



THE PRESIDENT  
OF THE  
GENERAL ASSEMBLY

6 May 2009

Excellency,

In my letter of 1 May 2009, I informed your Excellency of the convening of an interactive Thematic Dialogue on “*Taking collective action to end human trafficking*” on Wednesday, 13 May 2009 in the Trusteeship Council Chamber. In the same letter, I have also made reference to a forthcoming Background paper of the Secretary-General as an input to our dialogue.

I am pleased to inform you that I have now received a letter and the Background paper from the Secretary-General, which has been posted on my official website, in order to keep the United Nations green. I invite your Excellency to access the website at <http://www.un.org/ga/president/63/> to review the document prior to our thematic dialogue. More information regarding the format for the dialogue and the panelists will be sent shortly.

Please accept, Excellency, the assurances of my highest consideration.

A handwritten signature in black ink, appearing to read 'Miguel d'Escoto Brockmann', with a horizontal line underneath.

Miguel d'Escoto Brockmann

All Permanent Representatives and  
Permanent Observers to the United Nations  
New York



THE SECRETARY-GENERAL

5 May 2009

Dear Mr. President,

I have the honour to refer to General Assembly resolution 63/194 adopted on 18 December 2008 with respect to improving the coordination of efforts against trafficking in persons. In accordance with the provisions of paragraph 11 of the resolution, I have the honour to transmit herewith a background paper to the General Assembly on the aforementioned issue.

The report summarizes the views of a broad and diverse group of Member States, international organizations and civil society stakeholders on a wide range of specific measures to ensure the full and effective implementation of all legal instruments relevant to trafficking in persons, particularly the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Trafficking in Persons Protocol). It also makes concrete recommendations on how to achieve the full and effective coordination of international efforts against trafficking in persons.

This report also includes, in Annex II, the recommendations emanating from the meetings on 14 to 15 April 2009 of the Working Group on Trafficking in Persons, established by the Conference of the Parties to the United Nations Convention against Transnational Organized Crime. The Working Group formulated recommendations to the Conference on how better to implement the Trafficking Protocol and to coordinate anti-trafficking activities. These recommendations complement the report.

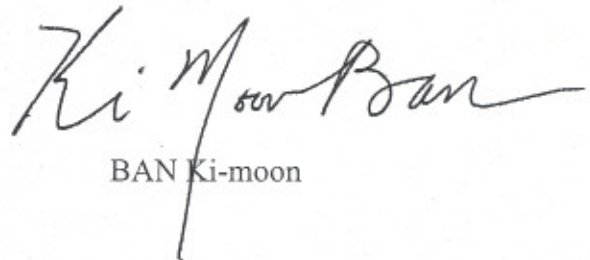
Finally, the report includes, in Annex III, the narrative of the Framework for Action for effective implementation of the Trafficking in Persons Protocol, which is being developed by experts from international organizations. The Framework for Action is a technical assistance tool that provides operational measures in the three areas of prevention, protection and prosecution, as well as coordination and cooperation. It therefore constitutes an additional resource that may facilitate Member States' consideration of effective international responses to the problem of trafficking in persons.

His Excellency  
Mr. Miguel d'Escoto Brockmann  
President of the General Assembly  
New York

It is my hope that Member States will view this background paper, together with its two annexes, as providing a rich and varied set of proposals, from a cross section of interested stakeholders, that may contribute to a useful and action-orientated discussion of the General Assembly during its thematic debate on taking collective action to end human trafficking, to be held on 13 May 2009. In this regard, the release date of this background paper has been moved forward to accommodate the request of Member States to release it in advance of the thematic dialogue.

I should be grateful if you would bring the attached background paper to the attention of the members of the General Assembly.

Please accept, Mr. President, the assurances of my highest consideration.



BAN Ki-moon

## **Improving the coordination of efforts against trafficking in persons**

### **Background paper of the Secretary-General**

#### **Summary**

Pursuant to General Assembly resolution 63/194 of 18 December 2008, entitled “Improving the coordination of efforts against trafficking in persons”, the present paper summarizes the views of a broad and diverse group of Member States, international organizations, and civil society stakeholders on a wide range of specific measures to ensure the full and effective implementation of all legal instruments relevant to trafficking in persons, particularly the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and to achieve the full and effective coordination of efforts against trafficking in persons.

The paper also summarizes responses that address the advisability of adopting a Global Plan of Action on preventing trafficking in persons, prosecuting traffickers, and protecting and assisting victims of trafficking, including its potential value in ensuring efficient and coordinated action against trafficking in persons.

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## Introduction

In its resolution 63/194 of 18 December 2008, entitled “Improving the coordination of efforts against trafficking in persons,” the General Assembly called upon the Secretary-General to collect the views of all stakeholders, including Member States and regional and international organizations, on how to achieve the full and effective coordination of efforts against trafficking in persons of all Member States, organizations, machineries, treaty bodies and all other partners within and outside the United Nations system, including civil society, and to ensure the full and effective implementation of all legal instruments relevant to trafficking in persons, particularly the United Nations Convention against Transnational Organized Crime (Organized Crime Convention) and the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children (Trafficking in Persons Protocol), supplementing the Organized Crime Convention, and submit a background paper to the General Assembly at its sixty-third session.

General Assembly resolution 63/194 also invited Member States to accelerate the consideration of the advisability of a Global Plan of Action on preventing trafficking in persons, prosecuting traffickers and protecting and assisting victims of trafficking.

The present paper, and the conclusions drawn herein, reflects the responses received from stakeholders consulted through a note verbale sent to all Member States and a letter sent to over 500 United Nations agencies and regional commissions, inter-governmental organizations and non-governmental organizations. A total of 100 Member States responded individually or collectively. A total of 31 entities, intergovernmental or non-governmental organizations also submitted responses. The list of respondents is included in Annex I.

The paper also refers to recommendations emanating from the Open-ended Interim Working Group on Trafficking in Persons, which was held in Vienna on 14 and 15 April 2009. The Working Group, established by the Conference of the Parties to the Organized Crime Convention, was mandated, *inter alia*, to make recommendations to the Conference on how to better implement the Trafficking in Persons Protocol and better coordinate with

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the various international bodies combating trafficking in persons. The full text of the Working Group's recommendations can be found in Annex II of the present paper.<sup>1</sup>

Finally, the report includes, in Annex III, the narrative of the Framework for Action for effective implementation the Trafficking in Persons Protocol, which is being developed by experts from international organizations. The Framework for Action is a technical assistance tool that provides operational measures in the three areas of prevention, protection and prosecution, as well as coordination and cooperation. It therefore constitutes an additional resource in the consideration of effective international responses to trafficking in persons.

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<sup>1</sup> For the full text of the report of the Working Group, see CTOC/COP/WG.4/2009/2.

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## I. How to ensure full and effective implementation of relevant legal instruments

### A. Achieve universal adherence to all relevant legal instruments

Responses emphasized the importance of ratifying and implementing legal instruments relevant to trafficking in persons, in particular those **related to human rights, forced labour, protection of women and children.** <sup>2</sup>

Responses focused especially on the **Trafficking in Persons Protocol** adopted in 2000 to supplement the Organized Crime Convention. While 128 States have become Parties to the Trafficking in Persons Protocol, **64 States** <sup>3</sup> **have yet to ratify or accede to it.** According to the UNODC Global Report on Trafficking in Persons (2009), many of the non-parties to the Trafficking in Persons Protocol are States that face substantial challenges with trafficking in persons. **Achieving universal adherence to the Trafficking in Persons Protocol is therefore crucial to effectively combat trafficking in persons.** <sup>4</sup>

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<sup>2</sup> International Labour Organization (ILO) Convention Concerning Forced or Compulsory Labour, 1930 (173 states parties); ILO Convention Concerning the Abolition of Forced Labour, 1957 (169 states parties); ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the worst Forms of Child Labour, 1999 (169 states parties); United Nations Convention on the Rights of the Child, 1989 (191 states parties); Optional Protocol to the United Nations Convention on the Rights of the Child on the involvement of children in armed conflicts, 2000 (127 states parties); Optional Protocol to the United Nations Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, 2000 (130 states parties); United Nations Convention on the Elimination of All Forms of Discrimination against Women, 1979 (185 states parties); Council of Europe Convention on Action against Trafficking in Human Beings, 2005 (20 States parties).

<sup>3</sup> Afghanistan, Andorra, Angola, Antigua and Barbuda, Bangladesh, Barbados, Bhutan, Brunei Darussalam, Chad, China, Comoros, Congo, Côte d'Ivoire, Cuba, Czech Republic, Democratic People's Republic of Korea, Dominica, Eritrea, Ethiopia, Fiji, Gabon, Ghana, Greece, Haiti, Iceland, India, Indonesia, Ireland, Islamic Republic of Iran, Japan, Jordan, Maldives, Marshall Islands, Micronesia, Morocco, Nauru, Nepal, Pakistan, Palau, Papua New Guinea, Qatar, Republic of Korea, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Sierra Leone, Singapore, Sri Lanka, Solomon Islands, Somalia, Sudan, Swaziland, Syrian Arab Republic, Thailand, Timor-Leste, Togo, Tonga, Tuvalu, Vanuatu, Viet Nam, Yemen, Zimbabwe.

<sup>4</sup> See recommendations 2 and 3 of the Open-ended Interim Working Group on Trafficking in Persons (Annex II).



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## B. Adequately criminalize trafficking in persons

Full and effective **criminalization of trafficking in all its aspects** – through legislation covering the whole range of victims, as well as the widest range of exploitative purposes - is essential. This is a prerequisite not only for domestic prosecution of traffickers, but also for international judicial cooperation.

Lack of adequate national legislation on trafficking in persons was identified by respondents as an obstacle to effective implementation of the Trafficking in Persons Protocol.<sup>5</sup> Other obstacles to effective criminalization included confusion surrounding the definition of certain terms, leading to difficulties in the implementation of the Trafficking in Persons Protocol.<sup>6</sup> It was also noted that **criminalization of activities that facilitate, are associated with or are related to trafficking in persons** should not be overlooked.<sup>7</sup> This will ensure that trafficking in persons is addressed from multiple angles, increasing the chances of successful prosecutions.

When discussing a possible **Global Plan of Action**, respondents emphasized that such Plan would help **ensure consistency of national frameworks with international instruments**.<sup>8</sup> However, other respondents noted that a Global Plan of Action might divert valuable resources and attention from on-the-ground efforts to implement the Trafficking in Persons Protocol.<sup>9</sup>

## C. Prevent victimization and discourage demand through awareness raising

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<sup>5</sup> Bangladesh, Belarus, Kuwait, Kenya, European Police Office (EUROPOL), International Organization for Migration (IOM).

<sup>6</sup> Bangladesh, Canada, Germany, Sudan, Switzerland, Uzbekistan, Soroptimist International, Suzanne Mubarak Women's Peace Movement/ End Human Trafficking Now (SMWIPM/EHTN). See also recommendation 6 of the Open-ended Interim Working Group on Trafficking in Persons (Annex II).

<sup>7</sup> See recommendation 5 of the Open-ended Interim Working Group on Trafficking in Persons (Annex II).

<sup>8</sup> African Group, Belarus, Ecuador, La Strada .

<sup>9</sup> United Kingdom, USA.

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Respondents noted the importance of prevention through both widespread **awareness raising campaigns directed at the general public**<sup>10</sup> as well as campaigns targeted at specific groups and **communities vulnerable to trafficking**.<sup>11</sup> Local contexts must be fully considered when developing plans of communication.<sup>12</sup>

Achieving this objective requires effective **utilisation of mass media**,<sup>13</sup> including better sensitization of the cinema industry, TV channels and the press concerning the way trafficking is reported,<sup>14</sup> as well as the use of important public events or personalities to promote awareness campaigns.<sup>15</sup> It also should involve practitioners in the development of audiovisual material and documentaries,<sup>16</sup> as well as the use of free information hotlines.

Educational and awareness raising programmes on the reality of trafficking in persons should **reach clients or potential clients of sexual services** and increase their understanding of trafficking in persons and violence against women.<sup>17</sup>

Demand for services or products that foster **labour exploitation** could be discouraged by raising public awareness of the many kinds of products that result from forced or exploited labour,<sup>18</sup> by improved awareness that diverse forms of trafficking for labour exploitation do not only constitute breaches of labour laws

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<sup>10</sup> Bangladesh, Czech Republic, France, Latvia, United Arab Emirates, Uruguay, United Nations Division for the Advancement of Women ( UNDAW), United Nations Children’s Fund (UNICEF), Caritas Internationalis, SMWIPM/EHTN.

<sup>11</sup> Bangladesh, Belarus, Belgium, Bulgaria, Czech Republic, Ecuador, France, Latvia, Poland, Slovenia, Turkey, Uruguay, Uzbekistan, UNDAW, African Institute for the Prevention of Crime and the Treatment of offenders (UNAFRI), International Centre of Migration Policy Development (ICMPD), National Council of German Women Organizations ( NCGW), SMWIPM/EHTN. See recommendation 7 of the Open-ended Interim Working Group on Trafficking in Persons (Annex II).

<sup>12</sup> Bangladesh, France, Working Meeting of Eastern African States, UNAFRI, SMWIPM/EHTN.

<sup>13</sup> Argentina, Belarus, Bulgaria, Ecuador, France, Greece, Kenya, Latvia, Malta, Mexico, Qatar, Sri Lanka, Turkey, Uruguay, Uzbekistan, EUROPOL, Caritas Internationalis.

<sup>14</sup> Peru, UNDAW, Commonwealth of Independent States ( CIS), European Commission (EC), EUROPOL. See also International Development Law Organization (IDLO)-Manual on International Law and Standards Applicable in Disaster Situations .

<sup>15</sup> Belarus, Bulgaria, Germany, Uruguay, International Council of Women (ICW).

<sup>16</sup> Cambodia, Greece, Caritas Internationalis.

<sup>17</sup>United Nations Economic and Social Commission for Asia and the Pacific ( ESCAP), SMWIPM/EHTN.

<sup>18</sup> Belarus, Estonia, USA, SMWIPM/EHTN.

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but in fact criminal offences.<sup>19</sup> Increasing media coverage of prosecutions of offenders and real-life examples of victims are also important.<sup>20</sup>

Some respondents argued that a **Global Plan of Action** could contribute to raising awareness of a wide range of stakeholders such as the business community, civil society and international mass media and could provide incentives to business to take an active stand and help stage a mass media campaign.<sup>21</sup>

## **D. End impunity of those who traffic in persons**

The UNODC Global Report on Trafficking in Persons (2009) concluded that, although the **number of convictions** of traffickers is increasing, impunity remains a significant problem. To date, two-fifths of the countries covered by the report have not reported a single conviction for trafficking in persons.<sup>22</sup> Responses received identified key factors that must be addressed to strengthen the capacity of criminal justice systems to try and convict those who traffic in persons.

**Front line law enforcement officials** – police, labour inspectors, immigration, and border guards – play the single most critical role in identifying trafficked persons and perpetrators, ensuring victim safety, and referring victims to appropriate support services.<sup>23</sup> Trafficking for forced labour, especially in the agriculture, catering and construction sectors,<sup>24</sup> was identified as a particularly weak point in efforts to combat trafficking<sup>25</sup> and one where training of law enforcement officials was urgently needed.

**Specialised investigation teams** or units focusing on trafficking in persons cases,<sup>26</sup> with power to undertake or supervise all trafficking investigations in the country, can help end

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<sup>19</sup> See recommendation 10 of the Open-ended Interim Working Group on Trafficking in Persons (Annex II).

<sup>20</sup> Estonia, France, Sri Lanka, Asian Development Bank (ADB), EUROPOL.

<sup>21</sup> African Group, Belarus.

<sup>22</sup> UNODC Global Report on Trafficking (2009).

<sup>23</sup> See recommendation 8 of the Open-ended Interim Working Group on Trafficking in Persons (Annex II).

<sup>24</sup> See UNODC indicators for forced labour.

<sup>25</sup> Estonia, Germany, EC.

<sup>26</sup> Australia, France, Germany, Greece, Netherlands, Sri Lanka, UNDAW, CIS, EUROPOL. See also Gallagher, A. and Holmes, P., “Developing an Effective Criminal Justice Response to Human Trafficking”, *International Criminal Justice Review*, Vol.18, no.3, 2008.

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impunity. Such units should be granted adequate powers and trained to correctly use all available investigative techniques, including special investigative techniques such as telecom surveillance, undercover officers, or paid informants.<sup>27</sup>

**Inefficient or corrupt prosecutorial or judicial authorities compromise effective investigations.** Prosecutorial services must develop skills adequate to meet the challenges of prosecuting trafficking cases<sup>28</sup> – which typically present complex evidentiary requirements, reluctant witnesses, and specific legislation. States should consider **establishing specialized teams of prosecutors** to handle trafficking cases,<sup>29</sup> as well as specialization of investigators to tackle the financial aspects of trafficking.<sup>30</sup> Another recommendation is the development of, and training of judges, in **appropriate court practices and procedures** that support both victims and witnesses in order to contribute to more successful prosecutions.

In many countries victims of trafficking are repeatedly arrested, charged and prosecuted for offences committed as a direct consequence of their having been trafficked, such as unlawful entry in the territory, working illegally, holding false documentation or engaging in illegal prostitution. A number of responses referred to the **criminalization of trafficked persons**<sup>31</sup> in such situations as a significant obstacle to effective investigations and prosecution of traffickers. The Trafficking in Persons Protocol does not address this phenomenon, but there may be an emerging consensus that a more humane approach to victims is required.<sup>32</sup>

## **E. Protect victims**

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<sup>27</sup> Belgium, Germany, EC, EUROPOL.

<sup>28</sup> Argentina, Austria, Bangladesh, Belarus, Bosnia, Cambodia, Canada, Ecuador, Egypt, France, Malta, Mexico, Netherlands, Norway, Poland, Qatar, Slovenia, Sri Lanka, Sudan, Turkey, United Kingdom, Uruguay, United States, UNAFRI, UNDAW, UNICEF, EUROPOL, Human Rights Watch (HRW), Soroptimist International, SMWIPM/EHTN, Terre des Hommes International Federation.

<sup>29</sup> Uruguay, UNDAW.

<sup>30</sup> Belgium.

<sup>31</sup> Belarus, Canada, France Netherlands, Qatar, USA, EUROPOL

<sup>32</sup>. See recommendation 11 of the Open-ended Interim Working Group on Trafficking in Persons (Annex II).

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**Lack of victim identification** is one of the primary obstacles to adequate protection of victims and their access to assistance.<sup>33</sup> Respondents elaborated on difficulties associated with victim identification as well as victim cooperation with law enforcement, including fear of police, lack of awareness of their status as victims and their legal rights,<sup>34</sup> uncertainty about outcome of detection, fear of reprisal from traffickers<sup>35</sup> and fear of stigmatisation in their communities of origin.<sup>36</sup>

Against this background, and irrespective of their involvement in the criminal justice process, victims should be provided with **immediate support and protection**. Anti-trafficking legislation should criminalize threatening or intimidating a victim or witness of trafficking. Many respondents emphasized the need for more rehabilitation and reintegration programmes,<sup>37</sup> including access to education, training and employment. Minimum protection standards, such as providing lodging in shelters, ensuring victim privacy, and providing medical and psychological support<sup>38</sup> as well as **legal advice and assistance**,<sup>39</sup> must be developed and applied. Criminal justice practitioners and social workers must be adequately and sensitively trained.<sup>40</sup>

Respondents emphasized the need for increased funding of social services<sup>41</sup> and pointed at lack of funding to accommodate victim needs<sup>42</sup> as an obstacle to effective victim

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<sup>33</sup> Belarus, Canada, Estonia, Germany, Mongolia, Poland, UNAFRI, ICMPD, IOM, Payoke, SMWIPM/EHTN, Terre des Hommes International Federation.

<sup>34</sup> Ecuador, Estonia, Latvia, Poland, Sri Lanka, Uruguay, UNAFRI, Terre des Hommes International Federation.

<sup>35</sup> Canada, Poland, Uruguay, Soroptimist International, Terre des Hommes International Federation.

<sup>36</sup> Bangladesh, Latvia, United Nations Population Fund (UNFPA).

<sup>37</sup> Bosnia, Jamaica, Poland, Serbia, Uzbekistan, UNAFRI, UNFPA.

<sup>38</sup> Argentina, Bulgaria, Canada, Ecuador, Egypt, Kenya, Mongolia, Netherlands, Qatar, Sudan, Uruguay, Uzbekistan, UNFPA, EUROPOL, Caritas Internationalis, Global Alliance Against Traffic in Women (GAATW), NCGW, Payoke.

<sup>39</sup> Czech Republic, Egypt, Kenya, Mexico, Mongolia, Slovenia, Uzbekistan, UNAFRI, UNDAW, EUROPOL, Caritas Internationalis, GAATW, La Strada International, Terre des Hommes International Federation.

<sup>40</sup> Bangladesh, Belgium, Cambodia, Egypt, Estonia, Malta, Mexico, Netherlands, Norway, Qatar, Slovenia, Sri Lanka, Turkey, Uzbekistan, UNAFRI, GAATW, IDLO, Caritas Internationalis, Payoke.

<sup>41</sup> Jamaica, Latvia, Macedonia, Malta, Qatar, Slovenia, USA, UNFPA, ADB, CIS, ICMPD, Caritas Internationalis, Payoke.

<sup>42</sup> Argentina, Belarus, Bulgaria, Estonia, Latvia, Mongolia, ICMPD, La Strada International, NCGW, Payoke, SMWIPM/EHTN.

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protection. **Confiscated proceeds of traffickers could be channelled into victim support programmes.** <sup>43</sup>

Appropriate procedures must be established to allow victims to obtain **compensation and restitution.** <sup>44</sup> This could be achieved through the establishment of a dedicated victim compensation fund or scheme from which victims claims could be met, or where a general victim compensation fund exists, victims of trafficking should have access to it.

**Child victims pose particular challenges requiring specifically tailored responses by authorities.** <sup>45</sup> In addition to their entitlement to all protection and support available to other victims, respecting the principle of the best interests of the child must always be paramount, in particular in decisions on return and contacts with the family.

**Support and protection to victims as witnesses** is critical to enforcing the law. Successful prosecution of trafficking cases perforce relies heavily on cooperation and testimony of victims. Victims must be protected from their victimizers, <sup>46</sup> both through witness protection programmes and through establishing procedures to allow jurisdictions to protect the **confidentiality and privacy of victims** of trafficking. This can be achieved through, for example, provision of testimony through video, closed hearings and witness concealment measures. Incentives for victims to cooperate may include the provision of **residence permits** in exchange for testimony. Access to residence permits, moreover, should not be predicated per se on willingness to collaborate with law enforcement authorities. <sup>47</sup> Access to information regarding the right of trafficking victims to request asylum should be ensured.

Several respondents suggested that a **Global Plan of Action** could help establish consistent and sustained technical assistance for the protection of victims as well as

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<sup>43</sup> Bulgaria.

<sup>44</sup> Argentina, Belarus, Uruguay, CIS, Caritas Internationalis. See also recommendation 13 of the Open-ended Interim Working Group on Trafficking in Persons ( Annex II).

<sup>45</sup> UNICEF, Pax Romana.

<sup>46</sup>Bulgaria, Czech Republic, Jamaica, Kenya, Mongolia, Poland, Qatar, Sri Lanka, Uruguay, Europol, Caritas Internationalis, HRW. See also recommendation 14 of the Open-ended Interim Working Group on Trafficking in Persons ( Annex II).

<sup>47</sup> Germany, Slovenia, UNDAW, ICMPD, NCGW.

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develop detailed recommendations on victim identification and protection based on good practices.<sup>48</sup>

## F. Coordinate efforts at the national level

There are practical difficulties in national coordination of action against trafficking in persons at many levels: **coordination is often lacking among various law enforcement agencies**, such as immigration, workplace inspectors<sup>49</sup> and police authorities. This results in agencies working at cross-purposes.<sup>50</sup> Front line law enforcement officials need to cooperate and communicate efficiently with specialized teams when they exist.

Poor **coordination between law enforcement and criminal justice service providers, on the one hand, and victim service providers, including NGOs, on the other**, was a recurrent theme for most respondents, who pointed to the negative impact on prosecution and repatriation, rehabilitation and reintegration of victims. Governmental agencies must be better informed of the important contribution victim service providers make to law enforcement efforts. The respective roles and responsibilities of governmental agencies and NGOs should be clarified through memoranda of understanding.<sup>51</sup> Priority should be given to State financial support for NGO service providers,<sup>52</sup> and national referral mechanisms should be established.<sup>53</sup>

**National anti-trafficking coordinating bodies or task forces**, composed of officials from relevant government agencies (justice, health and welfare, labour, immigration, etc.) and non-governmental agencies, should be established.<sup>54</sup> These mechanisms would develop comprehensive and coordinated policies on trafficking, promote better

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<sup>48</sup> Belarus, Ecuador.

<sup>49</sup> See Andrees, B, *Forced Labour and Human Trafficking: A Handbook for Labour Inspectors*, International Labour Organization, 2008.

<sup>50</sup> Slovenia. For strategies to help respond to coordination problems, see Fiona David, *Trafficking of Women for Sexual Services*, 2008.

<sup>51</sup> Croatia, France, Greece, Malta, Poland, USA, Caritas, Payoke.

<sup>52</sup> Jamaica, Japan, Macedonia, Poland, Slovenia, Turkey, United Kingdom, USA, EC, ICMPD, Caritas Internationalis, NCGW.

<sup>53</sup> Bosnia, Bulgaria, Croatia, Norway, Poland, United Kingdom, EC, Caritas Internationalis, La Strada International.

<sup>54</sup> Austria, Belarus, Croatia, Germany, Greece, Jamaica, Kenya, Oman, Slovenia, UNDAW, Payoke. See recommendation 16 of the Open-ended Interim Working Group on Trafficking in Persons (Annex II).

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cooperation, monitor the implementation of national referral mechanisms and promote research on trafficking in persons.

A Global Plan of Action could provide the basis for the development of **national plans of action** against trafficking and help clarify the functions of State and non-state actors.<sup>55</sup>

## **G. Establish a valid knowledge basis**

Trafficking in persons is a covert activity involving hidden populations and, as such, is difficult to analyse, measure and understand. The adoption of the Trafficking in Persons Protocol has led to an **international consensus on the definition of trafficking in persons** – an important achievement – and distinguished it from other phenomena like migrant smuggling. This has created a common basis for collection of comparable data and research. Despite these advances, capacity to collect even basic data is sometimes lacking.<sup>56</sup>

A central repository of national information from different sources and actors is required<sup>57</sup> and there must be capacity to systematically gather and analyse the data. One possibility is the creation of **national rapporteurs or similar mechanisms** working on the collection of data and monitoring the implementation of national action plans.<sup>58</sup> National rapporteurs should have an independent status and report to the Executive Branch and/or Parliament.<sup>59</sup>

When identifying specific data collection and research needs, many respondents emphasized the need to collect **information on traffickers and associated perpetrators**,<sup>60</sup> and their *modus operandi*. One of the findings of the UNODC Global Report on Trafficking in Persons (2009) is that, especially in the Eastern European and Central

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<sup>55</sup> Belarus.

<sup>56</sup> See UNODC Global Report on Trafficking in Persons (2009).

<sup>57</sup> Austria, Croatia, France, Germany, Greece, Jamaica, Kenya, Mexico, Serbia, Slovenia, Uruguay, Caritas Internationalis. See also recommendation 17 of the Open-ended Interim Working Group on Trafficking in Persons (Annex II).

<sup>58</sup> Bosnia, Malta, Norway, Turkey, UNDAW, EC, EUROPOL, Caritas Internationalis, La Strada International, Payoke.

<sup>59</sup> La Strada International, Payoke.

<sup>60</sup> Bosnia, Estonia, Germany, Jamaica, United Kingdom, Uruguay, USA, UNAFRI, International Criminal Police Organization (INTERPOL), Terres des Hommes International Federation.



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Asian regions, a disproportionate number of offenders are women and that most offenders are citizens of the country in which they were arrested. This suggests that trafficking is mostly carried out by local networks that exchange victims amongst themselves. Studies on the **root causes and effects of trafficking**,<sup>61</sup> including on the economic implications of this illicit trade<sup>62</sup> should be carried out.

Many respondents expressed the need for better and deeper knowledge of the **different kinds of trafficking**,<sup>63</sup> including illegal adoption, organ trafficking, servile marriages,<sup>64</sup> child labour,<sup>65</sup> and trafficking in men and boys.<sup>66</sup> There was particular priority placed on research into the size, scope and nature of **trafficking for the purposes of labour exploitation**.<sup>67</sup>

Limited research has been carried out on **what trafficked persons want and need** in terms of support and rehabilitation, how they experience their participation in the criminal justice process and how it could be made more user-friendly. Research in these areas would provide useful insights to policy-makers and practitioners.

National data collection, and the preparation of national annual reports, is the basis on which to build **regional and international sharing of information on trafficking flows and patterns**, as well as experiences and good practices. An **international mechanism** could monitor trends and patterns of trafficking in persons, including information on the market context for these crimes.<sup>68</sup>

It was argued that a **global report on trafficking** could be usefully synthesized by UNODC<sup>69</sup> and presented to the Conference of the Parties to the Organized Crime Convention.

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<sup>61</sup> Belarus, Egypt, Seychelles, UNAFRI, ADB, Caritas Internationalis.

<sup>62</sup> Belgium, Slovenia, SMWIPM/EHTN.

<sup>63</sup> Estonia, Poland, EC.

<sup>64</sup> Mongolia.

<sup>65</sup> IDLO-Manual on International Law and Standards Applicable in Disaster Situations

<sup>66</sup> Mongolia, United States, UNFPA, Payoke.

<sup>67</sup> Austria, Germany, Mongolia, Poland, Slovenia, EC, Caritas Internationalis. See also Australian Institute of Criminology, Transnational Crime Brief No. 3, *Labour trafficking: key concepts and issues*, 2009, available at [www.aic.gov.au](http://www.aic.gov.au).

<sup>68</sup> UNODC Global Report on Trafficking in Persons (2009).

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## II. How to ensure full and effective international coordination of efforts against trafficking in persons

### A. Strengthen international cooperation at the operational level

**International police-to-police cooperation** must be strengthened<sup>70</sup> to enable the detection of complete chains of trafficking (as opposed to identifying isolated links of the chain). In the area of **border controls**, there should be exchange of liaison officers among states of origin, transit and destination.<sup>71</sup>

The use of **joint investigation teams** and agreement on the use of special investigative techniques within international investigations<sup>72</sup> in cases of trafficking in persons are considered useful practices.<sup>73</sup>

Many respondents recommended **using the framework of existing regional organizations** to facilitate cross border cooperation in operations. The Heads of Specialist Trafficking Units Process operating in Southeast Asia, the Coordinated Mekong Ministerial Initiative Against Trafficking in the Greater Mekong Subregion (COMMIT) and the Regional Bali Consultative Process were cited as examples of useful regional mechanisms.

Organizing **regional training** for law enforcement and other criminal justice practitioners can facilitate the exchange of information and good practices.<sup>74</sup> **International meetings and conferences**, such as the Vienna Forum held under the United Nations Global

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<sup>69</sup> United Kingdom.

<sup>70</sup> Austria, France, Czech Republic, Ecuador, Greece, Latvia, Netherlands, Poland, Qatar, Sudan, Turkey, Ukraine, European Union's Judicial Cooperation Unit (EUROJUST), INTERPOL, International Police Association (IPA), Caritas Internationalis. See also recommendation 22 of the Open-ended Interim Working Group on Trafficking in Persons (Annex II).

<sup>71</sup> Bulgaria, France, Macedonia, EUROPOL.

<sup>72</sup> See recommendation 23 of the Open-ended Interim Working Group on Trafficking in Persons (Annex II). See also report of the UNODC Informal Expert Working Group on Joint Investigations (CTOC/COP/2008/CRP.5).

<sup>73</sup> Argentina, Belarus, Bosnia, Greece, EUROJUST.

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Initiative to Fight Human Trafficking (UN.GIFT),<sup>75</sup> foster information sharing and networking.

Developing and strengthening international judicial cooperation – **extradition, mutual legal assistance and confiscation of proceeds of trafficking pursuant to a foreign request** – is crucial. **Multilateral legal instruments, such as the Organized Crime Convention**, contain detailed provisions and mechanisms on judicial cooperation and should be utilized effectively.<sup>76</sup> Multilateral treaties enable Parties to establish a wide inter-regional network of judicial cooperation relationships. The development of **simplified cooperation processes**, such as those existing within the European Union, facilitate international coordination.<sup>77</sup>

Other recommendations included the organization of **training for central authorities** and other practitioners involved in judicial cooperation at the regional or cross-regional level,<sup>78</sup> in order to strengthen their working contacts.

**International cooperation in the area of repatriation of victims** needs improvement.<sup>79</sup> In this regard, mention was made of the usefulness of transnational referral mechanisms (TRMs).<sup>80</sup>

Some respondents noted that a **Global Plan of Action** could help establish a comprehensive, concerted and coordinated mechanism in order to improve the effectiveness of the fight against trafficking in persons.<sup>81</sup> Other respondents stated that an effective approach would be to develop **regional or sub-regional plans of action**<sup>82</sup> supported by bilateral agreements.

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<sup>74</sup> Belarus, China, France, Poland, Qatar, Uzbekistan.

<sup>75</sup> Bangladesh, Belarus, China, Estonia, Greece, Latvia, Malta, Qatar, Turkey, Uzbekistan, UNAFRI, UNDAW.

<sup>76</sup> Belarus, Bosnia, France, Germany, Jamaica, Latvia, Malta, Poland, Uruguay, UNAFRI.

<sup>77</sup> France.

<sup>78</sup> Belarus, China, France, Poland.

<sup>79</sup> Bulgaria, Poland.

<sup>80</sup> ICMPD. The TRM set up by ICMPD in ten countries of Southeastern Europe was cited as an example.

<sup>81</sup> Belarus.

<sup>82</sup> United Kingdom, USA. See also recommendation 20 of the Open-ended Interim Working Group on Trafficking in Persons (Annex II).

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## B. Ensure coordination of technical assistance provision

With the emergence of trafficking in persons as a high-profile issue, the number of intergovernmental and non-governmental organizations, as well as bilateral aid programmes involved in this area, has dramatically increased. This has led to **overlaps and duplications**.

The **lack of access to good information** on what other technical assistance providers are doing is an obstacle to coordination. Potentially useful responses include: the **creation of a donor database**, possibly along the lines of the ADAM database;<sup>83</sup> and the **development of a website** for UN agencies, the IOM, the World Bank, regional organizations, foundations, private-sector partners, and major donor countries that would provide links to information on their anti-trafficking projects.<sup>84</sup> **Joint programming, such as advocated and developed by UN.GIFT**, and the development of common strategies and work plans among providers of technical assistance and **division of labour** based on organizations' mandates and core competencies are also potentially helpful.

Additional recommendations relied on the five key principles of the **Paris Declaration on Aid Effectiveness**<sup>85</sup> and recalled some of the **conclusions of the Working Group of Government Experts on Technical Assistance** established by the UNTOC Conference of the Parties, which had noted the potential for UNODC to act as a coordinator and facilitator of requests for and the provision of technical assistance.<sup>86</sup>

Some respondents noted that a **Global Plan of Action** could ensure exchange of good practices among stakeholders and assist regional and international organizations involved in the provision of technical assistance at country, regional, and global levels.<sup>87</sup>

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<sup>83</sup> France. The Automated Donor Assistance Mechanism (ADAM) is an Internet-based tool for the coordination of technical assistance in the field of counter narcotics (i.e. supply and demand reduction). This tool has been developed by UNODC within the framework of the Paris Pact Initiative, a UNODC-led partnership of more than 50 countries and international organizations, which aims to counter traffic in and consumption of Afghan opiates.

<sup>84</sup> Cambodia, USA.

<sup>85</sup> Ownership by countries; alignment with countries' strategies, systems and procedures; harmonization of donors' actions; managing for results; and mutual accountability.

<sup>86</sup> See also recommendation 18 of the Open-ended Interim Working Group on Trafficking in Persons (Annex II).

<sup>87</sup> Belarus, Ecuador.

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### **C. Mainstream anti-trafficking activities into other international efforts**

Many respondents commented on the root causes and contributing factors to trafficking in persons<sup>88</sup>, including **poverty, inequality, gender discrimination, or a culture of tolerance towards violence against women.**

Against that background, it is critical to **mainstream efforts to counter trafficking in persons into programmes aimed at development, poverty eradication, natural disaster and post-conflict reconstruction**, in order to ensure respect for human rights and to counter violence against women. Budgets for vulnerability prevention and victim reintegration should be earmarked in the mainstream of poverty reduction, post-conflict, and social safety budgets, with technical assistance to be provided by the relevant anti-trafficking ministries, as well as trainings for government staff working on broader development programs.<sup>89</sup> It is necessary to incorporate trafficking in persons issues in human rights education projects.<sup>90</sup>

In this context, some respondents emphasized the potential benefits of a **Global Plan of Action** to provide an opportunity to consider the issue of trafficking in a comprehensive manner, thereby creating an enabling context for addressing the problems of development, eradication of poverty, and human rights.<sup>91</sup>

### **D. Strengthen the impact of the Inter-Agency Cooperation Group against Trafficking in Persons (ICAT)**

Respondents addressed the **mandates and functioning of ICAT**. Pursuant to a request from the Economic and Social Council (resolution 2006/27), ICAT was established in September 2006 with the aim of fostering coordination and cooperation among relevant

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<sup>88</sup> Bangladesh, Belarus, Belgium, Bulgaria, Canada, Estonia, France, Japan, Kenya, Mongolia, Qatar, Slovenia, Turkey, Uruguay, Uzbekistan, Working Meeting of Eastern African States, UNAFRI, UNDAW, ESCAP, UNFPA, UNICEF, ADB, Caritas Internationalis, HRW, Pax Romana.

<sup>89</sup> ADB.

<sup>90</sup> Bulgaria, Mongolia.

<sup>91</sup> Belarus, Ecuador.

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United Nations agencies and other international organizations involved in combating human trafficking.<sup>92</sup> General Assembly resolution 61/180 welcomed the holding of the Tokyo meeting and requested the Secretary-General to “improve upon the fledgling interagency coordination group on trafficking in persons in order to enhance cooperation and coordination and facilitate a holistic and comprehensive approach by the international community to the problem of trafficking in persons.”

Options for **strengthening the impact of ICAT** suggested by respondents include: merging the mandates of the UN.GIFT steering committee and ICAT into a permanent coordinating mechanism led by UNODC;<sup>93</sup> the **development of a website**<sup>94</sup> to enhance coordination and establish a dialogue between ICAT members; the designing of a **common work plan**;<sup>95</sup> and the **adoption of recommendations during ICAT meetings**, to be presented to ICAT members’ governing bodies in order to strengthen its impact.<sup>96</sup>

Several respondents suggested a role for ICAT in driving the Global Action Plan as a means to strengthen ICAT’s work.<sup>97</sup> Finally respondents emphasized the need for **greater involvement of relevant NGOs** in regional and international coordination mechanisms, such as ICAT.

## **E. Enhance the role of the Conference of the Parties to the Organized Crime Convention**

Several respondents noted the potential of the Open-ended Interim Working Group on Trafficking in Persons established by the Conference of the Parties to enhance the coordinating role of the Conference<sup>98</sup> on trafficking in persons issues. Others noted that

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<sup>92</sup> The Division for the Advancement of Women of the Secretariat, the Office of the Special Representative of the Secretary-General for Children and Armed Conflict, the Office of the High Commissioner for Human Rights (OHCHR), UNODC, UNICEF, the United Nations Development Fund for Women (UNIFEM), UNFPA, UN High Commissioner on Refugees (UNHCR), the United Nations Fund for International Partnerships, the United Nations International Research and Training Institute for the Advancement of Women, ILO, the World Bank, IOM and INTERPOL.

<sup>93</sup> SMWIPM/EHTN.

<sup>94</sup> Belgium, UNDAW.

<sup>95</sup> Belarus, Uruguay, UNDAW, ADB.

<sup>96</sup> France.

<sup>97</sup> Belarus, Ecuador.

<sup>98</sup> Canada, Egypt, France, USA.

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the **exchange of expert opinions** should be strengthened during the sessions of the Conference <sup>99</sup> and should be used to enhance coordination efforts in combating trafficking in persons.

**Greater linkages should be established and exchange of information promoted between the Conference of the Parties and other United Nations treaty bodies.** <sup>100</sup>

The work of the **Special Rapporteur on trafficking in persons** at the Human Rights Council should also be linked more closely to the work of the Conference of the Parties in order to avoid the duplication of reports.<sup>101</sup>

Many respondents noted that **regular reporting by States on their implementation** of the Trafficking in Persons Protocol and the **setting up of a review mechanism** for the Organized Crime Convention and the Trafficking in Persons Protocol<sup>102</sup> are urgently needed to monitor implementation, ensure consistency of national legislative frameworks with the Protocol and enhance coordination of international action against trafficking in persons.

In its decision 4/1 (2008), the Conference requested UNODC to convene an **open-ended intergovernmental meeting of experts** to explore options regarding a mechanism to assist it in its review of implementation. Some respondents suggested that the review process for the Trafficking in Persons Protocol should also become a subject for consideration for the Working Group on Trafficking in Persons.<sup>103</sup>

Any mechanism to review implementation must be supported by political stakeholders to be effective and efficient.<sup>104</sup> The **participation of members of civil society** in such review mechanism is advisable. <sup>105</sup> **A potential review mechanism should be informed**

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<sup>99</sup> Belgium, Croatia, Uzbekistan, UNAFRI.

<sup>100</sup> Germany, UNDAW.

<sup>101</sup> Germany.

<sup>102</sup> Belarus, Canada, Croatia, Czech Republic, Ecuador, Estonia, France, Netherlands, Norway, Qatar, Slovenia, Turkey, ADB, Caritas Internationalis, GAATW, ICW, La Strada International, Terre des Hommes International Federation. See also recommendation 19 of the Open-ended Interim Working Group on Trafficking in Persons (Annex II).

<sup>103</sup> Belarus, Canada.

<sup>104</sup> France, United Kingdom.

<sup>105</sup> Canada, Croatia, ADB, La Strada International.

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**by other approaches**, including those considered for reviewing the United Nations Convention against Corruption or other relevant United Nations treaty body systems.<sup>106</sup>

Some respondents suggested that a Global Plan of Action could offer a **road map for the review of the implementation of the Trafficking in Persons Protocol**.<sup>107</sup> Other respondents argued that the newly created Working Group on Trafficking in Persons should be given the opportunity to fulfil its mandate first, before considering the creation of another coordination mechanism.<sup>108</sup>

## **F. Adoption of a Global Plan of Action on trafficking in persons**

In its resolution 63/194, the General Assembly invited all Member States to accelerate the consideration of the **advisability of a global plan of action** on preventing trafficking in persons, prosecuting traffickers and protecting and assisting victims of trafficking, which would achieve the full and effective coordination of efforts against trafficking in persons and ensure the full and effective implementation of all legal instruments relevant to trafficking in persons.

Several respondents discussed a possible Global Plan of Action in their responses.<sup>109</sup> Some noted that the adoption by the General Assembly of such plan would help ensure effective **implementation of relevant legal instruments** by addressing key gaps in implementation.<sup>110</sup> It would also include measures to encourage States to enact unified standards on prevention, prosecution and protection.<sup>111</sup>

It was argued that a Global Plan of Action could contribute to **raising awareness** and enlisting commitment among partners such as the business community, civil society, and the international mass media. It could provide incentives to businesses to take an active stand against human trafficking and could help stage mass media campaigns.<sup>112</sup>

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<sup>106</sup> Canada, United Kingdom, UNDAW.

<sup>107</sup> Belarus, Ecuador.

<sup>108</sup> USA.

<sup>109</sup> African Group, Belarus, Ecuador, United Kingdom, USA, La Strada Internacional.

<sup>110</sup> African Group, Belarus, La Strada Internacional.

<sup>111</sup> Belarus.

<sup>112</sup> Belarus.



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It was also suggested that a Global Plan of Action could develop through recommendations on victim identification and protection based on good practices<sup>113</sup> in areas where legal instruments lacked detailed provisions and help establish consistent and sustained technical assistance for **the protection of victims**.<sup>114</sup>

The Global Plan of Action could further provide the basis for the development of **national plans of action** against trafficking.<sup>115</sup> It could also help **harmonize reporting** on trafficking in persons by Member States, and play an important role in identifying factors that lead to trafficking and, therefore, help reduce the demand.<sup>116</sup>

Responses emphasized the value of a Global Plan of Action to ensure **international coordination** of efforts against trafficking.<sup>117</sup> It was seen as a tool to establish a comprehensive, concerted and coordinated mechanism outlining **general parameters for international efforts** in providing technical assistance to countries in need.<sup>118</sup> The Global Plan of Action could ensure exchange of good practices among stakeholders<sup>119</sup> and assist regional and international organizations involved in the provision of technical assistance at country, regional, and global levels.

The potential benefits of a Global Plan of Action for **mainstreaming anti-trafficking activities into other international efforts** were also emphasized, as it could provide an opportunity to consider the issue of trafficking in a comprehensive manner, creating an enabling context for addressing the problems of development, eradication of poverty, and human rights.<sup>120</sup>

Respondents also emphasized the development of a Global Plan of Action as an important **mission and tool for ICAT**. It could highlight the role of the Special Rapporteurs on trafficking in children, child prostitution and pornography and on human trafficking and

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<sup>113</sup> Belarus.

<sup>114</sup> Ecuador.

<sup>115</sup> Belarus.

<sup>116</sup> Ecuador.

<sup>117</sup> African Group, Belarus, Ecuador.

<sup>118</sup> Belarus, Ecuador.

<sup>119</sup> Ecuador.

<sup>120</sup> Belarus, Ecuador.

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their participation in the work of ICAT.<sup>121</sup> Respondents suggested enshrining a **two-level coordination system** into the Global Plan, whereby the UN General Assembly would be in charge of overall conceptual coordination and ICAT would be responsible for practical expert coordination.<sup>122</sup>

In terms of reviewing implementation of the Trafficking in Persons Protocol, a Global Plan of Action could offer a kind of road map on how such a process should proceed in respect of all international legal instruments pertaining to human trafficking.<sup>123</sup>

Other respondents offered a competing view, arguing that a more effective approach would be to develop **regional or sub-regional plans of action**<sup>124</sup> supported by bilateral agreements. It was also argued that a Global Plan of Action would divert valuable resources and attention from on-the-ground efforts to implement the Trafficking in Persons Protocol.<sup>125</sup>

Respondents also proposed that the newly created Working Group on Trafficking in Persons established by the Conference of the Parties should be given the opportunity to fulfil its mandate before considering the creation of another coordination mechanism.<sup>126</sup>

## Recommendations and conclusions

Trafficking in persons has emerged from its marginal status a decade ago into a high-profile crime and human rights issue. The Trafficking in Persons Protocol, together with programmes such as UN-GIFT and associated media campaigns, have raised international awareness of the need for action and elicited intense legislative activity and increased investigative and judicial measures. Yet many States are not yet parties to the Trafficking in Persons Protocol, and many States Parties are not yet using the potentially important legal tool to bring traffickers to the bar of justice. This speaks to a deficit of political will.

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<sup>121</sup> Belarus, Ecuador.

<sup>122</sup> Belarus.

<sup>123</sup> Belarus.

<sup>124</sup> USA.

<sup>125</sup> United Kingdom, USA.

<sup>126</sup> USA.

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With the will and determination to act, legal limitations and impediments to action will be highlighted and then must be addressed. Some are obstacles typical to all criminal justice responses to complex transnational crimes: lack of understanding of covert criminal activities, difficulties to operationalize legislative frameworks, lack of capacity to investigate, prosecute and convict offenders, difficulties for national and international actors to work together. Other difficulties are associated with the human aspect of trafficking in persons: identifying victims; encouraging those who are reluctant to come forward; and protecting and supporting traumatized victims who most often are also unlawful immigrants.

The views of the large number of diverse stakeholders who responded to the Secretariat's appeal for input into the present paper have identified a number of key areas where action can lead to progress in fighting trafficking: extend the network of States able to cooperate under the Trafficking in Persons Protocol; address decisively such overlooked forms of trafficking as that committed for labour exploitation; train investigators and prosecutors; create opportunities for them to network with counterparts and enable them to specialize; and, above all else, understand and address at all stages the situation and needs of victims in order to enlist their cooperation and protect their rights as human beings.

In all these areas, promising practices are emerging. Efforts to support this process must be systematically and aggressively pursued. Technical assistance is crucial to achieving that objective but is frustrated by the lack of coordination and the lack of reliable global data. At this juncture -- 10 years after the adoption of the Trafficking in Persons Protocol - - the international community must take stock of its efforts, rationalize their pursuit and fill possible gaps in the instruments at its disposal.

All of these deficits are reflective of inadequate political will by the international community. It is thus urgent, and imperative, that the means to foster such will and determination are identified and employed. Many, though not all, respondents, argued that the adoption by the General Assembly of a Global Plan of Action would be one concrete way to create the necessary environment to ensure an effective international response to "the crime that shames us all" -- the trafficking in human beings.

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## **Annex I: List of respondents**

African Group on behalf of its 53 States, Argentina, Australia, Austria, Belarus, Belgium, Bosnia, Bulgaria, Cambodia, Canada, China, Croatia, Czech Republic, Ecuador, Egypt (Arab Republic of), Estonia, France, Germany, Greece, Jamaica, Japan, Kenya, Kuwait, Latvia, Macedonia, Malta, Mexico, Mongolia, Netherlands, Norway, Oman, Peru, Poland, Qatar, Serbia, Seychelles, Slovak Republic, Slovenia, Sri Lanka, Sudan, Switzerland, Turkey, United Arab Emirates, Ukraine, United Kingdom, Uruguay, United States of America, Uzbekistan.

United Nations Division for the Advancement of Women (UNDAW), United Nations Economic and Social Commission for Asia and the Pacific (ESCAP), United Nations Office on Drugs and Crime (UNODC), United Nations Population Fund (UNFPA), United Nations Children's Fund (UNICEF).

Asian Development Bank (ADB), Commonwealth of Independent States (CIS), Council of Europe, European Commission (EC), European Union's Judicial Cooperation Unit (EUROJUST), European Police Office (EUROPOL), International Centre for Migration Policy Development (ICMPD), International Criminal Police Organization (INTERPOL), International Development Law Organization (IDLO), International Organization for Migration (IOM).

Caritas Internationalis, Global Alliance Against Traffic in Women (GAATW), Concern Universal (Bangladesh), Human Rights Watch (HRW), International Council of Women (ICW), International Federation of Red Cross and Red Crescent Societies, International Police Association, La Strada International, National Council of German Women Organizations (NCGW), Pax Romana, Payoke (Belgium), Soroptimist International, Suzanne Mubarak Women's International Peace Movement/ End Human Trafficking Now! (SMWIPM/EHTN), Terre des Hommes International Federation, Thengamara Mohila Sabuj Sangha (Bangladesh), United Nations African Institute for the Prevention of Crime and the Treatment of Offenders (UNAFRI).

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## **Annex II**

### **Recommendations adopted by the meeting of the Open-ended Interim Working Group on Trafficking in Persons, held in Vienna on 14 and 15 April 2009**

The Working Group on Trafficking in Persons adopted the recommendations below for consideration by the Conference of the Parties at its fifth session.

#### **A. General recommendation**

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

#### **B. Universal adherence**

2. With regard to achieving universal adherence to and effective implementation of the minimum requirements outlined in the Trafficking in Persons Protocol as an initial step toward combating trafficking in persons, States that have not yet done so should become Parties to the Organized Crime Convention and the Trafficking in Persons Protocol.

3. In order to achieve a better understanding of the obstacles that States, in particular signatories to the Trafficking in Persons Protocol, may have in becoming parties to the Trafficking in Persons Protocol, the Conference should consider the inclusion of an optional question, on the status of the ratification process, in the assessment checklist on the implementation of the Organized Crime Convention and its Protocols.

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### **C. Adequate national legislation**

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

5. States parties should:

(a) Criminalize conduct that facilitates and supports trafficking in persons;

(b) Enact legislation for the implementation of the Organized Crime Convention, in particular legislation that criminalizes participation in an organized criminal group and corruption, and establish trafficking in persons as a predicate offence for the laundering of the proceeds of crime.

### **D. Definition of concepts**

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

### **E. Prevention and awareness raising**

7. With regard to prevention and awareness-raising, States parties should:

(a) Consider the inclusion of trafficking in persons in public education curricula;

(b) Launch awareness-raising campaigns directed at the general public, at specific groups and at communities vulnerable to being trafficked, taking into account local contexts. In doing so, they should consider making effective utilization of mass media (radio and television programmes, including soap

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operas able to reach vulnerable groups, and the press), and of important public events or personalities;

(c) Consider discussing plans for awareness-raising campaigns with the Secretariat and other States parties who have launched similar campaigns;

(d) Explore modalities to reinforce education and awareness-raising of users and potential users of sexual services and the products of forced labour and of other types of exploitation and to increase their understanding of trafficking in persons and violence against women and children.

## **F. Training**

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

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

## **G. Trafficking for labour exploitation**

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

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

(b) Discourage the demand for exploitative services and the products of forced labour by ensuring that Governments first properly identify exploitative services

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and products of forced labour and then raise public awareness of such services and products.

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

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

(a) Establish appropriate procedures for identifying victims of trafficking in persons and for giving such victims support;

(b) Consider, in line with their domestic legislation, not punishing or prosecuting trafficked persons for unlawful acts committed by them as a direct consequence of their situation as trafficked persons, or where they were compelled to commit such unlawful acts.

## **I. Victim protection and assistance**

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

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

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

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

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



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

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

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

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

## **J. Compensation for victims of trafficking**

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

## **K. Protection of victims as witnesses**

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

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

## **L. Coordination of efforts at the national level**

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

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

(b) Develop coordination mechanisms at the local or district level, including non-governmental service providers whenever possible.

#### **M. Data collection, research and analysis**

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

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

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

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

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

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

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- (a) Continue to provide technical assistance to States parties, upon request, to assist them in implementing the Organized Crime Convention and its Protocols;
  - (b) Prepare a list of cost-efficient measures and tools, in consultation with States parties, to respond to trafficking in persons;
  - (c) Develop, disseminate and systematically use criteria for the identification of victims, in consultation with States parties.

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

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

- (a) Establishing an online real-time mechanism to update the information submitted by States parties through the self-assessment checklist on the implementation of the Organized Crime Convention and its Protocols;
- (b) Requesting the intergovernmental meeting of experts referred to in Conference decision 4/1 to pay attention to ways and means of achieving and measuring progress as well as to define needs for technical assistance in implementing the Trafficking in Persons Protocol;
- (c) Establishing greater linkages and increasing exchange of information with other United Nations treaty bodies and the Special Rapporteur on trafficking in persons, especially women and children;
- (d) Requesting the Secretariat to continue coordinating the Inter-Agency Cooperation Group against Trafficking in Persons and report on its activities.

**P. Regional approach to combating trafficking in persons**

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

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

#### **Q. International cooperation at the operational level**

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

23. States parties should:

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

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

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

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## **Annex III**

### **Framework for Action for an Effective Implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (Narrative)**

#### **Introduction**

The Framework for Action is a technical assistance tool that aims to assist United Nations Member States in the effective implementation of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (UN Trafficking Protocol). The Framework for Action consists of a narrative part and of a set of tables. The narrative describes key challenges in the implementation of the UN Trafficking Protocol and proposes general measures that can be taken in order to more effectively address these challenges. The set of tables details these measures further, through five pillars containing practical actions to support the implementation of the UN Trafficking Protocol.

or the purpose of the General Assembly Thematic Debate on Human Trafficking only the draft narrative part is available, as the tables are still under development. Once finalized, the Framework comprised of both the narrative and the tables will be available for Member States as a technical assistance tool.

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Yoshie Noguchi (ILO), Mr Theo Noten (ECPAT International), Mr. Roger Plant (ILO), Ms Riikka Puttonen (UNODC), Ms Evelyn Probst (IBF/LEFö), Ms Narue Shiki (UN.GIFT/UNODC), Ms Klara Skrivankova (Anti-Slavery International), Ms Alexia Taveau (UNODC), Ms Susu Thatun (UNICEF), Hans van de Glind (ILO). The principal drafter of the Framework for Action is Ms Georgina Vaz Cabral (UNODC consultant).

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## **I. What is the Framework for Action**

The Framework for Action is a technical assistance tool that assists United Nations Member States in the effective implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (UN Trafficking Protocol), supplementing the United Nations Convention against Transnational Organized Crime (UNTOC).

The Framework is based on the objectives of the UN Trafficking Protocol<sup>127</sup> and its provisions, following the three internationally recognized themes of prevention, protection and prosecution (the 3Ps) and national and international cooperation and coordination. It recommends operational measures for each of the Protocol's provisions. These measures draw on other international instruments, political commitments, guidelines and good practices to enable the implementation of a comprehensive anti-human trafficking response.

The Framework will assist Member States in identifying gaps and putting in place additional measures they may need, in conformity with international standards. The proposed measures and the resource documents listed are non-exhaustive and therefore should be complemented by additional measures and tailored to countries' regional and national context as well as institutional and legal systems.

The UN Trafficking Protocol was open for signature in December 2000. Almost a decade has since passed. Accordingly, the Framework reflects not only the text agreed upon a decade ago, but the knowledge and experience gained over the last 10 years in attempting to give life to that text for all those who respond to trafficking in persons and, most importantly, those who are victimized by it.

## **II. Why elaborate a Framework for Action**

The UN Trafficking Protocol stresses the need to adopt a comprehensive approach to trafficking in persons which addresses all aspects of the crime and which balances criminal justice concerns with the need to ensure the rights and protection of victims.

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<sup>127</sup> The purpose of the UN Trafficking Protocol is defined in its Article 2:

- 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.

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The UN Trafficking Protocol entered into force on 25 December 2003. Since then, while there has been progress in the number of ratifications (128 State Parties as of April 2009) generating amendments to national legislation, there has been less evidence of its effective implementation.

An overview of national measures and practices for the implementation of the Protocol provisions<sup>128</sup> has shown that the majority of States Parties to the Protocol have adopted at least a minimal legislative and institutional framework to ensure such implementation. However, in view of the varying capacity of Member States to fully implement existing or future measures in the areas under discussion, it concluded that more concerted efforts have to be made to help Member States in need to develop effective and multidisciplinary anti-trafficking strategies and build dedicated and sustainable resources to implement such strategies (CTOC/COP/2006/6/Rev.1).

The same conclusion can be drawn from the results of the UN.GIFT data collection published in the UNODC Global Report on Trafficking in Persons<sup>129</sup> which demonstrates that, as of November 2008, 80% of the 155 countries and territories covered by the report had legislation comprising a specific offence on trafficking in persons in place. However, 40% of the 155 countries covered by the report did not record a single conviction for trafficking in persons from 2003 until 2008. The remaining 60% recorded less than 10 convictions per year from 2003 to 2008.<sup>130</sup>

### **III. Main cross-cutting challenges in the fight against trafficking in persons**

The growing number of States Parties to the UN Trafficking Protocol is an expression of the political will of Member States to combat human trafficking. Nevertheless, ratification in itself is not sufficient to ensure its effective implementation and impact on the ground.

The relevant reports of the Secretariat to the Conference of Parties to the Convention<sup>131</sup>, an analysis of existing regional and national action plans and corresponding evaluation reports and recent publications such as the Global Report on Trafficking in Persons all serve to highlight key cross-cutting challenges in the response to trafficking in persons.

A consistent challenge in the practical implementation of anti-human trafficking activities is allocation of resources.

The main topical challenges identified in prevention, protection and prosecution efforts lie in the three following areas: i) knowledge and research, ii) capacity-building and development and iii) monitoring and evaluation.

In addition to the abovementioned topical challenges, insufficient allocation of resources is a consistent challenge in the practical implementation of anti-human trafficking activities.

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<sup>128</sup> Based on the responses to the questionnaire for the review of the implementation of the United Nations Convention against Transnational Organized Crime and the UN Trafficking Protocol, CTOC/COP/2006/6/Rev.1.

<sup>129</sup> <http://www.unodc.org/unodc/en/human-trafficking/global-report-on-trafficking-in-persons.html>

<sup>130</sup> UNODC Global Report on Trafficking in Persons, p. 40.

<sup>131</sup> CTOC/COP/2005/3/Rev.2, CTOC/COP/2006/6/Rev.1.

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## 1. Knowledge and research

Knowledge of and research into the specific national, regional and international trafficking in persons context is a prerequisite for the elaboration, implementation and evaluation of anti-human trafficking strategies and development of evidence-based policies. Knowledge and research are also paramount to overcoming the current partial understanding of the crime.

Although most countries have adopted a specific offence on trafficking in persons, there is still a diversity of interpretations of and approaches to the Protocol and the definition of trafficking in persons used by Member States. Some only acknowledge certain forms of exploitation or certain categories of victims or criminals, thereby limiting the scope and effectiveness of the response and hindering international cooperation among countries.

In order to strengthen national, regional and global efforts to fight human trafficking, a better understanding of the scope and nature of this crime is needed. Many countries still do not collect even basic data and many are not collecting data in a way that facilitates insight into the national situation, let alone meeting standards of international comparability<sup>132</sup>. The data available is rarely disaggregated by age, gender, nationality, ethnicity, disability or forms of exploitation.

In addition, there is a need for additional targeted and qualitative research to provide insight into the multi-faceted dimensions of the crime. Research should include knowledge of the social, cultural and economic circumstances that make children and adults vulnerable to trafficking; knowledge of the demand factors which fuel all forms of trafficking in persons; knowledge of the routes, changes in patterns/trends and modus operandi of the perpetrators; and knowledge of the social, cultural and legal responses that enable effective protection, rehabilitation, and integration or reintegration of victims.

## 2. Capacity-building and development

Member States are faced with different challenges in preventing and combating trafficking in persons, not only because the extent and nature of the problem varies but also due to different capacities across countries and regions.

For this reason, strengthening capacity at the national level is necessary so that Member States have the institutional and technical ability to develop, implement and assess their own anti-human trafficking policies and strategies.

In view of the complex and changing nature of the crime, it is also essential that countries be able to strengthen, adapt and maintain the required capacity over time.

A review of the reports of the Open-ended Interim Working Group of Government Experts on Technical Assistance (CTOC/COP/2008/7) and of the first and second round of questionnaires on the implementation of the UNTOC and UN Trafficking Protocol and

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<sup>132</sup> UNODC, *Global Report on Trafficking in Persons*, 2009.



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the background paper prepared by the Secretariat containing proposals for technical assistance activities (CTOC/COP/WG.2/2007/2), as well as the UNODC Global Report on Trafficking in Persons (2009), highlight the capacity-building needs of Member States in all areas of the response to trafficking in persons, namely: prevention, protection, prosecution, cooperation and coordination.

For example, Member States must strengthen their capacity to analyze and develop national policies and strategies for the implementation of the UN Trafficking Protocol, supported by national inter-agency coordination mechanisms in consultation with civil society. Likewise, Member States should be able to develop and carry out information and awareness-raising programs for policy-makers, criminal justice practitioners, border and immigration authorities, labour inspectors, workers' and employers' organizations, health practitioners and social workers, among others, in order to effectively prevent and combat trafficking in persons.

### **3. Monitoring and evaluation**

Systematic gathering and analysis of data on trafficking in persons is an important step for increasing the knowledge base and for monitoring trends and patterns at national, regional and international levels. In addition, data gathering and analysis are important as they help to set baselines against which Member States can assess progress in the implementation of national policies, strategies and programmes.

The United Nations Convention against Transnational Organized Crime established a Conference of the Parties as a vehicle for States Parties to report on their implementation of the Convention<sup>133</sup>. At its first session, the Conference of the Parties, *inter alia*, established a programme of work for reviewing periodically the implementation of the Trafficking in Persons Protocol<sup>134</sup>, as per article 32 of the Convention.

The UNHCHR Recommended Principles and Guidelines recommend that Member States establish mechanisms to monitor the human rights impact of anti-trafficking laws, policies, programmes and interventions. Consideration should be given to assigning this role to independent national human rights institutions where such bodies exist. Non-governmental organizations working with trafficked persons should be encouraged to participate in monitoring and evaluating the human rights impact of anti-trafficking measures<sup>135</sup>.

In view of the multi-disciplinary nature of trafficking in persons and the number of government and non-governmental institutions working on the issue, Member States should ensure a common national system for collecting and sharing information so that different agencies use common standard language, methods and procedures that allow for comparability within countries and across them.

Equally important is that Member States use the findings from regular monitoring and impact evaluations in order to help identify gaps in the national response and adapt, take

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<sup>133</sup> According to the 2006 implementation report of the Conference of the Parties.

<sup>134</sup> See CTOC/COP/2004/6 and Corr.1, Chapter. I.

<sup>135</sup> UNHCHR, Recommended Principles and Guidelines on Human Rights and Human Trafficking, Guideline 6: Protection and support for trafficked persons, E/2002/68/Add.1, 2002, Guideline 1, paragraph 7.

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course-corrective actions or additional measures and/or make the necessary changes in policies or strategies to prevent and combat trafficking in persons.

## IV. How to address the challenges

### A) *Guiding principles*

In order to address these challenges, there are a number of interacting principles applicable to all aspects of a comprehensive anti-human trafficking response.

- Human rights-based approach: The human rights of trafficked persons should be at the centre of all efforts to prevent and combat trafficking and to protect, assist and provide redress to victims. Anti-trafficking measures shall not adversely affect the human rights and dignity of persons, in particular the rights of those who have been trafficked, and of migrants, unaccompanied and separated children, internally displaced persons, refugees and asylum-seekers<sup>136</sup>.
- Principle of non-discrimination: The measures set out in the UN Trafficking Protocol should 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 should be consistent with internationally recognized principles of non-discrimination<sup>137</sup>.
- Gender perspective: Trafficking in both men and women should be acknowledged and the similarities and differences in the trafficking experience of women and men, in relation to vulnerabilities and violations should be addressed. The differential impacts of policies on men and women should also be taken into account<sup>138</sup>.
- Child-Rights approach and child participation: All actions undertaken in relation to child victims and children at risk should be guided by applicable human rights standards and in particular by the principles of protection and respect for children's rights as set out in the United Nations Convention on the Rights of the Child (CRC) and in its Optional Protocol on the sale of children, child prostitution and child pornography. Child victims are entitled to special protection measures, irrespective of their legal status both as victims and as children, in accordance with their special rights and needs. In all actions concerning child victims and children at risk, the best interest of the child shall be the primary consideration<sup>139</sup>.
- The UN Trafficking Protocol and other international instruments<sup>140</sup>: The UN Trafficking Protocol supplements the United Nations Convention against Transnational Organized Crime and should be interpreted together with the Convention. Nothing in the Protocol shall affect the rights, obligations and responsibilities of States and individuals under international law, including international humanitarian law and international human rights

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<sup>136</sup> UNHCHR Principle of Primacy of human rights, E/2002/68/Add.1.

<sup>137</sup> Article 14 of the UN Trafficking Protocol.

<sup>138</sup> UNIFEM, *Trafficking in Persons: a Gender and Rights Perspective*, 2002.

<sup>139</sup> UNICEF *Guidelines on the Protection of Child Victims of Trafficking*, 2006.

<sup>140</sup> See list of relevant international Conventions cf. UNODC Toolkit pp. 16-21.

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law, international labour standards 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<sup>141</sup>.

- Comprehensive international approach: 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<sup>142</sup>.
- Inter-disciplinary, coordinated, integrated approach: As a multi-disciplinary problem, trafficking in persons requires that policies on a variety of issues are coordinated and consistent with the objective of preventing and combating trafficking in persons. Member States must ensure coordination among the various governmental agencies involved in anti-trafficking activities, among those agencies and NGOs, and among the agencies in one Member State and those in others<sup>143</sup>.
- Evidence-based approach: Policies and measures to prevent and combat trafficking in persons should be developed and implemented based on data collection and research and regular monitoring and evaluation of the anti-trafficking response.
- Sustainability: A sustainable anti-trafficking response is one that endures over time and is able to adapt creatively to changing conditions. Sustainability refers to coherence of practices in both time and efficiency.

## ***B) The Framework for Action***

The Framework for Action focuses on five key pillars of intervention needed to ensure an effective and comprehensive anti-trafficking response: prosecution, protection, prevention, national cooperation and coordination, and international cooperation and coordination.

### **a. Prosecution**

Trafficking in persons remains largely under-prosecuted and punished. Although many countries have a specific offence criminalizing trafficking in persons in all or most of its forms, many countries still do not have a legal framework covering all provisions of the Protocol in a comprehensive manner. Conviction rates under the specific offence of trafficking remain low. In order to improve prosecution efforts, the following measures are required:

1. Develop or strengthen national legal frameworks so that they are comprehensive and in compliance with the UN Trafficking Protocol and ensure their implementation in line with the Protocol and other international standards, prioritizing the rights of victims:

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<sup>141</sup> Article 14 UN Trafficking Protocol.

<sup>142</sup> Preamble of the UN Trafficking Protocol.

<sup>143</sup> Measuring Responses to Trafficking in Human Beings in the European Union: an Assessment Manual, Directorate General Freedom, Security and Justice, 2007.

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- i. Ensure that trafficking in persons is a criminal offence as defined in the UN Trafficking Protocol and prioritize the prosecution of trafficking in persons rather than related offences.
  - ii. Ensure criminalization of crimes related to trafficking in persons, such as corruption, money laundering, obstruction of justice and participation in an organized criminal group.
  - iii. Ensure that penalties and sanctions are appropriate and proportionate to the gravity of the crime and that proceeds of trafficking in persons are confiscated.
  - iv. Ensure the rights of victims, including the rights of victims and witnesses to protection before, during and after the prosecution of the crime, as well as effective collaboration between law enforcement and social welfare, and civil society.
  - v. Ensure that victims of trafficking are protected from secondary victimization and from punishment for offences they may have committed as a result of being trafficked.
2. Ensure the enforcement of national anti-human trafficking legislation including by issuing regulations, circulars and/or administrative guidelines and by strengthening the capacity of criminal justice practitioners.
  3. Ensure the establishment of relevant institutions, such as specialized police units and judicial structures.
  4. Develop proactive, intelligence led investigative techniques without reliance on the testimony of victims<sup>144</sup>, and establish and ensure implementation of judicial procedures to avoid the double victimization of trafficked persons, in particular children, during the judicial process.<sup>145</sup>
  5. Address corruption in all stages of the trafficking process, recognizing corruption as a major obstacle to effective prevention, protection and prosecution.

#### **b. Protection**

Many victims of trafficking are not identified and therefore remain unprotected. The identification of trafficked persons is a prerequisite for their access to assistance and protection. Many countries still need to establish or improve victim identification processes and the corresponding referral mechanisms. In order to improve the protection of victims, the following measures are required:

1. Adopt or amend the necessary legislative measures for comprehensive protection of and assistance to victims of trafficking.
2. Develop or strengthen the identification process, including through identification guidelines and procedures and other effective identification techniques.
3. Ensure the enforcement of legislation measures including by issuing regulations, circulars and/or administrative guidelines.
4. Establish or strengthen national referral mechanisms for victim protection and assistance, including referral to the asylum-system where appropriate.
5. Ensure the application of international standards and a human rights based approach to victim protection and assistance irrespective of their cooperation with law enforcement, taking into account a gender-perspective and the special needs of children. Such an approach includes access to a range of assistance services, granting a reflection period, access to compensation, possibility of temporary or permanent residency and non-liability of victims for their involvement in unlawful activities as a result for being trafficked.

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<sup>144</sup> European Commission Directorate-General Justice, Freedom and Security, *Report of the Experts Group on Trafficking in Human Beings*, 2004, p. 41.

<sup>145</sup> M. Dottridge, *Child trafficking for sexual purposes*, ECPAT International, 2008, p. 24.

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6. Develop or strengthen national child protection systems at national and local level.
  7. Ensure that any decision to return a trafficked person is preceded by a risk assessment and that effective and long term assistance aimed at the empowerment and social inclusion of trafficked persons either in their home country or the country of destination is provided, therefore minimizing the risk of re-trafficking.

### **c. Prevention**

Prevention is one of the most important aspects of an effective anti-human trafficking response. However, not all prevention strategies are integrated into broader policies related to trafficking in persons and many lack evidence-based research and planning as well as impact evaluations. In order to improve prevention strategies and programmes, the following measures are required:

1. Establish comprehensive policies and programmes to prevent trafficking in persons and to protect victims from re-victimization, including measures to promote/support lawful migration.
2. Ensure effective child protection systems and the active participation of children in the development of preventive measures.
3. Ensure coherence among public policies related to trafficking in persons (migration, crime prevention, education, employment, health, security, non-discrimination, economic development, protection of human rights, child protection, among others).
4. Develop or strengthen measures to reduce vulnerability to trafficking by addressing its root causes and to discourage the demand that fosters all forms of trafficking in persons.
5. Conduct needs assessments for and impact evaluations of prevention strategies and programmes.

### **d. National cooperation and coordination**

Trafficking in persons is a complex multi-faceted crime. The fight against trafficking requires the involvement of all sectors of society and a wide array of national institutions. This can lead to duplication of efforts, inefficient use of resources, incoherent or contradictory interventions and it can result in a less effective response. Member States must have inter-agency coordination and cooperation mechanisms in place that allow for information exchange, strategic planning, division of responsibilities and sustainability of results. In order to improve national cooperation and coordination, the following measures are required:

1. Ensure the development and implementation of comprehensive and evidence-based policies on trafficking in persons and ensure coherence with other related policies.
2. Establish a system or mechanism of multidisciplinary cooperation and coordination among relevant stakeholders, such as governmental institutions (including law enforcement agencies, judicial authorities, labour inspectorates, immigration and asylum authorities), non-governmental organizations, victim service providers, health institutions, child protection institutions, trade unions, workers' and employers' organizations, and the private sector.
3. Ensure monitoring and evaluation of national strategies and/or plans of action to assess progress and impact in order to enable course-corrective actions, additional measures and/or changes in national policies.

### **e. International cooperation and coordination**

Trafficking in persons is a crime that is often committed across borders and therefore requires Member States to cooperate and coordinate among themselves and with international and regional

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organizations. Member States often do not have the capacity to prevent, investigate, adjudicate and punish transnational crimes because international cooperation is either non-existent or inadequate. Moreover, international mechanisms or structures must be in place to improve the coordination of efforts of international and regional organizations. In order to improve international cooperation and coordination, the following measures are required:

1. Create the legal basis for international cooperation, including the promotion of cooperation agreements.
2. Develop or strengthen national capacity in extradition, mutual legal assistance, transfer of sentenced persons, joint investigations, international cooperation for purposes of confiscation.
3. Develop or strengthen national capacities for the identification, return, risk assessment and reintegration of victims of trafficking, with special consideration to the best interest of the child, and establish cooperation between countries of destination, transit and origin.
4. Develop or strengthen international cooperation to govern migration for employment.
5. Promote formal and informal cooperation, such as establishing communications procedures, and information and data exchange.
6. Ensure coherence in policy recommendations and technical assistance provided by international and regional organizations.
7. Ensure division of labour based on organizations' mandates and core competencies in order to avoid unnecessary duplication of efforts and to rationalize activities to make them cost-effective.
8. Promote cooperation and joint programming among international and regional organizations for the development and implementation of common strategies and programmes.

## V. How to read the Framework for Action

The Framework for Action guides Member States in the implementation of the UN Trafficking Protocol in each of the five pillars needed to ensure an effective and comprehensive anti-trafficking response: prosecution, protection, prevention, national and international cooperation, and international cooperation and coordination.

For each of the five pillars, the Framework is sub-divided into specific objectives, framework indicators, implementation measures, operational indicators and resources.

The *Protocol requirements* list the provisions set out in the UN Trafficking Protocol.

The *specific objectives* describe the intent of the provisions.

The *framework indicators* are the minimum standards required, mainly legal and institutional indicators, for the implementation of the Protocol provisions.

The *implementation measures* specify practical recommended actions to achieve an effective implementation of the UN Trafficking Protocol.

The *operational indicators* refer to the implementation measures. They measure the implementation and help monitor change over time<sup>146</sup>.

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<sup>146</sup> The corresponding information should not only be collected but also disaggregated, e.g for personal data, by age, sex, nationality, social and economic background; for acts of trafficking, different means utilized, forms of exploitation and duration of exploitation; for service provision, whether services are provided by state or non-state actors. This list is non-exhaustive.

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The *resources* refer to relevant documents, existing guidance, tools and good practices that can assist Member States in the implementation of the specific objectives outlined in the Framework for Action.