

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

OBJECTIVES

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

KEY PROVISIONS

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

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

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

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

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

The return of smuggled migrants to their countries of origin is foreseen. The State of origin is required to accept repatriation when the migrants in question have a right of residence in that State at the time of the return.

The conference of the Parties, which is established by the Convention, will have similar functions under the Protocol.

ENTRY INTO FORCE

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

HOW TO BECOME A PARTY

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

OPTIONAL AND/OR MANDATORY DECLARATIONS AND NOTIFICATIONS

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

RESERVATIONS

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

DENUNCIATION/WITHDRAWAL

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

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

New York, 15 November 2000

ENTRY INTO FORCE: 28 January 2004, in accordance with article 22 which reads as follows: "1. This Protocol will enter into force on the ninetieth day after the date of deposit of the fortieth instrument of ratification, acceptance, approval or accession, except that it shall not enter into force before the entry into force of the Convention. For the purpose of this paragraph, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member states of such organization. 2. For each State or regional economic integration organization ratifying, accepting, approving or acceding to this Protocol after the deposit of the fortieth instrument of such action, this Protocol shall enter into force on the thirtieth day after the date of deposit by such State or organization of the relevant instrument or on the date this Protocol enters into force pursuant to paragraph 1 of this article, whichever is the later."
28 January 2004, No. 39574.
REGISTRATION: Signatories: 112. Parties: 117.
TEXT: Doc. A/55/383.

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

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

Special Treaty Event April 2009

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

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