircraft that is registered under the laws of that State Party at the time that the offence is committed.

2. Subject to article 4 of this Convention, a State Party may also establish its jurisdiction over any such offence when:

(a) The offence is committed against a national of that State Party;

(b) The offence is committed by a national of that State Party or a stateless person who has his or her habitual residence in its territory; or

(c) The offence is:

(i) One of those established in accordance with article 5, paragraph 1, of this Convention and is committed outside its territory with a view to the commission of a serious crime within its territory;

(ii) One of those established in accordance with article 6, paragraph 1 (b) (ii), of this Convention and is committed outside its territory with a view to the commission of an offence established



in accordance with article 6, paragraph 1 (a) (i) or (ii) or (b) (i), of this Convention within its territory.

3. For the purposes of article 16, paragraph 10, of this Convention, each State Party shall adopt such measures as may be necessary to establish its jurisdiction

over the offences covered by this Convention when the alleged offender is present in its territory and it does not extradite such person solely on the ground that he or she is one of its nationals.

4. Each State Party may also adopt such measures as may be necessary to establish its jurisdiction over the offences covered by this Convention when the alleged offender is present in its territory and it does not extradite him or her.

5. If a State Party exercising its jurisdiction under paragraph 1 or 2 of this article has been notified, or has otherwise learned, that one or more other States Parties are conducting an investigation, prosecution or judicial proceeding in respect of the same conduct, the competent authorities of those States Parties shall, as appropriate, consult one another with a view to coordinating their actions.

6. Without prejudice to norms of general international law, this Convention does not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

#### *Article 16. Extradition*

1. This article shall apply to the offences covered by this Convention or in cases where an offence referred to in article 3, paragraph 1 (a) or (b), involves an organized criminal group and the person who is the subject of the request for extradition is located in the territory of the requested State Party, provided that the offence for which extradition is sought is punishable under the domestic law of both the requesting State Party and the requested State Party.

2. If the request for extradition includes several separate serious crimes, some of which are not covered by this article, the requested State Party may apply this article also in respect of the latter offences.

3. Each of the offences to which this article applies shall be deemed to

be included as an extraditable offence in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.

4. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention the legal basis for extradition in respect of any offence to which this article applies.

5. States Parties that make extradition conditional on the existence of a treaty shall:

(a) At the time of deposit of their instrument of ratification, acceptance, approval of or accession to this Convention, inform the Secretary-General of the United Nations whether they will take this Convention as the legal basis for cooperation on extradition with other States Parties to this Convention; and

(b) If they do not take this Convention as the legal basis for cooperation on extradition, seek, where appropriate, to conclude treaties on extradition with other States Parties to this Convention in order to implement this article.

6. States Parties that do not make extradition conditional on the existence of a treaty shall recognize offences to which this article applies as extraditable offences between themselves.

7. Extradition shall be subject to the conditions provided for by the domestic law of the requested State Party or by applicable extradition treaties, including, inter alia, conditions in relation to the minimum penalty requirement for extradition and the grounds upon which the requested State Party may refuse extradition.

8. States Parties shall, subject to their domestic law, endeavour to expedite extradition procedures and to simplify evidentiary requirements relating thereto in respect of any offence to which this article applies.

9. Subject to the provisions of its domestic law and its extradition treaties, the requested State Party may, upon being satisfied that the circumstances so warrant and are urgent and at the request of the requesting State Party, take a person whose extradition is sought and who is present in its

territory into custody or take other appropriate measures to ensure his or her presence at extradition proceedings.

10. A State Party in whose territory an alleged offender is found, if it does not extradite such person in respect of an offence to which this article applies solely on the ground that he or she is one of its nationals, shall, at the request of the State Party seeking extradition, be obliged to submit the case without undue delay to its competent authorities for the purpose of prosecution. Those authorities shall take their decision and conduct their proceedings in the same manner as in the case of any other offence of a grave nature under the domestic law of that State Party. The States Parties concerned shall cooperate with each other, in particular on procedural and evidentiary aspects, to ensure the efficiency of such prosecution.

11. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State Party to serve the sentence imposed as a result of the trial or proceedings for which the extradition or surrender of the person was sought and that State Party and the State Party seeking the extradition of the person agree with this option and other terms that they may deem appropriate, such conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 10 of this article.

12. If extradition, sought for purposes of enforcing a sentence, is refused because the person sought is a national of the requested State Party, the requested Party shall, if its domestic law so permits and in conformity with the requirements of such law, upon application of the requesting Party, consider the enforcement of the sentence that has been imposed under the domestic law of the requesting Party or the remainder thereof.

13. Any person regarding whom proceedings are being carried out in connection with any of the offences to which this article applies shall be guaranteed fair treatment at all stages of the proceedings, including enjoyment of all the rights and guarantees provided by the domestic law of the State Party in the

territory of which that person is present.

14. Nothing in this Convention shall be interpreted as imposing an obligation to extradite if the requested State Party has substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on account of that person's sex, race, religion, nationality, ethnic origin or political opinions or that compliance with the request would cause prejudice to that person's position for any one of these reasons.

15. States Parties may not refuse a request for extradition on the sole ground that the offence is also considered to involve fiscal matters.

16. Before refusing extradition, the requested State Party shall, where appropriate, consult with the requesting State Party to provide it with ample opportunity to present its opinions and to provide information relevant to its allegation.

17. States Parties shall seek to conclude bilateral and multilateral agreements or arrangements to carry out or to enhance the effectiveness of extradition.

*Article 17. Transfer of sentenced persons*

States Parties may consider entering into bilateral or multilateral agreements or arrangements on the transfer to their territory of persons sentenced to imprisonment or other forms of deprivation of liberty for offences covered by this Convention, in order that they may complete their sentences there.

*Article 18. Mutual legal assistance*

1. States Parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by this Convention as provided for in article 3 and shall reciprocally extend to one another similar assistance where the requesting State Party has reasonable grounds to suspect that the offence referred to in article 3, paragraph 1 (a) or (b), is transnational in nature, including that victims, witnesses, proceeds, instrumentalities or evidence of such offences are located in the requested State Party and that the offence involves an organized criminal group.

2. Mutual legal assistance shall be afforded to the fullest extent possible

under relevant laws, treaties, agreements and arrangements of the requested State Party with respect to investigations, prosecutions and judicial proceedings in relation to the offences for which a legal person may be held liable in accordance with article 10 of this Convention in the requesting State Party.

3. Mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes:

- (a) Taking evidence or statements from persons;
- (b) Effecting service of judicial documents;
- (c) Executing searches and seizures, and freezing;
- (d) Examining objects and sites;
- (e) Providing information, evidentiary items and expert evaluations;
- (f) Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records;
- (g) Identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes;
- (h) Facilitating the voluntary appearance of persons in the requesting State Party;
- (i) Any other type of assistance that is not contrary to the domestic law of the requested State Party.

4. Without prejudice to domestic law, the competent authorities of a State Party may, without prior request, transmit information relating to criminal matters to a competent authority in another State Party where they believe that such information could assist the authority in undertaking or successfully concluding inquiries and criminal proceedings or could result in a request formulated by the latter State Party pursuant to this Convention.

5. The transmission of information pursuant to paragraph 4 of this article shall be without prejudice to inquiries and criminal proceedings in the State of the competent authorities providing the information. The competent authorities receiving the information shall comply with a request that said information remain confidential, even temporarily, or with restrictions on its use.

However, this shall not prevent the receiving State Party from disclosing in its proceedings information that is exculpatory to an accused person. In such a case, the receiving State Party shall notify the transmitting State Party prior to the disclosure and, if so requested, consult with the transmitting State Party. If, in an exceptional case, advance notice is not possible, the receiving State Party shall inform the transmitting State Party of the disclosure without delay.

6. The provisions of this article shall not affect the obligations under any other treaty, bilateral or multilateral, that governs or will govern, in whole or in part, mutual legal assistance.

7. Paragraphs 9 to 29 of this article shall apply to requests made pursuant to this article if the States Parties in question are not bound by a treaty of mutual legal assistance. If those States Parties are bound by such a treaty, the corresponding provisions of that treaty shall apply unless the States Parties agree to apply paragraphs 9 to 29 of this article in lieu thereof. States Parties are strongly encouraged to apply these paragraphs if they facilitate cooperation.

8. States Parties shall not decline to render mutual legal assistance pursuant to this article on the ground of bank secrecy.

9. States Parties may decline to render mutual legal assistance pursuant to this article on the ground of absence of dual criminality. However, the requested State Party may, when it deems appropriate, provide assistance, to the extent it decides at its discretion, irrespective of whether the conduct would constitute an offence under the domestic law of the requested State Party.

10. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of identification, testimony or otherwise providing assistance in obtaining

evidence for investigations, prosecutions or judicial proceedings in relation to offences covered by this Convention may be transferred if the following conditions are met:

(a) The person freely gives his or her informed consent;

(b) The competent authorities of both States Parties agree, subject to such

conditions as those States Parties may deem appropriate.

11. For the purposes of paragraph 10 of this article:

(a) The State Party to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise

requested or authorized by the State Party from which the person was transferred;

(b) The State Party to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State Party from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States Parties;

(c) The State Party to which the person is transferred shall not require the State Party from which the person was transferred to initiate extradition proceedings

for the return of the person;

(d) The person transferred shall receive credit for service of the sentence being served in the State from which he or she was transferred for time spent in the custody of the State Party to which he or she was transferred.

12. Unless the State Party from which a person is to be transferred in accordance with paragraphs 10 and 11 of this article so agrees, that person, whatever his or her nationality, shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in the territory of the State to which that person is transferred in respect of acts, omissions or convictions prior to his or her departure from the territory of the State from which he or she was transferred.

13. Each State Party shall designate a central authority that shall have the responsibility and power to receive requests for mutual legal assistance and either to execute them or to transmit them to the competent authorities for execution. Where a State Party has a special region or territory with a separate system of mutual legal assistance, it may designate a distinct central authority that shall have the same function for that region or territory. Central authorities

shall ensure the speedy and proper execution or transmission of the requests received. Where the central authority transmits the request to a competent authority for execution, it shall encourage the speedy and proper execution of the request by the competent authority. The Secretary-General of the United Nations shall be notified of the central authority designated for this purpose at the time each State Party deposits its instrument of ratification, acceptance or approval of or accession to this Convention. Requests for mutual legal assistance and any communication related thereto shall be transmitted to the central authorities designated by the States Parties. This requirement shall be without prejudice to the right of a State Party to require that such requests and communications be addressed to it through diplomatic channels and, in urgent circumstances, where the States Parties agree, through the International Criminal Police Organization, if possible.

14. Requests shall be made in writing or, where possible, by any means capable of producing a written record, in a language acceptable to the requested State Party, under conditions allowing that State Party to establish authenticity. The Secretary-General of the United Nations shall be notified of the language or languages acceptable to each State Party at the time it deposits its instrument of ratification, acceptance or approval of or accession to this Convention. In urgent circumstances and where agreed by the States Parties, requests may be made orally, but shall be confirmed in writing forthwith.

15. A request for mutual legal assistance shall contain:

- (a) The identity of the authority making the request;
- (b) The subject matter and nature of the investigation, prosecution or judicial proceeding to which the request relates and the name and functions of the authority conducting the investigation, prosecution or judicial proceeding;
- (c) A summary of the relevant facts, except in relation to requests for the purpose of service of judicial documents;
- (d) A description of the assistance sought and details of any particular procedure that the requesting State Party wishes to be followed;



(e) Where possible, the identity, location and nationality of any person concerned; and

(f) The purpose for which the evidence, information or action is sought.

16. The requested State Party may request additional information when it appears necessary for the execution of the request in accordance with its domestic law or when it can facilitate such execution.

17. A request shall be executed in accordance with the domestic law of the requested State Party and, to the extent not contrary to the domestic law of the requested State Party and where possible, in accordance with the procedures specified in the request.

18. Wherever possible and consistent with fundamental principles of domestic law, when an individual is in the territory of a State Party and has to be heard as a witness or expert by the judicial authorities of another State Party, the first State Party may, at the request of the other, permit the hearing to take place by video conference if it is not possible or desirable for the individual in question to appear in person in the territory of the requesting State Party. States Parties may agree that the hearing shall be conducted by a judicial authority of the requesting State Party and attended by a judicial authority of the requested State Party.

19. The requesting State Party shall not transmit or use information or evidence furnished by the requested State Party for investigations, prosecutions or judicial proceedings other than those stated in the request without the prior consent of the requested State Party. Nothing in this paragraph shall prevent the requesting State Party from disclosing in its proceedings information or evidence that is exculpatory to an accused person. In the latter case, the requesting State Party shall notify the requested State Party prior to the disclosure and, if so requested, consult with the requested State Party. If, in an exceptional case, advance notice is not possible, the requesting State Party shall inform the requested State Party of the disclosure without delay.

20. The requesting State Party may require that the requested State Party keep confidential the fact and substance of the request, except to the extent

necessary to execute the request. If the requested State Party cannot comply with the requirement of confidentiality, it shall promptly inform the requesting State Party.

21. Mutual legal assistance may be refused:

(a) If the request is not made in conformity with the provisions of this article;

(b) If the requested State Party considers that execution of the request is likely to prejudice its sovereignty, security, *ordre public* or other essential interests;

(c) If the authorities of the requested State Party would be prohibited by its domestic law from carrying out the action requested with regard to any similar offence, had it been subject to investigation, prosecution or judicial proceedings under their own jurisdiction;

(d) If it would be contrary to the legal system of the requested State Party relating to mutual legal assistance for the request to be granted.

22. States Parties may not refuse a request for mutual legal assistance on the sole ground that the offence is also considered to involve fiscal matters.

23. Reasons shall be given for any refusal of mutual legal assistance.

24. The requested State Party shall execute the request for mutual legal assistance as soon as possible and shall take as full account as possible of any deadlines suggested by the requesting State Party and for which reasons are given, preferably in the request. The requested State Party shall respond to reasonable requests by the requesting State Party on progress of its handling of the request. The requesting State Party shall promptly inform the requested State Party when the assistance sought is no longer required.

25. Mutual legal assistance may be postponed by the requested State Party on the ground that it interferes with an ongoing investigation, prosecution or judicial proceeding.

26. Before refusing a request pursuant to paragraph 21 of this article or postponing its execution pursuant to paragraph 25 of this article, the requested State Party shall consult with the requesting State Party to consider whether

assistance may be granted subject to such terms and conditions as it deems necessary. If the requesting State Party accepts assistance subject to those conditions,

it shall comply with the conditions.

27. Without prejudice to the application of paragraph 12 of this article, a witness, expert or other person who, at the request of the requesting State Party, consents to give evidence in a proceeding or to assist in an investigation, prosecution or judicial proceeding in the territory of the requesting State Party shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in that territory in respect of acts, omissions or convictions prior to his or her departure from the territory of the requested State Party. Such safe conduct shall cease when the witness, expert or other person having had, for a period of fifteen consecutive days or for any period agreed upon by the States Parties from the date on which he or she has been officially informed that his or her presence is no longer required by the judicial authorities, an opportunity of leaving, has nevertheless remained voluntarily in the territory of the requesting State Party or, having left it, has returned of his or her own free will.

28. The ordinary costs of executing a request shall be borne by the requested State Party, unless otherwise agreed by the States Parties concerned. If expenses of a substantial or extraordinary nature are or will be required to fulfil the request, the States Parties shall consult to determine the terms and conditions under which the request will be executed, as well as the manner in which the costs shall be borne.

29. The requested State Party:

(a) Shall provide to the requesting State Party copies of government records, documents or information in its possession that under its domestic law are available to the general public;

(b) May, at its discretion, provide to the requesting State Party in whole, in part or subject to such conditions as it deems appropriate, copies of any government records, documents or information in its possession that under its

domestic law are not available to the general public.

30. States Parties shall consider, as may be necessary, the possibility of concluding bilateral or multilateral agreements or arrangements that would serve the purposes of, give practical effect to or enhance the provisions of this article.

*Article 19. Joint investigations*

States Parties shall consider concluding bilateral or multilateral agreements or arrangements whereby, in relation to matters that are the subject of investigations,

prosecutions or judicial proceedings in one or more States, the competent authorities concerned may establish joint investigative bodies. In the absence of such agreements or arrangements, joint investigations may be undertaken

by agreement on a case-by-case basis. The States Parties involved shall ensure that the sovereignty of the State Party in whose territory such investigation is to take place is fully respected.

*Article 20. Special investigative techniques*

1. If permitted by the basic principles of its domestic legal system, each State Party shall, within its possibilities and under the conditions prescribed by its domestic law, take the necessary measures to allow for the appropriate use of controlled delivery and, where it deems appropriate, for the use of other special investigative techniques, such as electronic or other forms of surveillance and undercover operations, by its competent authorities in its territory for the purpose of effectively combating organized crime.

2. For the purpose of investigating the offences covered by this Convention, States Parties are encouraged to conclude, when necessary, appropriate bilateral or multilateral agreements or arrangements for using such special investigative techniques in the context of cooperation at the international level. Such agreements or arrangements shall be concluded and implemented in full compliance with the principle of sovereign equality of States and shall be carried out

strictly in accordance with the terms of those agreements or arrangements.

3. In the absence of an agreement or arrangement as set forth in paragraph 2 of this article, decisions to use such special investigative techniques at the international level shall be made on a case-by-case basis and may, when necessary, take into consideration financial arrangements and understandings with respect to the exercise of jurisdiction by the States Parties concerned.

4. Decisions to use controlled delivery at the international level may, with the consent of the States Parties concerned, include methods such as intercepting and allowing the goods to continue intact or be removed or replaced in whole or in part.

*Article 21. Transfer of criminal proceedings*

States Parties shall consider the possibility of transferring to one another proceedings for the prosecution of an offence covered by this Convention in cases where such transfer is considered to be in the interests of the proper administration of justice, in particular in cases where several jurisdictions are involved, with a view to concentrating the prosecution.

*Article 22. Establishment of criminal record*

Each State Party may adopt such legislative or other measures as may be necessary to take into consideration, under such terms as and for the purpose that it deems appropriate, any previous conviction in another State of an alleged offender for the purpose of using such information in criminal proceedings relating to an offence covered by this Convention.

*Article 23. Criminalization of obstruction of justice*

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

- (a) The use of physical force, threats or intimidation or the promise, offering or giving of an undue advantage to induce false testimony or to interfere in the giving of testimony or the production of evidence in a proceeding in relation to the commission of offences covered by this Convention;
- (b) The use of physical force, threats or intimidation to interfere with the exercise of official duties by a justice or law enforcement official in relation to

the commission of offences covered by this Convention. Nothing in this subparagraph shall prejudice the right of States Parties to have legislation that protects other categories of public officials.

*Article 24. Protection of witnesses*

1. Each State Party shall take appropriate measures within its means to provide effective protection from potential retaliation or intimidation for witnesses in criminal proceedings who give testimony concerning offences covered by this Convention and, as appropriate, for their relatives and other persons close to them.

2. The measures envisaged in paragraph 1 of this article may include, inter alia, without prejudice to the rights of the defendant, including the right to due process:

(a) Establishing procedures for the physical protection of such persons, such as, to the extent necessary and feasible, relocating them and permitting, where appropriate, non-disclosure or limitations on the disclosure of information concerning the identity and whereabouts of such persons;

(b) Providing evidentiary rules to permit witness testimony to be given in a manner that ensures the safety of the witness, such as permitting testimony to be given through the use of communications technology such as video links or other adequate means.

3. States Parties shall consider entering into agreements or arrangements with other States for the relocation of persons referred to in paragraph 1 of this article.

4. The provisions of this article shall also apply to victims insofar as they are witnesses.

*Article 25. Assistance to and protection of victims*

1. Each State Party shall take appropriate measures within its means to provide assistance and protection to victims of offences covered by this Convention,

in particular in cases of threat of retaliation or intimidation.

2. Each State Party shall establish appropriate procedures to provide

access to compensation and restitution for victims of offences covered by this Convention.

3. Each State Party shall, subject to its domestic law, enable views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings against offenders in a manner not prejudicial to the rights of the defence.

*Article 26. Measures to enhance cooperation with law enforcement authorities*

1. Each State Party shall take appropriate measures to encourage persons who participate or who have participated in organized criminal groups:

(a) To supply information useful to competent authorities for investigative and evidentiary purposes on such matters as:

(i) The identity, nature, composition, structure, location or activities of organized criminal groups;

(ii) Links, including international links, with other organized criminal groups;

(iii) Offences that organized criminal groups have committed or may commit;

(b) To provide factual, concrete help to competent authorities that may contribute to depriving organized criminal groups of their resources or of the proceeds of crime.

2. Each State Party shall consider providing for the possibility, in appropriate cases, of mitigating punishment of an accused person who provides substantial cooperation in the investigation or prosecution of an offence covered by this Convention.

3. Each State Party shall consider providing for the possibility, in accordance with fundamental principles of its domestic law, of granting immunity from prosecution to a person who provides substantial cooperation in the investigation or prosecution of an offence covered by this Convention.

4. Protection of such persons shall be as provided for in article 24 of this Convention.

5. Where a person referred to in paragraph 1 of this article located in one State Party can provide substantial cooperation to the competent authorities of another State Party, the States Parties concerned may consider entering into agreements or arrangements, in accordance with their domestic law, concerning the potential provision by the other State Party of the treatment set forth in paragraphs 2 and 3 of this article.

*Article 27. Law enforcement cooperation*

1. States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offences covered by this Convention. Each State Party shall, in particular, adopt effective measures:

(a) To enhance and, where necessary, to establish channels of communication between their competent authorities, agencies and services in order to

facilitate the secure and rapid exchange of information concerning all aspects of the offences covered by this Convention, including, if the States Parties concerned deem it appropriate, links with other criminal activities;

(b) To cooperate with other States Parties in conducting inquiries with respect to offences covered by this Convention concerning:

(i) The identity, whereabouts and activities of persons suspected of involvement in such offences or the location of other persons concerned;

(ii) The movement of proceeds of crime or property derived from the commission of such offences;

(iii) The movement of property, equipment or other instrumentalities used or intended for use in the commission of such offences;

(c) To provide, when appropriate, necessary items or quantities of substances for analytical or investigative purposes;

(d) To facilitate effective coordination between their competent authorities, agencies and services and to promote the exchange of personnel and other experts, including, subject to bilateral agreements or arrangements between the



States Parties concerned, the posting of liaison officers;

(e) To exchange information with other States Parties on specific means and methods used by organized criminal groups, including, where applicable, routes and conveyances and the use of false identities, altered or false documents or other means of concealing their activities;

(f) To exchange information and coordinate administrative and other measures taken as appropriate for the purpose of early identification of the offences covered by this Convention.

2. With a view to giving effect to this Convention, States Parties shall consider entering into bilateral or multilateral agreements or arrangements on direct cooperation between their law enforcement agencies and, where such agreements or arrangements already exist, amending them. In the absence of such agreements or arrangements between the States Parties concerned, the Parties may consider this Convention as the basis for mutual law enforcement cooperation in respect of the offences covered by this Convention. Whenever appropriate, States Parties shall make full use of agreements or arrangements, including international or regional organizations, to enhance the cooperation between their law enforcement agencies.

3. States Parties shall endeavour to cooperate within their means to respond to transnational organized crime committed through the use of modern technology.

*Article 28. Collection, exchange and analysis of information  
on the nature of organized crime*

1. Each State Party shall consider analysing, in consultation with the scientific and academic communities, trends in organized crime in its territory, the circumstances in which organized crime operates, as well as the professional groups and technologies involved.

2. States Parties shall consider developing and sharing analytical expertise concerning organized criminal activities with each other and through international and regional organizations. For that purpose, common definitions, standards and methodologies should be developed and applied as appropriate.

3. Each State Party shall consider monitoring its policies and actual measures to combat organized crime and making assessments of their effectiveness and efficiency.

*Article 29. Training and technical assistance*

1. Each State Party shall, to the extent necessary, initiate, develop or improve specific training programmes for its law enforcement personnel, including prosecutors, investigating magistrates and customs personnel, and other personnel charged with the prevention, detection and control of the offences covered by this Convention. Such programmes may include secondments and exchanges of staff. Such programmes shall deal, in particular and to the extent permitted by domestic law, with the following:

- (a) Methods used in the prevention, detection and control of the offences covered by this Convention;
- (b) Routes and techniques used by persons suspected of involvement in offences covered by this Convention, including in transit States, and appropriate countermeasures;
- (c) Monitoring of the movement of contraband;
- (d) Detection and monitoring of the movements of proceeds of crime, property, equipment or other instrumentalities and methods used for the transfer, concealment or disguise of such proceeds, property, equipment or other instrumentalities, as well as methods used in combating money-laundering and other financial crimes;
- (e) Collection of evidence;
- (f) Control techniques in free trade zones and free ports;
- (g) Modern law enforcement equipment and techniques, including electronic surveillance, controlled deliveries and undercover operations;
- (h) Methods used in combating transnational organized crime committed through the use of computers, telecommunications networks or other forms of modern technology; and
- (i) Methods used in the protection of victims and witnesses.

2. States Parties shall assist one another in planning and implementing

research and training programmes designed to share expertise in the areas referred to in paragraph 1 of this article and to that end shall also, when appropriate, use regional and international conferences and seminars to promote cooperation and to stimulate discussion on problems of mutual concern, including the special problems and needs of transit States.

3. States Parties shall promote training and technical assistance that will facilitate extradition and mutual legal assistance. Such training and technical assistance may include language training, secondments and exchanges between personnel in central authorities or agencies with relevant responsibilities.

4. In the case of existing bilateral and multilateral agreements or arrangements, States Parties shall strengthen, to the extent necessary, efforts to maximize operational and training activities within international and regional organizations and within other relevant bilateral and multilateral agreements or arrangements.

*Article 30. Other measures: implementation of the Convention through economic development and technical assistance*

1. States Parties shall take measures conducive to the optimal implementation of this Convention to the extent possible, through international cooperation, taking into account the negative effects of organized crime on society in general, in particular on sustainable development.

2. States Parties shall make concrete efforts to the extent possible and in coordination with each other, as well as with international and regional organizations:

(a) To enhance their cooperation at various levels with developing countries, with a view to strengthening the capacity of the latter to prevent and combat transnational organized crime;

(b) To enhance financial and material assistance to support the efforts of developing countries to fight transnational organized crime effectively and to help them implement this Convention successfully;

(c) To provide technical assistance to developing countries and countries with economies in transition to assist them in meeting their needs for the

implementation of this Convention. To that end, States Parties shall endeavour to make adequate and regular voluntary contributions to an account specifically designated for that purpose in a United Nations funding mechanism. States Parties may also give special consideration, in accordance with their domestic law and the provisions of this Convention, to contributing to the aforementioned account a percentage of the money or of the corresponding value of proceeds of crime or property confiscated in accordance with the provisions of this Convention;

(d) To encourage and persuade other States and financial institutions as appropriate to join them in efforts in accordance with this article, in particular by providing more training programmes and modern equipment to developing countries in order to assist them in achieving the objectives of this Convention.

3. To the extent possible, these measures shall be without prejudice to existing foreign assistance commitments or to other financial cooperation arrangements at the bilateral, regional or international level.

4. States Parties may conclude bilateral or multilateral agreements or arrangements on material and logistical assistance, taking into consideration the financial arrangements necessary for the means of international cooperation provided for by this Convention to be effective and for the prevention, detection and control of transnational organized crime.

#### *Article 31. Prevention*

1. States Parties shall endeavour to develop and evaluate national projects and to establish and promote best practices and policies aimed at the prevention of transnational organized crime.

2. States Parties shall endeavour, in accordance with fundamental principles of their domestic law, to reduce existing or future opportunities for organized criminal groups to participate in lawful markets with proceeds of crime, through appropriate legislative, administrative or other measures. These measures should focus on:

(a) The strengthening of cooperation between law enforcement agencies or prosecutors and relevant private entities, including industry;

(b) The promotion of the development of standards and procedures designed to safeguard the integrity of public and relevant private entities, as well as codes of conduct for relevant professions, in particular lawyers, notaries public, tax consultants and accountants;

(c) The prevention of the misuse by organized criminal groups of tender procedures conducted by public authorities and of subsidies and licences granted by public authorities for commercial activity;

(d) The prevention of the misuse of legal persons by organized criminal groups; such measures could include:

(i) The establishment of public records on legal and natural persons involved in the establishment, management and funding of legal persons;

(ii) The introduction of the possibility of disqualifying by court order or any appropriate means for a reasonable period of time persons convicted of offences covered by this Convention from acting as directors of legal persons incorporated within their jurisdiction;

(iii) The establishment of national records of persons disqualified from acting as directors of legal persons; and

(iv) The exchange of information contained in the records referred to in subparagraphs (d) (i) and (iii) of this paragraph with the competent authorities of other States Parties.

3. States Parties shall endeavour to promote the reintegration into society of persons convicted of offences covered by this Convention.

4. States Parties shall endeavour to evaluate periodically existing relevant legal instruments and administrative practices with a view to detecting their vulnerability to misuse by organized criminal groups.

5. States Parties shall endeavour to promote public awareness regarding the existence, causes and gravity of and the threat posed by transnational organized crime. Information may be disseminated where appropriate through the

mass media and shall include measures to promote public participation in preventing and combating such crime.

6. Each State Party shall inform the Secretary-General of the United Nations of the name and address of the authority or authorities that can assist other States Parties in developing measures to prevent transnational organized crime.

7. States Parties shall, as appropriate, collaborate with each other and relevant international and regional organizations in promoting and developing the measures referred to in this article. This includes participation in international projects aimed at the prevention of transnational organized crime, for example by alleviating the circumstances that render socially marginalized groups vulnerable to the action of transnational organized crime.

*Article 32. Conference of the Parties to the Convention*

1. A Conference of the Parties to the Convention is hereby established to improve the capacity of States Parties to combat transnational organized crime and to promote and review the implementation of this Convention.

2. The Secretary-General of the United Nations shall convene the Conference of the Parties not later than one year following the entry into force of this Convention. The Conference of the Parties shall adopt rules of procedure and rules governing the activities set forth in paragraphs 3 and 4 of this article (including rules concerning payment of expenses incurred in carrying out those activities).

3. The Conference of the Parties shall agree upon mechanisms for achieving the objectives mentioned in paragraph 1 of this article, including:

- (a) Facilitating activities by States Parties under articles 29, 30 and 31 of this Convention, including by encouraging the mobilization of voluntary contributions;
- (b) Facilitating the exchange of information among States Parties on patterns and trends in transnational organized crime and on successful practices for combating it;
- (c) Cooperating with relevant international and regional organizations

and non-governmental organizations;

(d) Reviewing periodically the implementation of this Convention;

(e) Making recommendations to improve this Convention and its implementation.

4. For the purpose of paragraphs 3 (d) and (e) of this article, the Conference of the Parties shall acquire the necessary knowledge of the measures taken by States Parties in implementing this Convention and the difficulties encountered by them in doing so through information provided by them and through such supplemental review mechanisms as may be established by the Conference of the Parties.

5. Each State Party shall provide the Conference of the Parties with information on its programmes, plans and practices, as well as legislative and administrative measures to implement this Convention, as required by the Conference of the Parties.

#### *Article 33. Secretariat*

1. The Secretary-General of the United Nations shall provide the necessary secretariat services to the Conference of the Parties to the Convention.

2. The secretariat shall:

(a) Assist the Conference of the Parties in carrying out the activities set forth in article 32 of this Convention and make arrangements and provide the necessary services for the sessions of the Conference of the Parties;

(b) Upon request, assist States Parties in providing information to the Conference of the Parties as envisaged in article 32, paragraph 5, of this Convention; and

(c) Ensure the necessary coordination with the secretariats of relevant international and regional organizations.

#### *Article 34. Implementation of the Convention*

1. Each State Party shall take the necessary measures, including legislative and administrative measures, in accordance with fundamental principles of its domestic law, to ensure the implementation of its obligations under this Convention.

2. The offences established in accordance with articles 5, 6, 8 and 23 of this Convention shall be established in the domestic law of each State Party independently of the transnational nature or the involvement of an organized criminal group as described in article 3, paragraph 1, of this Convention, except to the extent that article 5 of this Convention would require the involvement of an organized criminal group.

3. Each State Party may adopt more strict or severe measures than those provided for by this Convention for preventing and combating transnational organized crime.

*Article 35. Settlement of disputes*

1. States Parties shall endeavour to settle disputes concerning the interpretation or application of this Convention through negotiation.

2. Any dispute between two or more States Parties concerning the interpretation or application of this Convention that cannot be settled through negotiation within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.

3. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Convention, declare that it does not consider itself bound by paragraph 2 of this article. The other States Parties shall not be bound by paragraph 2 of this article with respect to any State Party that has made such a reservation.

4. Any State Party that has made a reservation in accordance with paragraph 3 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

*Article 36. Signature, ratification, acceptance, approval and accession*

1. This Convention shall be open to all States for signature from 12 to



15 December 2000 in Palermo, Italy, and thereafter at United Nations Headquarters

in New York until 12 December 2002.

2. This Convention shall also be open for signature by regional economic integration organizations provided that at least one member State of such organization has signed this Convention in accordance with paragraph 1 of this article.

3. This Convention is subject to ratification, acceptance or approval.

Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations. A regional economic integration organization may deposit its instrument of ratification, acceptance or approval if at least one of its member States has done likewise. In that instrument of ratification, acceptance or approval, such organization shall declare the extent of its competence with respect to the matters governed by this Convention. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

4. This Convention is open for accession by any State or any regional economic integration organization of which at least one member State is a Party to this Convention. Instruments of accession shall be deposited with the Secretary-General of the United Nations. At the time of its accession, a regional economic integration organization shall declare the extent of its competence with respect to matters governed by this Convention. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

*Article 37. Relation with protocols*

1. This Convention may be supplemented by one or more protocols.

2. In order to become a Party to a protocol, a State or a regional economic integration organization must also be a Party to this Convention.

3. A State Party to this Convention is not bound by a protocol unless it becomes a Party to the protocol in accordance with the provisions thereof.

4. Any protocol to this Convention shall be interpreted together with

this Convention, taking into account the purpose of that protocol.

*Article 38. Entry into force*

1. This Convention shall enter into force on the ninetieth day after the date of deposit of the fortieth instrument of ratification, acceptance, approval or accession. 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 Convention after the deposit of the fortieth instrument of such action, this Convention shall enter into force on the thirtieth day after the date of deposit by such State or organization of the relevant instrument.

*Article 39. Amendment*

1. After the expiry of five years from the entry into force of this Convention, a State Party may propose an amendment and file it with the Secretary-General of the United Nations, who shall thereupon communicate the proposed amendment to the States Parties and to the Conference of the Parties to the Convention for the purpose of considering and deciding on the proposal. The Conference of the Parties shall make every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted and no agreement

has been reached, the amendment shall, as a last resort, require for its adoption a two-thirds majority vote of the States Parties present and voting at the meeting of the Conference of the Parties.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote under this article with a number of votes equal to the number of their member States that are Parties to this Convention. Such organizations shall not exercise their right to vote if their member States exercise theirs and vice versa.

3. An amendment adopted in accordance with paragraph 1 of this article is subject to ratification, acceptance or approval by States Parties.

4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party ninety days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment.

5. When an amendment enters into force, it shall be binding on those States Parties which have expressed their consent to be bound by it. Other States Parties shall still be bound by the provisions of this Convention and any earlier amendments that they have ratified, accepted or approved.

*Article 40. Denunciation*

1. A State Party may denounce this Convention 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.

2. A regional economic integration organization shall cease to be a Party to this Convention when all of its member States have denounced it.

3. Denunciation of this Convention in accordance with paragraph 1 of this article shall entail the denunciation of any protocols thereto.

*Article 41. Depositary and languages*

1. The Secretary-General of the United Nations is designated depositary of this Convention.

2. The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF, the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Convention.

*Annex II*

**Protocol to Prevent, Suppress and Punish  
Trafficking in Persons, Especially Women  
and Children, supplementing the  
United Nations Convention against  
Transnational Organized Crime**

**Preamble**

*The States Parties to this Protocol,*

*Declaring* that effective action to prevent and combat the smuggling of migrants by land, sea and air requires a comprehensive international approach, including cooperation, the exchange of information and other appropriate measures, including socio-economic measures, at the national, regional and international levels,

*Recalling* General Assembly resolution 54/212 of 22 December 1999, in which the Assembly urged Member States and the United Nations system to strengthen international cooperation in the area of international migration and development in order to address the root causes of migration, especially those related to poverty, and to maximize the benefits of international migration to those concerned, and encouraged, where relevant, interregional, regional and subregional mechanisms to continue to address the question of migration and development,

*Convinced* of the need to provide migrants with humane treatment and full protection of their rights,

*Taking into account* the fact that, despite work undertaken in other international forums, there is no universal instrument that addresses all aspects of smuggling of migrants and other related issues,

*Concerned* at the significant increase in the activities of organized criminal groups in smuggling of migrants and other related criminal activities set forth in this Protocol, which bring great harm to the States concerned, prevention, suppression and punishment of trafficking in persons, especially women and

children, will be useful in preventing and combating that crime, *Have agreed as follows:*

## **I. General provisions**

### *Article 1. Relation with the United Nations Convention against Transnational Organized Crime*

1. This Protocol supplements the United Nations Convention against Transnational Organized Crime. It shall be interpreted together with the Convention.
2. The provisions of the Convention shall apply, *mutatis mutandis*, to this Protocol unless otherwise provided herein.
3. The offences established in accordance with article 5 of this Protocol shall be regarded as offences established in accordance with the Convention.

### *Article 2. Statement of purpose*

The purposes of this Protocol are:

- (a) To prevent and combat trafficking in persons, paying particular attention to women and children;
- (b) To protect and assist the victims of such trafficking, with full respect for their human rights; and
- (c) To promote cooperation among States Parties in order to meet those objectives.

### *Article 3. Use of terms*

For the purposes of this Protocol:

- (a) "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article;

(d) “Child” shall mean any person under eighteen years of age.

#### *Article 4. Scope of application*

This Protocol shall apply, except as otherwise stated herein, to the prevention, investigation and prosecution of the offences established in accordance with article 5 of this Protocol, where those offences are transnational in nature and involve an organized criminal group, as well as to the protection of victims of such offences.

#### *Article 5. Criminalization*

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in article 3 of this Protocol, when committed intentionally.

2. Each State Party shall also adopt such legislative and other measures as may be necessary to establish as criminal offences:

(a) Subject to the basic concepts of its legal system, attempting to commit an offence established in accordance with paragraph 1 of this article;

(b) Participating as an accomplice in an offence established in accordance with paragraph 1 of this article; and

(c) Organizing or directing other persons to commit an offence established in accordance with paragraph 1 of this article.

## **II. Protection of victims of trafficking in persons**

#### *Article 6. Assistance to and protection of victims of trafficking in persons*

1. In appropriate cases and to the extent possible under its domestic law, each State Party shall protect the privacy and identity of victims of trafficking

in persons, including, inter alia, by making legal proceedings relating to such trafficking confidential.

2. Each State Party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, in appropriate cases:

(a) Information on relevant court and administrative proceedings;

(b) Assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defence.

3. Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons,

including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:

(a) Appropriate housing;

(b) Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;

(c) Medical, psychological and material assistance; and

(d) Employment, educational and training opportunities.

4. Each State Party shall take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care.

5. Each State Party shall endeavour to provide for the physical safety of victims of trafficking in persons while they are within its territory.

6. Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.

*Article 7. Status of victims of trafficking in persons  
in receiving States*

1. In addition to taking measures pursuant to article 6 of this Protocol, each State Party shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases.

2. In implementing the provision contained in paragraph 1 of this article, each State Party shall give appropriate consideration to humanitarian and compassionate factors.

*Article 8. Repatriation of victims of trafficking in persons*

1. The State Party of which a victim of trafficking in persons is a national or in which the person had the right of permanent residence at the time of entry into the territory of the receiving State Party shall facilitate and accept, with due regard for the safety of that person, the return of that person without undue or unreasonable delay.

2. When a State Party returns a victim of trafficking in persons to a State Party of which that person is a national or in which he or she had, at the time of entry into the territory of the receiving State Party, the right of permanent residence, such return shall be with due regard for the safety of that person and for the status of any legal proceedings related to the fact that the person is a victim of trafficking and shall preferably be voluntary.

3. At the request of a receiving State Party, a requested State Party shall, without undue or unreasonable delay, verify whether a person who is a victim of trafficking in persons is its national or had the right of permanent residence in its territory at the time of entry into the territory of the receiving State Party.

4. In order to facilitate the return of a victim of trafficking in persons who is without proper documentation, the State Party of which that person is a national or in which he or she had the right of permanent residence at the time of entry into the territory of the receiving State Party shall agree to issue, at the request of the receiving State Party, such travel documents or other authorization as may be necessary to enable the person to travel to and re-enter its territory.

5. This article shall be without prejudice to any right afforded to victims of trafficking in persons by any domestic law of the receiving State Party.



6. This article shall be without prejudice to any applicable bilateral or multilateral agreement or arrangement that governs, in whole or in part, the return of victims of trafficking in persons.

### **III. Prevention, cooperation and other measures**

#### *Article 9. Prevention of trafficking in persons*

1. States Parties shall establish comprehensive policies, programmes and other measures:

- (a) To prevent and combat trafficking in persons; and
- (b) To protect victims of trafficking in persons, especially women and children, from revictimization.

2. States Parties shall endeavour to undertake measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons.

3. Policies, programmes and other measures established in accordance with this article shall, as appropriate, include cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.

4. States Parties shall take or strengthen measures, including through bilateral or multilateral cooperation, to alleviate the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity.

5. States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.

#### *Article 10. Information exchange and training*

1. Law enforcement, immigration or other relevant authorities of States Parties shall, as appropriate, cooperate with one another by exchanging information,

in accordance with their domestic law, to enable them to determine:

- (a) Whether individuals crossing or attempting to cross an international border with travel documents belonging to other persons or without travel

documents are perpetrators or victims of trafficking in persons;

(b) The types of travel document that individuals have used or attempted to use to cross an international border for the purpose of trafficking in persons; and

(c) The means and methods used by organized criminal groups for the purpose of trafficking in persons, including the recruitment and transportation of victims, routes and links between and among individuals and groups engaged in such trafficking, and possible measures for detecting them.

2. States Parties shall provide or strengthen training for law enforcement, immigration and other relevant officials in the prevention of trafficking in persons. The training should focus on methods used in preventing such trafficking, prosecuting the traffickers and protecting the rights of the victims, including protecting the victims from the traffickers. The training should also take into account the need to consider human rights and child- and gender-sensitive issues and it should encourage cooperation with nongovernmental organizations, other relevant organizations and other elements of civil society.

3. A State Party that receives information shall comply with any request by the State Party that transmitted the information that places restrictions on its use.

#### *Article 11. Border measures*

1. Without prejudice to international commitments in relation to the free movement of people, States Parties shall strengthen, to the extent possible, such border controls as may be necessary to prevent and detect trafficking in persons.

2. Each State Party shall adopt legislative or other appropriate measures to prevent, to the extent possible, means of transport operated by commercial carriers from being used in the commission of offences established in accordance with article 5 of this Protocol.

3. Where appropriate, and without prejudice to applicable international

conventions, such measures shall include establishing the obligation of commercial

carriers, including any transportation company or the owner or operator of any means of transport, to ascertain that all passengers are in possession of the travel documents required for entry into the receiving State.

4. Each State Party shall take the necessary measures, in accordance with its domestic law, to provide for sanctions in cases of violation of the obligation set forth in paragraph 3 of this article.

5. Each State Party shall consider taking measures that permit, in accordance with its domestic law, the denial of entry or revocation of visas of persons implicated in the commission of offences established in accordance with this Protocol.

6. Without prejudice to article 27 of the Convention, States Parties shall consider strengthening cooperation among border control agencies by, inter alia, establishing and maintaining direct channels of communication.

*Article 12. Security and control of documents*

Each State Party shall take such measures as may be necessary, within available means:

(a) To ensure that travel or identity documents issued by it are of such quality that they cannot easily be misused and cannot readily be falsified or unlawfully altered, replicated or issued; and

(b) To ensure the integrity and security of travel or identity documents issued by or on behalf of the State Party and to prevent their unlawful creation, issuance and use.

*Article 13. Legitimacy and validity of documents*

At the request of another State Party, a State Party shall, in accordance with its domestic law, verify within a reasonable time the legitimacy and validity of travel or identity documents issued or purported to have been issued in its name and suspected of being used for trafficking in persons.

#### **IV. Final provisions**

##### *Article 14. Saving clause*

1. Nothing in this Protocol shall affect the rights, obligations and responsibilities of States and individuals under international law, including international humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention<sup>1</sup> and the 1967 Protocol<sup>2</sup> relating to the Status of Refugees and the principle of non-refoulement as contained therein.
2. The measures set forth in this Protocol shall be interpreted and applied in a way that is not discriminatory to persons on the ground that they are victims of trafficking in persons. The interpretation and application of those measures shall be consistent with internationally recognized principles of nondiscrimination.

##### *Article 15. Settlement of disputes*

1. States Parties shall endeavour to settle disputes concerning the interpretation or application of this Protocol through negotiation.

<sup>1</sup>United Nations, *Treaty Series*, vol. 189, No. 2545.

<sup>2</sup>*Ibid.*, vol. 606, No. 8791.

2. Any dispute between two or more States Parties concerning the interpretation or application of this Protocol that cannot be settled through negotiation within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.
3. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Protocol, declare that it does not consider itself bound by paragraph 2 of this article. The other States Parties shall not be bound by paragraph 2 of this article with respect to any State Party that has made such a reservation.
4. Any State Party that has made a reservation in accordance with paragraph

3 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

*Article 16. Signature, ratification, acceptance, approval and accession*

1. This Protocol shall be open to all States for signature from 12 to 15 December 2000 in Palermo, Italy, and thereafter at United Nations Headquarters in New York until 12 December 2002.

2. This Protocol shall also be open for signature by regional economic integration organizations provided that at least one member State of such organization has signed this Protocol in accordance with paragraph 1 of this article.

3. This Protocol is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations. A regional economic integration organization may deposit its instrument of ratification, acceptance or approval if at least one of its member States has done likewise. In that instrument of ratification, acceptance or approval, such organization shall declare the extent of its competence with respect to the matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

4. This Protocol is open for accession by any State or any regional economic integration organization of which at least one member State is a Party to this Protocol. Instruments of accession shall be deposited with the Secretary-General of the United Nations. At the time of its accession, a regional economic integration organization shall declare the extent of its competence with respect to matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

*Article 17. Entry into force*

1. This Protocol shall 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.

*Article 18. Amendment*

1. After the expiry of five years from the entry into force of this Protocol, a State Party to the Protocol may propose an amendment and file it with the Secretary-General of the United Nations, who shall thereupon communicate the proposed amendment to the States Parties and to the Conference of the Parties to the Convention for the purpose of considering and deciding on the proposal. The States Parties to this Protocol meeting at the Conference of the Parties shall make every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted and no agreement has been reached, the amendment

shall, as a last resort, require for its adoption a two-thirds majority vote of the States Parties to this Protocol present and voting at the meeting of the Conference of the Parties.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote under this article with a number of votes equal to the number of their member States that are Parties to this Protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs and vice versa.

3. An amendment adopted in accordance with paragraph 1 of this article is subject to ratification, acceptance or approval by States Parties.

4. An amendment adopted in accordance with paragraph 1 of this article

shall enter into force in respect of a State Party ninety days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment.

5. When an amendment enters into force, it shall be binding on those States Parties which have expressed their consent to be bound by it. Other States Parties shall still be bound by the provisions of this Protocol and any earlier amendments that they have ratified, accepted or approved.

*Article 19. Denunciation*

1. A State Party may denounce this 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.

2. A regional economic integration organization shall cease to be a Party to this Protocol when all of its member States have denounced it.

*Article 20. Depositary and languages*

1. The Secretary-General of the United Nations is designated depositary of this Protocol.

2. The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations. IN WITNESS WHEREOF, the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Protocol.

*Annex III*

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

**Preamble**

*The States Parties to this Protocol,*

*Declaring* that effective action to prevent and combat the smuggling of migrants by land, sea and air requires a comprehensive international approach, including cooperation, the exchange of information and other appropriate measures, including socio-economic measures, at the national, regional and international levels,

*Recalling* General Assembly resolution 54/212 of 22 December 1999, in which the Assembly urged Member States and the United Nations system to strengthen international cooperation in the area of international migration and development in order to address the root causes of migration, especially those related to poverty, and to maximize the benefits of international migration to those concerned, and encouraged, where relevant, interregional, regional and subregional mechanisms to continue to address the question of migration and development,

*Convinced* of the need to provide migrants with humane treatment and full protection of their rights,

*Taking into account* the fact that, despite work undertaken in other international forums, there is no universal instrument that addresses all aspects of smuggling of migrants and other related issues,

*Concerned* at the significant increase in the activities of organized criminal groups in smuggling of migrants and other related criminal activities set forth in this Protocol, which bring great harm to the States concerned,



*Also concerned* that the smuggling of migrants can endanger the lives or security of the migrants involved,

*Recalling* General Assembly resolution 53/111 of 9 December 1998, in which the Assembly decided to establish an open-ended intergovernmental ad hoc committee for the purpose of elaborating a comprehensive international convention against transnational organized crime and of discussing the elaboration of, inter alia, an international instrument addressing illegal trafficking in and transporting of migrants, including by sea,

*Convinced* that supplementing the United Nations Convention against Transnational Organized Crime with an international instrument against the smuggling of migrants by land, sea and air will be useful in preventing and combating that crime,

*Have agreed as follows:*

## **I. General provisions**

### *Article 1. Relation with the United Nations Convention against Transnational Organized Crime*

1. This Protocol supplements the United Nations Convention against Transnational Organized Crime. It shall be interpreted together with the Convention.
2. The provisions of the Convention shall apply, *mutatis mutandis*, to this Protocol unless otherwise provided herein.
3. The offences established in accordance with article 6 of this Protocol shall be regarded as offences established in accordance with the Convention.

### *Article 2. Statement of purpose*

The purpose of this Protocol is to prevent and combat the smuggling of migrants, as well as to promote cooperation among States Parties to that end, while protecting the rights of smuggled migrants.

### *Article 3. Use of terms*

For the purposes of this Protocol:

- (a) "Smuggling of migrants" shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal

entry of a person into a State Party of which the person is not a national or a permanent resident;

(b) “Illegal entry” shall mean crossing borders without complying with the necessary requirements for legal entry into the receiving State;

(c) “Fraudulent travel or identity document” shall mean any travel or identity document:

(i) That has been falsely made or altered in some material way by anyone other than a person or agency lawfully authorized to make or issue the travel or identity document on behalf of a State; or

(ii) That has been improperly issued or obtained through misrepresentation, corruption or duress or in any other unlawful manner; or

(iii) That is being used by a person other than the rightful holder;

(d) “Vessel” shall mean any type of water craft, including nondisplacement craft and seaplanes, used or capable of being used as a means of transportation on water, except a warship, naval auxiliary or other vessel owned or operated by a Government and used, for the time being, only on government non-commercial service.

#### *Article 4. Scope of application*

This Protocol shall apply, except as otherwise stated herein, to the prevention, investigation and prosecution of the offences established in accordance with article 6 of this Protocol, where the offences are transnational in nature and involve an organized criminal group, as well as to the protection of the rights of persons who have been the object of such offences.

#### *Article 5. Criminal liability of migrants*

Migrants shall not become liable to criminal prosecution under this Protocol for the fact of having been the object of conduct set forth in article 6 of this Protocol.

#### *Article 6. Criminalization*

1. Each State Party shall adopt such legislative and other measures as

may be necessary to establish as criminal offences, when committed intentionally and in order to obtain, directly or indirectly, a financial or other material benefit:

(a) The smuggling of migrants;

(b) When committed for the purpose of enabling the smuggling of migrants:

(i) Producing a fraudulent travel or identity document;

(ii) Procuring, providing or possessing such a document;

(c) Enabling a person who is not a national or a permanent resident to remain in the State concerned without complying with the necessary requirements for legally remaining in the State by the means mentioned in subparagraph (b) of this paragraph or any other illegal means.

2. Each State Party shall also adopt such legislative and other measures as may be necessary to establish as criminal offences:

(a) Subject to the basic concepts of its legal system, attempting to commit an offence established in accordance with paragraph 1 of this article;

(b) Participating as an accomplice in an offence established in accordance with paragraph 1 (a), (b) (i) or (c) of this article and, subject to the basic concepts of its legal system, participating as an accomplice in an offence established

in accordance with paragraph 1 (b) (ii) of this article;

(c) Organizing or directing other persons to commit an offence established in accordance with paragraph 1 of this article.

3. Each State Party shall adopt such legislative and other measures as may be necessary to establish as aggravating circumstances to the offences established

in accordance with paragraph 1 (a), (b) (i) and (c) of this article and, subject to the basic concepts of its legal system, to the offences established in accordance with paragraph 2 (b) and (c) of this article, circumstances:

(a) That endanger, or are likely to endanger, the lives or safety of the migrants concerned; or

(b) That entail inhuman or degrading treatment, including for exploitation, of such migrants.

4. Nothing in this Protocol shall prevent a State Party from taking measures against a person whose conduct constitutes an offence under its domestic law.

## **II. Smuggling of migrants by sea**

### *Article 7. Cooperation*

States Parties shall cooperate to the fullest extent possible to prevent and suppress the smuggling of migrants by sea, in accordance with the international law of the sea.

### *Article 8. Measures against the smuggling of migrants by sea*

1. A State Party that has reasonable grounds to suspect that a vessel that is flying its flag or claiming its registry, that is without nationality or that, though flying a foreign flag or refusing to show a flag, is in reality of the nationality of the State Party concerned is engaged in the smuggling of migrants by sea may request the assistance of other States Parties in suppressing the use of the vessel for that purpose. The States Parties so requested shall render such assistance to the extent possible within their means.

2. A State Party that has reasonable grounds to suspect that a vessel exercising freedom of navigation in accordance with international law and flying the flag or displaying the marks of registry of another State Party is engaged in the smuggling of migrants by sea may so notify the flag State, request confirmation

of registry and, if confirmed, request authorization from the flag State to take appropriate measures with regard to that vessel. The flag State may authorize the requesting State, inter alia:

(a) To board the vessel;

(b) To search the vessel; and

(c) If evidence is found that the vessel is engaged in the smuggling of migrants by sea, to take appropriate measures with respect to the vessel and

persons and cargo on board, as authorized by the flag State.

3. A State Party that has taken any measure in accordance with paragraph 2 of this article shall promptly inform the flag State concerned of the results of that measure.

4. A State Party shall respond expeditiously to a request from another State Party to determine whether a vessel that is claiming its registry or flying its flag is entitled to do so and to a request for authorization made in accordance with paragraph 2 of this article.

5. A flag State may, consistent with article 7 of this Protocol, subject its authorization to conditions to be agreed by it and the requesting State, including conditions relating to responsibility and the extent of effective measures to be taken. A State Party shall take no additional measures without the express authorization of the flag State, except those necessary to relieve imminent danger to the lives of persons or those which derive from relevant bilateral or multilateral agreements.

6. Each State Party shall designate an authority or, where necessary, authorities to receive and respond to requests for assistance, for confirmation of registry or of the right of a vessel to fly its flag and for authorization to take appropriate measures. Such designation shall be notified through the Secretary-General to all other States Parties within one month of the designation.

7. A State Party that has reasonable grounds to suspect that a vessel is engaged in the smuggling of migrants by sea and is without nationality or may be assimilated to a vessel without nationality may board and search the vessel. If evidence confirming the suspicion is found, that State Party shall take appropriate measures in accordance with relevant domestic and international law.

#### *Article 9. Safeguard clauses*

1. Where a State Party takes measures against a vessel in accordance with article 8 of this Protocol, it shall:

(a) Ensure the safety and humane treatment of the persons on board;

(b) Take due account of the need not to endanger the security of the

vessel or its cargo;

(c) Take due account of the need not to prejudice the commercial or legal interests of the flag State or any other interested State;

(d) Ensure, within available means, that any measure taken with regard to the vessel is environmentally sound.

2. Where the grounds for measures taken pursuant to article 8 of this Protocol prove to be unfounded, the vessel shall be compensated for any loss or damage that may have been sustained, provided that the vessel has not committed any act justifying the measures taken.

3. Any measure taken, adopted or implemented in accordance with this chapter shall take due account of the need not to interfere with or to affect:

(a) The rights and obligations and the exercise of jurisdiction of coastal States in accordance with the international law of the sea; or

(b) The authority of the flag State to exercise jurisdiction and control in administrative, technical and social matters involving the vessel.

4. Any measure taken at sea pursuant to this chapter shall be carried out only by warships or military aircraft, or by other ships or aircraft clearly marked and identifiable as being on government service and authorized to that effect.

59

### **III. Prevention, cooperation and other measures**

#### *Article 10. Information*

1. Without prejudice to articles 27 and 28 of the Convention, States Parties, in particular those with common borders or located on routes along which migrants are smuggled, shall, for the purpose of achieving the objectives of this Protocol, exchange among themselves, consistent with their respective domestic

legal and administrative systems, relevant information on matters such as:

(a) Embarkation and destination points, as well as routes, carriers and means of transportation, known to be or suspected of being used by an organized criminal group engaged in conduct set forth in article 6 of this Protocol;

- (b) The identity and methods of organizations or organized criminal groups known to be or suspected of being engaged in conduct set forth in article 6 of this Protocol;
- (c) The authenticity and proper form of travel documents issued by a State Party and the theft or related misuse of blank travel or identity documents;
- (d) Means and methods of concealment and transportation of persons, the unlawful alteration, reproduction or acquisition or other misuse of travel or identity documents used in conduct set forth in article 6 of this Protocol and ways of detecting them;
- (e) Legislative experiences and practices and measures to prevent and combat the conduct set forth in article 6 of this Protocol; and
- (f) Scientific and technological information useful to law enforcement, so as to enhance each other's ability to prevent, detect and investigate the conduct set forth in article 6 of this Protocol and to prosecute those involved.

2. A State Party that receives information shall comply with any request by the State Party that transmitted the information that places restrictions on its use.

*Article 11. Border measures*

1. Without prejudice to international commitments in relation to the free movement of people, States Parties shall strengthen, to the extent possible, such border controls as may be necessary to prevent and detect the smuggling of migrants.
2. Each State Party shall adopt legislative or other appropriate measures to prevent, to the extent possible, means of transport operated by commercial carriers from being used in the commission of the offence established in accordance with article 6, paragraph 1 (a), of this Protocol.
3. Where appropriate, and without prejudice to applicable international conventions, such measures shall include establishing the obligation of commercial carriers, including any transportation company or the owner or operator of

any means of transport, to ascertain that all passengers are in possession of the travel documents required for entry into the receiving State.

4. Each State Party shall take the necessary measures, in accordance with its domestic law, to provide for sanctions in cases of violation of the obligation set forth in paragraph 3 of this article.

5. Each State Party shall consider taking measures that permit, in accordance with its domestic law, the denial of entry or revocation of visas of persons implicated in the commission of offences established in accordance with this Protocol.

6. Without prejudice to article 27 of the Convention, States Parties shall consider strengthening cooperation among border control agencies by, inter alia, establishing and maintaining direct channels of communication.

#### *Article 12. Security and control of documents*

Each State Party shall take such measures as may be necessary, within available means:

(a) To ensure that travel or identity documents issued by it are of such quality that they cannot easily be misused and cannot readily be falsified or unlawfully altered, replicated or issued; and

(b) To ensure the integrity and security of travel or identity documents issued by or on behalf of the State Party and to prevent their unlawful creation, issuance and use.

#### *Article 13. Legitimacy and validity of documents*

At the request of another State Party, a State Party shall, in accordance with its domestic law, verify within a reasonable time the legitimacy and validity of travel or identity documents issued or purported to have been issued in its name and suspected of being used for purposes of conduct set forth in article 6 of this Protocol.

#### *Article 14. Training and technical cooperation*

1. States Parties shall provide or strengthen specialized training for immigration and other relevant officials in preventing the conduct set forth in article 6 of this Protocol and in the humane treatment of migrants who have



been the object of such conduct, while respecting their rights as set forth in this Protocol.

2. States Parties shall cooperate with each other and with competent international organizations, non-governmental organizations, other relevant organizations

and other elements of civil society as appropriate to ensure that there is adequate personnel training in their territories to prevent, combat and eradicate the conduct set forth in article 6 of this Protocol and to protect the rights of migrants who have been the object of such conduct. Such training shall include:

(a) Improving the security and quality of travel documents;

(b) Recognizing and detecting fraudulent travel or identity documents;

(c) Gathering criminal intelligence, relating in particular to the identification of organized criminal groups known to be or suspected of being engaged in conduct set forth in article 6 of this Protocol, the methods used to transport smuggled migrants, the misuse of travel or identity documents for purposes of conduct set forth in article 6 and the means of concealment used in the smuggling of migrants;

(d) Improving procedures for detecting smuggled persons at conventional and non-conventional points of entry and exit; and

(e) The humane treatment of migrants and the protection of their rights as set forth in this Protocol.

3. States Parties with relevant expertise shall consider providing technical assistance to States that are frequently countries of origin or transit for persons who have been the object of conduct set forth in article 6 of this Protocol. States Parties shall make every effort to provide the necessary resources, such as vehicles, computer systems and document readers, to combat the conduct set forth in article 6.

*Article 15. Other prevention measures*

1. Each State Party shall take measures to ensure that it provides or

strengthens information programmes to increase public awareness of the fact that the conduct set forth in article 6 of this Protocol is a criminal activity frequently perpetrated by organized criminal groups for profit and that it poses serious risks to the migrants concerned.

2. In accordance with article 31 of the Convention, States Parties shall cooperate in the field of public information for the purpose of preventing potential migrants from falling victim to organized criminal groups.

3. Each State Party shall promote or strengthen, as appropriate, development programmes and cooperation at the national, regional and international levels, taking into account the socio-economic realities of migration and paying special attention to economically and socially depressed areas, in order to combat the root socio-economic causes of the smuggling of migrants, such as poverty and underdevelopment.

*Article 16. Protection and assistance measures*

1. In implementing this Protocol, each State Party shall take, consistent with its obligations under international law, all appropriate measures, including legislation if necessary, to preserve and protect the rights of persons who have been the object of conduct set forth in article 6 of this Protocol as accorded under applicable international law, in particular the right to life and the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment.

2. Each State Party shall take appropriate measures to afford migrants appropriate protection against violence that may be inflicted upon them, whether by individuals or groups, by reason of being the object of conduct set forth in article 6 of this Protocol.

3. Each State Party shall afford appropriate assistance to migrants whose lives or safety are endangered by reason of being the object of conduct set forth in article 6 of this Protocol.

4. In applying the provisions of this article, States Parties shall take into account the special needs of women and children.

5. In the case of the detention of a person who has been the object of

conduct set forth in article 6 of this Protocol, each State Party shall comply with its obligations under the Vienna Convention on Consular Relations,<sup>1</sup> where applicable, including that of informing the person concerned without delay about the provisions concerning notification to and communication with consular officers. United Nations, *Treaty Series*, vol. 596, Nos. 8638-8640.

*Article 17. Agreements and arrangements*

States Parties shall consider the conclusion of bilateral or regional agreements or operational arrangements or understandings aimed at:

- (a) Establishing the most appropriate and effective measures to prevent and combat the conduct set forth in article 6 of this Protocol; or
- (b) Enhancing the provisions of this Protocol among themselves.

*Article 18. Return of smuggled migrants*

1. Each State Party agrees to facilitate and accept, without undue or unreasonable delay, the return of a person who has been the object of conduct set forth in article 6 of this Protocol and who is its national or who has the right of permanent residence in its territory at the time of return.
2. Each State Party shall consider the possibility of facilitating and accepting the return of a person who has been the object of conduct set forth in article 6 of this Protocol and who had the right of permanent residence in its territory at the time of entry into the receiving State in accordance with its domestic law.
3. At the request of the receiving State Party, a requested State Party shall, without undue or unreasonable delay, verify whether a person who has been the object of conduct set forth in article 6 of this Protocol is its national or has the right of permanent residence in its territory.
4. In order to facilitate the return of a person who has been the object of conduct set forth in article 6 of this Protocol and is without proper documentation,  
the State Party of which that person is a national or in which he or she has the right of permanent residence shall agree to issue, at the request of the receiving State Party, such travel documents or other authorization as may

be necessary to enable the person to travel to and re-enter its territory.

5. Each State Party involved with the return of a person who has been the object of conduct set forth in article 6 of this Protocol shall take all appropriate measures to carry out the return in an orderly manner and with due regard for the safety and dignity of the person.

6. States Parties may cooperate with relevant international organizations in the implementation of this article.

7. This article shall be without prejudice to any right afforded to persons who have been the object of conduct set forth in article 6 of this Protocol by any domestic law of the receiving State Party.

8. This article shall not affect the obligations entered into under any other applicable treaty, bilateral or multilateral, or any other applicable operational agreement or arrangement that governs, in whole or in part, the return of persons who have been the object of conduct set forth in article 6 of this Protocol.

#### **IV. Final provisions**

##### *Article 19. Saving clause*

1. Nothing in this Protocol shall affect the other rights, obligations and responsibilities of States and individuals under international law, including international

humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention<sup>2</sup> and the 1967 Protocol<sup>3</sup> relating to the Status of Refugees and the principle of non-refoulement as contained therein.

2. The measures set forth in this Protocol shall be interpreted and applied in a way that is not discriminatory to persons on the ground that they are the object of conduct set forth in article 6 of this Protocol. The interpretation and application of those measures shall be consistent with internationally recognized principles of non-discrimination.

##### *Article 20. Settlement of disputes*

1. States Parties shall endeavour to settle disputes concerning the interpretation or application of this Protocol through negotiation.

2. Any dispute between two or more States Parties concerning the interpretation or application of this Protocol that cannot be settled through negotiation within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.

3. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Protocol, declare that it does not consider  
2United Nations, *Treaty Series*, vol. 189, No. 2545.

3Ibid., vol. 606, Nos. 8791.

itself bound by paragraph 2 of this article. The other States Parties shall not be bound by paragraph 2 of this article with respect to any State Party that has made such a reservation.

4. Any State Party that has made a reservation in accordance with paragraph 3 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

*Article 21. Signature, ratification, acceptance, approval and accession*

1. This Protocol shall be open to all States for signature from 12 to 15 December 2000 in Palermo, Italy, and thereafter at United Nations Headquarters in New York until 12 December 2002.

2. This Protocol shall also be open for signature by regional economic integration organizations provided that at least one member State of such organization

has signed this Protocol in accordance with paragraph 1 of this article.

3. This Protocol is subject to ratification, acceptance or approval. Instruments

of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations. A regional economic integration organization may deposit its instrument of ratification, acceptance or approval if at least one of its member States has done likewise. In that instrument of ratification, acceptance or approval, such organization shall declare the extent of its competence with respect to the matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

4. This Protocol is open for accession by any State or any regional economic integration organization of which at least one member State is a Party to this Protocol. Instruments of accession shall be deposited with the Secretary-General of the United Nations. At the time of its accession, a regional economic integration organization shall declare the extent of its competence with respect to matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

*Article 22. Entry into force*

1. This Protocol shall 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.

*Article 23. Amendment*

1. After the expiry of five years from the entry into force of this Protocol, a State Party to the Protocol may propose an amendment and file it with the

Secretary-General of the United Nations, who shall thereupon communicate the proposed amendment to the States Parties and to the Conference of the Parties to the Convention for the purpose of considering and deciding on the proposal. The States Parties to this Protocol meeting at the Conference of the Parties shall make every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted and no agreement has been reached, the amendment shall, as a last resort, require for its adoption a two-thirds majority vote of the States Parties to this Protocol present and voting at the meeting of the Conference of the Parties.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote under this article with a number of votes equal to the number of their member States that are Parties to this Protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs and vice versa.

3. An amendment adopted in accordance with paragraph 1 of this article is subject to ratification, acceptance or approval by States Parties.

4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party ninety days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment.

5. When an amendment enters into force, it shall be binding on those States Parties which have expressed their consent to be bound by it. Other States

67

Parties shall still be bound by the provisions of this Protocol and any earlier amendments that they have ratified, accepted or approved.

#### *Article 24. Denunciation*

1. A State Party may denounce this 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.

2. A regional economic integration organization shall cease to be a Party to this Protocol when all of its member States have denounced it.

*Article 25. Depositary and languages*

1. The Secretary-General of the United Nations is designated depositary of this Protocol.

2. The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF, the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Protocol.



**General Assembly resolution 55/255**

**of 31 May 2001**

**Protocol against the Illicit Manufacturing of  
and Trafficking in Firearms, Their Parts and  
Components and Ammunition, supplementing  
the United Nations Convention against  
Transnational Organized Crime**

**Preamble**

*The General Assembly,*

*Recalling* its resolution 53/111 of 9 December 1998, in which it decided to establish an open-ended intergovernmental ad hoc committee for the purpose of elaborating a comprehensive international convention against transnational organized crime and of discussing the elaboration, as appropriate, of international instruments addressing trafficking in women and children, combating the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, and illegal trafficking in and transporting of migrants, including by sea,

*Recalling also* its resolution 54/126 of 17 December 1999, in which it requested the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime to continue its work, in accordance with resolutions

53/111 and 53/114 of 9 December 1998, and to intensify that work in order to complete it in 2000,

*Recalling further* its resolution 55/25 of 15 November 2000, by which it adopted the United Nations Convention against Transnational Organized Crime, 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, supplementing the United Nations Convention against Transnational Organized Crime,

*Reaffirming* the inherent right to individual or collective self-defence recognized in Article 51 of the Charter of the United Nations, which implies that

70

States also have the right to acquire arms with which to defend themselves, as well as the right of self-determination of all peoples, in particular peoples under colonial or other forms of alien domination or foreign occupation, and the importance of the effective realization of that right,

1. *Takes note* of the report of the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime on its twelfth session,<sup>1</sup> and commends the Ad Hoc Committee for its work;

2. *Adopts* the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime, annexed to the present resolution, and opens it for signature at United Nations Headquarters in New York;

3. *Urges* all States and regional economic organizations to sign and ratify the United Nations Convention against Transnational Organized Crime and the protocols thereto as soon as possible in order to ensure the speedy entry into force of the Convention and the protocols thereto.

1A/55/383/Add.2.

*Annex*

**Protocol against the Illicit Manufacturing of  
and Trafficking in Firearms, Their Parts and  
Components and Ammunition, supplementing  
the United Nations Convention against  
Transnational Organized Crime**

**Preamble**

*The States Parties to this Protocol,*

*Aware* of the urgent need to prevent, combat and eradicate the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, owing to the harmful effects of those activities on the security of each State, region and the world as a whole, endangering the well-being of peoples, their social and economic development and their right to live in peace, *Convinced*, therefore, of the necessity for all States to take all appropriate measures to this end, including international cooperation and other measures at the regional and global levels, *Recalling* General Assembly resolution 53/111 of 9 December 1998, in which the Assembly decided to establish an open-ended intergovernmental ad hoc committee for the purpose of elaborating a comprehensive international convention against transnational organized crime and of discussing the elaboration of, inter alia, an international instrument combating the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, *Bearing in mind* the principle of equal rights and self-determination of peoples, as enshrined in the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, 1Resolution 2625 (XXV) annex.

*Annex*

**Protocol against the Illicit Manufacturing of  
and Trafficking in Firearms, Their Parts and  
Components and Ammunition, supplementing  
the United Nations Convention against  
Transnational Organized Crime**

*Convinced* that supplementing the United Nations Convention against Transnational Organized Crime with an international instrument against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition will be useful in preventing and combating those crimes,

*Have agreed as follows:*

**I. General provisions**

*Article 1. Relation with the United Nations Convention  
against Transnational Organized Crime*

1. This Protocol supplements the United Nations Convention against Transnational Organized Crime. It shall be interpreted together with the Convention.
2. The provisions of the Convention shall apply, *mutatis mutandis*, to this Protocol unless otherwise provided herein.
3. The offences established in accordance with article 5 of this Protocol shall be regarded as offences established in accordance with the Convention.

*Article 2. Statement of purpose*

The purpose of this Protocol is to promote, facilitate and strengthen cooperation among States Parties in order to prevent, combat and eradicate the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition.

*Article 3. Use of terms*

For the purposes of this Protocol:

- (a) "Firearm" shall mean any portable barrelled weapon that expels, is

designed to expel or may be readily converted to expel a shot, bullet or projectile by the action of an explosive, excluding antique firearms or their replicas.

Antique firearms and their replicas shall be defined in accordance with domestic law. In no case, however, shall antique firearms include firearms manufactured after 1899;

(b) "Parts and components" shall mean any element or replacement element specifically designed for a firearm and essential to its operation, including a barrel, frame or receiver, slide or cylinder, bolt or breech block, and any device designed or adapted to diminish the sound caused by firing a firearm;

(c) "Ammunition" shall mean the complete round or its components, including cartridge cases, primers, propellant powder, bullets or projectiles, that are used in a firearm, provided that those components are themselves subject to authorization in the respective State Party;

(d) "Illicit manufacturing" shall mean the manufacturing or assembly of firearms, their parts and components or ammunition:

(i) From parts and components illicitly trafficked;

(ii) Without a licence or authorization from a competent authority of the State Party where the manufacture or assembly takes place; or

(iii) Without marking the firearms at the time of manufacture, in accordance with article 8 of this Protocol;

Licensing or authorization of the manufacture of parts and components shall be in accordance with domestic law;

(e) "Illicit trafficking" shall mean the import, export, acquisition, sale, delivery, movement or transfer of firearms, their parts and components and ammunition from or across the territory of one State Party to that of another State Party if any one of the States Parties concerned does not authorize it in accordance with the terms of this Protocol or if the firearms are not marked in accordance with article 8 of this Protocol;

(f) "Tracing" shall mean the systematic tracking of firearms and, where possible, their parts and components and ammunition from manufacturer to

purchaser for the purpose of assisting the competent authorities of States Parties in detecting, investigating and analysing illicit manufacturing and illicit trafficking.

*Article 4. Scope of application*

1. This Protocol shall apply, except as otherwise stated herein, to the prevention of illicit manufacturing of and trafficking in firearms, their parts and components and ammunition and to the investigation and prosecution of offences established in accordance with article 5 of this Protocol where those offences are transnational in nature and involve an organized criminal group.

2. This Protocol shall not apply to state-to-state transactions or to state transfers in cases where the application of the Protocol would prejudice the right of a State Party to take action in the interest of national security consistent with the Charter of the United Nations.

*Article 5. Criminalization*

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the following conduct, when committed intentionally:

(a) Illicit manufacturing of firearms, their parts and components and ammunition;

(b) Illicit trafficking in firearms, their parts and components and ammunition;

(c) Falsifying or illicitly obliterating, removing or altering the marking(s) on firearms required by article 8 of this Protocol.

2. Each State Party shall also adopt such legislative and other measures as may be necessary to establish as criminal offences the following conduct:

(a) Subject to the basic concepts of its legal system, attempting to commit or participating as an accomplice in an offence established in accordance with paragraph 1 of this article; and

(b) Organizing, directing, aiding, abetting, facilitating or counselling the commission of an offence established in accordance with paragraph 1 of this article.

*Article 6. Confiscation, seizure and disposal*

1. Without prejudice to article 12 of the Convention, States Parties shall adopt, to the greatest extent possible within their domestic legal systems, such measures as may be necessary to enable confiscation of firearms, their parts and components and ammunition that have been illicitly manufactured or trafficked.

2. States Parties shall adopt, within their domestic legal systems, such measures as may be necessary to prevent illicitly manufactured and trafficked firearms, parts and components and ammunition from falling into the hands of unauthorized persons by seizing and destroying such firearms, their parts and components and ammunition unless other disposal has been officially authorized, provided that the firearms have been marked and the methods of disposal of those firearms and ammunition have been recorded.

**II. Prevention**

*Article 7. Record-keeping*

Each State Party shall ensure the maintenance, for not less than ten years, of information in relation to firearms and, where appropriate and feasible, their parts and components and ammunition that is necessary to trace and identify those firearms and, where appropriate and feasible, their parts and components and ammunition which are illicitly manufactured or trafficked and to prevent and detect such activities. Such information shall include:

- (a) The appropriate markings required by article 8 of this Protocol;
- (b) In cases involving international transactions in firearms, their parts and components and ammunition, the issuance and expiration dates of the appropriate licences or authorizations, the country of export, the country of import, the transit countries, where appropriate, and the final recipient and the description and quantity of the articles.

*Article 8. Marking of firearms*

1. For the purpose of identifying and tracing each firearm, States Parties shall:

- (a) At the time of manufacture of each firearm, either require unique marking providing the name of the manufacturer, the country or place of

manufacture and the serial number, or maintain any alternative unique userfriendly

marking with simple geometric symbols in combination with a numeric and/or alphanumeric code, permitting ready identification by all States of the country of manufacture;

(b) Require appropriate simple marking on each imported firearm, permitting identification of the country of import and, where possible, the year of import and enabling the competent authorities of that country to trace the firearm, and a unique marking, if the firearm does not bear such a marking. The requirements of this subparagraph need not be applied to temporary imports of firearms for verifiable lawful purposes;

(c) Ensure, at the time of transfer of a firearm from government stocks to permanent civilian use, the appropriate unique marking permitting identification by all States Parties of the transferring country.

2. States Parties shall encourage the firearms manufacturing industry to develop measures against the removal or alteration of markings.

#### *Article 9. Deactivation of firearms*

A State Party that does not recognize a deactivated firearm as a firearm in accordance with its domestic law shall take the necessary measures, including the establishment of specific offences if appropriate, to prevent the illicit reactivation

of deactivated firearms, consistent with the following general principles of deactivation:

(a) All essential parts of a deactivated firearm are to be rendered permanently inoperable and incapable of removal, replacement or modification in a manner that would permit the firearm to be reactivated in any way;

(b) Arrangements are to be made for deactivation measures to be verified, where appropriate, by a competent authority to ensure that the modifications made to a firearm render it permanently inoperable;

(c) Verification by a competent authority is to include a certificate or



record attesting to the deactivation of the firearm or a clearly visible mark to that effect stamped on the firearm.

*Article 10. General requirements for export, import and transit licensing or authorization systems*

1. Each State Party shall establish or maintain an effective system of export and import licensing or authorization, as well as of measures on international transit, for the transfer of firearms, their parts and components and ammunition.

2. Before issuing export licences or authorizations for shipments of firearms, their parts and components and ammunition, each State Party shall verify:

(a) That the importing States have issued import licences or authorizations; and

(b) That, without prejudice to bilateral or multilateral agreements or arrangements favouring landlocked States, the transit States have, at a minimum, given notice in writing, prior to shipment, that they have no objection to the transit.

3. The export and import licence or authorization and accompanying documentation together shall contain information that, at a minimum, shall include the place and the date of issuance, the date of expiration, the country of export, the country of import, the final recipient, a description and the quantity of the firearms, their parts and components and ammunition and, whenever there is transit, the countries of transit. The information contained in the import licence must be provided in advance to the transit States.

4. The importing State Party shall, upon request, inform the exporting State Party of the receipt of the dispatched shipment of firearms, their parts and components or ammunition.

5. Each State Party shall, within available means, take such measures as maybe necessary to ensure that licensing or authorization procedures are secure and that the authenticity of licensing or authorization documents can be verified or validated.

6. States Parties may adopt simplified procedures for the temporary import and export and the transit of firearms, their parts and components and ammunition for verifiable lawful purposes such as hunting, sport shooting, evaluation, exhibitions or repairs.

*Article 11. Security and preventive measures*

In an effort to detect, prevent and eliminate the theft, loss or diversion of, as well as the illicit manufacturing of and trafficking in, firearms, their parts and components and ammunition, each State Party shall take appropriate measures:

(a) To require the security of firearms, their parts and components and ammunition at the time of manufacture, import, export and transit through its territory; and

(b) To increase the effectiveness of import, export and transit controls, including, where appropriate, border controls, and of police and customs transborder cooperation.

*Article 12. Information*

1. Without prejudice to articles 27 and 28 of the Convention, States Parties shall exchange among themselves, consistent with their respective domestic

legal and administrative systems, relevant case-specific information on matters such as authorized producers, dealers, importers, exporters and, whenever possible, carriers of firearms, their parts and components and ammunition.

2. Without prejudice to articles 27 and 28 of the Convention, States Parties shall exchange among themselves, consistent with their respective domestic

legal and administrative systems, relevant information on matters such as:

(a) Organized criminal groups known to take part or suspected of taking part in the illicit manufacturing of or trafficking in firearms, their parts and components and ammunition;

(b) The means of concealment used in the illicit manufacturing of or trafficking in firearms, their parts and components and ammunition and ways of detecting them;

(c) Methods and means, points of dispatch and destination and routes customarily used by organized criminal groups engaged in illicit trafficking in firearms, their parts and components and ammunition; and

(d) Legislative experiences and practices and measures to prevent, combat and eradicate the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition.

3. States Parties shall provide to or share with each other, as appropriate, relevant scientific and technological information useful to law enforcement authorities in order to enhance each other's abilities to prevent, detect and investigate the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition and to prosecute the persons involved in those illicit activities.

4. States Parties shall cooperate in the tracing of firearms, their parts and components and ammunition that may have been illicitly manufactured or trafficked. Such cooperation shall include the provision of prompt responses to requests for assistance in tracing such firearms, their parts and components and ammunition, within available means.

5. Subject to the basic concepts of its legal system or any international agreements, each State Party shall guarantee the confidentiality of and comply with any restrictions on the use of information that it receives from another State Party pursuant to this article, including proprietary information pertaining to commercial transactions, if requested to do so by the State Party providing the information. If such confidentiality cannot be maintained, the State Party that provided the information shall be notified prior to its disclosure.

#### *Article 13. Cooperation*

1. States Parties shall cooperate at the bilateral, regional and international levels to prevent, combat and eradicate the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition.

2. Without prejudice to article 18, paragraph 13, of the Convention, each State Party shall identify a national body or a single point of contact to

act as liaison between it and other States Parties on matters relating to this Protocol.

3. States Parties shall seek the support and cooperation of manufacturers, dealers, importers, exporters, brokers and commercial carriers of firearms, their parts and components and ammunition to prevent and detect the illicit activities referred to in paragraph 1 of this article.

*Article 14. Training and technical assistance*

States Parties shall cooperate with each other and with relevant international organizations, as appropriate, so that States Parties may receive, upon request, the training and technical assistance necessary to enhance their ability to prevent, combat and eradicate the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, including technical, financial and material assistance in those matters identified in articles 29 and 30 of the Convention.

*Article 15. Brokers and brokering*

1. With a view to preventing and combating illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, States Parties that have not yet done so shall consider establishing a system for regulating

the activities of those who engage in brokering. Such a system could include one or more measures such as:

(a) Requiring registration of brokers operating within their territory;

(b) Requiring licensing or authorization of brokering; or

(c) Requiring disclosure on import and export licences or authorizations, or accompanying documents, of the names and locations of brokers involved in the transaction.

2. States Parties that have established a system of authorization regarding brokering as set forth in paragraph 1 of this article are encouraged to include information on brokers and brokering in their exchanges of information under article 12 of this Protocol and to retain records regarding brokers and brokering in accordance with article 7 of this Protocol.

### **III. Final provisions**

#### *Article 16. Settlement of disputes*

1. States Parties shall endeavour to settle disputes concerning the interpretation or application of this Protocol through negotiation.
2. Any dispute between two or more States Parties concerning the interpretation or application of this Protocol that cannot be settled through negotiation within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.
3. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Protocol, declare that it does not consider itself bound by paragraph 2 of this article. The other States Parties shall not be bound by paragraph 2 of this article with respect to any State Party that has made such a reservation.
4. Any State Party that has made a reservation in accordance with paragraph 3 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

#### *Article 17. Signature, ratification, acceptance, approval and accession*

1. This Protocol shall be open to all States for signature at United Nations Headquarters in New York from the thirtieth day after its adoption by the General Assembly until 12 December 2002.
2. This Protocol shall also be open for signature by regional economic integration organizations provided that at least one member State of such organization has signed this Protocol in accordance with paragraph 1 of this article.
3. This Protocol is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the

Secretary-General of the United Nations. A regional economic integration organization may deposit its instrument of ratification, acceptance or approval if at least one of its member States has done likewise. In that instrument of ratification, acceptance or approval, such organization shall declare the extent of its competence with respect to the matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

4. This Protocol is open for accession by any State or any regional economic integration organization of which at least one member State is a Party to this Protocol. Instruments of accession shall be deposited with the Secretary-General of the United Nations. At the time of its accession, a regional economic integration organization shall declare the extent of its competence with respect to matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

*Article 18. Entry into force*

1. This Protocol shall 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.

*Article 19. Amendment*

1. After the expiry of five years from the entry into force of this Protocol, a State Party to the Protocol may propose an amendment and file it with the Secretary-General of the United Nations, who shall thereupon communicate the

proposed amendment to the States Parties and to the Conference of the Parties to the Convention for the purpose of considering and deciding on the proposal. The States Parties to this Protocol meeting at the Conference of the Parties shall make every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted and no agreement has been reached, the amendment shall, as a last resort, require for its adoption a two-thirds majority vote of the States Parties to this Protocol present and voting at the meeting of the Conference of the Parties.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote under this article with a number of votes equal to the number of their member States that are Parties to this Protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs and vice versa.

3. An amendment adopted in accordance with paragraph 1 of this article is subject to ratification, acceptance or approval by States Parties.

4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party ninety days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment.

5. When an amendment enters into force, it shall be binding on those States Parties which have expressed their consent to be bound by it. Other States Parties shall still be bound by the provisions of this Protocol and any earlier amendments that they have ratified, accepted or approved.

#### *Article 20. Denunciation*

1. A State Party may denounce this 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.

2. A regional economic integration organization shall cease to be a Party to this Protocol when all of its member States have denounced it.

*Article 21. Depositary and languages*

1. The Secretary-General of the United Nations is designated depositary of this Protocol.
2. The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF, the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Protocol.



PROTOCOL TO PREVENT, SUPPRESS AND PUNISH  
TRAFFICKING IN PERSONS, ESPECIALLY WOMEN  
AND CHILDREN, SUPPLEMENTING THE UNITED  
NATIONS CONVENTION AGAINST TRANSNATIONAL  
ORGANIZED CRIME

**Preamble**

*The States Parties to this Protocol,*

*Declaring* that effective action to prevent and combat trafficking in persons, especially women and children, requires a comprehensive international approach in the countries of origin, transit and destination that includes measures to prevent such trafficking, to punish the traffickers and to protect the victims of such trafficking, including by protecting their internationally recognized human rights,

*Taking into account* the fact that, despite the existence of a variety of international instruments containing rules and practical measures to combat the exploitation of persons, especially women and children, there is no universal instrument that addresses all aspects of trafficking in persons,

*Concerned* that, in the absence of such an instrument, persons who are vulnerable to trafficking will not be sufficiently protected,

*Recalling* General Assembly resolution 53/111 of 9 December 1998, in which the Assembly decided to establish an open-ended intergovernmental ad hoc committee for the purpose of elaborating a comprehensive international convention against transnational organized crime and of discussing the elaboration of, inter alia, an international instrument addressing trafficking in women and children,

*Convinced* that supplementing the United Nations Convention against Transnational Organized Crime with an international instrument for the prevention, suppression and punishment of trafficking in persons, especially women and children, will be useful in preventing and combating that crime.

*Have agreed as follows:*

## I. General provisions

### *Article 1*

#### *Relation with the United Nations Convention against Transnational Organized Crime*

1. This Protocol supplements the United Nations Convention against Transnational Organized Crime. It shall be interpreted together with the Convention.

2. The provisions of the Convention shall apply, *mutatis mutandis*, to this Protocol unless otherwise provided herein.

3. The offences established in accordance with article 5 of this Protocol shall be regarded as offences established in accordance with the Convention.

### *Article 2*

#### *Statement of purpose*

The purposes of this Protocol are:

- (a) To prevent and combat trafficking in persons, paying particular attention to women and children;
- (b) To protect and assist the victims of such trafficking, with full respect for their human rights; and
- (c) To promote cooperation among States Parties in order to meet those objectives.

### *Article 3*

#### *Use of terms*

For the purposes of this Protocol:

- (a) "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of

deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article;

(d) "Child" shall mean any person under eighteen years of age.

#### *Article 4*

##### *Scope of application*

This Protocol shall apply, except as otherwise stated herein, to the prevention, investigation and prosecution of the offences established in accordance with article 5 of this Protocol, where those offences are transnational in nature and involve an organized criminal group, as well as to the protection of victims of such offences.

#### *Article 5*

##### *Criminalization*

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in article 3 of this Protocol, when committed intentionally.

2. Each State Party shall also adopt such legislative and other measures as may be necessary to establish as criminal offences:

(a) Subject to the basic concepts of its legal system, attempting to

commit an offence established in accordance with paragraph I of this article;

(b) Participating as an accomplice in an offence established in accordance with paragraph I of this article; and

(c) Organizing or directing other persons to commit an offence established in accordance with paragraph 1 of this article.

## II. Protection of victims of trafficking in person

### *Article 6*

#### *Assistance to and protection of victims of trafficking in persons*

1. In appropriate cases and to the extent possible under its domestic law, each State Party shall protect the privacy and identity of victims of trafficking in persons, including, inter alia, by making legal proceedings relating to such trafficking confidential.

2. Each State Party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, in appropriate cases:

(a) Information on relevant court and administrative proceedings;

(b) Assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defence.

3. Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:

(8) Appropriate housing;

(b) Counselling and information, in particular as regards their legal

rights, in a language that the victims of trafficking in persons can understand;

(c) Medical, psychological and material assistance; and

(d) Employment, educational and training opportunities.

4. Each State Party shall take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care.

5. Each State Party shall endeavour to provide for the physical safety of victims of trafficking in persons while they are within its territory.

6. Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.

#### *Article 7*

##### *Status of victims of trafficking in person in receiving States*

1. In addition to taking measures pursuant to article 6 of this Protocol, each State Party shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases.

2. In implementing the provision contained in paragraph 1 of this article, each State Party shall give appropriate consideration to humanitarian and compassionate factors .

#### *Article 8*

##### *Repatriation of victims of trafficking in persons*

1. The State Party of which a victim of trafficking in persons is a national or in which the person had the right of permanent residence at the time of entry into the territory of the receiving State Party shall facilitate and accept, with due regard for the safety of that person, the return of that person without undue or unreasonable delay.

2. When a State Party returns a victim of trafficking in persons to a

State Party of which that person is a national or in which he or she had, at the time of entry into the territory of the receiving State Party, the right of permanent residence, such return shall be with due regard for the safety of that person and for the status of any legal proceedings related to the fact that the person is a victim of trafficking and shall preferably be voluntary.

3. At the request of a receiving State Party, a requested State Party shall, without undue or unreasonable delay, verify whether a person who is a victim of trafficking in persons is its national or had the right of permanent residence in its territory at the time of entry into the territory of the receiving State Party.

4. In order to facilitate the return of a victim of trafficking in persons who is without proper documentation, the State Party of which that person is a national or in which he or she had the right of permanent residence at the time of entry into the territory of the receiving State Party shall agree to issue, at the request of the receiving State Party, such travel documents or other authorization as may be necessary to enable the person to travel to and re-enter its territory.

5. This article shall be without prejudice to any right afforded to victims of trafficking in persons by any domestic law of the receiving State Party.

6. This article shall be without prejudice to any applicable bilateral or multilateral agreement or arrangement that governs, in whole or in part, the return of victims of trafficking in persons.

### III. Prevention, Cooperation and Other Measures

#### *Article 9*

##### *Prevention of trafficking in persons*

I. States Parties shall establish comprehensive policies, programmes and other measures:

(a) To prevent and combat trafficking in persons; and

(b) To protect victims of trafficking in persons, especially women and children, from revictimization.

2. States Parties shall endeavour to undertake measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons.

3. Policies, programmes and other measures established in accordance with this article shall, as appropriate, include cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.

4. States Parties shall take or strengthen measures, including through bilateral or multilateral cooperation, to alleviate the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity.

5. States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.

#### *Article 10*

##### *Information exchange and training*

1. Law enforcement, immigration or other relevant authorities of States Parties shall, as appropriate, cooperate with one another by exchanging information, in accordance with their domestic law, to enable them to determine:

(a) Whether individuals crossing or attempting to cross an international border with travel documents belonging to other persons or without travel documents are perpetrators or victims of trafficking in persons;

(b) The types of travel document that individuals have used or attempted to use to cross an international border for the purpose of trafficking

in persons; and

(c) The means and methods used by organized criminal groups for the purpose of trafficking in persons, including the recruitment and transportation of victims, routes and links between and among individuals and groups engaged in such trafficking, and possible measures for detecting them.

2. States Parties shall provide or strengthen training for law enforcement, immigration and other relevant officials in the prevention of trafficking in persons. The training should focus on methods used in preventing such trafficking, prosecuting the traffickers and protecting the rights of the victims, including protecting the victims from the traffickers. The training should also take into account the need to consider human rights and child- and gender-sensitive issues and it should encourage cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.

3. A State Party that receives information shall comply with any request by the State Party that transmitted the information that places restrictions on its use.

#### *Article 11*

##### *Border measures*

I. Without prejudice to international commitments in relation to the free movement of people, States Parties shall strengthen, to the extent possible, such border controls as may be necessary to prevent and detect trafficking in persons.

2. Each State Party shall adopt legislative or other appropriate measures to prevent, to the extent possible, means of transport operated by commercial carriers from being used in the commission of offences established in accordance with article 5 of this Protocol.

3. Where appropriate, and without prejudice to applicable international conventions, such measures shall include establishing the



obligation of commercial carriers, including any transportation company or the owner or operator of any means of transport, to ascertain that all passengers are in possession of the travel documents required for entry into the receiving State.

4. Each State Party shall take the necessary measures, in accordance with its domestic law, to provide for sanctions in cases of violation of the obligation set forth in paragraph 3 of this article.

5. Each State Party shall consider taking measures that permit, in accordance with its domestic law, the denial of entry or revocation of visas of persons implicated in the commission of offences established in accordance with this Protocol.

6. Without prejudice to article 27 of the Convention, States Parties shall consider strengthening cooperation among border control agencies by, inter alia, establishing and maintaining direct channels of communication.

#### *Article 12*

##### *Security and control of documents*

Each State Party shall take such measures as may be necessary, within available means:

(a) To ensure that travel or identity documents issued by it are of such quality that they cannot easily be misused and cannot readily be falsified or unlawfully altered, replicated or issued; and

(b) To ensure the integrity and security of travel or identity documents issued by or on behalf of the State Party and to prevent their unlawful creation, issuance and use.

#### *Article 13*

##### *Legitimacy and validity of documents*

At the request of another State Party, a State Party shall, in accordance with its domestic law, verify within a reasonable time the legitimacy and validity of travel or identity documents issued or purported to have been issued

in its name and suspected of being used for trafficking in persons.

#### IV. Final provisions

##### *Article 14*

##### *Saving clause*

1. Nothing in this Protocol shall affect the rights, obligations and responsibilities of States and individuals under international law, including international humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and the principle of non-refoulement as contained therein.

2. The measures set forth in this Protocol shall be interpreted and applied in a way that is not discriminatory to persons on the ground that they are victims of trafficking in persons. The interpretation and application of those measures shall be consistent with internationally recognized principles of non-discrimination.

##### *Article 15*

##### *Settlement of disputes*

I. States Parties shall endeavour to settle disputes concerning the interpretation or application of this Protocol through negotiation.

2. Any dispute between two or more States Parties concerning the interpretation or application of this Protocol that cannot be settled through negotiation within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, anyone of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.

3. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Protocol, declare that it does not

consider itself bound by paragraph 2 of this article. The other States Parties shall not be bound by paragraph 2 of this article with respect to any State Party that has made such a reservation.

4. Any State Party that has made a reservation in accordance with paragraph 3 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

#### *Article 16*

*Signature, ratification, acceptance,  
approval and accession*

1. This Protocol shall be open to all States for signature from 12 to 15 December 2000 in Palermo, Italy, and thereafter at United Nations Headquarters in New York until 12 December 2002.

2. This Protocol shall also be open for signature by regional economic integration organizations provided that at least one member State of such organization has signed this Protocol in accordance with paragraph 1 of this article.

3. This Protocol is subject to ratification, acceptance or approval.

Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations. A regional economic integration organization may deposit its instrument of ratification, acceptance or approval if at least one of its member States has done likewise. In that instrument of ratification, acceptance or approval, such organization shall declare the extent of its competence with respect to the matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

4. This Protocol is open for accession by any State or any regional economic integration organization of which at least one member State is a Party to this Protocol. Instruments of accession shall be deposited with the Secretary-General of the United Nations. At the time of its accession, a

regional economic integration organization shall declare the extent of its competence with respect to matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

#### *Article 17*

##### *Entry into force*

I. This Protocol shall 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 I of this article, whichever is the later.

#### *Article 18*

##### *Amendment*

I. After the expiry of five years from the entry into force of this Protocol, a State Party to the Protocol may propose an amendment and file it with the Secretary-General of the United Nations, who shall thereupon communicate the proposed amendment to the States Parties and to the Conference of the Parties to the Convention for the purpose of considering and deciding on the proposal. The States Parties to this Protocol meeting at the Conference of the Parties shall make every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted and no agreement has been reached, the amendment shall, as a last resort, require for its adoption

a two-thirds majority vote of the States Parties to this Protocol present and voting at the meeting of the Conference of the Parties.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote under this article with a number of votes equal to the number of their member States that are Parties to this Protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs and vice versa.

3. An amendment adopted in accordance with paragraph I of this article is subject to ratification, acceptance or approval by States Parties.

4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party ninety days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment.

s. When an amendment enters into force, it shall be binding on those States Parties which have expressed their consent to be bound by it. Other States Parties shall still be bound by the provisions of this Protocol and any earlier amendments that they have ratified, accepted or approved.

#### *Article 19*

##### *Denunciation*

I. A State Party may denounce this 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.

2. A regional economic integration organization shall cease to be a Party to this Protocol when all of its member States have denounced it.

#### *Article 20*

##### *Depositary and languages*

1. The Secretary-General of the United Nations is designated depositary of this Protocol.

2. The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations. IN WITNESS WHERE OF, the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Protocol.

UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL  
ORGANIZED CRIME AND THE PROTOCOLS THERETO

## **Foreword**

With the signing of the United Nations Convention against Transnational Organized Crime in Palermo, Italy, in December 2000, the international community demonstrated the political will to answer a global challenge with a global response. If crime crosses borders, so must law enforcement. If the rule of law is undermined not only in one country, but in many, then those who defend it cannot limit themselves to purely national means. If the enemies of progress and human rights seek to exploit the openness and opportunities of globalization for their purposes, then we must exploit those very same factors to defend human rights and defeat the forces of crime, corruption and trafficking in human beings.

One of the starkest contrasts in our world today is the gulf that exists between the civil and the uncivil. By “civil” I mean civilization: the accumulated centuries of learning that form our foundation for progress. By “civil” I also mean tolerance: the pluralism and respect with which we accept and draw strength from the world’s diverse peoples. And finally, I mean civil society: the citizens’ groups, businesses, unions, professors, journalists, political parties and others who have an essential role to play in the running of any society.

Arrayed against these constructive forces, however, in ever greater numbers and with ever stronger weapons, are the forces of what I call “uncivil society”. They are terrorists, criminals, drug dealers, traffickers in people and others who undo the good works of civil society. They take advantage of the open borders, free markets and technological advances that bring so many benefits to the world’s people. They thrive in countries with weak institutions, and they show no scruple about resorting to intimidation or violence. Their ruthlessness is the very antithesis of all we regard as civil. They are powerful, representing entrenched interests and the clout of a global enterprise worth billions of dollars, but they are not invincible.

The Millennium Declaration adopted by the Heads of State meeting at the United Nations in September 2000 reaffirmed the principles underlying our efforts and should serve to encourage all who struggle for the rule of law. The Declaration states that “men and women have the right to live their lives and raise their children in dignity, free from hunger and from the fear of violence, oppression or injustice”.

At the Millennium Summit, world leaders proclaimed freedom—from fear and from want—as one of the essential values in the twenty-first century. Yet the right to live in dignity, free from fear and want, is still denied to millions of people around the world. It is denied to the child who is working as an indentured labourer in a sweatshop; to the father who must pay a bribe to get medical care for his son or daughter; to the woman who is condemned to a life of forced prostitution.

I believe the trafficking of persons, particularly women and children, for forced and exploitative labour, including for sexual exploitation, is one of the most egregious violations of human rights that the United Nations now con-fronts. It is widespread and growing. It is rooted in social and economic condi-tions in the countries from which the victims come, facilitated by practices that discriminate against women and driven by cruel indifference to human suffering on the part of those who exploit the services that the victims are forced to provide. The fate of these most vulnerable people in our world is an affront to human dignity and a challenge to every State, every people and every commu-nity. I therefore urge the Member States to ratify not only the United Nations Convention against Transnational Organized Crime, but also the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, which can make a real difference in the struggle to eliminate this reprehensible trade in human beings.



Criminal groups have wasted no time in embracing today's globalized economy and the sophisticated technology that goes with it. But our efforts to combat them have remained up to now very fragmented and our weapons almost obsolete. The Convention gives us a new tool to address the scourge of crime as a global problem. With enhanced international cooperation, we can have a real impact on the ability of international criminals to operate successfully and can help citizens everywhere in their often bitter struggle for safety and dignity in their homes and communities.

The signing of the Convention in Palermo in December 2000 was a water-shed event in the reinforcement of our fight against organized crime. I urge all States to ratify the Convention and the Protocols thereto at the earliest possible date and to bring these instruments into force as a matter of urgency.

*Kofi A. Annan*

*Secretary-General*

**General Assembly resolution 55/25  
of 15 November 2000**

**United Nations Convention against  
Transnational Organized Crime**

*The General Assembly,*

*Recalling* its resolution 53/111 of 9 December 1998, in which it decided to establish an open-ended intergovernmental ad hoc committee for the purpose of elaborating a comprehensive international convention against transnational organized crime and of discussing the elaboration, as appropriate, of inter-national instruments addressing trafficking in women and children, combating the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, and illegal trafficking in and transporting of migrants, including by sea,

*Recalling also* its resolution 54/126 of 17 December 1999, in which it requested the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime to continue its work, in accordance with resolutions 53/111 and 53/114 of 9 December 1998, and to intensify that work in order to complete it in 2000,

*Recalling further* its resolution 54/129 of 17 December 1999, in which it accepted with appreciation the offer of the Government of Italy to host a high-level political signing conference in Palermo for the purpose of signing the United Nations Convention against Transnational Organized Crime (Palermo Convention) and the protocols thereto, and requested the Secretary-General to schedule the conference for a period of up to one week before the end of the Millennium Assembly in 2000,

*Expressing its appreciation* to the Government of Poland for submitting to it at its fifty-first session a first draft United Nations convention against transnational organized crime<sup>1</sup> and for hosting the meeting of the inter-sessional open-ended

intergovernmental group of experts, established pursuant to resolution 52/85 of 12 December 1997, on the elaboration of a preliminary draft of a possible comprehensive international convention against transnational organized crime, held in Warsaw from 2 to 6 February 1998,

*Expressing its appreciation* to the Government of Argentina for hosting the informal preparatory meeting of the Ad Hoc Committee, held in Buenos Aires from 31 August to 4 September 1998,

*Expressing its appreciation* to the Government of Thailand for hosting the Asia-Pacific Ministerial Seminar on Building Capacities for Fighting Trans-national Organized Crime, held in Bangkok on 20 and 21 March 2000,

*Deeply concerned* by the negative economic and social implications related to organized criminal activities, and convinced of the urgent need to strengthen cooperation to prevent and combat such activities more effectively at the national, regional and international levels,

*Noting with deep concern* the growing links between transnational organized crime and terrorist crimes, taking into account the Charter of the United Nations and the relevant resolutions of the General Assembly,

*Determined* to deny safe havens to those who engage in transnational organized crime by prosecuting their crimes wherever they occur and by cooperating at the international level,

*Strongly convinced* that the United Nations Convention against Trans-national Organized Crime will constitute an effective tool and the necessary legal framework for international cooperation in combating, inter alia, such criminal activities as

money-laundering, corruption, illicit trafficking in endangered species of wild flora and fauna, offences against cultural heritage and the growing links between transnational organized crime and terrorist crimes,

1. *Takes note* of the report of the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime,<sup>2</sup> which carried out its work at the headquarters of the United Nations Office for Drug Control and Crime Prevention in Vienna, and commends the Ad Hoc Committee for its work;

2. *Adopts* the United Nations Convention against Transnational Organized Crime and 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 Annex I the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime annexed to the present resolution, and opens them for signature at the High-level Political Signing Conference to be held in Palermo, Italy, from 12 to 15 December 2000 in accordance with resolution 54/129;

3. *Requests* the Secretary-General to prepare a comprehensive report on the High-level Political Signing Conference to be held in Palermo in accordance with resolution 54/129;

4. *Notes* that the Ad Hoc Committee has not yet completed its work on the draft Protocol against the Illicit Manufacturing of and Trafficking in Fire-arms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime;

5. *Requests* the Ad Hoc Committee to continue its work in relation to this draft Protocol, in accordance with resolutions 53/111, 53/114 and 54/126, and to finalize such work as soon as possible;

6. *Calls upon* all States to recognize the links between transnational organized criminal activities and acts of terrorism, taking into account the relevant General Assembly resolutions, and to apply the United Nations Convention against Transnational Organized Crime in combating all forms of criminal activity, as provided therein;

7. *Recommends* that the Ad Hoc Committee established by the General Assembly in its resolution 51/210 of 17 December 1996, which is beginning its deliberations with a view to developing a comprehensive convention on international terrorism, pursuant to resolution 54/110 of 9 December 1999, should take into consideration the provisions of the United Nations Convention against Transnational Organized Crime;

8. *Urges* all States and regional economic organizations to sign and ratify the United Nations Convention against Transnational Organized Crime and the protocols thereto as soon as possible in order to ensure the speedy entry into force of the Convention and the protocols thereto;

9. *Decides* that, until the Conference of the Parties to the Convention established pursuant to the United Nations Convention against Transnational Organized Crime decides otherwise, the account referred to in article 30 of the Convention will be operated within the United Nations Crime Prevention and Criminal Justice Fund, and encourages Member States to begin making adequate voluntary contributions to the above-mentioned account for the provision to developing countries and countries with economies in transition of the technical assistance that they might require for

implementation of the Convention and the protocols thereto, including for the preparatory measures needed for that implementation;

10. Decides also that the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime will complete its tasks arising from the elaboration of the United Nations Convention against Transnational Organized Crime by holding a meeting well before the convening of the first session of the Conference of the Parties to the Convention, in order to prepare the draft text of the rules of procedure for the Conference of the Parties and other rules and mechanisms described in article 32 of the Convention, which will be communicated to the Conference of the Parties at its first session for consideration and action;

11. Requests the Secretary-General to designate the Centre for International Crime Prevention of the United Nations Office for Drug Control and Crime Prevention to serve as the secretariat for the Conference of the Parties to the Convention in accordance with article 33 of the Convention;

12. Also requests the Secretary-General to provide the Centre for International Crime Prevention with the resources necessary to enable it to promote in an effective manner the expeditious entry into force of the United Nations Convention against Transnational Organized Crime and to discharge the functions of secretariat of the Conference of the Parties to the Convention, and to support the Ad Hoc Committee in its work pursuant to paragraph 10 above.

**United Nations Convention against  
Transnational Organized Crime**

Article 1. Statement of purpose

The purpose of this Convention is to promote cooperation to prevent and combat transnational organized crime more effectively.

Article 2. Use of terms

For the purposes of this Convention:

- (a) “Organized criminal group” shall mean a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit;
- (b) “Serious crime” shall mean conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty;
- (c) “Structured group” shall mean a group that is not randomly formed for the immediate commission of an offence and that does not need to have formally defined roles for its members, continuity of its membership or a developed structure;

(d) “Property” shall mean assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to, or interest in, such assets;

(e) “Proceeds of crime” shall mean any property derived from or obtained, directly or indirectly, through the commission of an offence;

(f) “Freezing” or “seizure” shall mean temporarily prohibiting the transfer, conversion, disposition or movement of property or temporarily assuming custody or control of property on the basis of an order issued by a court or other competent authority;

(g) “Confiscation”, which includes forfeiture where applicable, shall mean the permanent deprivation of property by order of a court or other competent authority;

(h) “Predicate offence” shall mean any offence as a result of which proceeds have been generated that may become the subject of an offence as defined in article 6 of this Convention;

(i) “Controlled delivery” shall mean the technique of allowing illicit or suspect consignments to pass out of, through or into the territory of one or more States, with the knowledge and under the supervision of their competent authorities, with a view to the investigation of an offence and the identification of persons involved in the commission of the offence;

(j) “Regional economic integration organization” shall mean an organization constituted by sovereign States of a given region, to which its member States have transferred competence in respect of matters governed by this Convention and which has been duly authorized, in accordance with its internal procedures, to sign, ratify,



accept, approve or accede to it; references to “States Parties” under this Convention shall apply to such organizations within the limits of their competence.

*Article 3. Scope of application*

1. This Convention shall apply, except as otherwise stated herein, to the prevention, investigation and prosecution of:

(a) The offences established in accordance with articles 5, 6, 8 and 23 of this Convention; and

(b) Serious crime as defined in article 2 of this Convention;

where the offence is transnational in nature and involves an organized criminal group.

2. For the purpose of paragraph 1 of this article, an offence is trans-national in nature if:

(a) It is committed in more than one State;

(b) It is committed in one State but a substantial part of its preparation, planning, direction or control takes place in another State;

(c) It is committed in one State but involves an organized criminal group that engages in criminal activities in more than one State; or

(d) It is committed in one State but has substantial effects in another State.

*Article 4. Protection of sovereignty*

1. States Parties shall carry out their obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.
2. Nothing in this Convention entitles a State Party to undertake in the territory of another State the exercise of jurisdiction and performance of functions that are reserved exclusively for the authorities of that other State by its domestic law.

*Article 5. Criminalization of participation in an*

*organized criminal group*

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:
  - (a) Either or both of the following as criminal offences distinct from those involving the attempt or completion of the criminal activity:
    - (i) Agreeing with one or more other persons to commit a serious crime for a purpose relating directly or indirectly to the obtaining of a financial or other material benefit and, where required by domestic law, involving an act undertaken by one of the participants in furtherance of the agreement or involving an organized criminal group;

(ii) Conduct by a person who, with knowledge of either the aim and general criminal activity of an organized criminal group or its intention to commit the crimes in question, takes an active part in:

a. Criminal activities of the organized criminal group;

b. Other activities of the organized criminal group in the knowledge that his or her participation will contribute to the achievement of the above-described criminal aim;

(b) Organizing, directing, aiding, abetting, facilitating or counselling the commission of serious crime involving an organized criminal group.

2. The knowledge, intent, aim, purpose or agreement referred to in para-graph 1 of this article may be inferred from objective factual circumstances.

3. States Parties whose domestic law requires involvement of an organized criminal group for purposes of the offences established in accordance with paragraph 1 (a) (i) of this article shall ensure that their domestic law covers all serious crimes involving organized criminal groups. Such States Parties, as well as States Parties whose domestic law requires an act in furtherance of the agreement for purposes of the offences established in accordance with para-graph 1 (a) (i) of this article, shall so inform the Secretary-General of the United Nations at the time of their signature or of deposit of their instrument of ratification, acceptance or approval of or accession to this Convention.

*Article 6. Criminalization of the laundering of proceeds of crime*

1. Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) (i) The conversion or transfer of property, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the predicate offence to evade the legal consequences of his or her action;

(ii) The concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of crime;

(b) Subject to the basic concepts of its legal system:

(i) The acquisition, possession or use of property, knowing, at the time of receipt, that such property is the proceeds of crime;

(ii) Participation in, association with or conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the offences established in accordance with this article.

2. For purposes of implementing or applying paragraph 1 of this article:

(a) Each State Party shall seek to apply paragraph 1 of this article to the widest range of predicate offences;

(b) Each State Party shall include as predicate offences all serious crime as defined in article 2 of this Convention and the offences established in accordance with articles

5, 8 and 23 of this Convention. In the case of States Parties whose legislation sets out a list of specific predicate offences, they shall, at a minimum, include in such list a comprehensive range of offences associated with organized criminal groups;

(c) For the purposes of subparagraph (b), predicate offences shall include offences committed both within and outside the jurisdiction of the State Party in question. However, offences committed outside the jurisdiction of a State Party shall constitute predicate offences only when the relevant conduct is a criminal offence under the domestic law of the State where it is committed and would be a criminal offence under the domestic law of the State Party implementing or applying this article had it been committed there;

(d) Each State Party shall furnish copies of its laws that give effect to this article and of any subsequent changes to such laws or a description thereof to the Secretary-General of the United Nations;

(e) If required by fundamental principles of the domestic law of a State Party, it may be provided that the offences set forth in paragraph 1 of this article do not apply to the persons who committed the predicate offence;

(f) Knowledge, intent or purpose required as an element of an offence set forth in paragraph 1 of this article may be inferred from objective factual circumstances.

*Article 7. Measures to combat money-laundering*

1. Each State Party:

(a) Shall institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions and, where appropriate, other bodies particularly susceptible to money-laundering, within its competence, in order to deter and detect all forms of money-laundering, which regime shall emphasize requirements for customer identification, record-keeping and the reporting of suspicious transactions;

(b) Shall, without prejudice to articles 18 and 27 of this Convention, ensure that administrative, regulatory, law enforcement and other authorities dedicated to combating money-laundering (including, where appropriate under domestic law, judicial authorities) have the ability to cooperate and exchange information at the national and international levels within the conditions prescribed by its domestic law and, to that end, shall consider the establishment of a financial intelligence unit to serve as a national centre for the collection, analysis and dissemination of information regarding potential money-laundering.

2. States Parties shall consider implementing feasible measures to detect and monitor the movement of cash and appropriate negotiable instruments across their borders, subject to safeguards to ensure proper use of information and without impeding in any way the movement of legitimate capital. Such measures may include a requirement that individuals and businesses report the cross-border transfer of substantial quantities of cash and appropriate negotiable instruments.

3. In establishing a domestic regulatory and supervisory regime under the terms of this article, and without prejudice to any other article of this Convention, States Parties are called upon to use as a guideline the relevant initiatives of regional, interregional and multilateral organizations against money-laundering.

4. States Parties shall endeavour to develop and promote global, regional, subregional and bilateral cooperation among judicial, law enforcement and financial regulatory authorities in order to combat money-laundering.

*Article 8. Criminalization of corruption*

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

(a) The promise, offering or giving to a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties;

(b) The solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.

2. Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences conduct referred to in paragraph 1 of this article involving a foreign public official or international civil servant. Likewise, each State Party shall consider establishing as criminal offences other forms of corruption.

3. Each State Party shall also adopt such measures as may be necessary to establish as a criminal offence participation as an accomplice in an offence established in accordance with this article.

4. For the purposes of paragraph 1 of this article and article 9 of this Convention, “public official” shall mean a public official or a person who provides a public service as defined in the domestic law and as applied in the criminal law of the State Party in which the person in question performs that function.

*Article 9. Measures against corruption*

1. In addition to the measures set forth in article 8 of this Convention, each State Party shall, to the extent appropriate and consistent with its legal system, adopt legislative, administrative or other effective measures to promote integrity and to prevent, detect and punish the corruption of public officials.

2. Each State Party shall take measures to ensure effective action by its authorities in the prevention, detection and punishment of the corruption of public officials, including providing such authorities with adequate independence to deter the exertion of inappropriate influence on their actions.

*Article 10. Liability of legal persons*

1. Each State Party shall adopt such measures as may be necessary, consistent with its legal principles, to establish the liability of legal persons for participation in serious crimes involving an organized criminal group and for the offences established in accordance with articles 5, 6, 8 and 23 of this Convention.

2. Subject to the legal principles of the State Party, the liability of legal persons may be criminal, civil or administrative.

3. Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offences.



4. Each State Party shall, in particular, ensure that legal persons held liable in accordance with this article are subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions.

*Article 11. Prosecution, adjudication and sanctions*

1. Each State Party shall make the commission of an offence established in accordance with articles 5, 6, 8 and 23 of this Convention liable to sanctions that take into account the gravity of that offence.

2. Each State Party shall endeavour to ensure that any discretionary legal powers under its domestic law relating to the prosecution of persons for offences covered by this Convention are exercised to maximize the effectiveness of law enforcement measures in respect of those offences and with due regard to the need to deter the commission of such offences.

In the case of offences established in accordance with articles 5, 6, 8 and 23 of this Convention, each State Party shall take appropriate measures, in accordance with its domestic law and with due regard to the rights of the defence, to seek to ensure that conditions imposed in connection with decisions on release pending trial or appeal take into consideration the need to ensure the presence of the defendant at subsequent criminal proceedings.

4. Each State Party shall ensure that its courts or other competent authorities bear in mind the grave nature of the offences covered by this Convention when considering the eventuality of early release or parole of persons convicted of such offences.

5. Each State Party shall, where appropriate, establish under its domestic law a long statute of limitations period in which to commence proceedings for any offence covered by this Convention and a longer period where the alleged offender has evaded the administration of justice.

6. Nothing contained in this Convention shall affect the principle that the description of the offences established in accordance with this Convention and of the applicable legal defences or other legal principles controlling the lawfulness of conduct is reserved to the domestic law of a State Party and that such offences shall be prosecuted and punished in accordance with that law.

*Article 12. Confiscation and seizure*

1. States Parties shall adopt, to the greatest extent possible within their domestic legal systems, such measures as may be necessary to enable confiscation of:

(a) Proceeds of crime derived from offences covered by this Convention or property the value of which corresponds to that of such proceeds;

(b) Property, equipment or other instrumentalities used in or destined for use in offences covered by this Convention.

2. States Parties shall adopt such measures as may be necessary to enable the identification, tracing, freezing or seizure of any item referred to in paragraph 1 of this article for the purpose of eventual confiscation.

3. If proceeds of crime have been transformed or converted, in part or in full, into other property, such property shall be liable to the measures referred to in this article instead of the proceeds.

4. If proceeds of crime have been intermingled with property acquired from legitimate sources, such property shall, without prejudice to any powers relating to freezing or seizure, be liable to confiscation up to the assessed value of the intermingled proceeds.

5. Income or other benefits derived from proceeds of crime, from property into which proceeds of crime have been transformed or converted or from property with which proceeds of crime have been intermingled shall also be liable to the measures referred to in this article, in the same manner and to the same extent as proceeds of crime.

6. For the purposes of this article and article 13 of this Convention, each State Party shall empower its courts or other competent authorities to order that bank, financial or commercial records be made available or be seized. States Parties shall not decline to act under the provisions of this paragraph on the ground of bank secrecy.

7. States Parties may consider the possibility of requiring that an offender demonstrate the lawful origin of alleged proceeds of crime or other property liable to confiscation, to the extent that such a requirement is consistent with the principles of their domestic law and with the nature of the judicial and other proceedings.

8. The provisions of this article shall not be construed to prejudice the rights of bona fide third parties.

9. Nothing contained in this article shall affect the principle that the measures to which it refers shall be defined and implemented in accordance with and subject to the provisions of the domestic law of a State Party.

*Article 13. International cooperation for purposes of confiscation*

1. A State Party that has received a request from another State Party having jurisdiction over an offence covered by this Convention for confiscation of proceeds of crime, property, equipment or other instrumentalities referred to in article 12, paragraph 1, of this Convention situated in its territory shall, to the greatest extent possible within its domestic legal system:

(a) Submit the request to its competent authorities for the purpose of obtaining an order of confiscation and, if such an order is granted, give effect to it; or

(b) Submit to its competent authorities, with a view to giving effect to it to the extent requested, an order of confiscation issued by a court in the territory of the requesting State Party in accordance with article 12, paragraph 1, of this Convention insofar as it relates to proceeds of crime, property, equipment or other instrumentalities referred to in article 12, paragraph 1, situated in the territory of the requested State Party.

2. Following a request made by another State Party having jurisdiction over an offence covered by this Convention, the requested State Party shall take measures to identify, trace and freeze or seize proceeds of crime, property,