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VII. Global Issues I

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- VII-1 Remarks by Ambassador Albright to the Fourth World Conference on Women, Beijing, September 6, 1995; 4 pp.
- VII-2 Remarks by Secretary Albright and First Lady Hillary Clinton at a special program in honor of International Women's Day, Washington, March 12, 1997; 11 pp.
- VII-3 Memorandum for Secretary Albright, Attorney General Reno, the Administrator of AID, and the Director of USIA from President Clinton on Steps to Combat Violence Against Women and Trafficking in Women and Girls, Washington, March 11, 1998; 4 pp.
- VII-4 International Crime Control Strategy, Washington, May 1998; 19 pp.
- VII-5 Presidential Decision Directive 71, Washington, February 2000; 13 pp.
- VII-6 UN Convention Against Transnational Organized Crime, Palermo, Italy, December 13, 2000; 16 pp.

VII - d -

Return to: Index of "World Conference on Women Press Releases and Statements"
Index of "Intl. Organizations and Conferences" || Electronic Research Collections Index || ERC Homepage

U.S. Department of State
95/09/06 Remarks: Amb. Albright before 4th World Conf. on Women

U.S. DEPARTMENT OF STATE
Office of the Spokesman

(Beijing, China)

September 6, 1995

REMARKS TO THE FOURTH WORLD CONFERENCE ON WOMEN

AMBASSADOR MADELEINE K. ALBRIGHT
U.S. PERMANENT REPRESENTATIVE TO THE UNITED NATIONS
Beijing International Conventional Center
September 6, 1995>

Honored guests, fellow delegates and observers, I am pleased and proud to address this historic conference on behalf of the United States of America.

My government congratulates the thousands who have helped to organize the conference, to draft the Platform for Action, to inform the world about the subjects under discussion here and to encourage wide participation both by governments and NGO's.

We have come here from all over the world to carry forward an age-old struggle: the pursuit of economic and social progress for all people, based on respect for the dignity and value of each.

We are here to promote and protect human rights and to stress that women's rights are neither separable nor different from those of men.

We are here to stop sexual crimes and other violence against women; to protect refugees, so many of whom are women; and to end the despicable notion--in this era of conflicts--that rape is just another tactic of war.

We are here to empower women by enlarging their role in making economic and political decisions, an idea some find radical, but which my government believes is essential to economic and social progress around the world; because no country can develop if half its human resources are de-valued or repressed.

We are here because we want to strengthen families, the heart and soul of any society. We believe that girls must be valued to the same degree as boys. We believe, with Pope John Paul II, in the "equality of spouses with respect to family rights". We think women and men should be able to make informed judgments as they plan their families. And we want to see forces that weaken families--including pornography, domestic violence and the sexual exploitation of children--condemned and curtailed.

Finally, we have come to this conference to assure for women equal access to education and health care, to help women protect against

infection by HIV, to recognize the special needs and strengths of women with disabilities, and to attack the root causes of poverty, in which so many women, children and men are entrapped.

We have come to Beijing to make further progress towards each of these goals. But real progress will depend not on what we say here, but on what we do after we leave here. The Fourth World Conference for Women is not about conversations; it is about commitments.

For decades, my nation has led efforts to promote equal rights for women. Women in their varied roles--as mothers, farm laborers, factory workers, organizers and community leaders helped build America. My government is based on principles that recognize the right of every person to equal rights and equal opportunity. Our laws forbid discrimination on the basis of sex and we work hard to enforce those laws. A rich network of nongovernmental organizations has blossomed within our borders, reaching out to women and girls from all segments of society, educating, counseling and advocating change.

The United States is a leader, but leaders cannot stand still. Barriers to the equal participation of women persist in my country. The Clinton Administration is determined to bring those barriers down.

Today, in the spirit of this conference, and in the knowledge that concrete steps to advance the status of women are required in every nation, I am pleased to announce the new commitments my government will undertake:

First, President Clinton will establish a White House Council on Women to plan for the effective implementation within the United States of the Platform for Action. That Council will build on the commitments made today and will work every day with the nongovernmental community.

Second, in accordance with recently-approved law, the Department of Justice will launch a six-year, \$1.6 billion initiative to fight domestic violence and other crimes against women. Funds will be used for specialized police and prosecution units and to train police, prosecutors and judicial personnel.

Third, our Department of Health and Human Services will lead a comprehensive assault on threats to the health and security of women--promoting healthy behavior, increasing awareness about AIDS, discouraging the use of cigarettes, and striving to win the battle against breast cancer.

And, as Mrs. Clinton made clear yesterday, the United States remains firmly committed to the reproductive health rights gains made in Cairo.

Fourth, our Department of Labor will conduct a grassroots campaign to improve conditions for women in the workplace. The campaign will work with employers to develop more equitable pay and promotion policies and to help employees balance the twin responsibilities of family and work.

Fifth, our Department of the Treasury will take new steps to promote access to financial credit for women. Outstanding U.S. microenterprise lending organizations will be honored through special Presidential awards; and we will improve coordination of federal efforts to encourage growth in this field of central importance to the economic empowerment of women.

Sixth, the Agency for International Development will continue to lead in promoting and recognizing the vital role of women in development. Today, we announce important initiatives to increase women's participation in political processes and to promote the enforcement of

women's legal rights.

There is a seventh and final commitment my country is making today. We, the people and government of the United States of America, will continue to speak out openly and without hesitation on behalf of the human rights of all people.

My country is proud that, nearly a half century ago, Eleanor Roosevelt, a former First Lady of the United States, helped draft the Universal Declaration of Human Rights. We are proud that, yesterday afternoon, in this very hall, our current First Lady--Hillary Rodham Clinton--re-stated with memorable eloquence our national commitment to that Declaration.

The Universal Declaration reflects spiritual and moral tenets which are central to all cultures, encompassing both the wondrous diversity that defines us and the common humanity that binds us. It obliges each government to strive in law and practice to protect the rights of those under its jurisdiction. Whether a government fulfills that obligation is a matter not simply of domestic, but of universal, concern. For it is a founding principle of the United Nations that no government can hide its human rights record from the world.

At the heart of the Universal Declaration is a fundamental distinction between coercion and choice.

No woman--whether in Birmingham, Bombay, Beirut or Beijing--should be forcibly sterilized or forced to have an abortion.

No mother should feel compelled to abandon her daughter because of a societal preference for males.

No woman should be forced to undergo genital mutilation, or to become a prostitute, or to enter into marriage or to have sex.

No one should be forced to remain silent for fear of religious or political persecution, arrest, abuse or torture.

All of us should be able to exercise control over the course of our own lives and be able to help shape the destiny of our communities and countries.

Let us be clear. Freedom to participate in the political process of our countries is the inalienable right of every woman and man. Deny that right, and you deny everything.

It is unconscionable, therefore, that the right to free expression has been called into question right here, at a conference conducted under the auspices of the UN and whose very purpose is the free and open discussion of women's rights.

And it is a challenge to us all that so many countries in so many parts of the world--north, south, west and east--fall far short of the noble objectives outlined in the Platform for Action.

Every nation, including my own, must do better and do more--to make equal rights a fundamental principle of law; to enforce those rights and to remove barriers to the exercise of those rights.

That is why President Clinton has made favorable action on the Convention to Eliminate Discrimination Against Women a top priority. The United States should be a party to that Convention.

And it is why we will continue to seek a dialogue with governments-- here and elsewhere--that deny to their citizens the rights enumerated in the Universal Declaration.

In preparing for this conference, I came across an old Chinese poem that is worth recalling, especially today, as we observe the Day of the Girl-Child. In the poem, a father says to his daughter:

We keep a dog to watch the house
A pig is useful, too,
We keep a cat to catch a mouse,
But what can we do with a girl like you?

Fellow delegates, let us make sure that question never needs to be asked again--in China or anywhere else around the world.

Let us strive for the day when every young girl, in every village and metropolis, can look ahead with confidence that their lives will be valued, their individuality recognized, their rights protected and their futures determined by their own abilities and character

Let us reject outright the forces of repression and ignorance that have held us back; and act with the strength and optimism unity can provide.

Let us honor the legacy of the heroines, famous and unknown, who struggled in years past to build the platform upon which we now stand.

And let us heed the instruction of our own lives. Look around this hall, and you will see women who have reached positions of power and authority. Go to Huairou, and you will see an explosion of energy and intelligence devoted to every phase of this struggle. Enter any community in any country, and you will find women insisting--often at great risk--on their right to an equal voice and equal access to the levers of power.

This past week, on video at the NGO Forum, Aung San Suu Kyi, said that "it is time to apply in the arena of the world the wisdom and experience" women have gained.

Let us all agree; it is time. It is time to turn bold talk into concrete action.

It is time to unleash the full capacity for production, accomplishment and the enrichment of life that is inherent in us--the women of the world.

Thank you very much.

To the top of this page

VI-2



**Secretary of State Madeleine K. Albright and
First Lady Hillary Rodham Clinton**

Remarks at special program in honor of International Women's Day
Dean Acheson Auditorium, Department of State
Washington, D.C., March 12, 1997
As released by the Office of the Spokesman
U.S. Department of State

SECRETARY ALBRIGHT: Thank you very much. Thank you very much, Tim, for that exceptionally warm and friendly introduction. Mrs. Clinton. Dame Eugenia Charles, Geraldine Ferraro, Members of Congress, Excellencies, and Friends:

I am delighted to welcome the First Lady and all of you to the State Department's observance of International Women's Day.

I also want to thank that really great feminist, Tim Wirth, and Theresa Loar for the tremendous job they are doing. When the globe is your constituency, you tend to be pretty busy and no one burns energy more efficiently than our team at Global Affairs.

Let me begin this morning with one very simple statement. Advancing the status of women is not only a moral imperative; it is being actively integrated into the foreign policy of the United States. *(Applause)* It is our mission. It is the right thing to do, and, frankly, it is the smart thing to do.

The reason is that as we approach the new century, we know that we cannot build the kind of future we want without the contribution of women. And we know that, around the world, women will only be able to contribute to their full potential if they have equal access, equal rights, equal protection and a fair chance at the levers of economic and political power.

Towards these goals, we have made progress. I said once that if I had been born a generation or two earlier, and if I had wanted to make a definitive statement on American foreign policy, my only option would have been to enter society and then pour tea into an offending Ambassador's lap.

Today, women are engaged in every facet of international affairs, from policymaking to dealmaking, from arms control to trade, from a courtroom of the War Crimes Tribunal to the farflung operations of the United Nations High Commissioner for Refugees and to the top floor of the State Department.

So we have much to celebrate. We also have much further to go.

During my recent around-the-world trip, I met with six Presidents, four Prime Ministers, eight Foreign Ministers, three Defense Ministers, two Premiers, one Chancellor, one Secretary General and one Trade Minister. And if you put us all in one room, you would have 26 suits and my skirt.

This lack of representation at the top is mirrored throughout the political and economic structures of most nations. Whether one is bumping against a glass ceiling or standing on a

dirt floor, equality remains--for most--more aspiration than reality.

It is in America's interest to change this. Advancing the status of women is directly related to our foreign policy goals. We want to build peace and expand the circle of democracy. We want to sustain a growing global economy that creates good jobs for Americans. And we want to see a future in which the values we cherish are more widely shared.

In each case, we can't get from where we are to where we want to go if women are left on the sidelines; women must be integrated at every step of the way.

Consider, for example, the pursuit of peace.

I am not among those who believe that if the world were run solely by women, war would disappear. The human capacity for folly and miscalculation is widely shared. But the history of this century tells us that democracy is a parent to peace. And common sense tells us that true democracy is not possible without the full participation of women.

The Beijing Conference has created new momentum for women to speak out, get involved, organize, vote and become candidates for office. The vast network of non-governmental organizations that women have built is focused on these tasks.

Greater participation translates into richer democracy and more representative policies. And in those regions where democracy makes the greatest difference for peace, women are hard at work creating and expanding the institutions for freedom.

I have seen in Bosnia the efforts of women's groups to heal the wounds of ethnic division. The women of that country are determined to build a society in which they--who have paid a fearful price for wrong decisions in the past--will have a role in making the right decisions in the future.

I have seen in Central Europe and the New Independent States the birth of movements designed to give women a real voice in the construction of new democracies. This is crucial, because women were hardest hit by the economic and social disruptions of recent years.

I have seen in Burundi hundreds of women from the Hutu and Tutsi ethnic groups working side by side to prevent in their country the genocidal violence that caused so much suffering in neighboring Rwanda.

During and since the Women's Conference, I have seen representatives of groups from around the world--African, Asian, Latin, Jewish, Islamic and Christian--joined in the common cause of sustaining the global momentum towards more open and representative political systems.

That is their goal, and as Americans, it is our goal.

So is economic growth.

Since 1993, under President Clinton's leadership, we have negotiated more than 200 trade agreements, given a tremendous boost to international commerce and created millions of new jobs.

But for the world's economy to keep growing, women everywhere must have increased access to the building blocks of economic opportunity and power.

A growing economy requires a modern economy. And as Turkey's Kemal Ataturk said seven decades ago, you cannot "catch up with the modern world by modernizing only half the population."

Despite recent gains, women remain an undervalued and underdeveloped human resource. This is not to say that women have trouble finding work.

In many societies, in addition to bearing the children, women do most of the non-child-related work. But often, women are barred from owning land, excluded from schools, provided less nourishment and permitted little or no voice in government.

It is no accident that most of those in the world who are abjectly poor are women. Frequently, they are left to care for children without the help of the children's father. Many are trapped at a young age in a web of ignorance and abuse.

Women are prepared to be full partners in sustainable development, but they need education, decent health care, access to credit, and protection from violence. They need the knowledge and the power to make their own choices.

We know from experience that, when that happens, the cycle of poverty can be broken and birth rates stabilized; environmental awareness increases, the spread of sexually transmitted disease slows, and socially constructive values are more likely to be passed on to the young. That is a priceless and lasting gift to the future.

We also serve the future when we stand up for basic values of law and respect for the dignity of every human being.

A half century ago, a great American First Lady was the driving force behind the adoption of the Universal Declaration on Human Rights. In Beijing, another great First Lady eloquently reaffirmed America's commitment to that Declaration and to its application to all people--specifically including women and girls.

Now, I don't know whether this resulted from a conversation between these two First Ladies.

But I do know that the Universal Declaration reflects spiritual and moral values that are central to all cultures, respecting both the wondrous diversity that defines us and the common humanity that binds us.

The Declaration obliges all governments to strive in law and practice to protect the rights of those under their jurisdiction. And by its very existence, it shows that whether a government fulfills that obligation is a matter not simply of domestic, but of universal, concern.

Unfortunately, today, around the world, appalling abuses are being committed against women. There are those who suggest that many of these abuses are cultural and there's nothing we can do about them. I say they're criminal and it's the responsibility of each and every one of us to stop them. *(Applause)*

It is encouraging that in the wake of Beijing, efforts to curb violence against women have surged. In country after country, we see projects designed to heighten awareness and gain for women greater protection under the law.

This matters because every time a special police unit is created to ensure a prompt response to sexual or domestic abuse; every time a cooperative effort is undertaken to end female genital mutilation; every time a program is launched to halt the exploitation of women and girls; every time strides are made towards the equal valuation of women as individuals, family members and citizens--our world is uplifted and we are all enriched.

In the effort to advance the status of women, the United States is a leader; but a leader cannot--and we are not--standing still. At President Clinton's initiative, we are incorporating concerns related to women into the mainstream of American foreign policy. What does that mean?

For one thing, it means that the President's Inter-agency Council on Women, created last year to implement the Beijing Platform for Action, will be chaired this year by the Department of State.

It means that our overseas aid programs will continue to emphasize projects that expand the ability of women to participate economically and politically; to gain access to education and health care, including reproductive health care; and to protect themselves against violence and disease.

It means that we will place special emphasis on the institutions of civil society that include women and refugee relief that is designed to meet women's needs.

It means that we will continue to report honestly and thoroughly on violations of human rights, and that we will denounce those violations whether they are sins of omission by those who refuse to investigate or prosecute domestic abuse, or sins of commission by dictators such as those in Burma or extremists in Afghanistan.

It means that we will continue to back the international war crimes tribunals, because we believe that the authors of ethnic cleansing should be held accountable, and those who see rape as just another weapon of war should pay for their crimes. *(Applause)*

It means that we will take part in a global effort to crack down on illegal trafficking in women and girls. And let me say that if those who traffic in drugs should be punished severely--and they should--so should those who traffic in human beings. *(Applause)*

Finally, it means, because I said that I would tell it like it is, when I go to North Carolina in a couple of weeks to speak at the Jesse Helms Center, I will state explicitly that it is long past time for America to become party to the Convention on the Elimination of Discrimination Against Women. *(Applause)*

As I think many people know now, I have a very good relationship with the Chairman of the Foreign Relations Committee. We agree when we can and we disagree agreeably, when we don't agree on the subject.

The integration of women into our foreign policy is an active, ongoing, worldwide process.

It requires working not only with other governments, but also with non-governmental organizations and other agents of progress. It affects everything from the design of AID programs, to policy decisions made by our bureaus here in Washington, to Embassy activities around the globe.

And it reflects our understanding that progress requires not simply opening doors, but a vigorous effort to reach out and spread the word that the old era of injustice and repression must end so that a new era of opportunity and full participation may dawn.

Before closing, I want to say a few words about our next speaker, for she is certainly one of the women we have incorporated into the mainstream of our foreign policy.

During the past four years, Hillary Rodham Clinton has become America's most respected and valued--albeit unofficial--Ambassador.

She has advocated America's agenda of peace, democracy, economic growth and law from India to Indonesia, from China to Copenhagen, and from Ukraine to a memorable diplomatic and culinary experience in Ulan Bator.

She brings to her assigned tasks enormous energy, brains, commitment and volumes of eloquence.

Those of you who have done public speaking know how hard it can be to excite an audience, at least without getting into trouble. Imagine how hard it is when that audience comes from 150 different countries and when most of them are sitting there with earphones on, wires going every way, listening to emotionless and not always accurate translation.

And yet, this woman, the honorary chair of our delegation, electrified precisely that kind of audience in Beijing.

Her message still echoes; her contributions to American leadership continue to build; her wisdom has become an international force for good. All this, and a Grammy Award, too.
(Laughter)

As Secretary of State, I can think of no greater blessing than to have the First Lady at my side and on America's side.

This weekend, at my request, she will travel to Africa, a region of great importance to the United States and to the progress of women.

I look forward to hearing about her trip, and I know we all look forward to hearing from her now.

Please welcome our terrific First Lady, Hillary Rodham Clinton. *(Applause)*

MRS. CLINTON: Thank you very much. Thank you so much, Secretary Albright. I still love to say that. We are gathered today to celebrate International Women's Day in the heart of the State Department, and we do as Americans have much to celebrate, starting with a Secretary of State who, yes, broke a barrier by virtue of her own gender; but who much more importantly is committed to defending the rights not just of Americans but of citizens

around the world regardless of gender.

Not only has Madeleine Albright broken many a glass ceiling, she has brokered many a peace. Not only has she opened many doors, she has opened many minds. Since she mentioned it, I would say that in my last conversation with Mrs. Roosevelt - *(laughter)* - she told me how pleased she was that her husband had appointed the first woman to the Cabinet in United States' history, and how pleased she was that my husband had appointed the first woman Secretary of State. *(Applause)*

I thank Secretary Albright for her leadership, her courage, and on a personal note her friendship. I am delighted that she has agreed to serve as the new Chair for the President's Inter-Agency Council on Women, ably assisted by Theresa Loar and Tim Wirth and others of you here.

We all know that countless responsibilities face our new Secretary of State and all of us. Our foreign policy does not lack for challenges. We must continue to reduce weapons of mass destruction. We must realize the century's dream of a wholly united, democratic, and peaceful Europe. We must work to capture new opportunities in Asia, to seize opportunities for peace in the Middle East and other areas that are strategic not only to the United States but to the entire globe.

We must work with our partners in Latin America, Africa and elsewhere to build an inclusive and expanding global economy. We must safeguard our people from the threats of terrorism, extremism, international crime, drugs and environmental degradation.

While all of these require our attention and commitment, today I have come to advance a simple idea, that is: the seamless inclusion of girls and women's needs in American foreign policy. Despite the work they do, the families they raise, the communities they hold together, too many of the world's women, particularly in developing nations, live on the outskirts of opportunity and equality.

But let me be clear. This challenge is not confined to the developing world. We still have plenty of work to do here in the United States and in other advanced economies of the world to ensure that women have a full stake in democracy. One goal in every country should be to see that all citizens, regardless of race or gender or ethnicity or religion, have a full place at their society's table.

If you'll forgive just a slight diversion, yesterday I was in Arkansas. I visited people who had been hit by a terrible tornado in the morning. Even before that disaster struck, these were people already working overtime to build good lives to reach their aspirations. The full benefits of American society were still a long way away for them. After this tornado, all that they had worked for, all they had hoped for, seems lost.

Later that day, I spoke at an event that helped raise funds to send single parents, primarily women, to college or vocational school. I heard stories from five women who told us what it had meant that their society, in the form of those who had raised these funds, reached out and told them that they could make something of their own lives; they could go to college; they could support themselves and their children.

They had heard the message that is even still too often conveyed in America: that they

weren't worth very much; that nobody really cared too much about them. As one young woman said, "Five years ago, I was in a battered woman's shelter in Fayetteville, Arkansas. I had nothing. I not only didn't have a car, I didn't have a driver's license, and my face looked as though it had been run over by a truck. All of a sudden there were people there who convinced me that I could make something of myself and care for my nine-month-old son. I thought to myself, how can these people believe in me, that I could go to college, that I could support myself. How could these people care about me when my own husband didn't care about me."

Those stories as I heard them reminded me of stories that I have heard around the world, as women in Bangladesh or India or Nicaragua or Chile stood up and told me what it meant to them to have someone believe that they, too, could make a living for their families; that the skills they had would be valued in the marketplace; that their children, especially their daughters, could have a better life.

The women last night were helped to return to school, and today they are citizens of the United States in the fullest sense of that word. Whatever disparities of wealth exist in our country and around the world means that people are left by the side of the road, detoured off the information highway, unable to take advantage of democracy's opportunities. What America must do for its own sake, as well as for the sake of its leadership in the world we are in today and that we are entering tomorrow, is to promote democracy and civil society in every nation, so that all citizens - every man, woman and child - can live up to their God-given potential.

But one may ask, "Well, it's fine for me to care about the women of Arkansas, but why should I or any American care about women in developing countries and around the world?" Why should women, as Secretary Albright just eloquently explained, be a concern of ours and our foreign policy here in the United States?

What the Secretary said and what this Administration believes is that if half of the world's citizens are undervalued, underpaid, under-educated, under-represented, fed less, fed worse, not heard, put down, we cannot sustain the democratic values and the way of life we have come to cherish. If as a nation Americans care about opening foreign markets for American goods and services, if we care about making our country secure in the face of new threats, if we care about widening the circle of peace and prosperity, then we must address the conditions and circumstances of the world's women.

You in this room know better than anyone else that our world is in a time of great transformation, heralding ever more democracy, leading, we hope, to ever more peace. But the great promise of this time is not without its challenges. Global competition, the information revolution, the rapid pace of change create pressures on every society, from governments down to families. These pressures pose unavoidable questions for us as we approach the 21st century. How do we figure out ways to balance individual and community rights and responsibilities? How do parents raise children in the face of the influences of the mass media and consumer culture? What do we make of what seems to be a conflict in many instances between personal identity and the work available in an age of globalization and high technology? What about the roles of women in society? How will people preserve their ethnic pride and value their national citizenship, and how will nations protect their sovereignty while cooperating regionally and globally with others?

Thinking about these questions and how a free nation like ours will respond to them, we may need to be reminded that democracy is not just about legally protected rights, elections or free-market economies. It is about the internalization of democratic values in people's hearts and minds. It is about how, in the absence of either hot or cold wars, democracy is rooted in people's everyday lives.

Given the changes that are going on around us, we can no longer gauge our interests around the world solely through power blocs and vast arsenals. Across the globe, here at home, at the end of the Cold War, we have been freed to focus on issues that edge right up to our own front doors. How do we educate our children? How do we insure that families have proper health care? How do we insure that democracies and free markets produce citizens, not just consumers?

I have said before that in this time of challenge around the globe, we know we will continue to cope with what is often thought of as the traditional balance of power among countries. But I would also argue that we must now add to that balance of power equation, often called *realpolitik*, the idea that real life politik may be just as intimately connected with whether or not democracies survive and flourish.

These issues that we speak of today should not be considered women's issues. But certainly it is fair to say that women, often by necessity, become the world's experts on the hazards and vicissitudes of life, and they therefore often understand and appreciate more clearly that they have a vested interest in insuring that their societies and governments address these real life challenges.

I have seen for myself on continent after continent the solutions that women are forging. New mothers in Jakarta, Indonesia, who gather every week to learn about family planning and better nutrition for their children. Doctors and nurses in Belarus and Ukraine who are caring for the children of Chernobyl. Women from Santiago to San Diego who are working on issues as diverse as education, crime and the environment.

These issues are central to our global democratic interests, for what distinguishes democracy is fair and genuine participation in every aspect of life. It should be too obvious to point out, but unfortunately it isn't, that giving women a strong voice and fuller say over their futures is intimately related to the health of democracies, because women are the majority in most countries and the world over. America's credo should ring clearly: a democracy without the full participation of women is a contradiction in terms. To reach its full potential, it must include all of its citizens.

Clearly, whether we succeed in strengthening democratic values around the world is of special consequence to women, who in our country and elsewhere are still striving to attain and even define their rightful place in government, the economy and civil society, and to claim their rightful share of personal, political, economic and civic power. Raising the status of women and girls and investing in their potential means insuring that they have the tools of opportunity available to them: education, health care, credit and jobs; legal protection, and the right to participate fully in the political life of their countries, and that is why the United States must continue its bipartisan tradition of supporting initiatives that move our world closer to these goals.

Today, more than 600 million women worldwide are denied the opportunity of an

education. Women make up two-thirds of those who can neither read nor write. Yet the single most important investment any developing nation can make is in the education of girls and women. We are discovering that in country after country the benefits of educating women go far beyond the classroom and the schoolhouse. They go to stronger families, better health, nutrition, wages and levels of political participation.

I have seen how the support of the United States for the education of women and girls worldwide is paying off. I have seen how similar social investments, also many supported by the United States, can make a difference in countries as diverse as Brazil, the Philippines, Nepal and Pakistan. Certainly, as I travel around the world and as many of you do likewise, we have seen with our own eyes that investing in girls and women helps to transform communities, which in turn can transform society. Women will not flourish and neither will democracy if they continue to be under-valued inside and outside the home.

I have had many experts in economic development around the world say to me that women's work is not part of the economies of countries; that women do not participate in the economic markets of the countries. And yet I have seen with my own eyes as I've traveled through urban areas and remote rural ones that women are bearing often the bulk of the load of the work that must be done to plant crops, to harvest them, to make it possible for small enterprises to flourish in market stalls.

So I know that women are working. Their contributions may not be counted in the gross domestic product of their societies; but they are of value. If all the women in the world tomorrow said they would not work outside the home, the economies of every country would collapse. *(Applause)*

It is time that we honored and counted the contributions that women make, both in the home and outside. Investing in women also means investing in their health and in turn in the health of their families. I am especially pleased that the United States has provided assistance through the United States Agency for International Development to assure that women, children and families have access to a full spectrum of low-cost, high-yield health care services, from safe birthing kits for expectant mothers, to basic immunizations for infants, to oral rehydration therapy to treat children suffering from diarrhea.

I want to say a special word about family planning and its importance in this larger effort. Family planning is fundamental to letting women take responsibility for themselves and their children. Right now, however, roughly 100 million women worldwide cannot get or are not using family planning services because they are poor, uneducated or do not have access to care. Some 20 million women will seek unsafe abortions. Of these women, some may become disabled for life; some will have other health problems.

But fundamentally, the rate of unsafe abortions is in itself a tragedy. High abortion rates do not represent women's equality. They represent a failure on all our parts to help women prevent unwanted pregnancies in the first place. If we really care about reducing abortion and fostering strong families, we must not back away from America's commitment to family planning efforts overseas. *(Applause)*

And if we really care about making women equal partners in societies the world over, we must do everything in our power to fight violence against women, whether it is a hidden crime of domestic abuse or a blatant tactic of war. No single social investment is a panacea

for women or for developing countries, nor should every just cause in the world be America's to embrace. But I do believe that as long as discrimination and inequities persists in a broad-scale way against women, a stable, prosperous world will be far from a reality.

Taken together, our investments in social development are vital to strengthening free market interests, spreading our democratic ideals, and enhancing our security. Over time, America has learned that our ideals and interests cannot be divorced from the political, economic, and social cross-currents swirling around us.

I hope that we have also learned that engagement with the world represents opportunities at home as well as obligations abroad.

Let me give you just one modest example. I spoke recently at a conference sponsored by USAID called "Lessons Without Borders." At the conference, Baltimore's Mayor, Kurt Schmoke, told how governmental leaders from his city had gone to Africa to learn about simple, low-cost strategies used on that continent to encourage parents to immunize their children. Now, similar programs are in place in Baltimore, with community clinics, a vaccination van, door-to-door visits, and the resulting higher immunization rates for children under three.

We can learn from our neighbors around the world. Many of the lessons we can learn, we will find, are lessons that have been helped to be taught by our own foreign policy engagement. Less than one percent of our budget, yet countless lives can be improved and we can improve lives here at home.

Before I close, I want to say a word about my forthcoming trip to Africa. I was very honored to be asked to make this trip because I think America's engagement in the world must include an engagement with sub-Saharan Africa. Contemporary history is a story that citizens and countries are writing, and there is a new story that must be told. Every region is contributing its own chapter. Africa has a remarkable story if we will only pay attention to it.

It is moving toward democracy. In the last six years, the number of democracies have jumped from five to 23. Africa is growing economically, moving from suffocating state-controlled economies to open markets that can give full life and scope to human endeavor. Last year, 30 countries recorded positive economic growth.

Africa is beginning to forge a new relationship with the United States; one based not just on aid but on shared ideals, mutual responsibilities, integration into the world economy, and partnerships designed to resolve conflicts and to meet common challenges. To be sure, many of the African democracies are new and therefore fragile. Hope remains tenuous. Too much of the continent continues to be driven by disease, malnutrition, poverty, injustice, corruption, perilous conflicts, and their terrible aftermath - refugee crisis that trap women and children especially in lives that go from bad to worse.

And yet - and yet in spite of these challenges, for the first time, we can see that at this moment in history there are in Africa grounds for far more hope than despair. With the support of the United States, we can solidify that hope.

I will be privileged to visit Senegal, South Africa, Zimbabwe, Tanzania, Uganda, and

Eritrea. I am pleased that so many of the Ambassadors from those countries and other countries in Africa are with us today.

I hope to witness firsthand and to highlight each country's efforts to build democracy and a strong, civil society. I will focus particularly on grassroots initiatives and on efforts that affect women and children. I hope this trip will give the American people a renewed sense of the importance of our commitment to Africa. I hope it will lay out exactly why we must do our utmost to support democracy and social investment in Africa, and to strengthen Africa's place in the community of nations.

I hope it will show that American engagement must be measured not just in aid dollars or humanitarian efforts in the wake of tragedy and crisis, but in the democratic values we reinforce and the human rights we defend and in the conflicts we help resolve preventatively.

There are, to be sure, issues of America's national security at stake. Instability in Africa, whether it is rooted in war, in terrorism, in organized crime, in disease, in environmental degradation and poverty, touches us, too. There are also economic issues at stake. Right now, the United States holds only seven percent of the African market of 600 million people. By forging stronger economic ties with Africa, we will do much to secure the prosperity of our own people as well.

But, finally, our greatest reasons for engagement with Africa are built on a positive foundation. Africa is on the move with a new generation of leaders, the fresh air of political reform and thriving multi-ethnic societies.

As we look at the future for America's engagement around the world, we can see that wherever we help to seed the ground for democracy, wherever we reach out to people out of mutual respect to help them help themselves, wherever we understand clearly that in this time of inter-dependence and interconnection, we all have a stake in the success of the other. We will make progress together. Whether it comes to assisting and working with our friends in the new democracies in Africa or understanding the importance of our commitment to women and girls, America's interests are at stake.

But far more importantly, America's values are at stake. If we act upon those values, we will help to lead the world into the kind of new future we envision as possible for our children and all the children around the globe.

Thank you very much.

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VII - 3
1

THE WHITE HOUSE
WASHINGTON

March 11, 1998

MEMORANDUM FOR THE SECRETARY OF STATE
THE ATTORNEY GENERAL
THE ADMINISTRATOR OF THE AGENCY
FOR INTERNATIONAL DEVELOPMENT
THE DIRECTOR OF THE UNITED STATES
INFORMATION AGENCY

SUBJECT: Steps to Combat Violence Against Women and
Trafficking in Women and Girls

As we celebrate International Women's Day today, we highlight the achievements of women around the world. We also acknowledge that there is much work yet to be done to ensure that women's human rights are protected and respected. The momentum generated by the United Nations Fourth World Conference on Women in Beijing in 1995 continues to encourage our government, as well as nations around the world, to fulfill our commitments to improve the lives of women and girls.

I have, once again, called upon the Senate to give its advice and consent to ratification to the Convention on the Elimination of all Forms of Discrimination Against Women, thus enabling the United States to join 161 other countries in support of the Convention. This Convention is an effective tool that can be used to combat violence against women, reform unfair inheritance and property rights, and strengthen women's access to fair employment and economic opportunity. Ratification of this Convention will enhance our efforts to promote the status of women around the world. As we look at Afghanistan and the egregious human rights violations committed against women and girls at the hands of the Taliban, we recognize that this is an issue of global importance.

My Administration is working hard to eliminate violence against women in all its forms. Our efforts help to combat this human rights violation around the world and here in the United States. As part of the 1994 Crime Bill, I signed into law the Violence Against Women Act. This legislation declares certain forms of

2

violence against women to be Federal crimes and provides for critical assistance to States, tribes, and local communities in their efforts to respond to this problem. The Department of Justice is implementing the Violence Against Women Act and working with communities across the country to promote criminal prosecution and provide services to victims. Through the Department of Health and Human Services, we have established for the first time a nationwide domestic violence hotline, so that women throughout the country can call one toll-free number and be connected to a local domestic violence support center. We have come a long way since 1994, and I am proud of our efforts.

Each day recognition of the importance of this issue grows around the world. In recent years, many countries have begun to respond to calls for legislation and government programs addressing violence against women. The international community increasingly regards violence against women as a fundamental human rights violation, an impediment to a nation's development, and an obstacle to women's full participation in democracy.

Today I am directing the Secretary of State, the Attorney General, and the President's Interagency Council on Women to continue and expand their work to combat violence against women here in the United States and around the world. We have made great progress since the enactment of the Violence Against Women Act in 1994, but there remains much to be done. We must continue to work to implement the Act fully and to restore the Act's protection for immigrant victims of domestic violence here in the United States so that they will not be forced to choose between deportation and abuse.

The problem of trafficking in women and girls, an insidious form of violence, has received a great deal of attention from the world community. This is an international problem with national implications. Here in the United States, we have seen cases of trafficking for the purposes of forced prostitution, sweatshop labor, and exploitative domestic servitude. The victims in these cases often believe they will be entering our country to secure a decent job. Instead, they are virtual prisoners, with no resources, little recourse, and no protection against violations of their human rights. My Administration is committed to combating trafficking in women and girls with a focus on the areas of prevention, victim assistance and protection, and enforcement. Our work on this issue has been enhanced by a strong partnership with nongovernmental groups and the U.S. Congress.

I am also directing the Secretary of State, the Attorney General, and the President's Interagency Council on Women to increase national and international awareness about trafficking

3

in women and girls. I want to ensure that young women and girls are educated about this problem so that they will not fall prey to traffickers' tactics of coercion, violence, fraud, and deceit.

I also want to provide protection to victims. And finally, I want to enhance the capacity of law enforcement worldwide to prevent women and girls from being trafficked and ensure that traffickers are punished.

Therefore, I direct:

I. The Secretary of State, in coordination with the Administrator of the Agency for International Development, to strengthen and expand our efforts to combat violence against women in all its forms around the world. These efforts should be responsive to government and nongovernment requests for partnerships, expert guidance, and technical assistance to address this human rights violation.

II. The President's Interagency Council on Women to coordinate the United States Government response on trafficking in women and girls, in consultation with nongovernmental groups.

III. The Attorney General to examine current treatment of victims of trafficking including to determine ways to insure: the provision of services for victims and witnesses in settings that secure their safety; precautions for the safe return of victims and witnesses to their originating countries; witness cooperation in criminal trials against traffickers; and consideration of temporary and/or permanent legal status for victims and witnesses of trafficking who lack legal status.

IV. The Attorney General to review existing U.S. criminal laws and their current use to determine if they are adequate to prevent and deter trafficking in women and girls, to recommend any appropriate legal changes to ensure that trafficking is criminalized and that the consequences of trafficking are significant, and to review current prosecution efforts against traffickers in order to identify additional intelligence sources, evidentiary needs and resource capabilities.

V. The Secretary of State to use our diplomatic presence around the world to work with source, transit, and destination countries to develop strategies for protecting and assisting victims of trafficking and to expand and enhance anti-fraud training to stop the international trafficking of women and girls.

VI. The Secretary of State to coordinate an intergovernmental response to the Government of Ukraine's request to jointly develop and implement a comprehensive strategy to combat

trafficking in women and girls from and to Ukraine. The U.S.-Ukraine cooperation will serve as a model for a multi-disciplinary approach to combat trafficking that can be expanded to other countries.

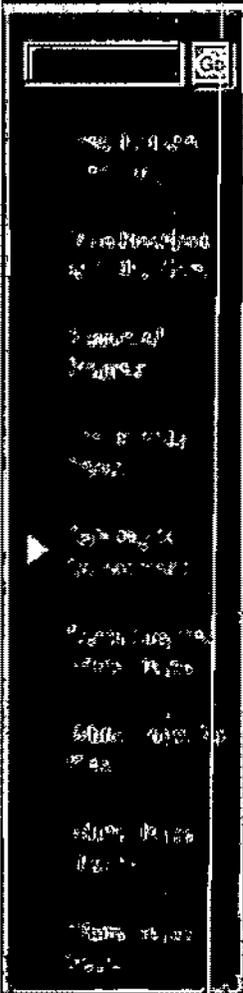
VII. The Secretary of State, in coordination with the Attorney General, to expand and strengthen assistance to the international community in developing and enacting legislation to combat trafficking in women and girls, to provide assistance to victims of trafficking, and to continue to expand efforts to train legal and law enforcement personnel worldwide.

VIII. The Secretary of State and the Director of the United States Information Agency to expand public awareness campaigns targeted to warn potential victims of the methods used by traffickers.

IX. The President's Interagency Council on Women to convene a gathering of government and nongovernment representatives from source, transit, and destination countries and representatives from international organizations to call attention to the issue of trafficking in women and girls and to develop strategies for combating this fundamental human rights violation.

William J. Clinton

VII-4



I. Introduction and Overview

We seek a climate where the global economy and open trade are growing, where democratic norms and respect for human rights are increasingly accepted and where terrorism, drug trafficking and international crime do not undermine stability and peaceful relations.

U.S. National Security Strategy
May 1997

International criminal activity has increased in scale and extent in the wake of globalization, becoming a complex worldwide threat. International criminals today engage in a wide range of illegal activities, including drug trafficking, terrorism, alien and contraband smuggling, fraud, extortion, money laundering, bribery, economic espionage, intellectual property theft, and counterfeiting. Many also resort to extreme violence to advance their criminal enterprises.

International criminals ignore borders, except when seeking safe haven behind them. They move sums of money through the international financial system that are so huge they dwarf the combined economies of many nations. They are often organized in multi-crime businesses, and they have capitalized on growth in international communications and transportation to expand their criminal operations and form potent alliances.

The corrosive activities of international criminals in the post-Cold War era no longer threaten particular countries or regions. They threaten all nations, including our own. International crime is not only a law enforcement problem. It is a formidable and increasing threat to national and international security.

A. Nature and Extent of the Threat

The threat to U.S. interests posed by international crime can be viewed in three broad, interrelated categories: threats to Americans and their communities, threats to American businesses and financial institutions, and threats to global security and stability.

Threats to Americans and Their Communities

The impact of international crime is felt directly on the streets and in the communities of the United States. Cocaine produced in the Andean jungles of South America and heroin produced in the Golden Triangle of Southeast Asia are trafficked in our suburbs, neighborhoods and

National Security Council Documents

White Paper: Reforming Multilateral Peace Operations

White Paper: Managing Complex Contingency Operations

White Paper: Clinton Administration's Policy; Critical Infrastructure Protection

NSC Historical List of Policy Documents

NS Strategy Report: Preface

International Crime Control Strategy

NSC Historical List of Meetings with Agenda Topics

are gathered in our schools, neighborhoods and communities. The violence, social disruption and enormous health costs associated with drug abuse continue to have a devastating impact in our country. International terrorism has reached inside our borders, as evidenced by the 1993 World Trade Center bombing in New York City and the murderous attack on CIA employees in Langley, Virginia.

Hundreds of thousands of individuals enter the United States illegally each year. Many of them are transported to this country under brutal conditions by alien smuggling rings and then forced into harsh forms of involuntary servitude. These alien smuggling rings are increasingly prone to violence and often engage in other kinds of smuggling that jeopardize the safety of our citizens.

Wide-scale smuggling of contraband -- drugs, alcohol, tobacco, firearms, stolen cars, wildlife, and child pornography -- across our borders in both directions is a serious problem. For example, every year, a billion dollars worth of stolen vehicles are taken out of the country. Americans bear the cost of these crimes both directly and indirectly through the loss of their vehicles and through higher insurance rates.

Americans are also increasingly the victims of fraud schemes and other "white collar" crimes perpetrated by international criminals. These schemes cost Americans tens of billions of dollars annually.

Modern air travel and the globalization of business mean that Americans are traveling abroad in ever growing numbers. U.S. nationals who live, work or travel outside the country are increasingly the targets of international criminals, including terrorists, financial swindlers and organized crime syndicates. In recent years, American business people have been kidnapped and held for ransom or political purposes by guerilla groups and narcoterrorists operating in Latin America. Others have been murdered in Colombia, Mexico, Nigeria, Pakistan and Russia. The 1995 Riyadh and 1996 Khobar Towers bombings in Saudi Arabia, as well as the earlier downing of Pan Am flight 103 over Lockerbie, Scotland in 1988, are brutal reminders that international terrorists target Americans overseas.

The nation's critical infrastructure systems - such as energy, banking and telecommunications - are increasingly based on commercial information technologies, and, for economic and operational reasons, are increasingly interconnected. As a result, these systems are vulnerable to increasingly varied threats and are at a heightened risk of catastrophic failure. The range of potential adversaries that may seek to attack U.S. infrastructure systems is broad and growing. Disgruntled employees, disaffected individuals or groups, organized crime

groups, domestic and international terrorists, and hostile nations are all potential sources of attack.

[International criminals] jeopardize the global trend toward peace and freedom, undermine fragile new democracies, sap the strength from developing countries, [and] threaten our efforts to build a safer, more prosperous world.

President Bill Clinton
Speech at the United Nations
October 22, 1995

Threats to American Businesses and Financial Institutions

In recent years, the robust overseas expansion of American businesses and financial institutions, the growing integration of the world's financial, banking and payment systems, and the rapid increase in the use of credit cards and other financial products tied to U.S. businesses has enhanced the potential for international financial fraud, counterfeiting and money laundering.

In many nations, American businesses and financial institutions are being targeted for securities fraud, extortion, racketeering, economic espionage, intellectual property theft, corrupt business practices and computer crime. When a U.S. enterprise is victimized by one of these schemes, the consequences may include lost profits, lost productivity and lost jobs for Americans.

The commercial sectors in many foreign countries are customers of, suppliers for, and partners with American businesses. Our financial and securities markets are increasingly intertwined with foreign markets. A threat to the integrity of these markets is also a threat to business and financial institutions here at home.

Today, with the overarching threat of communism gone, the faces of hatred and intolerance are still there . . . Ethnic and religious conflicts, organized crime and drug dealing, state-sponsored terrorism, the spread of weapons of mass destruction. [Americans] cannot insulate [themselves] from these threats any more than they could insulate themselves after World War II. Indeed, we have [fewer] options to do so because the world is becoming a global village.

President Bill Clinton
October 25, 1995

Threats to Global Security and Stability

International criminals engage in a wide range of dangerous activities, including acquisition and sale of weapons of mass destruction, transfer of sensitive American technology to rogue foreign states, trade in banned or dangerous substances, and trafficking in women and children. These crimes pose a grave threat to the security, stability, values and other interests of the entire world community of which the United States is a leading member.

Over the past decade, international criminal organizations have threatened our values as well as the democratic institutions and social well-being of our global partners. The international commitment to the rule of law, to human rights, and to democracy is under attack from criminal organizations, most notably drug trafficking organizations, that respect none of these values. Criminal organizations use threats, intimidation and murder against journalists, law enforcement officials, elected officeholders, judges and everyday citizens. Worldwide violence and corruption emanating from serious crimes remain at levels corrosive to democratic institutions and the rule of law. As one leading example, in virtually every society, illegal drugs kill and sicken people, sap productivity, drain economies and undermine governing institutions.

Major international crime syndicates not only pose a serious threat to the security and stability of our allies, but also to their prosperity. International drug cartels derive tens of billions of dollars every year from abusers buying illicit drugs, and these proceeds permeate financial and political systems in parts of Latin America, the Caribbean, Western Africa, and Southwest and Southeast Asia. While most of the world's largest economies enjoy sound financial and economic systems, the enormous profits generated each year from international crime have the potential to undermine less stable systems. Where this occurs, these weaker economies are hampered in fostering economic prosperity, higher standards of living and broader adherence to human rights principles.

Increasingly powerful organized crime groups in Russia, the other Newly Independent States of the former Soviet Union (NIS), and Central and Eastern Europe have infiltrated many key industries. These syndicates have demonstrated a willingness to use violence, corruption and other illicit tactics to maintain and expand their criminal empires.

In some nations in crisis, in transition from authoritarian to democratic rule, or in the midst of a substantial privatization process, criminals are able to thrive to such a degree that they pose a threat to the rule of law and the survivability of democracy. This phenomenon often makes it more difficult for the United States to cooperate with reform-minded foreign governments across a broad range of critical issues, including international crime itself.

B. The International Crime Control Strategy

Background - PDD-42

In response to the direct and immediate threat international crime presents to national security, Presidential Decision Directive 42 (PDD-42), issued on October 21, 1995, ordered agencies of the executive branch of the U.S. government to: (1) increase the priority and resources devoted to this effort; (2) achieve greater effectiveness and synergy by improving internal coordination; (3) work more closely with other governments to develop a global response to this threat; and (4) use aggressively and creatively all legal means available to combat international crime.

Significant achievements since President Clinton signed PDD-42 include:

Adoption by the U.N. General Assembly of the "Declaration on Crime and Public Security," a U.S. initiative underscoring the increasing threat to individuals in every society from serious transnational crime and reaffirming the commitment of the world community to counter that threat.

Improved internal coordination of international crime fighting efforts across a broad range of federal agencies and programs. U.S. law enforcement agencies are now working more closely than ever before with diplomats and intelligence officials to develop strategic approaches to combat international crime on bilateral, regional and global bases. They combine training with aggressive enforcement that investigates, prosecutes and disrupts major criminal groups.

Effective use of International Emergency Economic Powers Act (IEEPA) authority to block Colombian cartel assets in the United States and prevent U.S. entities from trading with the identified individuals and businesses.

Revocation of U.S. visas of international criminals and corrupt officials to prevent them from coming to the United States to do business.

Engagement of other countries in unprecedented bilateral law enforcement cooperation, with increasing acceptance both of the "nowhere to hide" principle and the critical importance of attacking money laundering. The United States has worked with more than a dozen countries especially vulnerable to money laundering to encourage them to address their deficiencies. The United States uses a two-pronged approach of assistance with anti-money laundering programs and warnings about consequences of failing to take action.

Strengthening of multilateral efforts against international crime through increased emphasis in such forums as the U.N., the Organization of American States, the European Union and the G-8.

To promote further progress in implementing PDD-42, the National Security Council called upon the Departments of Justice, State and the Treasury to develop and implement a comprehensive national strategy to attack international crime.

Purpose

The International Crime Control Strategy (ICCS) is a plan of action. The ICCS articulates eight broad goals with thirty related objectives as the blueprint for an effective, long term attack on the international crime problem. The Strategy also expresses the nation's strong resolve to combat international crime aggressively and reduce substantially its adverse impacts on the American people.

The Strategy's goals and objectives are dynamic. They will evolve over time as conditions change, new crime trends emerge, and improved anti-crime techniques are developed. However, our firm resolve to attack and make significant inroads against international crime must and will be sustained.

Relationship to Other Strategies

The ICCS responds to the high priority accorded international crime in the National Security Strategy and builds on existing crime control strategies, such as the National Drug Control Strategy and the Presidential Directives on international heroin control, counternarcotics operations in the Western Hemisphere, alien smuggling, nuclear materials safety and security, and counterterrorism. Annex 1 contains summaries of key strategies and directives that bear a close relationship to the ICCS.

The ICCS does not reiterate or supplant existing strategies and directives on topics related to international crime. Rather, this broader Strategy complements these other documents, providing the framework for integrating all facets of the federal response to international crime.

C. International Crime Control Strategy: Goals and Objectives

Although international criminals continue to increase in number, sophistication and strength -- and to expand their activities into new types of financial scams, extortion schemes and computer and high tech crimes -- they typically have common vulnerabilities. For example, these criminals cross international borders, where they are subject to searches and identity checks. They launder money, triggering financial reporting requirements and risking asset seizure. They also communicate with each other, exposing their activities to wiretaps and other monitoring capabilities. The Strategy takes advantage of these vulnerabilities. Further, where international criminals' success can be

attributed, in part, to a failure of governance, the Strategy aims to improve international anti-crime efforts by strengthening the rule of law and fostering democracy, free markets and human rights.

The Strategy's eight overarching goals and thirty associated implementing objectives (see Table I-1) are discussed briefly below and then elaborated in succeeding chapters. Annex 2 enumerates the key acronyms used throughout the Strategy.

Goal 1: Extend the First Line of Defense Beyond U.S. Borders

If we are to keep foreign-based crime away from U.S. shores, our first line of defense must be abroad. Given that reality, we must place sufficient law enforcement, diplomatic and consular personnel overseas to target foreign-based criminals before they and their activities reach the United States. Our approach must be proactive where possible and reactive where necessary. Our overseas law enforcement, diplomatic and consular personnel must improve information sharing among their respective agencies and enhance operational links with foreign governmental authorities and with civic leaders. Our laws providing for extraterritorial jurisdiction also must meet our present and future needs.

The Strategy sets forth three objectives in furtherance of this goal: (1) prevent acts of international crime planned abroad, including terrorist acts, before they occur; (2) use all available laws to prosecute select criminal acts committed abroad; and (3) intensify activities of law enforcement, diplomatic and consular personnel abroad.

Goal 2: Protect U.S. Borders by Attacking Smuggling and Smuggling-Related Crimes

One of our primary points of defense will continue to be our borders. The Strategy focuses and coordinates ongoing efforts to protect our air, land and sea borders against international criminals and their smuggling operations involving aliens, drugs and other contraband. It further recognizes the paramount importance of stemming the flow of ill-gotten money and goods out of the United States -- resources that feed the cycle of international crime.

There are four implementing objectives associated with this goal: (1) enhance our land border inspection, detection and monitoring capabilities through a greater resource commitment, further coordination of federal agency efforts, and increased cooperation with the private sector; (2) improve the effectiveness of maritime and air smuggling interdiction efforts in the transit zone; (3) seek new, stiffer criminal penalties for smuggling activities; and (4) target enforcement and prosecutorial resources more effectively against smuggling crimes and organizations.

Goal 3: Deny Safe Haven to International Criminals

The Strategy emphasizes the critical importance of denying sanctuary, or "safe haven," to international criminals. To escape the reach of law enforcement authorities, international criminals continue to exploit national borders both by committing crimes in one jurisdiction that have an impact in another jurisdiction and by fleeing a jurisdiction after having committed a crime there. For too long, such fugitives have been able to obtain safe haven in countries either that do not have modern extradition agreements with the United States or that have failed to enact appropriate national legislation allowing for the criminals' extradition or expulsion. Even when an international criminal is in U.S. custody, it is often a difficult and time consuming process to gather evidence from abroad.

Our efforts to reach this goal will center on three objectives: (1) negotiate new international agreements to create a seamless web for the prompt location, arrest and extradition of international fugitives; (2) implement strengthened immigration laws that prevent international criminals from entering the United States and provide for their prompt expulsion when appropriate; and (3) promote increased cooperation with foreign law enforcement authorities to provide rapid, mutual access to witnesses, records and other evidence.

Goal 4: Counter International Financial Crime

The primary motivation of international criminals - whether they are involved in drug trafficking, arms smuggling, financial fraud, or other crimes - is greed. Even terrorists, whose crimes frequently are not motivated by financial gain, require substantial funds for their operations and often commit financial crimes.

The associated need to hide "dirty" money and to launder it into seemingly legitimate assets is a major vulnerability for many international criminals. The Strategy focuses on the need to move against the financial underpinnings of international crime by developing new tools to track illicit proceeds to their criminal sources and by striking the criminal revenue base more effectively.

The Strategy sets forth four objectives in furtherance of this goal: (1) combat money laundering by denying criminals access to financial institutions and by strengthening enforcement efforts to reduce inbound and outbound movement of criminal proceeds; (2) seize the assets of international criminals through aggressive use of forfeiture laws; (3) enhance bilateral and multilateral cooperation against all financial crime by working with foreign governments to establish or update enforcement tools and implement multilateral anti-money laundering standards; and (4) target offshore centers of international fraud,

counterfeiting, electronic access device schemes and other financial crimes.

Goal 5: Prevent Criminal Exploitation of International Trade

Trade crime is motivated by huge profits. In addition to hurting American businesses and workers, international crime groups sometimes finance other criminal activity with trade crime proceeds. The Strategy directs law enforcement and regulatory authorities to increase efforts to prevent exports of strategic and sensitive technologies, which can contribute to regional and global instability. It also calls for a new focus on combating intellectual property rights violations and economic espionage, which cost American business billions of dollars a year.

There are five implementing objectives associated with this goal: (1) interdict illegal technology exports through improved detection, increased cooperation with the private sector, and heightened sanctions; (2) prevent unfair and predatory trade practices in violation of U.S. criminal law; (3) protect intellectual property rights by enhancing foreign and domestic law enforcement efforts to curtail the flow of counterfeit and pirated goods, and by educating consumers; (4) counter industrial theft and economic espionage of U.S. trade secrets through increased prosecution of offenders; and (5) enforce import restrictions on certain harmful substances, dangerous organisms and protected species.

Goal 6: Respond to Emerging International Crime Threats

The Strategy directs U.S. government agencies to address the most pressing emerging trends in international crime. International criminal organizations are adaptive and resilient, responding quickly to effective law enforcement pressure. These trends will increasingly threaten vital U.S. interests in the future unless firm and decisive actions are taken. Among the most worrisome emerging trends are the dramatic expansion in computer-related and high tech crime, and the joining together of powerful organized crime groups in Russia, other NIS countries, Central and Eastern Europe, Africa, Latin America, and Asia into new, deadly alliances.

United States agencies also must continue to respond rapidly to emerging trends in established areas of criminal enterprise, including drug trafficking, terrorism, and trafficking in women and children. The United States is committed to combating the emerging threats associated with overseas criminal activity -- including criminal safe havens, weapons smuggling, border transgressions and high tech crimes -- through its continued, vigorous participation in the Senior Experts Group on Transnational Organized Crime (the Lyon Group) that operates under the auspices of the G-8 (the G-7 nations plus Russia).

Our efforts to achieve this goal will center on five objectives: (1) disrupt new activities of international organized crime groups; (2) enhance intelligence efforts against criminal enterprises to provide timely warning of changes in their organizations and methods; (3) reduce trafficking in human beings and crimes against children; (4) increase enforcement efforts against high tech and computer-related crime; and (5) continue identifying and countering the vulnerabilities of critical infrastructures and new technologies in telecommunications, financial transactions and other high tech areas.

Goal 7: Foster International Cooperation and the Rule of Law

The Strategy emphasizes the need for a seamlessly cooperative effort between U.S. law enforcement agencies and related agencies around the globe. International conventions and multilateral efforts help develop and enforce tough norms against specific forms of international crime, including terrorism, drug trafficking and money laundering. These multilateral efforts are highlighted by the international crime control work being undertaken by the United States and its G-8 partners at the May 1998 Summit in Birmingham, England, both as a continuation of previous initiatives and as a building block in promoting future international cooperation.

For those countries that lack resources and expertise to mount complex or sustained investigations against international criminals, the Strategy calls for expanded training and technical assistance programs to turn foreign police forces, prosecutors and judges into more effective crime fighters. For those countries where the basic institutions of justice are not adequate to the everyday challenges of common crime, let alone the new challenges posed by increasingly sophisticated international crime, the Strategy maintains a country-specific, flexible approach to fostering development of effective criminal justice institutions. Such institutions will provide not only the foundation for the rule of law and lasting democratic government, but also the essential framework for international law enforcement cooperation.

The Strategy sets forth three objectives in furtherance of this goal: (1) establish international standards, goals and objectives to combat international crime by using bilateral, multilateral, regional and global mechanisms, and by actively encouraging compliance; (2) improve bilateral cooperation with foreign governments and law enforcement authorities through increased collaboration, training and technical assistance; and (3) strengthen the rule of law as the foundation for democratic government and free markets in order to reduce societies' vulnerability to criminal exploitation.

Goal 8: Optimize the Full Range of U.S. Efforts

Achieving all the preceding goals will undoubtedly require a dedicated and fully supported team effort. That team must include all relevant U.S. government agencies as well as the private sector and civil society. It must have the best available information on our adversaries as well as the best tools to combat those adversaries. Finally, the team must regularly measure its performance and assess its progress to ensure that tangible results are being achieved in the fight against international crime.

The Strategy relies on three objectives to achieve this goal: (1) enhance executive branch policy and operational coordination mechanisms to assess the risks of criminal threats and to integrate strategies, goals and objectives to combat those threats; (2) mobilize and incorporate the private sector into U.S. government efforts; and (3) develop measures of effectiveness to assess progress over time.

D. Highlights of Planned Initiatives

In recent years, Congress has provided substantial new authority and resources to fight international crime. The Administration has used these tools effectively to dismantle major international drug cartels, thwart and bring to justice international terrorists, and establish a beachhead in the fight against the ever-increasing threat of organized crime groups. However, we must do more to counter this increasing threat.

Highlighted below, and elaborated in the succeeding chapters, are ten of the Administration's initiatives to further our efforts to fight international crime.

International Crime Control Act of 1998

One of the foremost initiatives of this Strategy is the proposed International Crime Control Act (ICCA). The Administration will forward this important legislation to Congress and urge its prompt and favorable consideration. Its passage would provide law enforcement authorities with significant new tools in the fight against international crime, including the ability to: prosecute violent acts of organized crime committed against Americans overseas; deny visas to suspected drug and alien smugglers -- and their family members -- based on "reasonable cause" to believe their involvement in those crimes; freeze criminals' assets in the United States when criminals are arrested abroad; and extradite suspected criminals to other nations when the offense falls outside the offenses listed in an existing treaty, or even in certain cases when there is no treaty.

Comprehensive Threat Assessment

The Administration will prepare, on a priority basis, a comprehensive assessment of the threat posed by international crime to Americans and their communities, American businesses and financial institutions, and global

... threat assessment and ... security and stability. The new threat assessment, which will be completed within six months, will draw upon all available data and will be the product of a cooperative effort among all U.S. law enforcement and intelligence agencies.

International Conference on Upholding Integrity Among Justice and Security Officials

The United States will call for an international conference within the next six months to focus on the development of model approaches for upholding integrity among key justice and security officials. This international conference, which the President has asked Vice President Gore to organize, would examine real life situations relating to the standards of integrity among justice and security officials worldwide and then prepare appropriate policy recommendations.

Justice and security officials include all those who have a key role in maintaining the rule of law, whether they are police, border officials, military personnel, prosecutors or judges. The conference would collect basic facts on compensation, assess corrupting influences, review standards of ethical conduct, and take stock of ongoing national, regional and global initiatives -- all with a view to determining which approaches to upholding integrity work, which do not, and what new approaches might be developed.

High Tech Crime

The United States relies heavily upon its interconnected telecommunications and automated information systems for basic services, such as energy, finance, transportation and defense. The Attorney General recently hosted the first-ever meeting of justice and interior ministers of the G-8 specifically focused on international efforts against high tech crime. The action plan agreed to by the ministers includes: (1) ensuring that a sufficient number of trained and equipped law enforcement personnel are allocated to the task of fighting high tech crime; (2) establishing an international network of high tech crime points of contact who can be available 24 hours a day to respond to requests for assistance in related investigations; and (3) developing faster ways to trace attacks via computer networks so that the infiltration source can be quickly determined. The Administration is committed to implementing these measures.

The United States will expand national efforts to protect our critical information infrastructure from cyberattacks and cybercrime. For example, the establishment of the National Infrastructure Protection Center at FBI headquarters in February 1998 provides a national-level response to the risks posed by these novel threats.

Border Law Enforcement

The Administration plans to enhance border law enforcement through deployment of advanced detection and monitoring capabilities and investment of greater resources. This initiative will focus on the detection and prevention of illegal border activities, such as unlawful entry and alien smuggling, as well as the investigation and prosecution of criminal groups involved in smuggling aliens, currency, drugs and other contraband.

To enhance border law enforcement at traditional corridors of unlawful entry, the Administration is requesting over \$280 million for new border-related initiatives. These funds will place 1,000 new Border Patrol agents on the front lines and equip them with state of the art infrared scopes and night vision goggles. They will also support programs to detain and remove aliens, including criminal aliens. The Administration plans to improve sharing intelligence about alien smuggling among government agencies, and to deploy additional portable computerized biometric and fingerprint identification systems along our borders. These initiatives will allow for quicker identification of smugglers and other criminals.

Financial Crimes

The Administration will continue to deny criminals access to financial institutions, enhance enforcement efforts to reduce the inbound and outbound movement of criminal proceeds, trace illicit proceeds to their underlying criminal source, strengthen the ability of our international partners to combat money laundering, and target offshore centers of international fraud, access device schemes and other financial crimes. Two of the most effective tools the Administration will employ in this effort are the Geographic Targeting Order (GTO) and the International Emergency Economic Powers Act (IEEPA).

GTOs were used to great effect during 1996 and 1997 in New York City and Puerto Rico to combat money laundering. The orders are based on Bank Secrecy Act provisions that grant the Secretary of the Treasury authority to require any financial institution, or group of financial institutions, in a geographic area to report on any currency transaction involving an amount prescribed by the Secretary. The Administration plans to expand the use of GTOs to cover the entire United States. Additionally, if passed by Congress, the new ICCA would clarify and thus strengthen the existing law subjecting violators of GTOs to criminal penalties.

The IEEPA is an excellent instrument for use against both drug traffickers and terrorists, and their associates, when the President determines that the foreign policy, national security or economic well-being of the United States is threatened. The Administration has used IEEPA to block the assets of Colombian drug traffickers and their business enterprises and will expand the use of IEEPA as

appropriate.

International Asset Forfeiture and Sharing

The United States will press in bilateral and multilateral forums for international commitments to institute asset forfeiture regimes to undercut the profit motive in international crime. The United States also will advocate new asset forfeiture sharing agreements with our international partners. Greater sharing of the proceeds from seized assets will provide added incentive for international cooperation.

OAS Treaty Against Illegal Trafficking in Firearms

In October 1997, after five months of negotiations in which the United States and Mexico played a leadership role, a working group of the OAS member states reached final agreement on the text of a hemispheric convention to combat the illicit manufacturing of and trafficking in firearms, ammunition, explosives and related materials. The convention was adopted by the OAS and signed by a number of countries, including the United States, in November 1997. The convention contains specific provisions requiring the signatories to: ensure that all firearms are marked by the manufacturer and the importer; designate a point of contact for purposes of cooperation and information exchange; make the crimes of illicit manufacturing and trafficking extraditable offenses; and pledge to exchange technical information to improve the signatories' respective efficiency in combating these crimes. The Administration is committed to working with its OAS partners to implement this convention fully.

Economic Espionage and Theft of Industrial Property

With the passage of the Economic Espionage Act, the Administration now has enhanced means to investigate and prosecute the theft of U.S. trade secrets. Federal law enforcement agencies will work with the counterintelligence community to identify agents of foreign governments and businesses who are planning "attacks" against U.S. industrial targets. Government-industry cooperation and a heightened sensitivity to the theft of industrial property are expected to result in an increase in investigations and prosecutions of individuals and companies who attempt to steal U.S. trade secrets.

Strategic Communications Plan

Governments working alone, or even in close cooperation with each other, will not be fully effective in countering international crime. Real and enduring success in this vital effort will come only when the private sector - including both individual and corporate citizens - joins in that effort. To that end, the Administration will develop and implement a strategic communications plan to engage the private sector in counteracting the impact of international crime on the industry.

in assessing the impact of international crime on the private sector and determining the role the private sector should play in countering that threat.

Table I-1

The International Crime Control Strategy: Goals and Objectives

Goal 1: Extend the First Line of Defense Beyond U.S. Borders

Objective 1: Prevent acts of international crime planned abroad, including terrorist acts, before they occur.

Objective 2: Use all available laws to prosecute select criminal acts committed abroad.

Objective 3: Intensify activities of law enforcement, diplomatic and consular personnel abroad.

Goal 2: Protect U.S. Borders by Attacking Smuggling and Smuggling-Related Crimes

Objective 1: Enhance our land border inspection, detection and monitoring capabilities through a greater resource commitment, further coordination of federal agency efforts, and increased cooperation with the private sector.

Objective 2: Improve the effectiveness of maritime and air smuggling interdiction efforts in the transit zone.

Objective 3: Seek new, stiffer criminal penalties for smuggling activities.

Objective 4: Target enforcement and prosecutorial resources more effectively against smuggling crimes and organizations.

Goal 3: Deny Safe Haven to International Criminals

Objective 1: Negotiate new international agreements to create a seamless web for the prompt location, arrest and extradition of international fugitives.

Objective 2: Implement strengthened immigration laws that prevent international criminals from entering the United States and that provide for their prompt expulsion when appropriate.

Objective 3: Promote increased cooperation with foreign law enforcement authorities to provide rapid, mutual access to witnesses, records and other evidence.

Goal 4: Counter International Financial Crime

Objective 1: Combat money laundering by denying criminals access to financial institutions and by strengthening enforcement efforts to reduce inbound and outbound movement of criminal proceeds.

Objective 2: Seize the assets of international criminals through aggressive use of forfeiture laws.

Objective 3: Enhance bilateral and multilateral cooperation against all financial crime by working with foreign governments to establish or update enforcement tools and implement multilateral anti-money laundering standards.

Objective 4: Target offshore centers of international fraud, counterfeiting, electronic access device schemes and other financial crimes.

Goal 5: Prevent Criminal Exploitation of International Trade

Objective 1: Interdict illegal technology exports through improved detection, increased cooperation with the private sector, and heightened sanctions.

Objective 2: Prevent unfair and predatory trade practices in violation of U.S. criminal law.

Objective 3: Protect intellectual property rights by enhancing foreign and domestic law enforcement efforts to curtail the flow of counterfeit and pirated goods, and by educating consumers.

Objective 4: Counter industrial theft and economic espionage of U.S. trade secrets through increased prosecution of offenders.

Objective 5: Enforce import restrictions on certain harmful substances, dangerous organisms and protected species.

Goal 6: Respond to Emerging International Crime Threats

Objective 1: Disrupt new activities of international organized crime groups.

Objective 2: Enhance intelligence efforts against criminal enterprises to provide timely warning of changes in their organizations and methods.

Objective 3: Reduce trafficking in human beings and crimes against children.

Objective 4: Increase enforcement efforts against high tech and computer-related crime.

Objective 5: Continue identifying and countering the

vulnerabilities of critical infrastructures and new technologies in telecommunications, financial transactions and other high tech areas.

Goal 7: Foster International Cooperation and the Rule of Law

Objective 1: Establish international standards, goals and objectives to combat international crime by using bilateral, multilateral, regional and global mechanisms, and by actively encouraging compliance.

Objective 2: Improve bilateral cooperation with foreign governments and law enforcement authorities through increased collaboration, training and technical assistance.

Objective 3: Strengthen the rule of law as the foundation for democratic government and free markets in order to reduce societies' vulnerability to criminal exploitation.

Goal 8: Optimize the Full Range of U.S. Efforts

Objective 1: Enhance executive branch policy and operational coordination mechanisms to assess the risks of criminal threats and to integrate strategies, goals and objectives to combat those threats.

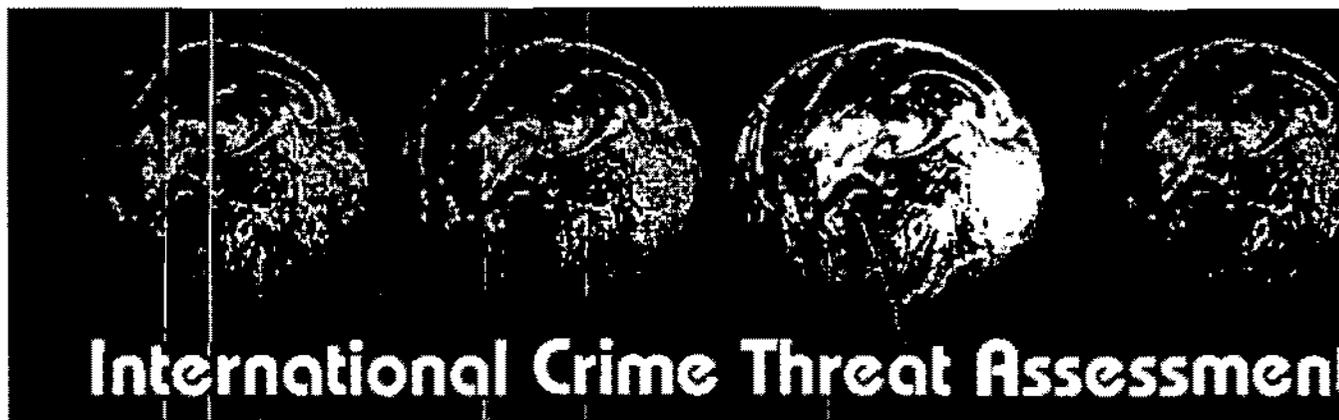
Objective 2: Mobilize and incorporate the private sector into U.S. government efforts.

Objective 3: Develop measures of effectiveness to assess progress over time.

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Introduction

The rapid spread of international crime since the end of the Cold War is unprecedented in scale, facilitated by globalization and technological advances, and poses a significant challenge to the United States and democratic governments and free market economies around the world. The President has identified international crime as a direct and immediate threat to the national security of the United States. To meet this challenge, the Departments of Justice, State, and Treasury--working closely with numerous federal agencies--jointly developed a comprehensive national strategy to fight international crime and reduce its impact on Americans. The International Crime Control Strategy, which was released in May 1998, provides a dynamic action plan that serves as a roadmap for a coordinated, effective, long-term attack on international crime. The Strategy's eight overarching goals, supported by implementing objectives, are as follows:

- Extend the first line of defense beyond US borders.
- Protect US borders by attacking smuggling and smuggling-related crimes.
- Deny safehaven to international criminals.
- Counter international financial crime.
- Prevent criminal exploitation of international trade.
- Respond to emerging international crime threats.
- Foster international cooperation and the rule of law.
- Optimize the full range of US efforts.

At the direction of the President and as part of the International Crime Control Strategy, a US Government interagency working group has prepared the following comprehensive assessment of the threat posed by international crime to Americans and their communities, US businesses and financial institutions, and global security and stability. The assessment is divided into five parts:

- Chapter I addresses the **Global Context of International Crime**, identifying those factors--including the implications of a changing world, the greater sophistication of criminal organizations, and institutional shortcomings elsewhere in the world--that have contributed to the growing problem of international crime.
- Chapter II provides a comprehensive overview of specific **International Crimes Affecting US Interests**--including their effect on American lives and livelihood, costs to US business interests at home and abroad, and impact on US national security interests around the world.
- Chapter III addresses **Worldwide Areas of International Criminal Activity**, particularly as

source areas for specific crimes and bases of operations for international criminal organizations. This section includes an analysis of the driving factors in different countries and regions that allow criminal organizations and international criminal activity to flourish, as well as an assessment of the impact of international criminal activity on stability in these countries and regions, including threats to the growth and nurturing of democratic and free market systems. Finally, this section discusses the characteristics, criminal operations, and international presence of organized crime groups originating in these countries or regions.

- Chapter IV addresses the **Consequences of International Crime for US Strategic Interests**, including the ability to work cooperatively with foreign governments and the problem of criminal safehavens, kleptocracies, and failed states.
- Chapter V offers a perspective on the **Future of International Crime** as it develops in the next 10 years.

Next SectionTable of Contents



Presidential Decision Directive 71: Strengthening Criminal Justice Systems In Support of Peace Operations and Other Complex Contingencies

VII-5

Summary of Directives

Improve the capacities of the U.S. Government to respond to criminal justice aspects of peace operations and other complex contingencies:

- Create a lead office within the lead agency, the Department of State, and an interagency working group to coordinate U.S. efforts in this area.
- Enhance the U.S. capacity to provide civilian police (CIVPOL) to field operations:
 - Improve US recruitment/training to support Standby Arrangements and speed deployments.
 - Develop mechanisms to improve the discipline and accountability of U.S. CIVPOL.
 - Develop enhanced training programs that incorporate all aspects of service in a field mission.
 - Include federal law enforcement officers in the pool of potential CIVPOL officers.
- Enhance the ability of the U.S. to provide training/development assistance to foreign police in support of peace operations.
 - The Secretary of State and Attorney General will prepare a plan for doing so to include, inter alia, broadening and strengthening the capacity of the Department of Justice's International Criminal Investigative Training and Assistance Program (ICITAP) to engage in long-range planning, to provide training, and coordinate efforts with CIVPOL.
- Create an interagency partnership in judicial, penal and legal code development assistance for post-conflict areas.
 - Assistance will be coordinated by the Department of State.
 - The Attorney General and the Agency for International Development (AID) will establish a partnership to improve US capacity to develop and ensure delivery of rapid response assistance (e.g., contingency planning, emergency assistance programs).

Improve the Response Capacities of Other Organizations:

- Efforts should focus on improving both United Nations' and regional organizations' capacities for conducting civilian police missions and supporting criminal justice development activities.
- Promote greater emphasis on all matters related to criminal justice (to include justice and penal system issues), including by providing U.S. experts to assist these organizations.

- Fully integrate criminal justice matters with peacekeeping functions, in recognition of the fact that peacekeeping will be effective only if criminal justice capabilities exist to enforce the rule of law.
- Develop adequate criminal justice planning capacities and integrate these planners in pre-mission assessment teams established by the United Nations and regional organizations. Establish a means to transition longer-term aspects of criminal justice development once the peacekeeping phase of operations is finished.
- Advocate the deployment in peace operations of the appropriate mix of military and paramilitary forces as well as police and other constabulary units, as necessary.

Improve the Capacities of Other Countries to Respond to Criminal Justice Aspects of Peace Operations and Other Complex Contingencies:

- Identify means for providing specialized pre-deployment training to foreign CIVPOL and constabulary units.

Improving Operational Activities:

- Enhance CIVPOL operational-level headquarters by ensuring they have the ability to conduct current operations, plan future operations, collect and assess intelligence, conduct sustainment activities, and provide appropriate liaison with host state and other actors, as well as by integrating responsibility for coordination of all criminal justice reform efforts.
- Improve coordination and synchronization with military operations, including through co-location of forces, as appropriate.
- Enhance CIVPOL competence.
 - Potential organizing agencies (UN, regional organizations) should develop specific job descriptions and other standards to speed recruitment and ensure the appropriate specialists are represented.
 - Advocate highest recruiting standards as well as evaluation and improved disciplinary mechanisms.

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Presidential Decision Directive 71: Strengthening Criminal Justice Systems In Support of Peace Operations and Other Complex Contingencies

White Paper

The Clinton Administration's Policy on Strengthening Criminal Justice Systems in Support of Peace Operations, February 2000

Contemporary peace operations and other complex contingencies, though aimed at mitigating military conflict, often confront considerable civil disorder, violence, and crime. Time and again, we have seen that as military conflict ends (and armies demobilize), a security vacuum develops that indigenous law enforcement organizations cannot fill, at least initially. These institutions usually have been destroyed, rendered ineffective by the conflict or corruption, or become part of the conflict due to partisan behavior. In Somalia, for example, the police simply left their posts in 1991 when a new government failed to emerge after the Siad Barre government was deposed. In Haiti and Bosnia, the police were involved in the conflict and consequently were viewed as biased combatants rather than public servants by large segments of the population. Even before the conflict arose, the public safety forces in Haiti, as in many areas where peace operations are conducted, were the primary instrument for state-sponsored repression of the citizens.

The phenomenon of nonexistent, inept, or partisan police forces is not unique to peace operations. Similar problems occurred following the U.S. interventions in Grenada and Panama during the 1980s. Furthermore, in all these situations the other aspects of the indigenous criminal justice system, the judicial system, the penal system, and the law code, were in disarray and needed substantial reform.

Effective indigenous law enforcement and criminal justice systems are necessary for a society to achieve and maintain durable peace. Therefore, helping to reestablish an indigenous criminal justice system is often, and appropriately, a fundamental aspect of a successful peace operation or other complex contingency operation. The experience of the U.S. Government and the international community has demonstrated the difficulty and complexity of this task. In spite of the difficulties that have been faced, our experience also demonstrates that participating in both bilateral and multilateral efforts to reconstitute indigenous criminal justice systems, promoting public safety in the short term and developing responsive criminal justice institutions over the long term, can successfully and economically support American interests.

In addition to helping bring peace operations to successful completion, an effective and just criminal justice system in countries emerging from conflict serves other very important U.S. interests. In particular, it helps to deter the presence of criminals who seek to base their operations in areas where they can operate without fear of arrest and prosecution. Such wrongdoers often include organizers of terrorism, illicit drug and arms trafficking, and international criminal syndicates.

Intent

The intent of PDD 71 is that the Executive Branch of the U.S. Government improve its capacities to participate in rebuilding effective foreign criminal justice systems by implementing the directives described in this white paper. Furthermore, together with U.S. allies the Executive Branch shall seek to improve the capacities of other organizations to participate in these activities. By enhancing U.S. capabilities and helping others to do the same, the U.S. will be better prepared to advance its national interests when those interests require the reestablishment of a criminal justice system overseas.

Scope of the PDD

PDD 71 is the third in a series of PDDs designed to promote U.S. interests by improving our ability to effectively manage or resolve inter and intra-state conflict. The other two documents, PDD-25, U.S. Policy on Reforming Multilateral Peace Operations and PDD-56, Managing Complex Contingency Operations, and this new directive should be applied together. This directive amplifies guidance given in PDD-25 concerning police and judicial dimensions of peace operations.

PDD 71 applies to U.S. Government processes dealing with peace operations and other complex contingency operations as defined in PDDs 25 and 56 respectively. The Peacekeeping Core Group (PCG) as described in PDD-25, under the review of the Deputies Committee, shall remain the primary interagency policy development body for peace operations, including the issues related to public safety and criminal justice addressed in this directive. Further, when an Executive Committee (ExCom) as described in PDD-56 is established, it shall be the primary interagency mechanism to conduct political-military planning and to coordinate the day-to-day management of U.S. participation in a specific operation.

This white paper is organized in four sections: improving U.S. Government organization and capabilities, improving capabilities of other organizations, activities at the operational level, and general policy guidance.

Improving U.S. Government Organization and Capacities

Create a Lead Agency: The State Department shall create an office, or modify an existing one, to assume lead agency responsibility for the full spectrum of issues related to U.S. Government involvement in the reform of criminal justice systems during peace operations and complex contingencies. This office shall be responsible for policy development, all aspects of provision and oversight of U.S. CIVPOL to field operations, development and implementation of training and technical assistance plans and programs for foreign police forces, and priority setting and coordination among other U.S. activities relating to the criminal justice system, among other tasks. Consolidation of these functions within the agency that has primary responsibility for foreign policy will enable the U.S. Government to be more responsive by clarifying responsibilities among the Departments of State, Justice, and Defense and the U.S. Agency for International Development (USAID).

When the integrated planning processes described in PDD-56 are used, the lead agency shall normally lead development of the portions of the political-military (pol-mil) plan dealing with public safety and restoration of the criminal justice system. When related issues fall under the purview of another part of the Government, such as reform of the judicial system, which has traditionally been accomplished by USAID and the Department of Justice, the lead agency shall normally organize and lead an interagency working group of the various governmental organizations to coordinate and prepare products for the pol-mil plan. When the lead agency is developing policies and long-range plans for future programs and contingencies, it shall involve the Department of Justice and other interested agencies.

At the request of the Peacekeeping Core Group (PCG) or ExComm, the lead agency shall be responsible for developing and providing pol-mil planning advice and liaison on public safety and criminal justice issues in peace operations and complex contingencies to other organizations and countries.

At the request of the PCG or ExComm, the lead agency shall organize and lead an interagency criminal justice assessment team for a specific operation. The purpose of such a team shall be to gather information and facilitate development of a comprehensive plan for reform. Assessment teams could also be used to help develop benchmarks, measure progress against those benchmarks, and develop advice for mid-course corrections. An assessment team will normally be composed of a full range of criminal justice experts from throughout the U.S. Government, including persons from the Department of Justice, USAID, and federal law enforcement agencies. The Departments of State, Defense, Justice, Treasury, Transportation, Agriculture, Interior, and any law enforcement agencies under their auspices shall be prepared to participate in these assessment teams as needed.

It is appropriate for the lead agency to use contractor support to assist in its duties when cost effective, reasonable, and consistent with laws and regulations. Furthermore, the other Departments and Agencies shall consider providing various types of support to the lead agency, including seconding personnel to serve in the responsible office.

Since our efforts to help rebuild foreign criminal justice systems are usually a multiyear activity, the lead agency and other responsible agencies shall seek adequate, designated funding in subsequent years of a particular operation until our foreign policy goals are accomplished. Further, the Secretary of State and the Director of the Office of Management and Budget shall work together to ensure that programs conducted by or through the lead agent are funded at a level that reflects the high priority I give to these activities.

Enhance U.S. Government Capacity to Provide CIVPOL to Field Operations: Since 1994, which marked the initiation of the operation in Haiti, the United States has steadily increased its contributions of civilian police officers to peace operations. In 1996, the U.S. contribution was 154 officers in an average month; in 1997 the average was 275. By the end of 1999, the U.S. had more than 600 CIVPOL deployed. These contributions have been to operations in Haiti, the Former Yugoslavia, and East Timor. It will be in the U.S. interest to continue to participate in and support CIVPOL activities. As always, future decisions on U.S. involvement in CIVPOL activities will be coordinated on a

case-by-case basis through the Peacekeeping Core Group, as described in PDD-25.

The current process used by our Government to recruit, prepare, train, and deploy civilian police officers to CIVPOL operations is not adequate. The lead agency shall place special emphasis on making immediate improvements. Improvements should focus, in part, on improving the speed with which the U.S. is able to provide personnel for specific CIVPOL operations and enabling the U.S. to participate in UN Standby Arrangements with CIVPOL. The lead agency also should develop mechanisms to improve the discipline and accountability of U.S. CIVPOL officers deployed in UN missions, to include the possibility of a more formal affiliation with the lead agency. The lead agency shall identify any new legislative authorities that would be necessary to implement such improvements. Another broad area for improvement relates to the recruitment and preparation of U.S. CIVPOL. In this regard, the lead agency, or another agency operating under its supervision, must develop training programs for U.S. CIVPOL that incorporate all aspects of service in a CIVPOL field operation. To further enhance the law enforcement expertise of the lead agency, the U.S. Secret Service and the U.S. Park Police shall consider providing, if requested, an individual with appropriate law enforcement and technical expertise to the lead agency to serve within the office responsible for the management of U.S. CIVPOL contributions.

The lead agency shall specify funds within its budget submissions to cover the costs related to the provision of U.S. CIVPOL to field operations, including reimbursement to the state and municipal law enforcement agencies for their participation and seek any additional implementing legislation, if necessary. Necessary reimbursement procedures shall be negotiated between the federal government and the law enforcement agencies. Given the organization of the U.S. law enforcement system, the majority of U.S. CIVPOL will likely come from state and municipal law enforcement agencies. Members of the federal law enforcement agencies should also be available for CIVPOL service on a voluntary basis similar to municipal officers, or via another appropriate method.

Enhance U.S. Government Capacity to Provide Training and Developmental Assistance to Foreign Police Forces: The U.S. Government should enhance its capability to train and develop foreign police forces during peace operations and other complex contingencies. The agencies involved in implementation must work from a common set of goals and must receive adequate institutional support, especially at the headquarters-level. Furthermore, they must devise programs that include mechanisms to ensure that human rights issues receive adequate attention and oversight.

To carry this out, the Secretary of State and the Attorney General, within four months of the signing of PDD 71, shall prepare a plan to implement this guidance and present it to the President through the Assistant to the President for National Security Affairs. In the plan, the Attorney General should specifically address measures by the Department of Justice which are necessary to broaden and strengthen ICITAP's capacity to engage in long-range planning to support the policy and planning development work of the lead agency, as well as ICITAP's capacity to both provide training and coordinate with CIVPOL activities in support of peace operations and other complex contingencies.

Create an Interagency Partnership in Judicial, Penal, and Legal Code Developmental Assistance: In the increasingly global world, U.S. national security and other interests are inescapably linked to the effectiveness of foreign criminal justice systems. When

such systems break down or are destroyed, the damage is felt in a variety of ways, ranging from economic interests, to humanitarian concerns, to the physical safety of American citizens. We must therefore continue to expand and improve cooperation and development activities with other countries, especially those emerging from periods of instability where havens of criminal impunity might otherwise develop.

To respond rapidly and effectively to emerging contingencies, the Secretary of State will call upon relevant departments and agencies to participate in operations pertaining to urgent and immediate interventions in the criminal justice sector. The Department of State, as lead agency, will harmonize and assure rapid response assistance, training and other necessary support to strengthen judicial and penal systems and legal code reform during complex contingencies and in their aftermath.

The Attorney General and the Administrator of the U.S. Agency for International Development shall establish a partnership that will include subordinate offices, including ICITAP, OPDAT, and the USAID's Center for Democracy and Governance, to improve the capability of the U.S. Government to develop and assure delivery of rapid response assistance. Working through the Center for Democracy and Governance, these offices will conduct contingency planning and develop emergency assistance programs, relying on analyses of ongoing and past assistance programs and resulting lessons learned to guide future actions. The Center will draw upon the expertise of USAID's Office of Transition Initiatives as well as the expert resources available within other departments and agencies as necessary.

During the planning and execution of peace operations and complex contingencies, the Center for Democracy and Governance shall coordinate its developmental assistance activities with the lead agency, which will retain overall responsibility for planning, overseeing, and coordinating U.S. actions to rebuild the criminal justice sector. Programs must be developed that enable the U.S. to respond quickly to help establish rudimentary judicial and penal capacity during peace operations and complex contingencies. These programs must at the same time lead to sustainable, credible, and legitimate state institutions necessary for long-term stability. Therefore, they should be implemented in the context of a broader criminal justice reform strategy.

The Secretary of State, the Attorney General, the USAID Administrator, and the Director for the Office of Management and Budget shall work together to ensure this initiative receives authority and funding that is commensurate with the high priority that I place on it. The operating costs of the Center shall continue to be borne by USAID while costs of DOJ's participation in the Center's contingency planning and program development shall be borne by the Department of Justice. The field operations conducted through it should normally be funded from foreign assistance appropriations and other sources as appropriate. None of these funds shall be used by other USAID or USG elements for judicial, penal, or legal code developmental assistance unless coordinated through the Center.

Improving the Capacities of Other Organizations and Countries

Despite the critical importance of U.S. enhancements in these areas, U.S. Government capabilities should not become the international community's instrument of first resort whenever CIVPOL-related requirements arise. Many other countries and organizations

have similar interests and responsibilities and should share the burden of these activities. Therefore, the U.S. Government shall seek to enhance the capacities of non-U.S. entities including those of other countries, international organizations, and non-governmental organizations. Furthermore, the U.S. Government shall seek to build and sustain the will of other countries and organizations to be involved in this type of activity and develop mechanisms for greater cooperation and coordination.

The UN is the international body with the most extensive experience and dedicated mechanisms focused on peace operations. Indeed, until the recent advent of the police role for the OSCE in Eastern Slovenia and Kosovo, the UN had been the only international or regional organization to mount a significant CIVPOL operation. Among international organizations, the U.S. Government shall focus its reform efforts for CIVPOL activities on the UN, just as we did for general peacekeeping reforms following PDD-25. At the same time, the United States shall continue to support efforts to improve regional organizations' peace operations capabilities, including those related to criminal justice systems. In particular, the U.S. will work to further develop the capacities of the OSCE to conduct these operations.

Because we can only advocate, rather than direct, specific policies and processes of international organizations, PDD 71 outlines general policy objectives. During the implementation phase, specific proposals and a strategy for achieving them shall be developed. To facilitate these policy objectives, the State Department shall seek like-minded states and organizations to serve as partners in our efforts to improve the capacities of the UN and other regional organizations.

Within the UN Secretariat staff, greater emphasis should be placed on matters related to the criminal justice system during peace operations. The current staff devoted to CIVPOL matters in DPKO is insufficient to accomplish the planning, coordination, and conduct of these operations. The United States shall advocate that DPKO strengthen its capabilities by installing an appropriate, senior-rank individual, with appropriate staff support, to oversee criminal justice matters. The United States will consider providing individuals with criminal justice expertise to serve within DPKO. Furthermore, criminal justice functions should be fully integrated with other peacekeeping functions in DPKO. Adequate planning capacity within DPKO should account for CIVPOL requirements, including a criminal justice element, before a new operation is initiated or a mandate renewed. Criminal justice planners should be integrated into UN assessment teams that deploy to sites of potential peacekeeping operations and CIVPOL capabilities of more member states should be entered into the UN Standby Arrangements system. The Standby Arrangements system enables the international community to respond more quickly to crises through rosters of pre-identified, screened and trained police experts from around the world who can be deployed on very short notice. Finally, other organizations or UN specified agencies should develop means to take over the longer-term aspects of criminal justice development once the peacekeeping phase of a complex contingency is completed and peace-building activities have begun.

The U.S. Government will advocate that UN missions make use of a suitable mix of military and paramilitary forces to accomplish the assigned tasks of any new peace operation. Constabulary forces, that is, paramilitary forces that train for and conduct a law enforcement function in their home countries, should be deployed by the UN in appropriate circumstances. Such forces bring specialized skills, such as crowd control

capabilities, that are not common to traditional military or civilian police organizations. These forces are most effective when deployed as units rather than individuals. Generally, constabulary and other paramilitary units should be placed under the operational control of the military force commander, like the Multinational Support Units (MSU) that have been part of the military forces in Bosnia and Kosovo. In some circumstances, it may be appropriate to place a constabulary-type force under the operational control of the UN police commissioner. When under the operational control of the military force commander, and when feasible and allowable under existing statutes, these elements should receive logistic, intelligence, and other types of support in the same manner as the regular military units.

The lead agency shall develop methods to provide specialized training to foreign civilian police and foreign gendarme or constabulary forces in order to enhance their preparedness for service in peace operations and other complex contingencies. The lead agency shall seek new legislative authorities, if required, and adequate funding to allow such activity. This new capacity will provide the U.S. Government a means to improve the overall performance of CIVPOL operations, by enhancing the quality of CIVPOL participants. The training should include standard operating procedures for field operations, which may need to be developed in concert with other countries, the United Nations, and other international organizations. Given the high priority the President places on human rights issues and risks involved in training foreign police forces, the U.S. will ensure appropriate mechanisms to guarantee that human rights issues are fully considered.

Improving Activities at the Operational Level

U.S. experiences in recent operations have shown that a number of operational level activities related to rebuilding the indigenous criminal justice system can be improved. The aim should be to have an indigenous public security and law enforcement network with trained, certified, and equipped police -- all of which are firmly embedded in a system of legitimate and credible justice sector institutions. A key measure of progress would be to assess the extent to which a self-sufficient and impartial law enforcement system is being established.

Enhance CIVPOL Headquarters Capacities: Currently, operational-level headquarters capacities for CIVPOL are generally deficient. If field activities are to be improved, this shortfall must be corrected. Ideally, the CIVPOL component should be capable of operating independently, since CIVPOL will not always be deployed with military forces, as was the case at the end of the Haiti operation. Headquarters capacity becomes even more important if the CIVPOL component is controlling some sort of special security unit or a constabulary force. At a minimum, the headquarters should have the ability to conduct current operations, plan future operations, collect and assess field information, and manage its logistical support. The headquarters element should also have the ability to conduct liaison with elements of the host state and the other components of the peacekeeping force as well as other actors involved in rebuilding the criminal justice system.

Where appropriate, the CIVPOL headquarters should be capable of assuming responsibility to coordinate and oversee the overall reform process for the criminal justice sector. As more outside agencies become involved with this sector, the

importance of coordination increases. The CIVPOL operational headquarters should incorporate a coordination mechanism akin to the Civil Military Operations Center (CMOC) used by the military and civilian agencies to synchronize their activities. When the United States is participating in a peace operation involving CIVPOL, but is not leading it, the PCG shall give special consideration to contributing qualified U.S. personnel to the operation to serve in the planning and coordination roles of the CIVPOL headquarters. Enhance Coordination and Synchronization: Just as CIVPOL and other peacekeeping functions should be coordinated at the strategic level, they must also be coordinated fully at the operational level. The United States Government shall advocate that military peacekeepers and CIVPOL shall, as feasible, coordinate activities to ensure maximum support of the overall objectives of the operation. Past operations have been successful by colocating headquarters, or colocating with the CMOC, or developing other effective liaison processes, to allow sharing of information on planning and execution processes. In addition, in every recent peace operation involving CIVPOL, the conduct of joint and/or parallel patrols consisting of indigenous police, CIVPOL monitors, and military peacekeepers has proven valuable in maintaining public safety and raising the effectiveness of the indigenous police. The first source for CIVPOL communications and logistic support should be from commercial sources; however, since the military component of a peacekeeping operation is more likely to have effective communication systems, logistic support systems, and intelligence or information structures throughout the area of operations, the military commander should consider providing the CIVPOL component access to and mutual use of these capabilities when feasible and allowable by law and when it will not interfere with execution of the mission of the military component. Independent CIVPOL support systems should be developed as soon as possible to minimize the dependency on military systems and allow full withdrawal of military forces as soon as the military mission is completed.

In some instances, military support to the CIVPOL component has proven essential to successful accomplishment of the overall mission. Such support might take the form of technical assistance resident in the civil affairs, psychological operations, military intelligence, or military police elements of armed forces. At the same time, we must avoid situations in which the CIVPOL component is completely dependent upon the military peacekeeping component. Such military support may not always be feasible, or allowable under existing statutes, and the military-unique aspects of the mission will likely be completed prior to the public safety related tasks. Any U.S. military equipment, services or supplies should normally be provided to CIVPOL on a reimbursable basis.

Enhance CIVPOL Competence: The United States will advocate that whichever organization is organizing a particular peace operation, be it the UN or a regional grouping like the OAU or the OSCE, a military alliance such as NATO, or a lead state, will develop specific job descriptions and other standards for the various individual experts required in an operation, e.g., police monitor and mentor, police operations planner, penal system advisor, judicial system advisor, etc. The United States will urge that the organizing body abide by the highest standards for recruitment and have the authority to dismiss CIVPOL that fail to perform adequately. The U.S. lead agency will prepare template job descriptions and other standards that would speed the process of recruiting a CIVPOL force and share them with potential CIVPOL organizing bodies.

Training and preparedness of individuals and units being supplied to coalition peace

operations should remain a national responsibility. However, international organizations or other organizing bodies may need to supplement national training from time to time. The U.S. lead agency shall maintain the capacity to provide tailored training packages to U.S. and international CIVPOL when requested by the organizing body or the contributing state and when appropriate U.S. funding or appropriate reimbursement is available.

General Policy Guidance

Constabulary Activities: As already described, in some cases indigenous police forces are unable to provide adequate public safety when peacekeepers arrive. In these cases, outside agencies may need to assist in ensuring basic public safety until this function can be accomplished effectively by newly strengthened indigenous police. Generally, outsiders should not be tasked to conduct law enforcement as there are significant complications to using outsiders to enforce the law of the country in crisis, with which outsiders may not be familiar. Furthermore, ultimate responsibility to conduct law enforcement should not be taken away from local police forces as this may breed dependency. Rather, outsiders may be given responsibility to carry out a more narrow range of activities to create and maintain a reasonable measure of public safety. Such tasks may include actions to regulate movements which may be necessary for the cause of safety; intervene to stop civil violence, such as vigilante lynchings or other violent public crimes; stop and deter widespread or organized looting, vandalism, riots, or other mob-type action; and disperse unruly or violent public demonstrations and civil disturbances, among other tasks. For the purposes of PDD 71, this general category of tasks shall be termed constabulary activities.

Military or paramilitary forces are best suited to accomplish constabulary tasks. International civilian police officers (CIVPOL) as they have been traditionally deployed to peace operations do not have the unit cohesion, training, or equipment to conduct constabulary functions. Generally, the United States shall prefer that constabulary functions, when they are necessary, be conducted by a paramilitary force such as exists in many other countries. However, suitable partners may not always be available, or a short lag time may occur before a civilian, paramilitary force becomes operational in a specific situation. Therefore, U.S. military forces shall maintain the capability to support constabulary functions abroad, and if necessary carry out constabulary functions under limited conditions for a limited period of time. For example, in Haiti, in operation UPHOLD DEMOCRACY, the U.S. military contingent temporarily conducted constabulary functions and other law enforcement-like activities until civilian organizations were able to conduct these tasks. Maintaining a constabulary capability in no way obligates the U.S. military to conduct these tasks in any particular operation or to develop specialized constabulary units dedicated to this mission. As always, specific missions and tasks of any U.S. military elements serving in peace operations will be developed and approved by the National Command Authority.

Executive Authority: Generally, the U.S. Government shall advocate that CIVPOL not be given responsibility to enforce local law (executive authority) -- the responsibility for local law enforcement will remain with the indigenous police forces. In some instances, it may be appropriate to give monitors the authority (if not the responsibility) in their mandate to respond to local crimes when indigenous police are unable to take action. This authority may include the right to use detention and deadly force, for example, in an

instance where there is a risk of death or serious bodily harm. In these situations, which place them at greater risk, CIVPOL officers should be given sufficient discretion over whether or not to exercise their authority. Where CIVPOL officers are granted such authority, their activities must be thoroughly coordinated with the military force commander to avoid the potential for conflict between elements of the overall peace operation force.

In some exceptional circumstances, such as those in Kosovo and East Timor where the international community is responsible for administration of a territory, CIVPOL might appropriately be tasked with full law enforcement responsibility and authority.

Protection of CIVPOL: CIVPOL, as other peacekeepers, have the right to self-defense. Appropriate measures therefore must be taken to ensure that monitors are adequately protected. In many cases, the prestige and respect imbued to monitors because of their affiliation with the overall peacekeeping operation provides sufficient safety. In the instances where monitors have been at risk, they were able to call upon the military component of the operation for support. Recently, in Haiti, this type of support was transferred from the military component of the operation to a civilian, paramilitary unit. Generally, this method of protecting CIVPOL monitors has worked well. However, in some instances, this method may be insufficient. In these cases, the United States shall consider advocating that the CIVPOL monitors be armed in order to facilitate their self-defense. The U.S. will generally not consider sidearms alone to constitute adequate defense for the monitors, as they often will be significantly "outarmed" by the civilian population and, in particular, criminals and other rogue elements. We must recognize that if CIVPOL monitors are armed, their training and preparation needs will increase. Nonetheless, in addition to increasing the personal security of CIVPOL, experience in Haiti suggests that, in some situations, an armed CIVPOL monitor is better able to mentor indigenous police if by being armed they are allowed to be present in the dangerous situations indigenous police face. Obviously, in those situations where CIVPOL are tasked to conduct law enforcement, they must be armed appropriately.

The Role and Limits of Military Support: Actions related to criminal justice are primarily civilian in character: military forces are not police officers. U.S. armed forces do not normally have inherent law enforcement authority overseas. Furthermore, using military forces for law enforcement tasks over an extended period may send inappropriate signals to civil authorities and the local population, may place U.S. forces in situations for which they have not been thoroughly trained, and may detract from other purposes of the military forces. We should use democratic civilian policing models as the basis for rebuilding and training indigenous police forces, and that is what we hope to build in recovering societies. Nonetheless, the military component of a peace operation does have a vital role to play in the overall recovery of criminal justice capacities. Unless basic public safety is provided, the civilian organizations will be unable to conduct their tasks. If public safety is not maintained, the social fabric will not be ready for the assistance to be provided by the civilian agencies. In addition to the task of contributing to public safety, there are a number of supporting tasks that the military can conduct to hasten the progress of the civilian agencies dealing with criminal justice, as described above in the section on operational level improvements.

U.S. military personnel shall not provide formal training to foreign criminal justice systems unless authorized under existing authorities. However, this does not restrict U.S.

military personnel from interacting with or conducting joint operational activities with elements belonging to the indigenous criminal justice system. In accordance with laws and regulations, the U.S. military may provide training and assistance to host state security elements that are part of the host state's defense establishment. Furthermore, DOD shall, if appropriately directed and on a case-by-case basis under appropriate legal authorities, provide assistance and support to the agencies providing training and developmental assistance to foreign police forces. Such assistance and support may include, inter alia, logistics, communications, transportation, and selected technical expertise.

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|| PDD_71 Home Page | INL Home Page | State Department Home Page | Disclaimers ||

**UNITED NATIONS
CONVENTION AGAINST
TRANSNATIONAL
ORGANIZED
CRIME**
PALERMO, ITALY 12-15 DECEMBER 2000
HOSTED BY THE ITALIAN GOVERNMENT

"Organized criminal group 'shall mean a structured group of three or more persons existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offenses established pursuant to this Convention, in order to obtain, directly, or indirectly, a financial or other material benefit.'"

The definition of an organized criminal group in The United Nations Convention against Transnational Organized Crime

The United Nations Convention against Transnational Organized Crime was adopted by the General Assembly at its Millennium meeting in November 2000. It will be opened for signature at a high-level conference in Palermo, Italy, in December 2000. It is the first legally binding UN instrument in the field of crime. It must be signed and ratified by 40 countries before it comes into force.

States party to the Convention would be required to establish in their domestic laws four criminal offences:

- participation in an organized criminal group;
- money laundering;
- corruption; and
- obstruction of justice.

The new instrument spells out how countries can improve cooperation on such matters as extradition, mutual legal assistance, transfer of proceedings and joint investigations. It contains provisions for victim and witness protection and shielding legal markets from infiltration by organized criminal groups. Parties to the treaty would also provide technical assistance to developing countries to help them take the necessary measures and upgrade their capacities for dealing with organized crime.

Also adopted by the Assembly are three optional protocols by which countries would undertake in-depth measures to combat smuggling of migrants, trafficking in illicit arms and the buying and selling of women and children for sexual exploitation or sweat shop labour.

Interlinked gangs worldwide traffick an estimated 4 million people every year as "human cargo." The annual earnings from this trafficking has reached \$5 to 7 billion. The protocols on trafficking in human beings -- new forms of slavery -- and on smuggling of illegal

migrants are intended to beef up and internationalize efforts to stem these practices.

The third protocol would commit parties to setting controls on the illicit manufacture and sale of firearms, which have been playing an increasing role in civilian violence, terrorism and organized crime.

It is hoped that upon ratification the Convention will emerge as the main tool of the international community for fighting transnational crime.

Primary Documents

- The Convention against Transnational Organized Crime and its Protocols (Document: A/55/383), (French, Spanish, Chinese, Russian, Arabic)
- Addendum: Interpretative notes for the official records (travaux préparatoires) of the negotiation of the Convention against Transnational Organized Crime and the Protocols (Document: A/55/383/Add.1) (French, Spanish, Chinese, Russian, Arabic)

Commentaries on the Convention

- Summary of the Convention (12 pages)
- After Palermo: An Overview of what the Convention and Protocols Hope to Accomplish (9 pages)

Background information

By resolution 53/111, of 9 December 1998, the General Assembly established an Ad Hoc Committee open to all States, for the purpose of elaborating the international convention against transnational organized crime and three additional international legal protocols. The first session of the Ad Hoc Committee took place in Vienna, Austria, from 19-29 January 1999.

- Eleventh Meeting (Vienna, 2-27 October 2000)
- Tenth meeting (Vienna, 17-28 July 2000)
- Ninth meeting (Vienna, 5-16 June 2000)
- Eighth meeting (Vienna, 21 February - 3 March 2000)
- Seventh meeting (Vienna, 17-28 January 2000)
- Sixth meeting (Vienna, 6 -17 December 1999)
- Fifth meeting (Vienna, 4 - 15 October 1999)
- Fourth meeting (Vienna, 28 June - 9 July 1999)
- Third meeting (Vienna, April 1999)
- Second meeting (Vienna, March 1999)
- First meeting (Vienna, January 1999)

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

A. Background information

1. Names of the four instruments under consideration by the Ad Hoc Committee

United Nations Convention against Transnational Organized Crime

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

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

Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing United Nations Convention against Transnational Organized Crime

2. Purpose of the Convention and Protocols

Efforts of the international community to develop international instruments against transnational organized crime arise from the recognition that the problem has become much more serious. New forms of transnational co-operation between organized criminal groups emerged in the closing decades of the 20th Century. The globalization of economic systems, and developments in transportation and communications technologies have created enormous opportunities for human communication and economic development, but they have also created significant new opportunities for organized crime. The participation of over 100 member states in the negotiation of the Convention and Protocols reflects the fact that countries recognize that transnational crime is everyone's problem, and that it will require international co-operation to solve it.

The first and foremost purpose of the Convention, therefore, is international co-operation: Article 1 of the Convention gives the purpose as "...to promote cooperation to prevent and combat transnational organized crime more effectively". Various provisions are intended to provide instruments for law-enforcement and prosecutorial agencies, to encourage and co-ordinate prevention efforts and to support and protect victims. Many of these already exist in the domestic laws of member states, but some states do not have them. Other states have some elements of the solution, but not all. The Convention is intended to encourage those who do not have such provisions to adopt comprehensive measures and to provide them with some guidance as to how to approach the legislative and policy questions involved. It is also intended to provide greater standardisation or co-ordination of national policy, legislative, administrative and enforcement approaches to the problem to ensure a more efficient and effective global effort to control it.

3. Negotiations and present status

The text of the Convention was negotiated by the Ad Hoc Committee for the elaboration of the Convention and additional legal instruments (Protocols) at ten sessions held between 19 January, 1999 and 28 July 2000. The three additional Protocols were scheduled for completion at the eleventh session, set for 2-27 October 2000. The Committee was established and its mandates were set by UN General Assembly resolutions. All meetings took place in Vienna. Sessions usually drew about 100-120 national delegations and numerous other observers representing non-governmental and intergovernmental organisations.

Upon completion of the negotiations, the Ad Hoc Committee will submit the final texts of the instruments to the General Assembly for adoption, which is anticipated to take place in November of 2000. This is to be followed by a high-level signing conference in Palermo, Italy, from December 12-15, 2000. The Convention is then open for signature at UN headquarters in New York from 12-12-2000 until 12-12-2002 (Art.36, formerly 26).

4. Future activities and further instruments

The intention in structuring the process as a parent Convention and several subordinate protocols is to allow for maximum flexibility in negotiation and ratification. Once they ratify the Convention, countries are free to ratify all, some or none of the Protocols, in accordance with national interests.

Further Protocols may be considered in future. The existence and mandate of the Ad Hoc Committee was set by the U.N. General Assembly, which has the power to extend the mandate of the existing Ad Hoc Committee to include new subject-matter if there is sufficient political consensus to do so. The Assembly has already called for a study of illicit manufacturing and trafficking in explosives and has authorised the Ad Hoc Committee to consider a further instrument, possibly an additional Protocol, to deal with explosives once the study is complete. The desirability of a further global instrument dealing with corruption is also under consideration.

5. Nature of the instruments

(a) International law nature

The *Convention* and 3 protocols are instruments in international law, not the domestic laws of individual countries. They are negotiated between states, and when in force, they bind only states, not individuals. The negotiation process develops policies and language which most or all of the states involved in the negotiations can support. When a final text is established, countries which accept the finished product signify their acceptance by signing it. This is followed by ratification and implementation, in which each country brings the terms of the international instruments into force in its jurisdiction. Implementation usually consists of the adoption of whatever new domestic laws or amendments may be needed, accompanied by whatever new administrative frameworks or procedures are needed to make the new laws actually work. States are encouraged to support one another with resources or technical expertise where needed.

(b) Substantive nature

The *Convention* and 3 protocols oblige countries which sign and ratify them to take a series of measures against transnational organised crime. The fundamental purpose is to reinforce international co-operation. To accomplish this, it is necessary to ensure that as many states as possible have adopted

basic minimum measures against organised crime so that there are "no safe havens" where organizational activities or the concealment of evidence or profits can take place. Beyond this, many provisions are intended to ensure that the approaches taken by different states under their domestic legislative and law-enforcement regimes are as co-ordinated as possible to make collective international measures both efficient and effective. The instruments set basic minimum standards for countries, but it is expected that many will go further in adopting domestic measures, based on domestic needs or agreements with other countries on a bilateral or regional basis.

The provisions of the instruments can be divided into 7 categories, as follow.

Definitions. The opening Articles of each of the instruments define relevant terms. These set out the elements of offences which must be created pursuant to the instruments, and determine the circumstances in which the various provisions will apply. The definitions will also help to standardise terminology among countries dealing with transnational organised crime.

Criminalisation requirements. The *Convention* establishes four specific crimes (participation in organised criminal groups, Art.5, money-laundering, Art.6, corruption, Art.8, and obstruction of justice, Art. 23) to combat areas of criminality which are commonly used in support of transnational organised crime activities. The *Protocols* then establish additional crimes which deal with their basic subject-matter (e.g. trafficking in persons, smuggling of migrants, smuggling or illicit manufacture of firearms). In most States, these will be punishable by four years or more and will therefore fall within the *Convention* as "serious crimes". The *Protocols* also establish more minor offences (e.g., falsification of travel documents, defacement of firearm serial numbers) which support their basic policy goals. The *Convention* only applies to these offences where the *Protocol* so specifies. Countries which ratify the instruments are required to enact legislation making these activities domestic offences if such laws do not already exist.

Domestic measures to combat organised crime activities. Countries would be obliged to adopt domestic laws and practices which would prevent or suppress certain types of organised-crime-related activities. To combat money-laundering, for example, countries would have to require their banks to keep accurate records and make them available for inspection by domestic law enforcement officials. Anonymous bank accounts would not be permitted and bank secrecy could not be used to shield criminal activities. These measures may be supported by additional domestic offences (e.g., failing to keep or produce bank records). To combat both the trafficking in persons and the smuggling of migrants, the relevant protocols contain minimum standards for the manufacture, issuance and verification of passports and other international travel documents. Some of the measures are mandatory, while others have greater flexibility as to whether states will implement a measure, and if so, how.

Obligations for international co-operation in combatting transnational organised crime. It was apparent to the governments involved in the negotiations that it is necessary for law-enforcement and other agencies to work together in co-operation to deal effectively with organised crime groups. This means that many of the obligations imposed on States Parties involve some commitment to assist one another in dealing with transnational organised crime as a general problem, and to assist in dealing with specific cases. Co-operation under the *Convention* includes extradition and mutual legal assistance (Art.16 and 18) and other more specific measures, such as law-enforcement co-operation and collection and exchange of information. The *Protocols* then provide for additional, more specific forms of co-operation, such as assistance with the tracing of firearms, or assistance with the identification of nationals who are found in other countries as smuggled migrants, trafficked persons, or organised crime offenders.

Training and technical assistance. A number of Articles oblige states parties to maintain adequate national expertise in dealing with transnational organised crime problems, which requires adequate training facilities. This has obvious resource implications for developing countries, and both the Convention and protocols make provision for technical assistance projects in which developed countries would assist with technical expertise, resources, or both. Art.30, paragraph 2(b) calls upon States Parties to "...enhance financial and material assistance..." to support the efforts of developing countries to fight transnational organized crime and to implement the Convention. Paragraph 2(c) of the same Article calls for "adequate and regular voluntary contributions to "...an account specifically designated for that purpose in a United Nations funding mechanism..." to support such efforts. Both Art.14, paragraph (3) and Article 30, subparagraph (2)(c) call for the use of confiscated proceeds of crime for this purpose, subject to domestic legal restrictions. Paragraph 6 of the draft resolution whereby the General Assembly is to adopt the Convention in December of 2000 further provides that the designated account mentioned in Art.30 is to be operated within the United Nations Crime Prevention and Criminal Justice Fund, and encourages Member States to begin contributions immediately, in order to assist developing countries in preparing to implement the Convention.

Prevention. Both the *Convention* (Art.31) and protocols call on states parties to adopt measures to prevent various forms of transnational organised crime. These include such things as the taking of security precautions, training of officials, keeping of general records about crime and specific records to control key activities, such as the import/export of firearms and the issuance and verification of travel documents.

Technical and other provisions. The concluding provisions of each instrument deal with technical and procedural matters such as the procedures for signing, ratification and coming into force. The Convention will be open for signature at a signing ceremony at Palermo, Italy, from 12-15 December, and thereafter at United Nations Headquarters in New York until 12 December 2002 (Art.36, paragraph (1)). Instruments certifying that Member States have ratified the Convention are to be filed thereafter at United Nations Headquarters, and the Convention enters into force on the 90th day after the day on which the 40th such ratification instrument is filed (Art.36(3) and 38).

6. Relationship between the Convention and Protocols

As noted, four instruments have been considered by the Ad Hoc Committee: a draft Convention, and three protocols dealing with firearms-trafficking, smuggling of migrants, and trafficking (exploitation) in persons. Art.37 of the Convention provides that States must ratify the Convention before they can be a party to any of the Protocols. This means that each Protocol must be read and applied in conjunction with the main Convention: countries may be party to the Convention only, but not to a Protocol only. The various articles of all four instruments are drafted accordingly: the main Convention has general provisions dealing with such things as co-operation, technical assistance, and legal assistance, and each Protocol has more specific provisions supplementing and adapting these rules for application to the specific problems associated with trafficking in persons, smuggling migrants, and trafficking in firearms.

Countries dealing with cases under one of the Protocols may rely on the general provisions of the Convention in the following circumstances:

where the offence involved is established by the Convention or is a "serious crime" as defined by the Convention, and the offence is "transnational in nature and involves an organised criminal group", or

where the offence is established by the Protocol and the text of the Protocol specifically states that some or all of the general provisions of the Convention apply.

The exact wording of the protocols is still under negotiation.

B. The Convention Against Transnational Organised Crime

1. Scope and application of the Convention

The scope of application of the Convention was the subject of extensive negotiations and is now dealt with in Article 3. It applies to the four offences specifically established by the Convention and any "serious crime" as defined by Article 2, paragraph (1)(b) if, in either case, the offence is "transnational in nature" and if it "involves an organized criminal group". The question of whether an offence is "transnational in nature" is dealt with in Article 2, paragraph (2), which includes offences committed in more than one state and offences committed in only one state if they are prepared, planned, directed, controlled or have substantial effects in other states, or if they are committed by an organized criminal group which is active in more than one state.

This provision generally determines whether the Convention will apply to the "prevention, investigation and prosecution" of offences covered by the Convention, but this is subject to more specific rules set out in some of the Articles of the Convention and Protocols. Article 18, paragraph (1), which deals with mutual legal assistance, for example, refers to requests for assistance when the requesting State Party "...has reasonable grounds to suspect..." that the offence is transnational in nature, which makes it possible to use such a request in an attempt to find out whether this is the case.

Article 2 also defines "organised criminal group". Such a group must have at least 3 members, take some action in concert (i.e., together or in some co-ordinated manner) for the purpose of committing a "serious crime" for the purpose of obtaining a financial or other benefit. The group must have some internal organisation or structure, and exist for some period of time before or after the actual commission of the offence(s) involved.

2. Offences under the Convention

The Convention will require States Parties to create four new offences unless these already exist under domestic laws.

Under Art.5, participating in the activities of a "organized criminal group" and "organizing, directing, aiding, abetting, facilitating or counselling" serious crimes involving organised criminal groups must be made offences.

Under Art.6, activities relating to "money laundering" must be criminalized. This extends to not only cash, but any form of property which is the proceeds of crime, and includes any form of transfer or conversion of the property for the purpose of concealing its true origin. Simple acquisition or possession is also included, if the person in possession knows that the property is the proceeds of crime.

Under Art.8, corruption must be criminalized where there is a link to transnational organised crime. These include offering, giving, soliciting and accepting any form of bribe, undue advantage

or other inducement, where the proposed recipient is a public official and the purpose of the bribe relates to his or her official functions.

Under Art.23, States Parties will be required to criminalise any form of obstruction of justice, including the use of corrupt (e.g., bribery) or coercive means (physical force, threats or intimidation) to influence testimony, other evidence, or the actions of any law enforcement or other justice official.

3. Money-laundering and Corruption

As noted, States Parties will be required to enact basic offences covering the "laundering" or concealment of money or other proceeds of crime by Art.6. Art.7 would further require the adoption of other legal and administrative measures to regulate financial activities in such a way as to make concealing proceeds more difficult, to facilitate the detection, investigation and prosecution of money-laundering, and to provide international assistance or co-operation in appropriate cases. Articles 12-14 provide for the confiscation and disposal of money or property which is either proceeds of crime or has been used in crime. Provisions for international co-operation in seizure and forfeiture cases are included. Under Article 14, seized proceeds would normally be disposed of by the state which recovers them, but may also be shared with other countries for the purposes of paying compensation or restitution to victims or other purposes, or contributed to intergovernmental bodies working against transnational organised crime. Articles 8 and 9, respectively, require countries to criminalise public-sector corruption and to take effective legal and administrative measures against it.

4. International co-operation: essential tools for combatting transnational organised crime

The provisions of the Convention which deal with extradition and mutual legal assistance provisions of the Convention are similar to traditional provisions already in place in many regional or bilateral agreements. The major significance of these provisions is that a large number of countries is expected to ratify the Convention, making legal assistance and extradition available much more widely than is presently the case. As with other parts of the Convention and Protocols, these provisions are intended to set minimum standards only. Countries are encouraged to go further in bilateral or regional arrangements, and are in fact encouraged to do so. Where more advantageous provisions are found in other agreements between the states involved in a particular case, those provisions would apply.

Under Art.16, extradition from another state party may be sought for the four specific offences established by the Convention, or for any "serious crime", where an "organized criminal group" is involved, the person whose extradition is sought is in the requested State Party, and the offence itself is punishable by the domestic laws of both states. Offences established by the protocols will only be extraditable where they meet these conditions, or where the protocol in question so specifies.

Some limits on extradition apply under the Convention: Art.16(7) makes extradition subject to conditions imposed by the domestic law of the requested State Party, and any applicable bilateral or multilateral treaties. Thus, for example, treaty requirements for "dual-criminality" and minimum punishment thresholds below which offences are not extraditable will continue to apply. Under Art.16(14), extradition can also be refused if there are substantial grounds to believe that the real reason for the request relates to the race, sex, nationality, ethnicity or political opinions of an individual and not crimes he or she may have committed. States Parties may also refuse to

extradite their own nationals, but in such cases must prosecute the case themselves.(Art.16(10)).

Under Art.18, "...the widest measure of mutual legal assistance..." can be requested from another state party for any investigation, prosecution or judicial proceedings in relation to crimes or offences covered by the Convention. As noted in the discussion of scope, above, this provision applies to a broader range of circumstances than the general rule for application set out in Art.3. Under that Article, provisions of the Convention will generally apply to the investigation and prosecution of an offence "...where the offence is transnational in nature and involves an organised criminal group". Art.18, paragraph (1) applies the mutual legal assistance provisions "...where there are reasonable grounds to suspect..." that the offence is transnational in nature. This is intended to make it possible to use the assistance provisions to determine whether the offence is transnational in cases where this is only suspected.

The provisions of Art.18 can be used to obtain statements or other evidence, conduct searches or seizures, serve judicial documents, examine objects or sites, obtain original documents or certified copies, identify or trace proceeds of crime or other property, obtain bank, corporate or other records, facilitate the appearance of persons in the requesting state party, or any other form of assistance permitted by the laws of the states involved (Art.18(3)). The range of forms of assistance available is generally consistent with many existing bilateral and multilateral legal assistance agreements. The major significance of the Convention provisions will be that these extend the availability of such assistance (in cases to which they apply) to a much greater number of countries than is presently the case, assuming that a large number of countries ratify and implement the instrument. The provisions also extend previously-available forms of assistance in some areas. Requests for assistance can be made "...in any form capable of producing a written record..." (Art.18(14)), which creates the possibility of using electronic media to speed up the process, where the governments involved are satisfied as to measures taken regarding such things as authenticity, security and confidentiality. The text also provides for the evidence of witnesses to be taken and transmitted by a "video conference" in which the evidence would be heard before a judicial authority of the requested state for use in proceedings in the requesting state (Art.18(18)). Subject to addressing legal and technical requirements, this has the potential to reduce costs and inconvenience to witnesses, and to make possible the participation of victims or other witnesses who could not travel due to age, health or other personal circumstances. The costs of assistance are normally borne by the state which provides the assistance, but can be negotiated between States Parties in exceptional cases (Art.18(28)).

Legal assistance can be refused if the request does not contain the information required by the Convention (Art.18(14), (15) and (21)); if the request is for an offence or form of assistance not covered by the Convention; if the offence alleged is not an offence under the laws of both States Parties ("absence of dual criminality", Art 18(9) if providing assistance would be prejudicial to essential interests of the requested state, such as public order, sovereignty or security requirements; or if it is inconsistent with constitutional or other fundamental legal requirements ("contrary to the legal system of the requested state", Art.18(21)(d)). Legal assistance cannot be refused on the grounds of bank secrecy (Art.18(8) or the grounds that the alleged offence also involves "fiscal matters" (Art.18(22)). Assistance may also be postponed to protect an ongoing domestic investigation (Art.18(25)), and there are provisions for the giving of reasons and consultations between governments when assistance is postponed or refused (Art.18(23) and (26)).

The Convention also provides the general basis for conducting joint investigations (Art.19), co-operation in special investigative procedures, such as electronic surveillance, and general law-enforcement co-operation (Art.20 and 27). These provisions are supplemented by the Protocols in

some areas. General exchange of information for investigative purposes is provided for in Art.27 (1), for example, while the exchange of the specific information needed to trace a firearm is dealt with under the Protocol against illicit firearms trafficking (Art.14(3)). As in other areas, the approach is to set out a minimal framework, and to encourage States Parties to go beyond it in accordance with their domestic and regional needs and consistent with the constraints of domestic legal and constitutional requirements. The development of domestic training programmes and the provision of technical assistance to other states in training matters are also encouraged (Art.29 and 30).

5. Protection and support of victims and witnesses

The nature of transnational organised crime makes the protection of victims and witnesses a matter of some importance. Art.24 of the Convention requires States Parties to adopt appropriate measures to protect witnesses from potential intimidation or retaliation. This includes physical protection, relocation, and within legal constraints, concealment of identities. Countries are called upon to consider international relocations of witnesses where appropriate. States Parties are also encouraged to develop techniques and programmes which encourage those involved in organised crime to co-operate with law-enforcement authorities (Art.26). In addition, Art. 25 provides for the protection and support of victims (who will also usually be witnesses under Art.24).

C. The Protocol to Prevent, Suppress and Punish Trafficking in Persons (summary)

Part I - Purpose, scope and criminal sanctions (Articles 1-3)

Articles 1 and 2 set out the basic purpose and scope of the Protocol. Essentially, the Protocol is intended to "prevent and combat" trafficking in persons and facilitate international co-operation against such trafficking. It provides for criminal offences, control and co-operation measures against traffickers. It also provides some measures to protect and assist the victims. Some issues remain open with respect to the application of the Protocol to purely domestic activities (e.g., movement of victims within a country) which support international trafficking.

"Trafficking in persons" is intended to include a range of cases where human beings are exploited by organised crime groups where there is an element of duress involved and a transnational aspect, such as the movement of people across borders or their exploitation within a country by a transnational organised crime group.

The key definition, "trafficking in persons" (Article 2 *his*) is not yet finalized, but there is general agreement about core elements. Trafficking is the "...recruitment, transportation, transfer, harbouring or receipt of persons..." if this uses improper means, such as force, abduction, fraud, or coercion, for an improper purpose, such as forced or coerced labour, servitude slavery or sexual exploitation. The draft text also contains language to include cases where those who have custody or control over another person, often a child, transfer custody in exchange for improper payments. Countries which ratify the Protocol are obliged to enact domestic laws making these activities criminal offences, if such laws are not already in place (Art.3).

This has been a difficult exercise in drafting and negotiation because of the wide variety of activities many of the countries involved are seeking to control. Some of the more difficult issues which have had to be addressed include the following. Some states have taken the position that, since the major abuses

of trafficking involve women and children and these are most in need of protection, the Protocol should be limited to them to focus domestic efforts accordingly. Others felt that abuses against all "persons" should be included. As presently worded, the Protocol applies to all "persons", but generally refers to "...persons, especially women and children..." Finding language to capture a wide range of coercive means used by organised crime has also proven difficult. With the exception of children, who cannot consent, the intention is to distinguish between consensual acts or treatment and those in which abduction, force, fraud, deception or coercion are used or threatened. As with the Convention, the nature and degree of international and organised crime involvement that should be required before the Protocol applies has also been the subject of extensive discussions, some of which are still ongoing. Generally, cases in which there is little or no international involvement can be dealt with by domestic officials without recourse to the Protocol or Convention for the assistance of other countries. On the other hand, requiring too direct a link might make it impossible to use the Protocol provisions in cases where purely-domestic offences were committed by foreign offenders or as part of a larger transnational organised crime scheme.

Part II - Protection of trafficked persons (Articles 4-6)

In addition to taking action against traffickers, the Protocol requires states which ratify it to take some steps to protect and assist trafficked persons. Trafficked persons would be entitled to confidentiality and have some protection against offenders, both in general and when they provide evidence or assistance to law enforcement or appear as witnesses in prosecutions or similar proceedings. Some social benefits, such as housing, medical care and legal or other counselling are also provided for.

The legal status of trafficked persons and whether they would eventually be returned to their countries of origin has been the subject of extensive negotiations. Similar discussions have taken place with respect to the return of smuggled migrants in the Protocol dealing with them. Generally, developed countries to which persons are often trafficked have taken the position that there should not be a right to remain in their countries as this would provide an incentive both for trafficking and illegal migration. Countries whose nationals were more likely to be trafficked wanted as much protection and legal status for trafficked persons as possible. The negotiations are still ongoing, but the text presently requires states "to consider" laws which would allow trafficked persons to remain, temporarily or permanently, "in appropriate cases" (Art.5). States would also agree to accept and facilitate the repatriation of their own nationals (Art.6).

Part III - Prevention, co-operation and other measures (Art.7-11)

Generally, the law enforcement agencies of countries which ratify the Protocol would be required to co-operate with such things as the identification of offender and trafficked persons, sharing information about the methods of offenders and the training of investigators, enforcement and victim-support personnel (Art.7). Countries would also be required to implement security and border controls to detect and prevent trafficking. These include strengthening their own border controls, imposing requirements on commercial carriers to check passports and visas (Art.8), setting standards for the technical quality of passports and other travel documents (Art.9), and co-operation in establishing the validity of their own documents when used abroad (Art.6, para (3)). Co-operation between states who ratify is generally mandatory. Co-operation with states who are not parties to the Protocol is not required, but is encouraged (Art.11). Social methods of prevention, such as research, advertising, and social or economic support are also provided for, both by governments and in collaboration with non-governmental organisations (Art.10).

D. The Protocol against the Smuggling of Migrants by Land, Air and Sea (summary)

Part I - General provisions (definitions, criminalisation, scope and purpose, Art.1-5)

Three purposes of the Protocol are listed (Art.3). The Protocol is intended to combat smuggling by the prevention, investigation and prosecution of offences, and by promoting international co-operation among the States Parties. It is also intended to protect the human rights and other interests of smuggled migrants by promoting international co-operation to that end. It is not intended to deal with activities which do not involve an "organised criminal group" as defined in the Convention itself. States Parties will be required to criminalise the smuggling of migrants, which includes the procurement of either illegal entry or illegal residence in order to obtain any financial or other benefit, whether direct or indirect (Art.2,4). States would also be required to criminalise the procurement, provision, possession, or production of a fraudulent travel or identity document where this was done for the purpose of smuggling migrants (Art.4). The instrument is not intended to criminalise migration itself, however. It provides (Art.3 *bis*) that migrants should not be liable to prosecution for a Protocol offence "...for the fact of having been smuggled", but does not exclude liability for the smuggling of others or other offences, even where the accused is also a migrant him- or herself. Requirements to criminalise attempts, accomplices, conspiracy and other contributions to the offence are also included (Art.4). In recognition that smuggling is often dangerous, and to increase protection for migrants, States Parties are also required to make smuggling in circumstances which endanger the migrants' lives or safety, or which entail inhuman or degrading treatment as aggravating circumstances to the Protocol offences.

Part II - Smuggling by sea (Art. 7 *bis* -7 *quater*)

Generally, the provisions of Part II are intended to give states which encounter ships which are smuggling, or believed to be smuggling, migrants, sufficient powers to take actions to apprehend the migrants and smugglers and to preserve evidence, while respecting the sovereignty of the states (if any) to which the ships are flagged or registered. The text of these Articles draws heavily on the *United Nations Convention on the Law of the Sea* (1982), the *United Nations Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances* (1988) and interim measures drawn up by the International Maritime Organisation. A major concern for many delegations is the fact that, in many cases ships used for smuggling are decrepit or unsound, any delays in boarding from mandatory procedural requirements may well endanger the lives or safety of the migrants or others on board.

The general rule for taking actions against a ship at sea is that this can only be done with the approval of the State whose flag the ship flies or with whom it is registered. The Protocol requires States Parties to "co-operate to the fullest extent possible" (Art.7(1)), in giving such approval and in other efforts to suppress the smuggling of migrants by sea. A state which believes that one of its ships, or a ship which is flying its flag, is being used for smuggling may call upon other States Parties to take action to suppress this, and those States are required to render such assistance as necessary, within available means (Art.7(2)). A state which believes that a ship registered or flagged to another state is involved in smuggling may check the registry, and ask the registry state for authorisation to board, inspect, and if evidence of smuggling is found, to take other actions (Art.7*bis* (1)). The responding state must answer the requests expeditiously, but may place limits or conditions on what may be done (Art.7*bis* (4)). Such conditions must be respected, except where there is imminent danger to lives or safety, or where there a bilateral or multilateral agreement between the states involved says otherwise (Art.7*bis* (4)). Where there is no apparent nationality or registry cannot be determined, the ship may be boarded and inspected as necessary (Art.7*bis* (6)). Subject to continuing negotiations, all such actions must be taken with regard to the safety and humane treatment of those on board, environmental considerations, commercial and other interests (Art.7*ter*).

States Parties are encouraged to go beyond the provisions of the Protocol in developing measures against smuggling at the bilateral or regional levels (Art.7 *quater*, smuggling by sea, Art.8, other measures).

III. - Co-operation, prevention and other measures (Art.8-15 *bis*)

Additional legal and administrative measures to combat smuggling which involves commercial carriers are encouraged (Art.9). These include penalties where carriers found carrying smuggled migrants are complicit or negligent and requirements that carriers check basic travel documents before transporting persons across international borders.

States Parties are called upon to adopt general preventive measures (Art.11). Based on the assumption that a key element of prevention is the dissemination of information about the true conditions during smuggling and after arrival to discourage potential migrants, Art. 10 requires the creation or strengthening of programmes to gather such information, transmit it from one country to another, and ensure that it is made available to the general public and potential migrants. Art.10 also calls for the gathering and sharing of information needed by law enforcement or immigration officials to

take action against smugglers, such as information about the latest smuggling methods, routes and investigative or enforcement techniques.

The use of false or fraudulent passports and other travel documents is an important element of smuggling, and documents are often taken from migrants upon arrival so that they can be re-used by the smugglers over and over again. To address this part of the problem, Articles 12 and 13 deal with document security. Subject to ongoing negotiations, States Parties would be required to develop basic document forms that cannot easily be used by a person other than the legitimate holder, and of such quality that they cannot easily be falsified, altered or replicated. To address the concerns of developing countries, this obligation is subject to the availability of the necessary means. Security precautions against theft of materials, blank documents, and issuance to fraudulent applicants may also be required. States Parties would also be required to establish that travel documents purported to have been issued by them are genuine and valid ("legitimacy and validity", Art.13).

States Parties are also required to develop appropriate training regimes for their officials, in co-operation with other States Parties where appropriate (Art.14). Training must include not only methods and techniques for investigating and prosecuting offences, but also background intelligence-gathering, crime-prevention, and the need to provide humane treatment and respect for the basic human rights of migrants. The basic rights of migrants under other international instruments are expressly preserved (Art. 15 *bis*). Adequate resources are called for, with the assistance of other States where domestic resources or expertise are not enough (Art.14(3)).

One of the more difficult questions surrounding the effort to control the smuggling of migrants is the question of what should be done with migrants once legal proceedings are completed. The basic protection of migrants where they are victims of crime or used as witnesses is dealt with by the Convention (Art. 18, 18 *bis*). Generally, countries which frequently find themselves as destinations for illegal migrants support a provision (Art.15) which would allow them to return migrants to countries of which they are nationals or where they have a legal right of abode. They also seek the co-operation of other states in identifying their nationals and in facilitating repatriation. Countries which more often find themselves as a source of migrants have sought a right of migrants to remain, or failing this, a right to

seek legal status, in destination countries. Negotiations on Article 15 are continuing.

E. Protocol against the illicit manufacturing of or trafficking in firearms (summary)

Purpose, scope and application

Generally, the purpose (Art.3) of this Protocol is to combat the illicit transfer of firearms from one country to another. To accomplish this, other activities, such as the illicit manufacture and the illicit transfer of parts, components, and ammunition are also addressed and additional requirements, such as the marking of firearms for identification purposes and the keeping of records to permit tracing, are also imposed.

The exact types of activity and subject-matter to be included or excluded from the scope or application of the Protocol are still under negotiation. Subject to these negotiations, it is likely that none of the provisions will apply to state-to-state arms transactions, which are already the subject of arms-control agreements. It is also likely that there will be some degree of exemption for purely private activities, such as cases where an individual takes a firearm from one country to another for the purposes of hunting or other personal recreational shooting activities (Art.4). Some states also seek exemptions for firearms produced exclusively to equip their military or security forces and transfers made for national security purposes, but other states have concerns about the breadth of such exemptions.

There are also proposals to subject the activities of brokers, who negotiate or arrange transactions without actually owning or possessing weapons, to some controls under the Protocol (Art.2 5, and 18 *bis*). Some states have proposed that such individuals be licensed and required to provide the licensing state with information about their transactions, and that unlicensed brokering be included as a form of activity which States Parties would be required to criminalise. There is presently no agreement about whether brokering should be regulated by the Protocol, or if so, whether licenses should be required for each transaction or only for general brokering business activities, and whether brokers should be registered and licensed by the State in or from which they operate, or in any state or states where the transactions actually take place.

Definitions and criminalisation requirements (Art.2 and 5)

The question of subject-matter is dealt with in the definition provision (Art.2). There is general agreement that, the term "firearm" should include any "barrelled weapon" which expels a shot, bullet or projectile by the action of an explosive, with the exception of some antique firearms. Beyond this, there are proposals to also exclude very low-powered weapons by adding the term "lethal", and to limit the size of firearms included by adding the word "portable". There is also a proposal to include some other descriptive devices such as bombs, grenades, rockets and rocket-launchers. There remain disagreements over whether very large barrelled weapons and other destructive devices should be included, however. Some states have argued that these are more properly a matter for arms control agreements, while others maintain that, while they are not likely to be used by transnational organised crime, such devices are likely to be trafficked as a commodity by organised criminal groups.

Other key terms for the creation of offences and other controls under the Protocol are also defined in Art.2. The term "ammunition" includes components as well as assembled cartridges, subjecting components of ammunition to some of the controls in the Protocol. "Parts and components" of firearms are also defined. These must be both designed specifically for a firearm and essential to its operation,

focussing controls on the most important and identifiable parts. The terms "tracing" and "transit" are also defined.

The term "illicit manufacturing" includes manufacture without legal authorisation, assembly from illicit parts, and manufacture without marking as required by the Protocol. The term "illicit trafficking" includes any form of transfer where firearms, parts, components or ammunition move from one country to another without the approval of the countries concerned. Many states favour requiring the approval of countries through which the firearms pass ("in transit") on the way to their ultimate destination. This involves balancing the costs and regulatory difficulties of controlling transit shipments against the probability that in-transit firearms might be diverted into illicit commerce, and negotiations are still ongoing as to exactly which types of transit should be subject to Protocol controls and what sorts of controls they should be subjected to (Art.2, 5, and 18 *bis*). States Parties are required to make both illicit manufacturing and trafficking domestic offences (Art.5).

In addition to illicit manufacturing and trafficking, states may also be required to criminalise other related activities pursuant to Article 5. There is general agreement that the Protocol should require that firearms be marked to facilitate the identification and tracing of individual weapons (Art.9), and that the removal, obliteration or alteration of serial numbers should also be made an offence by States Parties (Art.5(e)). Other offences are proposed to deal with the possession of illicitly trafficked or manufactured firearms and the trafficking of destructive devices other than firearms, but these have not been agreed to thus far. There is also a proposal to criminalise any form of violation of an arms embargo imposed by the U.N. Security Council (Art.5(3)), but note that state-to-state transactions would still be excluded by Art.4).

Confiscation and forfeiture (Art.7)

Generally, the subject of the confiscation and forfeiture of proceeds of crime and other crime-related property is dealt with by the Convention, but the focus of those provisions is the disposal and liquidation of forfeited property or assets for use by the states or to compensate victims. Most states feel that firearms, parts, components and ammunition should be subject to additional precautions to ensure that they are not transferred, if at all, in ways which might allow them back into illicit commerce or criminal possession. The options under consideration include requirements that such firearms be destroyed or deactivated, bans on any transfer to private hands, or marking the firearms upon disposal (Art.7).

Identification and tracing (Art.8, 9, and 14)

A central policy of the Protocol is the creation of a series of requirements to ensure that firearms can be uniquely identified and traced from one country or owner to another, which deters offenders and facilitates the investigation of both purely-domestic firearms offences and cases of transnational trafficking. There is general agreement that firearms should be required to be marked with a serial number or similar identifier at the time of manufacture to permit subsequent identification (Art.9). Additional proposals still under discussion include requirements for subsequent marking when a firearm is imported or exported, when confiscated and not destroyed, and when transferred from a government police or military stock to private possession. There is also general agreement that records should be kept for at least ten years of transfers from one country to another (Art.8), and that countries should cooperate closely in furnishing the information needed to trace a firearm when requested to do so (Art.14 (3)). Firearms which are deactivated or destroyed are generally removed from national records, and to prevent cases of inadequate deactivation and the subsequent reactivation of un-recorded firearms, the Protocol also provides minimum requirements for deactivation (Art.10).

Import-export requirements (Art.11)

The basis of the offence of "illicit trafficking" is that firearms, parts, components, or ammunition are transferred from one state to another without the legal authorisation of the states (including some transit states) concerned. To support this, Art.11 provides standard requirements for the licensing or authorisation of such transactions. Documents which identify the firearms and provide other relevant information would both accompany the shipment for reference by border, customs and other officials inspecting the weapons, and pass directly from government to government so as to ensure that the destination state is aware of and has licensed the importation of the shipment before the source state authorises or licenses its export. Provision is also made for security measures to prevent the falsification or misuse of documents (Art.11) and the loss, theft or diversion of actual shipments (Art.12).

International co-operation (Art.14-17)

Several provisions of the Protocol call for international co-operation to combat illicit manufacturing or smuggling. The most significant of these, as noted, is co-operation with the tracing of firearms (Art.14 (3)), but the sharing of information about offenders and their methods (Art.14(1)), and more general scientific or forensic matters related to firearms (Art.14(2)) are also called for. States Parties are required to keep shared information confidential where requested, subject to legal disclosure requirements, and to notify the provider of information if it must be disclosed (Art.17). Specific bilateral or regional co-operation agreements are encouraged (Art.15), and more general forms of mutual legal assistance and investigative co-operation are covered by the relevant provisions of the Convention itself and by Art.15 *bis* (establishment of focal point) 16 (exchange of experience and training) and 18 (technical assistance) of the Protocol.