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I

(Acts whose publication is obligatory)

DECISION No 1364/2006/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 6 September 2006
laying down guidelines for trans-European energy networks and repealing Decision 96/391/EC and
Decision No 1229/2003/EC

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 156 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽²⁾,

Whereas:

- (1) Subsequent to the adoption of Decision No 1229/2003/EC of the European Parliament and of the Council of 26 June 2003 laying down a series of guidelines for trans-European energy networks ⁽³⁾, the need has arisen to integrate fully the new Member States and the accession and candidate countries into those guidelines and to adapt further, as appropriate, those guidelines to the new proximity policy of the European Union.
- (2) The priorities for trans-European energy networks stem from the creation of a more open and competitive internal energy market as a result of the implementation of Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity ⁽⁴⁾ and Directive 2003/55/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in natural gas ⁽⁵⁾. Those priorities reflect the conclusions of the Stockholm European Council of 23 and 24 March 2001 concerning the development of the infrastructure needed for the operation of the energy market. A special effort should be undertaken to achieve the objective of making greater use of renew-

able energy sources as a contribution to further a sustainable development policy. However, this objective should be achieved without creating disproportionate disturbances to the normal market equilibrium. Full account should also be taken of the objectives of the Community's transport policy and, specifically, the opportunity to reduce road traffic by using pipelines.

- (3) This Decision serves to move closer towards the target for the level of electricity interconnection between Member States which was agreed at the Barcelona European Council of 15 and 16 March 2002, and thus to improve network reliability and integrity, and ensure that there is security of supply and that the internal market functions properly.
- (4) As a rule, the construction and maintenance of energy infrastructure should be subject to market principles. This is also in line with the common rules for the completion of the internal market in energy and the common rules on competition law which aim at the creation of a more open and competitive internal energy market. Community financial aid for construction and maintenance should therefore remain highly exceptional, and such exceptions should be duly justified.
- (5) Energy infrastructure should be constructed and maintained so as to enable the internal energy market to operate efficiently, with due regard to existing procedures for consulting the people affected, without detracting from strategic and, where appropriate, universal service criteria and public service obligations.
- (6) In the light of potential synergies between natural gas networks and olefin networks, due importance should be placed on the development and integration of olefin networks in order to meet the olefin gas consumption needs of industries in the Community.

⁽¹⁾ OJ C 241, 28.9.2004, p. 17.

⁽²⁾ Opinion of the European Parliament of 7 June 2005 (OJ C 124 E, 25.5.2006, p. 68), Council Common Position of 1 December 2005 (OJ C 80 E, 4.4.2006, p. 1), Position of the European Parliament of 4 April 2006 (not yet published in the Official Journal) and Decision of the Council of 24 July 2006.

⁽³⁾ OJ L 176, 15.7.2003, p. 11.

⁽⁴⁾ OJ L 176, 15.7.2003, p. 37. Directive as amended by Council Directive 2004/85/EC (OJ L 236, 7.7.2004, p. 10).

⁽⁵⁾ OJ L 176, 15.7.2003, p. 57.

- (7) The priorities for trans-European energy networks also stem from their growing importance for securing and diversifying the Community's energy supplies, incorporating the energy networks of the new Member States, accession and candidate countries, and ensuring the coordinated operation of the energy networks in the Community and in neighbouring countries after consulting the Member States concerned. Indeed, the Community's neighbouring countries play a vital role in its energy policy. They supply a major part of the Community's natural gas requirements, are key partners for the transit of primary energy to the Community and will progressively become more important players in its internal gas and electricity markets.
- (8) Among the projects relating to trans-European energy networks, it is necessary to highlight the priority projects, which are very important for the operation of the internal energy market or the security of energy supply. In addition, a declaration of European interest should be established for those projects receiving the highest priority, as well as enhanced coordination, where appropriate.
- (9) For the purpose of the gathering of information required under this Decision, the Commission and the Member States should, as far as possible, use information on projects declared to be of European interest which is already available, in order to avoid duplication of efforts. For example, such information may already be available in the context of Council Regulation (EC) No 2236/95 of 18 September 1995 laying down general rules for the granting of Community financial aid in the field of trans-European Networks ⁽¹⁾, in the context of other Community legislation which can provide cofinancing to trans-European network projects and the decisions approving individual projects under such legislation, or in the context of Directives 2003/54/EC and 2003/55/EC.
- (10) The procedure for identifying projects of common interest in the context of trans-European energy networks should ensure the smooth application of Regulation (EC) No 2236/95. That procedure should distinguish two levels: a first level establishing a restricted number of criteria for the identification of such projects, and a second level describing the projects in detail, referred to as 'specifications'.
- (11) Appropriate priority for funding under Regulation (EC) No 2236/95 should be given to projects declared to be of European interest. Member States should, when submitting projects under other Community financial instruments, give particular attention to projects declared to be of European interest.
- (12) For most projects declared to be of European interest, a significant current or prospective delay could be a delay expected to last between one and two years.
- (13) Since the project specifications are liable to change, they can only be given by way of indication. The Commission should therefore be empowered to update them. Since the projects may have considerable political, environmental and economic implications, it is important to find the appropriate balance between legislative oversight and flexibility in identifying projects that deserve potential Community support.
- (14) When projects declared to be of European interest, sections of such projects or groups of such projects encounter implementation difficulties, a European coordinator could act as a facilitator by encouraging cooperation between all parties concerned and by ensuring that adequate monitoring is carried out in order to keep the Community informed of progress. The services of a European coordinator should also be made available to other projects, at the request of the Member States concerned.
- (15) Member States should be invited to coordinate implementation of certain projects, in particular cross-border projects or sections of cross-border projects.
- (16) A more favourable context for the development and construction of trans-European energy networks should be created, mainly by providing a stimulus for technical cooperation between the entities responsible for networks, by facilitating the implementation of procedures applicable for network projects in the Member States in order to reduce delays and by mobilising as appropriate the funds, instruments and financial programmes of the Community available to network projects. The Community should support Member States' measures taken in pursuit of that objective.
- (17) Since the budget allocated to the trans-European energy networks is mainly intended to finance feasibility studies, it is the Community Structural Funds, financial programmes and instruments that could, if necessary, enable funding to be provided for such interconnection networks, in particular interregional networks.
- (18) The identification of projects of common interest, their specifications and priority projects, in particular those of European interest, should be without prejudice to the results of the environmental impact assessment of the projects, plans or programmes.

⁽¹⁾ OJ L 228, 23.9.1995, p. 1. Regulation as last amended by Regulation (EC) No 1159/2005 of the European Parliament and of the Council (OJ L 191, 22.7.2005, p. 16).

- (19) The measures necessary for the implementation of this Decision should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽¹⁾.
- (20) The Commission should periodically draw up a report on the implementation of this Decision.
- (21) Information to be exchanged or provided to the Commission under the provisions of this Decision is likely to be held, to a large extent, by companies. Therefore, Member States may have to cooperate with such companies in order to obtain that information.
- (22) Since this Decision covers the same subject matter and scope as Council Decision 96/391/EC of 28 March 1996 laying down a series of measures aimed at creating a more favourable context for the development of trans-European networks in the energy sector ⁽²⁾ and Decision No 1229/2003/EC, those two Decisions should be repealed,

HAVE ADOPTED THIS DECISION:

Article 1

Subject matter

This Decision defines the nature and scope of Community action to establish guidelines for trans-European energy networks. It establishes a series of guidelines covering the objectives, priorities and broad lines of action by the Community in respect of trans-European energy networks. These guidelines identify projects of common interest and priority projects, including those of European interest, among trans-European electricity and gas networks.

Article 2

Scope

This Decision shall apply:

- 1. in electricity networks, to:
 - (a) all high-voltage lines, excluding those of distribution networks, and to submarine links, provided that this infrastructure is used for interregional or international transmission or connection;
 - (b) any equipment or installations essential for the system in question to operate properly, including protection, monitoring and control systems;
- 2. in gas networks (transporting natural gas or olefin gases), to:
 - (a) high-pressure gas pipelines, excluding those of distribution networks, making it possible to supply regions of the Community from internal or external sources;

- (b) underground storage facilities connected to the above-mentioned high-pressure gas pipelines;
- (c) reception, storage and regasification facilities for liquefied natural gas (LNG) and also LNG carriers according to the capacities to be supplied;
- (d) any equipment or installations essential for the system in question to operate properly, including protection, monitoring and control systems.

Article 3

Objectives

The Community shall promote the interconnection, interoperability and development of trans-European energy networks and access to such networks in accordance with Community law in force, with the aim of:

- (a) encouraging the effective operation and development of the internal market in general and of the internal energy market in particular, while encouraging the rational production, transportation, distribution and use of energy resources and the development and connection of renewable energy resources, so as to reduce the cost of energy to the consumer and contribute to the diversification of energy sources;
- (b) facilitating the development and reducing the isolation of the less-favoured and island regions of the Community, thereby helping to strengthen economic and social cohesion;
- (c) reinforcing the security of energy supplies, for example by strengthening relations with third countries in the energy sector in the mutual interest of all parties concerned, in particular in the framework of the Energy Charter Treaty and cooperation agreements concluded by the Community;
- (d) contributing to sustainable development and protection of the environment, *inter alia* by involving renewable energies and reducing the environmental risks associated with the transportation and transmission of energy.

Article 4

Priorities for action

The priorities for action by the Community on trans-European energy networks shall be compatible with sustainable development and shall be as follows:

- 1. for both electricity and gas networks:
 - (a) adapting and developing the energy networks in support of the operation of the internal energy market and, in particular, solving the problems of bottlenecks, especially transfrontier bottlenecks, congestion and missing links, and taking account of the needs arising from the functioning of the internal market for electricity and natural gas and the enlargement of the European Union;

⁽¹⁾ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

⁽²⁾ OJ L 161, 29.6.1996, p. 154.

- (b) establishing energy networks in island, isolated, peripheral and ultraperipheral regions while promoting the diversification of energy sources and the use of renewable energy sources, together with the connection of those networks, where necessary;
2. for electricity networks:
- (a) adapting and developing networks to facilitate the integration and connection of renewable energy production;
 - (b) ensuring interoperability of electricity networks within the Community, and with those in the accession and candidate countries, and other countries in Europe and in the Mediterranean and Black Sea basins;
3. for gas networks:
- (a) developing natural gas networks in order to meet the Community's natural gas consumption needs and to control its natural gas supply systems;
 - (b) ensuring interoperability of natural gas networks within the Community and with those in accession and candidate countries and other countries in Europe, in the Mediterranean Sea, Black Sea and Caspian Sea basins, as well as in the Middle East and the Gulf regions, and diversification of natural gas sources and supply routes.

Article 5

Lines of action

The broad lines of action by the Community on trans-European energy networks shall be:

- (a) the identification of projects of common interest and priority projects, including those of European interest;
- (b) the creation of a more favourable context for development of those networks.

Article 6

Projects of common interest

1. The generic criteria to be applied when a decision is taken on identification of, modifications to, or specifications or applications for updating projects of common interest shall be the following:

- (a) the project falls within the scope of Article 2;
- (b) the project meets the objectives and priorities for action set out in Articles 3 and 4 respectively;
- (c) the project displays potential economic viability.

The evaluation of economic viability shall be based upon a cost-benefit analysis which takes account of all costs and benefits, including those in the medium and/or long term, in connection with environmental aspects, security of supply and the contribution to economic and social cohesion. Projects of common interest which relate to the territory of a Member State shall require the approval of the Member State concerned.

2. Additional criteria for identifying projects of common interest are set out in Annex II. Any changes to the additional criteria for identifying projects of common interest set out in Annex II shall be decided upon in accordance with the procedure laid down in Article 251 of the Treaty.

3. Only those projects listed in Annex III which fulfil the criteria laid down in paragraph 1 and those set out in Annex II shall be eligible for the Community financial aid provided for under Regulation (EC) No 2236/95.

4. The indicative project specifications, comprising the detailed description of the projects and, where appropriate, their geographical description, are set out in Annex III. These specifications shall be updated in accordance with the procedure referred to in Article 14(2). Updates shall be of a technical nature and shall be limited to technical changes of projects, or to modification of a part of the specified routing, or to limited adaptation of the location of the project.

5. Member States shall take any measures they consider necessary to facilitate and speed up the completion of projects of common interest and to minimise delays, while complying with Community law and international conventions on the environment, especially as regards projects declared to be of European interest. In particular, the necessary procedures shall be completed rapidly.

6. Where parts of projects of common interest are situated within the territory of third countries, the Commission may, in agreement with the Member States concerned, put forward proposals, where appropriate within the framework of the management of the agreements between the Community and those third countries and in accordance with the Energy Charter Treaty and other multilateral agreements with third countries which are parties to that Treaty, for the projects also to be recognised as being of mutual interest by the third countries concerned, in order to facilitate their implementation.

Article 7

Priority projects

1. The projects of common interest referred to in Article 6(3) and covered by the axes for priority projects set out in Annex I shall have priority for the grant of the Community financial aid provided for pursuant to Regulation (EC) No 2236/95. Amendments to Annex I shall be decided upon in accordance with the procedure laid down in Article 251 of the Treaty.

2. As regards cross-border investment projects, Member States shall take the steps required to ensure that, under national procedures, the fact that such projects increase the capacity for interconnection of two or more Member States and consequently strengthen Europe-wide security of supply is treated as a criterion for the assessment by the competent national authorities.

3. The Member States concerned and the Commission shall endeavour, each within its own sphere of competence, together with the responsible companies, to further the carrying out of the priority projects, especially cross-border projects.

4. Priority projects shall be compatible with sustainable development and meet the following criteria:

- (a) they shall have a significant impact on the competitive operation of the internal market; and/or
- (b) they shall strengthen security of supply in the Community; and/or
- (c) they shall result in an increase in the use of renewable energies.

Article 8

Projects of European interest

1. A number of projects on the axes for priority projects referred to in Article 7 which are of cross-border nature or which have significant impact on cross-border transmission capacity are declared to be of European interest. Those projects are set out in Annex I.

2. When projects are selected under the budget for the trans-European networks in accordance with Article 10 of Regulation (EC) No 2236/95, appropriate priority shall be given to projects declared to be of European interest.

3. When projects are selected under other Community co-financing funds, particular attention shall be given to projects declared to be of European interest.

4. If there is a significant current or prospective delay in the progress of a project declared to be of European interest, the Commission may ask the Member States concerned to ensure that reasons for the delay are provided within three months.

As regards projects declared to be of European interest for which a European coordinator has been appointed, the European coordinator shall include in his report the reasons for the delay.

5. Five years after the completion of a project declared to be of European interest or one of the sections thereof, the Commission, assisted by the Committee referred to in Article 14(1), shall carry out an assessment of that project which includes its socio-economic impact, impact on the environment, impact on trade between Member States and impact on territorial cohesion and sustainable development. The Commission shall inform the Committee referred to in Article 14(1) of the result of that assessment.

6. For each project declared to be of European interest, and in particular for cross-border sections thereof, the Member States concerned shall take appropriate steps to ensure that:

- a regular exchange of relevant information takes place, and
- joint coordination meetings are organised as appropriate.

The joint coordination meetings shall be organised as necessary in the light of the particular requirements of the project, such as the project development phase, and the difficulties anticipated or encountered. The joint coordination meetings shall address, in particular, the evaluation and the public consultation procedures. The Member States concerned shall ensure that the Commission is informed of the joint coordination meetings and of the exchange of information.

Article 9

Implementation of projects of European interest

1. Projects of European interest shall be implemented rapidly.

No later than 12 April 2007, Member States shall, using as a basis a draft timetable provided to that effect by the Commission, submit to the Commission an updated and indicative timetable for the completion of those projects including, as far as available, details of:

- (a) the envisaged passage of the project through the planning approval process;
- (b) the timetable for the feasibility and design phase;
- (c) the construction of the project; and
- (d) the entry into service of the project.

2. The Commission, in close collaboration with the committee referred to in Article 14(1), shall present a report every two years on the progress of projects referred to in paragraph 1.

For projects declared to be of European interest for which a European coordinator has been appointed, the annual reports presented by the European coordinator shall replace those biennial reports.

Article 10

European coordinator

1. When a project declared to be of European interest encounters significant delays or implementation difficulties, including in situations where third countries are involved, the Commission may designate, in agreement with the Member States concerned, and after having consulted the European Parliament, a European coordinator. When necessary, Member States may also request that the Commission designate a European coordinator for other projects concerning trans-European energy networks.

2. The European coordinator shall be chosen, in particular, on the basis of his experience of European institutions and knowledge of issues relating to energy policy and the financing and socio-economic and environmental evaluation of major projects.

3. The decision designating the European coordinator shall specify how the coordinator is to perform his tasks.

4. The European coordinator shall:

- (a) promote the European dimension of the project and the cross-border dialogue between the project promoters and the persons concerned;
- (b) contribute to the coordination of the national procedures for consulting the persons concerned; and
- (c) submit a report to the Commission every year on the progress of the project(s) for which he has been designated European coordinator and on any difficulties and obstacles which are likely to result in a significant delay. The Commission shall transmit that report to the Member States concerned.

5. The Member States concerned shall cooperate with the European coordinator in his execution of the tasks referred to in paragraph 4.

6. The Commission may request the opinion of the European coordinator when examining applications for Community funding for projects or groups of projects for which he has been designated.

7. In order to avoid an unnecessary administrative burden, the level of coordination must be proportionate to the costs of the project.

Article 11

More favourable context

1. In order to contribute to creating a more favourable context for the development of trans-European energy networks and their interoperability, the Community shall take account of Member States' efforts made in line with that objective, and shall attach the greatest importance to and promote as necessary the following measures:

- (a) technical cooperation between the entities responsible for the trans-European energy networks, in particular for the proper functioning of the connections mentioned in points 1, 2 and 7 of Annex II;
- (b) facilitating implementation of the authorisation procedures for projects on trans-European energy networks in order to reduce delays, especially as regards projects declared to be of European interest;
- (c) the provision of assistance to projects of common interest from Community Funds, instruments and financial programmes applicable to those networks.

2. The Commission shall, in close collaboration with the Member States concerned, take all initiatives for promoting the coordination of the activities referred to in paragraph 1.

3. The measures necessary for the implementation of the activities referred to in points (a) and (b) of paragraph 1 shall be decided upon by the Commission in accordance with the procedure referred to in Article 14(2).

Article 12

Effects on competition

When projects are considered, their effects on competition and on security of supply shall be taken into account. Private financing or financing by the economic operators concerned shall be the main source of financing and shall be encouraged. Any competitive distortion between market operators shall be avoided, in accordance with the provisions of the Treaty.

Article 13

Restrictions

1. This Decision shall be without prejudice to financial commitments entered into by a Member State or by the Community.

2. This Decision shall be without prejudice to the results of the environmental impact assessment of projects, plans or programmes which define the future framework for such projects. The results of the environmental impact assessments, where such an assessment is requested in accordance with relevant Community legislation, shall be taken into consideration before a decision on the carrying out of the projects is actually taken in accordance with the relevant Community legislation.

Article 14

Committee procedure

1. The Commission shall be assisted by a Committee.

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. The Committee shall adopt its rules of procedure.

Article 15

Report

Every two years the Commission shall draw up a report on the implementation of this Decision, which it shall submit to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions.

In that report, attention shall be given to the implementation and progress made in the carrying out of priority projects which concern cross-border connections as mentioned in points 2, 4 and 7 of Annex II, as well as the detailed arrangements for their financing, especially as regards the contribution from Community funds.

*Article 16***Repeal**

Decision 96/391/EC and Decision No 1229/2003/EC are hereby repealed.

*Article 17***Entry into force**

This Decision shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

*Article 18***Addressees**

This Decision is addressed to the Member States.

Done at Strasbourg, 6 September 2006.

For the European Parliament

The President

J. BORRELL FONTELLES

For the Council

The President

P. LEHTOMÄKI

ANNEX I

TRANS-EUROPEAN ENERGY NETWORKS

Axes for priority projects, including sites of projects of European interest, as defined in Articles 7 and 8

The priority projects, including projects of European interest, to be carried out on each axis for priority projects are listed below.

ELECTRICITY NETWORKS

- EL.1. France — Belgium — Netherlands — Germany:
electricity network reinforcement in order to resolve congestion in electricity flow through the Benelux States.
Including the following projects of European interest:
Avelin (FR) — Avelgem (BE) line
Moulaine (FR) — Aubange (BE) line.
- EL.2. Borders of Italy with France, Austria, Slovenia and Switzerland:
increasing electricity interconnection capacities.
Including the following projects of European interest:
Lienz (AT) — Cordignano (IT) line
New interconnection between Italy and Slovenia
Udine Ovest (IT) — Okroglo (SI) line
S. Fiorano (IT) — Nave (IT) — Gorlago (IT) line
Venezia Nord (IT) — Cordignano (IT) line
St. Peter (AT) — Tauern (AT) line
Südburgenland (AT) — Kainachtal (AT) line
Austria — Italy (Thaur-Brixen) interconnection through the Brenner rail tunnel.
- EL.3. France — Spain — Portugal:
increasing electricity interconnection capacities between these countries and for the Iberian peninsula and grid development in island regions.
Including the following projects of European interest:
Sentmenat (ES) — Bescanó (ES) — Baixas (FR) line
Valdigem (PT) — Douro Internacional (PT) — Aldeadávila (ES) line and 'Douro Internacional' facilities.
- EL.4. Greece — Balkan countries — UCTE System:
development of electricity infrastructure to connect Greece to the UCTE System and to enable the development of the south-east European electricity market.
Including the following project of European interest:
Philippi (EL) — Hamidabad (TR) line.
- EL.5. United Kingdom — continental Europe and northern Europe:
establishing/increasing electricity interconnection capacities and possible integration of offshore wind energy.
Including the following project of European interest:
Undersea cable to link England (UK) and the Netherlands.
- EL.6. Ireland — United Kingdom:
increasing electricity interconnection capacities and possible integration of offshore wind energy.
Including the following project of European interest:
Undersea cable to link Ireland and Wales (UK).

- EL.7. Denmark — Germany — Baltic Ring (including Norway — Sweden — Finland — Denmark — Germany — Poland — Baltic States — Russia):
- increasing electricity interconnection capacities and possible integration of offshore wind energy.
- Including the following projects of European interest:
- Kassø (DK) — Hamburg/Dollern (DE) line
- Hamburg/Krümmel (DE) — Schwerin (DE) line
- Kassø (DK) — Revsing (DK) — Tjele (DK) line
- Vester Hassing (DK) — Trige (DK) line
- Submarine cable Skagerrak 4: between Denmark and Norway
- Poland — Lithuania link, including necessary reinforcement of the Polish electricity network and the Poland-Germany profile in order to enable participation in the internal energy market
- Submarine cable Finland — Estonia (Estlink)
- Fennoscan submarine cable between Finland and Sweden
- Halle/Saale (DE) — Schweinfurt (DE).
- EL.8. Germany — Poland — Czech Republic — Slovakia — Austria — Hungary — Slovenia:
- increasing electricity interconnection capacities.
- Including the following projects of European interest:
- Neuenhagen (DE) — Vierraden (DE) — Krajnik (PL) line
- Dürnröhr (AT) — Slavětice (CZ) line
- New interconnection between Germany and Poland
- Velký Kapušany (SK) — Lemešany (SK) — Moldava (SK) — Sajóivánka (HU) line
- Gabčíkovo (SK) — Vel'ký Ďur (SK) line
- Stupava (SK) — south-east Vienna (AT) line.
- EL.9. Mediterranean Member States — Mediterranean Electricity Ring
- increasing electricity interconnection capacities between Mediterranean Member States and Morocco — Algeria — Tunisia — Libya — Egypt — near eastern countries — Turkey.
- Including the following project of European interest:
- Electricity connection to link Tunisia and Italy.

GAS NETWORKS

- NG.1. United Kingdom — northern continental Europe, including the Netherlands, Belgium, Denmark, Sweden and Germany — Poland — Lithuania — Latvia — Estonia — Finland — Russia:
- Gas pipelines to connect some of the main sources of gas supply in Europe, improve network interoperability, and increase security of supply, including natural gas pipelines via the offshore route from Russia to the EU and the onshore route from Russia to Poland and Germany, new pipeline building and network capacity increases in and between Germany, Denmark, and Sweden, and in and between Poland, the Czech Republic, Slovakia, Germany, and Austria.
- Including the following projects of European interest:
- North European gas pipeline
- Yamal — Europe gas pipeline
- Natural gas pipeline linking Denmark, Germany and Sweden
- Increase in transmission capacity on the Germany — Belgium — United Kingdom axis.
- NG.2. Algeria — Spain — Italy — France — northern continental Europe:
- construction of new natural gas pipelines from Algeria to Spain, France and Italy, and increasing network capacities in and between Spain, France and Italy.
- Including the following projects of European interest:
- Algeria — Tunisia — Italy gas pipeline
- Algeria-Italy gas pipeline, via Sardinia and Corsica, with a branch to France
- Medgas gas pipeline (Algeria — Spain — France — Continental Europe).

- NG.3. Caspian Sea countries — Middle East — EU:
new natural gas pipeline networks to the European Union from new sources, including the Turkey — Greece, Greece — Italy, Turkey — Austria, and Greece — Slovenia — Austria (via the western Balkans) natural gas pipelines.
Including the following projects of European interest:
Turkey — Greece — Italy gas pipeline
Turkey — Austria gas pipeline.
- NG.4. Liquefied natural gas (LNG) terminals in Belgium, France, Spain, Portugal, Italy, Greece, Cyprus and Poland:
diversifying sources of supply and entry points, including the LNG terminals' connections with the transmission grid.
- NG.5. Underground natural gas storage in Spain, Portugal, France, Italy, Greece and the Baltic Sea Region:
increasing capacity in Spain, France, Italy and the Baltic Sea Region and construction of the first facilities in Portugal, Greece, and Lithuania.
- NG.6. Mediterranean Member States — East Mediterranean Gas Ring:
establishing and increasing natural gas pipeline capacities between the Mediterranean Member States and Libya — Egypt — Jordan — Syria — Turkey.
Including the following project of European Interest:
Libya-Italy gas pipeline.
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ANNEX II

TRANS-EUROPEAN ENERGY NETWORKS

Additional criteria for identifying Projects of common interest, as referred to in Article 6(2)

ELECTRICITY NETWORKS

1. Developing electricity networks in island, isolated, peripheral and ultraperipheral regions while promoting the diversification of energy sources and enhancing the use of renewable energy, and connection of the electricity networks of those regions, if appropriate:
 - Ireland — United Kingdom (Wales)
 - Greece (islands)
 - Italy (Sardinia) — France (Corsica) — Italy (mainland)
 - Connections in island regions, including connections to the mainland
 - Connections in ultraperipheral regions in France, Spain, Portugal.
2. Developing the electricity connections between the Member States needed for the functioning of the internal market and in order to ensure the reliability and dependability of the operation of electricity networks:
 - France — Belgium — Netherlands — Germany
 - France — Germany
 - France — Italy
 - France — Spain
 - Portugal — Spain
 - Finland — Sweden
 - Finland — Estonia — Latvia — Lithuania
 - Austria — Italy
 - Italy — Slovenia
 - Austria — Italy — Slovenia — Hungary
 - Germany — Poland
 - Germany — Poland — Czech Republic — Austria — Slovakia — Hungary
 - Hungary — Slovakia
 - Hungary — Austria
 - Poland — Lithuania
 - Ireland — United Kingdom (Northern Ireland)
 - Austria — Germany — Slovenia — Hungary
 - Netherlands — United Kingdom
 - Germany — Denmark — Sweden
 - Greece — Italy
 - Hungary — Slovenia
 - Malta — Italy
 - Finland — Estonia
 - Italy — Slovenia.
3. Developing electrical connections within the Member States where needed in order to take advantage of the connections between the Member States, the functioning of the internal market or the connection of renewable energy sources:
 - all Member States.

4. Developing electricity connections with non-Member States, and more particularly with the candidate countries, thus contributing towards interoperability, the operational reliability and dependability of the electricity grids or the supply of electricity within the European Community:
 - Germany — Norway
 - Netherlands — Norway
 - Sweden — Norway
 - United Kingdom — Norway
 - Baltic Electricity Ring: Germany — Poland — Belarus — Russia — Lithuania — Latvia — Estonia — Finland — Sweden — Norway — Denmark
 - Norway — Sweden — Finland — Russia
 - Mediterranean Electricity Ring: France — Spain — Morocco — Algeria — Tunisia — Libya — Egypt — near eastern countries — Turkey — Greece — Italy
 - Greece — Turkey
 - Italy — Switzerland
 - Austria — Switzerland
 - Hungary — Romania
 - Hungary — Serbia
 - Hungary — Croatia
 - Italy — Tunisia
 - Greece — Balkan countries
 - Spain — Morocco
 - Spain — Andorra — France
 - EU — Balkan countries — Belarus — Russia — Ukraine
 - Black Sea Electricity Ring: Russia — Ukraine — Romania — Bulgaria — Turkey — Georgia
 - Bulgaria — Former Yugoslav Republic of Macedonia/Greece — Albania — Italy or Bulgaria — Greece — Italy.
5. Actions improving the functioning of the interconnected electricity networks within the internal market, in particular, identifying the bottlenecks and missing links, developing solutions in order to deal with congestion and adapting the methods of forecasting and of operating electricity networks:
 - Identifying the bottlenecks and missing links, especially cross-border, within electricity networks,
 - Developing solutions for electricity flow management in order to deal with the problems of congestion within electricity networks,
 - Adapting the methods of forecasting and of operating electricity networks as required for the proper functioning of the internal market and the use of a high percentage of renewable energy sources.

GAS NETWORKS

6. Introducing natural gas into new regions, mainly island, isolated, peripheral and ultraperipheral regions, and developing natural gas networks in these regions:
 - United Kingdom (Northern Ireland)
 - Ireland
 - Spain
 - Portugal
 - Greece
 - Sweden
 - Denmark
 - Italy (Sardinia)
 - France (Corsica)
 - Cyprus
 - Malta
 - Ultraperipheral regions in France, Spain, Portugal.

7. Developing natural gas connections in order to meet the needs of the internal market or strengthening the security of supply, including connection of separate natural gas and olefin gas networks:
 - Ireland — United Kingdom
 - France — Spain
 - France — Switzerland
 - Portugal — Spain
 - Austria — Germany
 - Austria — Hungary
 - Austria — Hungary — Slovakia — Poland
 - Poland — Czech Republic
 - Slovakia — Czech Republic — Germany — Austria
 - Austria — Italy
 - Greece — Balkan countries
 - Austria — Hungary — Romania — Bulgaria — Greece — Turkey
 - France — Italy
 - Greece — Italy
 - Austria — Czech Republic
 - Germany — Czech Republic — Austria — Italy
 - Austria — Slovenia — Croatia
 - Hungary — Croatia
 - Hungary — Romania
 - Hungary — Slovakia
 - Hungary — Ukraine
 - Slovenia — Balkan countries
 - Belgium — Netherlands — Germany
 - United Kingdom — Netherlands — Germany
 - Germany — Poland
 - Denmark — United Kingdom
 - Denmark — Germany — Sweden
 - Denmark — Netherlands.
8. Developing the capacities for receiving LNG and for storage of natural gas needed in order to meet demand, control gas supply systems, and diversify sources and supply routes:
 - all Member States.
9. Developing the natural gas transport capacity (gas supply pipelines) needed in order to meet demand and diversify supplies from internal and external sources, as well as supply routes:
 - Nordic Gas Grid: Norway — Denmark — Germany — Sweden — Finland — Russia — Baltic States — Poland
 - Algeria — Spain — France
 - Russia — Ukraine — EU
 - Russia — Belarus — Ukraine — EU
 - Russia — Belarus — EU
 - Russia — Baltic Sea — Germany
 - Russia — Baltic States — Poland — Germany
 - Germany — Czech Republic — Poland — Germany — other Member States
 - Libya — Italy
 - Tunisia — Libya — Italy
 - Caspian Sea countries — EU

- Russia — Ukraine — Moldavia — Romania — Bulgaria — Greece — Slovenia — other Balkan countries
 - Russia — Ukraine — Slovakia — Hungary — Slovenia — Italy
 - Netherlands — Germany — Switzerland — Italy
 - Belgium — France — Switzerland — Italy
 - Denmark — Sweden — Poland
 - Norway — Russia — EU
 - Ireland
 - Algeria — Italy — France
 - Algeria — Tunisia — Italy
 - Middle East — East Mediterranean Gas Ring — EU
 - Winksele (BE) blending installation on the north-south axis (blending of H gas with nitrogen)
 - Capacity upgrade on the east-west axis: Zeebrugge (BE) — Eynatten (BE).
10. Actions improving the functioning of the interconnected natural gas networks within the internal market and transit countries, in particular, identifying the bottlenecks and missing links, developing solutions in order to deal with congestion and adapting methods of forecasting and of operating natural gas networks efficiently and safely:
- identifying the bottlenecks and missing links, especially cross-border, within the natural gas networks,
 - developing solutions for natural gas flow management in order to deal with the problems of congestion within the gas networks,
 - adapting the methods of forecasting and operating natural gas networks required by the functioning of the internal market,
 - increasing the overall performance, safety and security of the natural gas networks in transit countries.
11. Developing and integrating the olefin gases transport capacity needed in order to meet demand within the internal market:
- all Member States.
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ANNEX III

TRANS-EUROPEAN ENERGY NETWORKS

Projects of common interest and their specifications, currently identified according to the criteria set out in Annex II

ELECTRICITY NETWORKS

1. *Developing electricity networks in isolated regions*
 - 1.1. Submarine cable Ireland — Wales (UK)
 - 1.2. Connection of southern Cyclades (EL) (to the Interconnected System)
 - 1.3. 30 kV underwater cable link between the islands of Faial, Pico and S. Jorge (Azores, PT)
 - 1.4. Connection and reinforcement of the grid in Terceira, Faial and S. Miguel (Azores, PT)
 - 1.5. Connection and reinforcement of the grid in Madeira (PT)
 - 1.6. Submarine cable Sardinia (IT) — Italy mainland
 - 1.7. Submarine cable Corsica (FR) — Italy
 - 1.8. Connection Italy mainland — Sicily (IT): doubling of the connection Sorgente (IT) — Rizziconi (IT)
 - 1.9. New connections in the Balearic and Canary Islands (ES)
2. *Developing electricity connections between the Member States*
 - 2.1. Moulaine (FR) — Aubange (BE) line
 - 2.2. Avelin (FR) — Avelgem (BE) line
 - 2.3. Interconnection between Germany and Belgium
 - 2.4. Vigy (FR) — Marlenheim (FR) line
 - 2.5. Vigy (FR) — Uchtelfangen (DE) line
 - 2.6. La Praz (FR) phase transformer
 - 2.7. Further increase of capacity through existing interconnection between France and Italy
 - 2.8. New interconnection between France and Italy
 - 2.9. New trans-Pyrenean interconnection between France and Spain
 - 2.10. Eastern Pyrenees connection between France and Spain
 - 2.11. Connections between northern Portugal and north-western Spain
 - 2.12. Sines (PT) — Alqueva (PT) — Balboa (ES) line
 - 2.13. Connection between southern Portugal and south-western Spain
 - 2.14. Valdigem (PT) — Douro Internacional (PT) — Aldeadávila (ES) line and 'Douro Internacional' facilities
 - 2.15. Connections north of the Gulf of Bothnia and Fennoscan submarine cable between Finland and Sweden
 - 2.16. Lienz (AT) — Cordinano (IT) line
 - 2.17. Somplago (IT) — Würmbach (AT) interconnection
 - 2.18. Austria-Italy (Thaur-Brixen) interconnection through the Brenner rail tunnel
 - 2.19. Connection between Ireland and Northern Ireland
 - 2.20. St. Peter (AT) — Isar (DE) line
 - 2.21. Submarine cable between south-eastern England and central Netherlands
 - 2.22. Reinforcement of connections between Denmark and Germany, e.g. the Kassø — Hamburg line

- 2.23. Reinforcement of the connections between Denmark and Sweden
- 2.24. New interconnection between Slovenia and Hungary: Cirkovce (SI) — Hévíz (HU)
- 2.25. Sajóivánka (HU) — Rimavská Sobota (SK)
- 2.26. Moldava (SK) — Sajóivánka (HU)
- 2.27. Stupava (SK) — south-east Vienna (AT)
- 2.28. Poland — Germany line (Neuenhagen (DE) — Vierraden (DE) — Krajnik (PL))
- 2.29. Poland — Lithuania link (Elk — Alytus)
- 2.30. Submarine cable to link Finland and Estonia
- 2.31. Installation of flexible alternating current transmission systems linking Italy and Slovenia
- 2.32. New connections to link the UCTE and CENTREL systems
- 2.33. Dürnrohr (AT) — Slavětice (CZ)
- 2.34. Submarine electricity connection to link Malta (MT) and Sicily (IT)
- 2.35. New interconnections between Italy and Slovenia
- 2.36. Udine Ovest (IT) — Okroglo (SI) line
- 3. *Developing electrical connections within the Member States*
 - 3.1. Connections on the Danish east-west axis: connection between Denmark's western (UCTE) and eastern (NORDEL) networks
 - 3.2. Connection on the Danish north-south axis
 - 3.3. New connections in northern France
 - 3.4. New connections in south-western France
 - 3.5. Trino Vercellese (IT) — Lacchiarella (IT) line
 - 3.6. Turbigo (IT) — Rho (IT) — Bovisio (IT) line
 - 3.7. Voghera (IT) — La Casella (IT) line
 - 3.8. S. Fiorano (IT) — Nave (IT) — Gorlago (IT) line
 - 3.9. Venezia Nord (IT) — Cordignano (IT) line
 - 3.10. Redipuglia (IT) — Udine Ovest (IT) line
 - 3.11. New connections on the east-west axis of Italy
 - 3.12. Tavarnuzze (IT) — Casallina (IT) line
 - 3.13. Tavarnuzze (IT) — S.Barbara (IT) line
 - 3.14. Rizziconi (IT) — Feroletto (IT) — Laino (IT) line
 - 3.15. New connections on the north-south axis of Italy
 - 3.16. Network modifications for facilitating renewables connections in Italy
 - 3.17. New wind energy connections in Italy
 - 3.18. New connections on the north axis of Spain
 - 3.19. New connections on the Mediterranean axis of Spain
 - 3.20. New connections on the Galicia (ES) — Centro (ES) axis
 - 3.21. New connections on the Centro (ES) — Aragón (ES) axis
 - 3.22. New connections on the Aragón (ES) — Levante (ES) axis
 - 3.23. New connections on the Spanish south-centre axis (ES)
 - 3.24. New connections on the Spanish east-centre axis (ES)

- 3.25. New connections in Andalucía (ES)
- 3.26. Pedralva (PT) — Riba d'Ave (PT) line and Pedralva facilities
- 3.27. Recarei (PT) — Valdigem (PT) line
- 3.28. Picote (PT) — Pocinho (PT) line (upgrading)
- 3.29. Modification of the current Pego (PT) — Cedillo (ES)/Falagueira (PT) line and Falagueira facilities
- 3.30. Pego (PT) — Batalha (PT) line and Batalha facilities
- 3.31. Sines (PT) — Ferreira do Alentejo (PT) I line (upgrading)
- 3.32. New wind energy connections in Portugal
- 3.33. Pereiros (PT) — Zêzere (PT) — Santarém (PT) lines and Zêzere facilities
- 3.34. Batalha (PT) — Rio Maior (PT) I and II lines (upgradings)
- 3.35. Carrapatelo (PT) — Mourisca (PT) line (upgrading)
- 3.36. Valdigem (PT) — Viseu (PT) — Anadia (PT) line
- 3.37. Deviation of the current Rio Maior (PT) — Palmela (PT) line to Ribatejo (PT) and Ribatejo facilities
- 3.38. Thessaloniki (EL), Lamia (EL) and Patras (EL) substations and connecting lines
- 3.39. Connections of the regions of Evia (EL), Lakonia (EL) and Thrace (EL)
- 3.40. Strengthening of existing connections of peripheral regions in the mainland in Greece
- 3.41. Tynagh (IE) — Cashla (IE) line
- 3.42. Flagford (IE) — East Sligo (IE) line
- 3.43. Connections in the north-east and west of Spain, in particular to connect to the network wind-power generation capacities
- 3.44. Connections in the Basque country (ES), Aragón (ES) and Navarra (ES)
- 3.45. Connections in Galicia (ES)
- 3.46. Connections in central Sweden
- 3.47. Connections in southern Sweden
- 3.48. Hamburg (DE) — Schwerin region (DE) line
- 3.49. Halle/Saale region (DE) — Schweinfurt region (DE) line
- 3.50. New wind energy connections off-and onshore in Germany
- 3.51. Upgrading of 380 kV grid in Germany for connection of offshore windmill parks
- 3.52. Connections in Northern Ireland, in relation to the interconnections with Ireland
- 3.53. Connections in the north-west of the United Kingdom
- 3.54. Connections in Scotland and England, with a view to the greater use of renewable sources in electricity generation
- 3.55. New offshore wind energy connections in Belgium, including upgrade of 380 kV grid
- 3.56. Borssele substation (NL)
- 3.57. Implementation of reactive power compensation equipment (NL)
- 3.58. Installation of phase shifters and/or capacitor batteries in Belgium
- 3.59. Upgrading of 380 kV grid in Belgium to increase import capacity
- 3.60. St. Peter (AT) — Tauern (AT) line
- 3.61. Süd-Burgenland (AT) — Kainachtal (AT) line
- 3.62. Dunowo (PL) — Żydowo (PL) — Krzewina (PL) — Plewiska (PL)

- 3.63. Pątnów (PL) — Grudziądz (PL)
- 3.64. Ostrów (PL) — Plewiska (PL)
- 3.65. Ostrów (PL) — Trębaczew (Rogowiec) (PL)
- 3.66. Plewiska (PL) — Pątnów (PL)
- 3.67. Tarnów (PL) — Krosno (PL)
- 3.68. Elk (PL) — Olsztyn Matki (PL)
- 3.69. Elk (PL) — Narew (PL)
- 3.70. Mikułowa (PL) — Świebodzice — Dobrzeń (Groszowice) (PL)
- 3.71. Pątnów (PL) — Sochaczew (PL) — Warszawa (PL)
- 3.72. Krsko (SI) — Bericevo (SI)
- 3.73. Upgrade of Slovene transmission system from 220 kV to 400 kV
- 3.74. Medzibrod (SK) — Liptovská Mara (SK)
- 3.75. Lemešany (SK) — Moldava (SK)
- 3.76. Lemešany (SK) — Veľký Kapušany (SK)
- 3.77. Gabčíkovo (SK) — Veľký Ďur (SK)
- 3.78. Connections in northern Sweden
- 3.79. Transferring Saaremaa (EE) supply to 110 kV
- 3.80. Improving Tartu (EE) power supply
- 3.81. Renovation of Eesti (EE) substation (330 kV)
- 3.82. Renovation of Kiisa (EE), Püssi (EE), and Viljandi (EE) substations (110 kV)
- 3.83. Nošovice (CZ) — Prosenice (CZ): rebuilding of 400 kV single line as 400 kV double-circuit line
- 3.84. Krasíkov (CZ) — Horní Životice (CZ): new 400 kV single line
- 3.85. New wind energy connections in Malta (MT)
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- 4. *Developing electricity connections with non-member States*
- 4.1. New interconnection Italy — Switzerland
- 4.2. Philippi (EL) — Maritsa 3 (Bulgaria) line
- 4.3. Amintaio (EL) — Bitola (Former Yugoslav Republic Of Macedonia) line
- 4.4. Kardina (EL) — Elbasan (Albania) line
- 4.5. Elbasan (Albania) — Podgorica (Montenegro) line
- 4.6. Mostar (Bosnia and Herzegovina) substation and connecting lines
- 4.7. Ernestinovo (Croatia) substation and connecting lines
- 4.8. New connections between Greece and Albania, Bulgaria and the Former Yugoslav Republic of Macedonia
- 4.9. Philippi (EL) — Hamidabad (TR) line
- 4.10. Submarine cable between north-east/east England and southern Norway
- 4.11. Eemshaven (NL) — Feda (NO) link
- 4.12. Submarine cable between south Spain and Morocco (strengthening of existing connection)
- 4.13. Connections for the Baltic Electricity Ring: Germany — Poland — Russia — Estonia — Latvia — Lithuania — Sweden — Finland — Denmark — Belarus
- 4.14. Southern Finland — Russia links

- 4.15. New connections between north Sweden and north Norway
- 4.16. New connections between mid-Sweden and mid-Norway
- 4.17. Borgvik (SE) — Hoesle (NO) — Oslo region (NO) line
- 4.18. New connections between the UCTE/CENTREL system and the Balkan countries
- 4.19. Connections and interface between the UCTE system and Belarus, Russia and Ukraine, including relocation of HVDC conversion stations operating previously between Austria and Hungary, Austria and the Czech Republic, and Germany and the Czech Republic
- 4.20. Connections in the Black Sea Electricity Ring: Russia — Ukraine — Romania — Bulgaria — Turkey — Georgia
- 4.21. New connections in the Black Sea area with a view to interoperability of the UCTE system with the networks in the countries covered
- 4.22. New connections in the Mediterranean Electricity Ring: France — Spain — Morocco — Algeria — Tunisia — Libya — Egypt — near eastern Countries — Turkey — Greece — Italy
- 4.23. Submarine cable between south Spain and north-west Algeria
- 4.24. Submarine cable between Italy and north Africa (Algeria, Tunisia, Libya)
- 4.25. Electricity connection between Tunisia and Italy
- 4.26. New connections in the Barents region/area
- 4.27. Upgrading of connections between Denmark and Norway
- 4.28. Obermoorweiler (DE) — Meiningen (AT) — Bonaduz (CH): further capacity increase
- 4.29. Békéscsaba (HU) — Oradea (RO)
- 4.30. Pécs (HU) — Sombor (Serbia)
- 4.31. Pécs (HU) — Ernestinovo (HR)
- 4.32. Veľký Kapušany (SK) — Ukraine border
- 4.33. Andorra (ES) — Encamp (AD): capacity increase to 220 kV
- 4.34. Spain — Andorra — France: upgrade of connections
- 5. *Actions improving the functioning of the interconnected electricity networks within the internal market*
(No specifications defined yet)

GAS NETWORKS

- 6. *Introducing natural gas into new regions*
- 6.1. Developing gas network from Belfast towards the north-west region of Northern Ireland (UK) and, if appropriate, to the western coast of Ireland
- 6.2. LNG in Santa Cruz de Tenerife, Canary Islands (ES)
- 6.3. LNG in Las Palmas de Gran Canaria (ES)
- 6.4. LNG in Madeira (PT)
- 6.5. Development of gas network in Sweden
- 6.6. Connection between the Balearic Islands (ES) and the mainland Spain
- 6.7. High pressure branch to Thrace (EL)
- 6.8. High pressure branch to Corinth (EL)
- 6.9. High pressure branch to north-west Greece (EL)
- 6.10. Connection of Lolland (DK) and Falster (DK) islands
- 6.11. LNG in the island of Cyprus, Vasilikos Energy Center

- 6.12. Connection between the Vasilikos (CY) LNG plant and Moni (CY) power station
- 6.13. LNG in the island of Crete (EL)
- 6.14. High pressure branch to Patra (EL)
- 6.15. LNG in Malta
- 7. *Developing gas connections in order to meet the needs of the internal market or strengthening of the security of supply, including connection of separate natural gas networks*
 - 7.1. Additional gas interconnection pipeline between Ireland and Scotland
 - 7.2. North–South interconnection, including Dublin — Belfast pipeline
 - 7.3. Compression station on the Lacq (FR) — Calahorra (ES) pipeline
 - 7.4. Lussagnet (FR) — Bilbao (ES) pipeline
 - 7.5. Perpignan (FR) — Barcelona (ES) pipeline
 - 7.6. Increasing transport capacity of gas pipelines supplying Portugal through south Spain and Galicia and Asturias through Portugal
 - 7.7. Puchkirchen (AT) — Burghausen (DE) pipeline
 - 7.8. Andorf (AT) — Simbach (DE) pipeline
 - 7.9. Wiener Neustadt (AT) — Sopron (HU) pipeline
 - 7.10. Bad Leonfelden (AT) — Linz (AT) pipeline
 - 7.11. North-west Greece — Elbasan (AL) pipeline
 - 7.12. Greece — Italy interconnection pipeline
 - 7.13. Compression station on the main pipeline in Greece
 - 7.14. Connection between the networks of Austria and Czech Republic
 - 7.15. Gas transport corridor in south-east Europe across Greece, the Former Yugoslav Republic of Macedonia, Serbia, Montenegro, Bosnia and Herzegovina, Croatia, Slovenia and Austria
 - 7.16. Gas transport corridor between Austria and Turkey through Hungary, Romania and Bulgaria
 - 7.17. Interconnecting pipelines between the United Kingdom, the Netherlands and Germany, linking the main sources and markets of north-west Europe
 - 7.18. Connection between north-east Germany (Berlin area) and north-west Poland (Szczecin area) with a branch from Schmöln to Lubmin (DE, Greifswald area)
 - 7.19. Cieszyn (PL) — Ostrava (CZ) pipeline
 - 7.20. Görlitz (DE) — Zgorzelec (PL): extension and interconnection of natural gas networks
 - 7.21. Bernau (DE) — Szczecin (PL) extension
 - 7.22. Connection between offshore facilities in the North Sea, or from Danish offshore to United Kingdom onshore facilities
 - 7.23. Reinforcement of the capacity of transport between France and Italy
 - 7.24. The Baltic gas interconnector between Denmark — Germany — Sweden
 - 7.25. Winksele (BE) blending station on the north-south axis
 - 7.26. Zeebrugge (BE) — Eynatten (BE) capacity upgrade
 - 7.27. Upgrading of capacity along the north-west axis: Zelzate (BE) — Zeebrugge (BE)
 - 7.28. Building of gas pipeline linking Denmark and the Netherlands and connecting existing North Sea production facilities

8. *Developing capacities for receiving LNG and for storage of natural gas*
- 8.1. LNG at Le Verdon-sur-mer (FR, new terminal) and pipeline to Lussagnet (FR) storage
- 8.2. LNG at Fos-sur-mer (FR)
- 8.3. LNG at Huelva (ES), extending existing terminal
- 8.4. LNG at Cartagena (ES), extending existing terminal
- 8.5. LNG at Galicia (ES), new terminal
- 8.6. LNG at Bilbao (ES), new terminal
- 8.7. LNG in the Valencia Region (ES), new terminal
- 8.8. LNG in Barcelona (ES), extending existing terminal
- 8.9. LNG in Sines (PT), new terminal
- 8.10. LNG at Revithoussa (EL), extending existing terminal
- 8.11. LNG on the north Adriatic coast (IT)
- 8.12. LNG offshore in the north Adriatic Sea (IT)
- 8.13. LNG on the south Adriatic coast (IT)
- 8.14. LNG on the Ionian coast (IT)
- 8.15. LNG on the Tyrrhenian coast (IT)
- 8.16. LNG on the Ligurian coast (IT)
- 8.17. LNG at Zeebrugge (BE, second phase of capacity extension)
- 8.18. LNG at Isle of Grain, Kent (UK)
- 8.19. Construction of a second LNG terminal in continental Greece
- 8.20. Developing underground gas storage facilities in Ireland
- 8.21. Storage at South Kavala (EL), conversion of an offshore depleted gas field
- 8.22. Storage at Lussagnet (FR), extending existing site
- 8.23. Storage at Pecorade (FR), conversion of a depleted oil field
- 8.24. Storage in Alsace region (FR), developing of saline cavities
- 8.25. Storage in Centre region (FR), developing water table
- 8.26. Storage on the north-south axis of Spain (new sites) in Cantabria, Aragon, Castilla y León, Castilla — La Mancha and Andalucía
- 8.27. Storage on the Mediterranean axis of Spain (new sites) in Catalonia, Valencia and Murcia
- 8.28. Storage in Carriço (PT), new site
- 8.29. Storage at Loenhout (BE), extending existing site
- 8.30. Storage at Stenlille (DK) and Lille Torup (DK), extending existing site
- 8.31. Storage at Tønder (DK), new site
- 8.32. Storage at Puchkirchen (AT), extending existing site, including pipeline to the Penta West system near Andorf (AT)
- 8.33. Storage at Baumgarten (AT), new site
- 8.34. Storage at Haidach (AT), new site, including pipeline to the European gas grid
- 8.35. Developing underground gas storage facilities in Italy

- 8.36. Storage at Wierzchowice (PL), extending existing site
- 8.37. Storage at Kossakowo (PL), developing underground storage
- 8.38. Malta (MT) — Sicily (IT) gas pipeline
- 8.39. Storage in Lithuania (new site)
- 9. *Developing gas transport capacity (gas supply pipelines)*
 - 9.1. Creation and development of connections Nordic Gas Grid: Norway — Denmark — Germany — Sweden — Finland — Russia — Baltic States — Poland
 - 9.2. Mid-Nordic gas pipeline: Norway, Sweden, Finland
 - 9.3. North European gas pipeline: Russia, Baltic Sea, Germany
 - 9.4. Gas pipeline from Russia to Germany, via Latvia, Lithuania and Poland, including developing underground gas storage facilities in Latvia (Amber project)
 - 9.5. Gas pipeline Finland — Estonia
 - 9.6. New gas pipelines from Algeria to Spain and France and related capacity increase of the internal networks in these countries
 - 9.7. Increasing transport capacity of the Algeria — Morocco — Spain (up to Córdoba) pipeline
 - 9.8. Córdoba (ES) — Ciudad Real (ES) pipeline
 - 9.9. Ciudad Real (ES) — Madrid (ES) pipeline
 - 9.10. Ciudad Real (ES) — Mediterranean coast (ES) pipeline
 - 9.11. Branches in Castilla — La Mancha (ES)
 - 9.12. Extension towards north-west Spain
 - 9.13. Algeria — Spain submarine pipeline and pipelines for the connection to France
 - 9.14. Increasing transport capacity from Russian resources to the European Union, via Ukraine, Slovakia and the Czech Republic
 - 9.15. Increasing transport capacity from Russian resources to the European Union, via Belarus and Poland
 - 9.16. Yamal — Europe II natural gas pipeline
 - 9.17. Yagel Sud gas pipeline (between the STEGAL pipeline leading to the DE, FR, CH triangle)
 - 9.18. SUDAL East gas pipeline (between MIDAL pipeline near Heppenheim to Burghausen connection with the PENTA pipeline in Austria)
 - 9.19. Increasing transport capacity of the STEGAL gas pipeline for transport of additional gas from the Czech-German border and from the Polish-German border through Germany to other Member States
 - 9.20. Gas pipeline from Libyan resources to Italy
 - 9.21. Gas pipeline from resources in the Caspian Sea Countries to the European Union
 - 9.22. Greece — Turkey gas pipeline
 - 9.23. Increasing transport capacity from Russian resources to Greece and other Balkan countries, via Ukraine, Moldavia, Romania and Bulgaria
 - 9.24. St. Zagora (BG) — Ihtiman (BG) gas pipeline
 - 9.25. Trans-Adriatic pipeline — natural gas pipeline to transport natural gas imported from the Caspian Sea region, Russia, or the Middle East, connecting Italy and the south-east European energy markets
 - 9.26. Connecting pipelines between the German, Czech, Austrian and Italian gas networks
 - 9.27. Gas pipeline from Russian resources to Italy, via Ukraine, Slovakia, Hungary and Slovenia

- 9.28. Increasing transport capacity of the TENP gas pipeline running from the Netherlands through Germany to Italy
 - 9.29. Taisnières (FR) — Oltingue (CH) gas pipeline
 - 9.30. Gas pipeline from Denmark to Poland, possibly via Sweden
 - 9.31. Nybro (DK) — Dragør (DK) gas pipeline, including connecting pipeline to the storage at Stenlille (DK)
 - 9.32. Gas network from the Barents Sea resources to the European Union, via Sweden and Finland
 - 9.33. Gas pipeline from the Corrib field (IE), offshore
 - 9.34. Gas pipeline from Algerian resources to Italy, via Sardinia with a branch to Corsica
 - 9.35. Gas network from resources in the Middle East to the European Union
 - 9.36. Gas pipeline from Norway to the United Kingdom
 - 9.37. Pécs (HU) — Croatia connection
 - 9.38. Szeged (HU) — Oradea (RO) connection
 - 9.39. Vecsés (HU) — Slovakia connection
 - 9.40. Beregdaróc (HU) — Ukraine capacity increase
 - 10. *Actions improving the functioning of the interconnected gas networks within the internal market*
(No specifications defined yet)
-

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 24 July 2006

on the conclusion, on behalf of the European Community, of the Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention Against Transnational Organised Crime concerning the provisions of the Protocol, in so far as the provisions of this Protocol fall within the scope of Articles 179 and 181a of the Treaty establishing the European Community

(2006/616/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 179 and 181a, in conjunction with the first subparagraph of Article 300(2), and first subparagraph of Article 300(3) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas:

- (1) The elements of the Protocol which are subject to Community competence were negotiated by the Commission, with the approval of the Council, on behalf of the Community.
- (2) The Council instructed the Commission to negotiate the accession of the Community to the international agreement in question.
- (3) Negotiations were successfully concluded and the resulting instrument was signed by the Community on 12 December 2000 in accordance with Council Decision 2001/87/EC of 8 December 2000 ⁽²⁾.

- (4) Some Member States are parties to the Protocol while the ratification process is under way in other Member States.
- (5) The conclusion of the Convention was approved on behalf of the Community by Council Decision 2004/579/EC of 29 April 2004 ⁽³⁾, which is a condition for the Community to become a Party to the Protocol, pursuant to Article 37(2) of the Convention.
- (6) The other conditions permitting the Community to deposit the instrument of approval provided for in Article 36(3) of the Convention and Article 21(3) of the Protocol have been fulfilled.
- (7) In so far as the provisions of the Protocol fall within the scope of Articles 179 and 181a of the Treaty, the conclusion of the Protocol should be approved on behalf of the Community.
- (8) In so far as the provisions of the Protocol fall within the scope of Part III, Title IV of the Treaty, the conclusion of the Protocol on behalf of the Community should be approved by means of a separate decision of the Council ⁽⁴⁾.
- (9) The Community should, when depositing the instrument of approval, also deposit a declaration on the extent of the Community's competence with respect to matters governed by the Protocol under Article 21(3) of the Smuggling Protocol,

⁽¹⁾ Not yet published in the Official Journal.

⁽²⁾ OJ L 30, 1.2.2001, p. 44.

⁽³⁾ OJ L 261, 6.8.2004, p. 69.

⁽⁴⁾ See page 34 of this Official Journal.

HAS DECIDED AS FOLLOWS:

Article 1

The Protocol against the smuggling of migrants by land, air and sea, supplementing the United Nations Convention against transnational organised crime, as set out in Annex I, is hereby approved on behalf of the European Community.

The Community's instrument of formal confirmation shall comprise a declaration of competence according to Article 21(3) of the Protocol as set out in Annex II.

Article 2

This Decision shall apply in so far as the provisions of the Protocol fall within the scope of Articles 179 and 181a of the Treaty.

Article 3

The President of the Council is authorised to designate the person empowered to deposit the instrument of formal confirmation in order to bind the Community.

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 24 July 2006.

For the Council

The President

K. RAJAMÄKI

ANNEX I

PROTOCOL

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

PREAMBLE

THE STATES PARTIES TO THIS PROTOCOL,

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

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

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

TAKING INTO ACCOUNT the fact that, despite work undertaken in other international forums, there is no universal instrument that addresses all aspects of smuggling of migrants and other related issues,

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

ALSO CONCERNED that the smuggling of migrants can endanger the lives or security of the migrants involved,

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

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

HAVE AGREED AS FOLLOWS:

I. GENERAL PROVISIONS

Article 2

Statement of purpose

Article 1

Relation with the United Nations Convention against Transnational Organised Crime

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

Article 3

Use of terms

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

For the purposes of this Protocol:

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

(a) 'smuggling of migrants' shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident;

3. The offences established in accordance with article 6 of this Protocol shall be regarded as offences established in accordance with the Convention.

(b) 'illegal entry' shall mean crossing borders without complying with the necessary requirements for legal entry into the receiving State;

- (c) 'fraudulent travel or identity document' shall mean any travel or identity document:
- (i) that has been falsely made or altered in some material way by anyone other than a person or agency lawfully authorised to make or issue the travel or identity document on behalf of a State; or
 - (ii) that has been improperly issued or obtained through misrepresentation, corruption or duress or in any other unlawful manner; or
 - (iii) that is being used by a person other than the rightful holder;
- (d) 'vessel' shall mean any type of water craft, including non-displacement craft and seaplanes, used or capable of being used as a means of transportation on water, except a warship, naval auxiliary or other vessel owned or operated by a Government and used, for the time being, only on government non-commercial service.

Article 4

Scope of application

This Protocol shall apply, except as otherwise stated herein, to the prevention, investigation and prosecution of the offences established in accordance with article 6 of this Protocol, where the offences are transnational in nature and involve an organised criminal group, as well as to the protection of the rights of persons who have been the object of such offences.

Article 5

Criminal liability of migrants

Migrants shall not become liable to criminal prosecution under this Protocol for the fact of having been the object of conduct set forth in article 6 of this Protocol.

Article 6

Criminalisation

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally and in order to obtain, directly or indirectly, a financial or other material benefit:
 - (a) the smuggling of migrants;
 - (b) when committed for the purpose of enabling the smuggling of migrants:
 - (i) producing a fraudulent travel or identity document;
 - (ii) procuring, providing or possessing such a document;
 - (c) enabling a person who is not a national or a permanent resident to remain in the State concerned without complying with the necessary requirements for legally remaining in the State by the means mentioned in

subparagraph (b) of this paragraph or any other illegal means.

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

- (a) subject to the basic concepts of its legal system, attempting to commit an offence established in accordance with paragraph 1 of this article;
- (b) participating as an accomplice in an offence established in accordance with paragraph 1 (a), (b) (i) or (c) of this article and, subject to the basic concepts of its legal system, participating as an accomplice in an offence established in accordance with paragraph 1 (b) (ii) of this article;
- (c) organising or directing other persons to commit an offence established in accordance with paragraph 1 of this article.

3. Each State Party shall adopt such legislative and other measures as may be necessary to establish as aggravating circumstances to the offences established in accordance with paragraph 1 (a), (b) (i) and (c) of this article and, subject to the basic concepts of its legal system, to the offences established in accordance with paragraph 2 (b) and (c) of this article, circumstances:

- (a) that endanger, or are likely to endanger, the lives or safety of the migrants concerned; or
- (b) that entail inhuman or degrading treatment, including for exploitation, of such migrants.

4. Nothing in this Protocol shall prevent a State Party from taking measures against a person whose conduct constitutes an offence under its domestic law.

II. SMUGGLING OF MIGRANTS BY SEA

Article 7

Cooperation

States Parties shall cooperate to the fullest extent possible to prevent and suppress the smuggling of migrants by sea, in accordance with the international law of the sea.

Article 8

Measures against the smuggling of migrants by sea

1. A State Party that has reasonable grounds to suspect that a vessel that is flying its flag or claiming its registry, that is without nationality or that, though flying a foreign flag or refusing to show a flag, is in reality of the nationality of the State Party concerned is engaged in the smuggling of migrants by sea may request the assistance of other States Parties in suppressing the use of the vessel for that purpose. The States Parties so requested shall render such assistance to the extent possible within their means.

2. A State Party that has reasonable grounds to suspect that a vessel exercising freedom of navigation in accordance with international law and flying the flag or displaying the marks of registry of another State Party is engaged in the smuggling of migrants by sea may so notify the flag State, request confirmation of registry and, if confirmed, request authorisation from the flag State to take appropriate measures with regard to that vessel. The flag State may authorise the requesting State, *inter alia*:

- (a) to board the vessel;
- (b) to search the vessel; and
- (c) if evidence is found that the vessel is engaged in the smuggling of migrants by sea, to take appropriate measures with respect to the vessel and persons and cargo on board, as authorised by the flag State.

3. A State Party that has taken any measure in accordance with paragraph 2 of this article shall promptly inform the flag State concerned of the results of that measure.

4. A State Party shall respond expeditiously to a request from another State Party to determine whether a vessel that is claiming its registry or flying its flag is entitled to do so and to a request for authorisation made in accordance with paragraph 2 of this article.

5. A flag State may, consistent with article 7 of this Protocol, subject its authorisation to conditions to be agreed by it and the requesting State, including conditions relating to responsibility and the extent of effective measures to be taken. A State Party shall take no additional measures without the express authorisation of the flag State, except those necessary to relieve imminent danger to the lives of persons or those which derive from relevant bilateral or multilateral agreements.

6. Each State Party shall designate an authority or, where necessary, authorities to receive and respond to requests for assistance, for confirmation of registry or of the right of a vessel to fly its flag and for authorisation to take appropriate measures. Such designation shall be notified through the Secretary-General to all other States Parties within one month of the designation.

7. A State Party that has reasonable grounds to suspect that a vessel is engaged in the smuggling of migrants by sea and is without nationality or may be assimilated to a vessel without nationality may board and search the vessel. If evidence confirming the suspicion is found, that State Party shall take appropriate measures in accordance with relevant domestic and international law.

Article 9

Safeguard clauses

1. Where a State Party takes measures against a vessel in accordance with article 8 of this Protocol, it shall:

- (a) ensure the safety and humane treatment of the persons on board;
- (b) take due account of the need not to endanger the security of the vessel or its cargo;
- (c) take due account of the need not to prejudice the commercial or legal interests of the flag State or any other interested State;
- (d) ensure, within available means, that any measure taken with regard to the vessel is environmentally sound.

2. Where the grounds for measures taken pursuant to article 8 of this Protocol prove to be unfounded, the vessel shall be compensated for any loss or damage that may have been sustained, provided that the vessel has not committed any act justifying the measures taken.

3. Any measure taken, adopted or implemented in accordance with this chapter shall take due account of the need not to interfere with or to affect:

- (a) the rights and obligations and the exercise of jurisdiction of coastal States in accordance with the international law of the sea; or
- (b) the authority of the flag State to exercise jurisdiction and control in administrative, technical and social matters involving the vessel.

4. Any measure taken at sea pursuant to this chapter shall be carried out only by warships or military aircraft, or by other ships or aircraft clearly marked and identifiable as being on government service and authorised to that effect.

III. PREVENTION, COOPERATION AND OTHER MEASURES

Article 10

Information

1. Without prejudice to articles 27 and 28 of the Convention, States Parties, in particular those with common borders or located on routes along which migrants are smuggled, shall, for the purpose of achieving the objectives of this Protocol, exchange among themselves, consistent with their respective domestic legal and administrative systems, relevant information on matters such as:

- (a) embarkation and destination points, as well as routes, carriers and means of transportation, known to be or suspected of being used by an organised criminal group engaged in conduct set forth in article 6 of this Protocol;
- (b) the identity and methods of organisations or organised criminal groups known to be or suspected of being engaged in conduct set forth in article 6 of this Protocol;

- (c) the authenticity and proper form of travel documents issued by a State Party and the theft or related misuse of blank travel or identity documents;
- (d) means and methods of concealment and transportation of persons, the unlawful alteration, reproduction or acquisition or other misuse of travel or identity documents used in conduct set forth in article 6 of this Protocol and ways of detecting them;
- (e) legislative experiences and practices and measures to prevent and combat the conduct set forth in article 6 of this Protocol; and
- (f) scientific and technological information useful to law enforcement, so as to enhance each other's ability to prevent, detect and investigate the conduct set forth in article 6 of this Protocol and to prosecute those involved.

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

Article 11

Border measures

1. Without prejudice to international commitments in relation to the free movement of people, States Parties shall strengthen, to the extent possible, such border controls as may be necessary to prevent and detect the smuggling of migrants.
2. Each State Party shall adopt legislative or other appropriate measures to prevent, to the extent possible, means of transport operated by commercial carriers from being used in the commission of the offence established in accordance with article 6, paragraph 1 (a), of this Protocol.
3. Where appropriate, and without prejudice to applicable international conventions, such measures shall include establishing the obligation of commercial carriers, including any transportation company or the owner or operator of any means of transport, to ascertain that all passengers are in possession of the travel documents required for entry into the receiving State.
4. Each State Party shall take the necessary measures, in accordance with its domestic law, to provide for sanctions in cases of violation of the obligation set forth in paragraph 3 of this article.
5. Each State Party shall consider taking measures that permit, in accordance with its domestic law, the denial of entry or revocation of visas of persons implicated in the commission of offences established in accordance with this Protocol.

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

Article 12

Security and control of documents

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

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

Article 13

Legitimacy and validity of documents

At the request of another State Party, a State Party shall, in accordance with its domestic law, verify within a reasonable time the legitimacy and validity of travel or identity documents issued or purported to have been issued in its name and suspected of being used for purposes of conduct set forth in article 6 of this Protocol.

Article 14

Training and technical cooperation

1. States Parties shall provide or strengthen specialised training for immigration and other relevant officials in preventing the conduct set forth in article 6 of this Protocol and in the humane treatment of migrants who have been the object of such conduct, while respecting their rights as set forth in this Protocol.
2. States Parties shall cooperate with each other and with competent international organisations, non-governmental organisations, other relevant organisations and other elements of civil society as appropriate to ensure that there is adequate personnel training in their territories to prevent, combat and eradicate the conduct set forth in article 6 of this Protocol and to protect the rights of migrants who have been the object of such conduct. Such training shall include:

- (a) improving the security and quality of travel documents;
- (b) recognizing and detecting fraudulent travel or identity documents;

- (c) Gathering criminal intelligence, relating in particular to the identification of organised criminal groups known to be or suspected of being engaged in conduct set forth in article 6 of this Protocol, the methods used to transport smuggled migrants, the misuse of travel or identity documents for purposes of conduct set forth in article 6 and the means of concealment used in the smuggling of migrants;
- (d) improving procedures for detecting smuggled persons at conventional and non-conventional points of entry and exit; and
- (e) the humane treatment of migrants and the protection of their rights as set forth in this Protocol.

3. States Parties with relevant expertise shall consider providing technical assistance to States that are frequently countries of origin or transit for persons who have been the object of conduct set forth in article 6 of this Protocol. States Parties shall make every effort to provide the necessary resources, such as vehicles, computer systems and document readers, to combat the conduct set forth in article 6.

Article 15

Other prevention measures

1. Each State Party shall take measures to ensure that it provides or strengthens information programmes to increase public awareness of the fact that the conduct set forth in article 6 of this Protocol is a criminal activity frequently perpetrated by organised criminal groups for profit and that it poses serious risks to the migrants concerned.

2. In accordance with article 31 of the Convention, States Parties shall cooperate in the field of public information for the purpose of preventing potential migrants from falling victim to organised criminal groups.

3. Each State Party shall promote or strengthen, as appropriate, development programmes and cooperation at the national, regional and international levels, taking into account the socio-economic realities of migration and paying special attention to economically and socially depressed areas, in order to combat the root socio-economic causes of the smuggling of migrants, such as poverty and underdevelopment.

Article 16

Protection and assistance measures

1. In implementing this Protocol, each State Party shall take, consistent with its obligations under international law, all appropriate measures, including legislation if necessary, to preserve and protect the rights of persons who have been the object of conduct set forth in article 6 of this Protocol as accorded under applicable international law, in particular the

right to life and the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment.

2. Each State Party shall take appropriate measures to afford migrants appropriate protection against violence that may be inflicted upon them, whether by individuals or groups, by reason of being the object of conduct set forth in article 6 of this Protocol.

3. Each State Party shall afford appropriate assistance to migrants whose lives or safety are endangered by reason of being the object of conduct set forth in article 6 of this Protocol.

4. In applying the provisions of this article, States Parties shall take into account the special needs of women and children.

5. In the case of the detention of a person who has been the object of conduct set forth in article 6 of this Protocol, each State Party shall comply with its obligations under the Vienna Convention on Consular Relations,⁽¹⁾ where applicable, including that of informing the person concerned without delay about the provisions concerning notification to and communication with consular officers.

Article 17

Agreements and arrangements

States Parties shall consider the conclusion of bilateral or regional agreements or operational arrangements or understandings aimed at:

- (a) establishing the most appropriate and effective measures to prevent and combat the conduct set forth in article 6 of this Protocol; or
- (b) enhancing the provisions of this Protocol among themselves.

Article 18

Return of smuggled migrants

1. Each State Party agrees to facilitate and accept, without undue or unreasonable delay, the return of a person who has been the object of conduct set forth in article 6 of this Protocol and who is its national or who has the right of permanent residence in its territory at the time of return.

2. Each State Party shall consider the possibility of facilitating and accepting the return of a person who has been the object of conduct set forth in article 6 of this Protocol and who had the right of permanent residence in its territory at the time of entry into the receiving State in accordance with its domestic law.

⁽¹⁾ Ibid., vol. 596, Nos 8638 to 8640.

3. At the request of the receiving State Party, a requested State Party shall, without undue or unreasonable delay, verify whether a person who has been the object of conduct set forth in article 6 of this Protocol is its national or has the right of permanent residence in its territory.

4. In order to facilitate the return of a person who has been the object of conduct set forth in article 6 of this Protocol and is without proper documentation, the State Party of which that person is a national or in which he or she has the right of permanent residence shall agree to issue, at the request of the receiving State Party, such travel documents or other authorisation as may be necessary to enable the person to travel to and re-enter its territory.

5. Each State Party involved with the return of a person who has been the object of conduct set forth in article 6 of this Protocol shall take all appropriate measures to carry out the return in an orderly manner and with due regard for the safety and dignity of the person.

6. States Parties may cooperate with relevant international organisations in the implementation of this article.

7. This article shall be without prejudice to any right afforded to persons who have been the object of conduct set forth in article 6 of this Protocol by any domestic law of the receiving State Party.

8. This article shall not affect the obligations entered into under any other applicable treaty, bilateral or multilateral, or any other applicable operational agreement or arrangement that governs, in whole or in part, the return of persons who have been the object of conduct set forth in article 6 of this Protocol.

IV. FINAL PROVISIONS

Article 19

Saving clause

1. Nothing in this Protocol shall affect the other rights, obligations and responsibilities of States and individuals under international law, including international humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and the principle of non-refoulement as contained therein.

2. The measures set forth in this Protocol shall be interpreted and applied in a way that is not discriminatory to persons on the ground that they are the object of conduct set forth in article 6 of this Protocol. The interpretation and application of those measures shall be consistent with internationally recognised principles of non-discrimination.

Article 20

Settlement of disputes

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

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

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

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

Article 21

Signature, ratification, acceptance, approval and accession

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

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

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

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

Article 22

Entry into force

1. This Protocol shall enter into force on the 90th day after the date of deposit of the 40th instrument of ratification, acceptance, approval or accession, except that it shall not enter into force before the entry into force of the Convention. For the purpose of this paragraph, any instrument deposited by a regional economic integration organisation shall not be counted as additional to those deposited by member States of such organisation.

2. For each State or regional economic integration organisation ratifying, accepting, approving or acceding to this Protocol after the deposit of the 40th instrument of such action, this Protocol shall enter into force on the 30th day after the date of deposit by such State or organisation of the relevant instrument or on the date this Protocol enters into force pursuant to paragraph 1 of this article, whichever is the later.

Article 23

Amendment

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

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

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

4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party 90 days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment.

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

Article 24

Denunciation

1. A State Party may denounce this Protocol by written notification to the Secretary-General of the United Nations. Such denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.

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

Article 25

Depositary and languages

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

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

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

ANNEX II

Declaration concerning the competence of the European Community with regard to matters governed by the Protocol Against the Smuggling of Migrants by Land, Air and Sea, supplementing the United Nations Convention Against Transnational Organised Crime

Article 21(3) of the Protocol provides that the instrument of accession of a regional economic integration organisation shall contain a declaration specifying the matters governed by the Protocol in respect of which competence has been transferred to the organisation by its Member States which are Parties to the Protocol.

The Protocol against the smuggling of migrants by land, air and sea shall apply, with regard to the competences transferred to the European Community, to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty, in particular Article 299 thereof and the Protocols annexed to it.

This declaration is without prejudice to the position of the United Kingdom and Ireland under the Protocol integrating the Schengen *acquis* into the framework of the European Union and under the Protocol on the position of the United Kingdom and Ireland, annexed to the Treaty on European Union and the Treaty establishing the European Community.

This declaration is equally without prejudice to the position of Denmark under the Protocol on the position of Denmark annexed to the Treaty on European Union and the Treaty establishing the European Community.

Pursuant to Article 299, this declaration is also not applicable to the territories of the Member States in which the said Treaty does not apply and is without prejudice to such acts or positions as may be adopted under the Protocol by the Member States concerned on behalf of and in the interests of those territories. In accordance with the provision referred to above, this declaration indicates the competence that the Member States have transferred to the Community under the Treaties in matters governed by the Protocol. The scope and the exercise of such Community competence are, by their nature, subject to continuous development as the Community further adopts relevant rules and regulations, and the Community will complete or amend this declaration, if necessary, in accordance with Article 21(3) of the Protocol.

The Community points out that it has competence with regard to the crossing of external borders of the Member States, regulating standards and procedures when carrying out checks on persons at such borders and rules on visas for intended stays of no more than three months. The Community is also competent for measures on immigration policy regarding conditions of entry and residence and measures to counter illegal immigration and illegal residence, including repatriation of illegal residents. Moreover, it can take measures to ensure cooperation between the relevant departments of the administrations of the Member States, as well as between those departments and the Commission, in the aforementioned areas. In these fields the Community has adopted rules and regulations and, where it has done so, it is hence solely for the Community to enter into external undertakings with third States or competent international organisations.

In addition, Community policy in the sphere of development cooperation complements policies pursued by Member States and includes provisions to prevent and combat smuggling of migrants.

COUNCIL DECISION

of 24 July 2006

on the conclusion, on behalf of the European Community, of the Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention Against Transnational Organised Crime concerning the provisions of the Protocol, in so far as the provisions of the Protocol fall within the scope of Part III, Title IV of the Treaty establishing the European Community

(2006/617/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 62 point 2, Article 63 point 3 and Article 66, in conjunction with the first subparagraph of Article 300(2) and first subparagraph of Article 300(3) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas:

- (1) The elements of the Protocol which are subject to Community competence were negotiated by the Commission, with the approval of the Council, on behalf of the Community.
- (2) The Council instructed the Commission to negotiate the accession of the Community to the international agreement in question.
- (3) Negotiations were successfully concluded and the resulting instrument was signed by the Community on 12 December 2000 in accordance with Council Decision 2001/87/EC of 8 December 2000 ⁽²⁾.
- (4) Some Member States are parties to the Protocol while the ratification process is under way in other Member States.
- (5) This Decision is without prejudice to the position of the United Kingdom and Ireland under the Protocol integrating the Schengen *acquis* into the framework of the European Union and under the Protocol on the position of the United Kingdom and Ireland, annexed to the Treaty on European Union and the Treaty establishing the European Community, hence the UK and Ireland are not bound by this Decision to the extent that it concerns the exercise of an external power by the Community in fields where its internal legislation does not bind the UK and/or Ireland.
- (6) This Decision is without prejudice to the position of Denmark under the Protocol on the position of Denmark annexed to the Treaty on European Union and the Treaty establishing the European Community, hence Denmark does not take part in its adoption and is not bound by it.

- (7) The conclusion of the Convention was approved on behalf of the Community by Council Decision 2004/579/EC of 29 April 2004 ⁽³⁾, which is a condition for the Community to become a Party to the Protocol, pursuant to Article 37(2) of the Convention.
- (8) The other conditions permitting the Community to deposit the instrument of approval provided for in Article 36(3) of the Convention and Article 21(3) of the Protocol have been fulfilled.
- (9) In so far as the provisions of the Protocol fall within the scope of Part III, Title IV of the Treaty, the conclusion of the Protocol should be approved on behalf of the Community.
- (10) In so far as the provisions of the Protocol fall within the scope of Articles 179 and 181a of the Treaty, the conclusion of the Protocol on behalf of the Community should be approved by means of a separate decision of the Council ⁽⁴⁾.
- (11) The Community should, when depositing the instrument of approval, also deposit a declaration on the extent of the Community's competence with respect to matters governed by the Protocol under Article 21(3) of the Smuggling Protocol,

HAS DECIDED AS FOLLOWS:

Article 1

The Protocol against the smuggling of migrants by land, air and sea, supplementing the United Nations Convention against transnational organised crime, as set out in Annex I, is hereby approved on behalf of the European Community.

The Community's instrument of formal confirmation shall comprise a declaration of competence according to Article 21(3) of the Protocol as set out in Annex II.

⁽¹⁾ Not yet Published In the Official Journal.

⁽²⁾ OJ L 30, 1.2.2001, p. 44.

⁽³⁾ OJ L 261, 6.8.2004, p. 69.

⁽⁴⁾ See page 24 of this Official Journal.

Article 2

This Decision shall apply in so far as the provisions of the Protocol fall within the scope of Part III, Title IV of the Treaty.

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 24 July 2006.

Article 3

The President of the Council is authorised to designate the person empowered to deposit the instrument of formal confirmation in order to bind the Community.

For the Council
The President
K. RAJAMÄKI

ANNEX I

PROTOCOL

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

PREAMBLE

THE STATES PARTIES TO THIS PROTOCOL,

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

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

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

TAKING INTO ACCOUNT the fact that, despite work undertaken in other international forums, there is no universal instrument that addresses all aspects of smuggling of migrants and other related issues,

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

ALSO CONCERNED that the smuggling of migrants can endanger the lives or security of the migrants involved,

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

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

HAVE AGREED AS FOLLOWS:

I. GENERAL PROVISIONS

Article 2

Statement of purpose

Article 1

Relation with the United Nations Convention against Transnational Organised Crime

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

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

3. The offences established in accordance with article 6 of this Protocol shall be regarded as offences established in accordance with the Convention.

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

Article 3

Use of terms

For the purposes of this Protocol:

- (a) 'smuggling of migrants' shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident;
- (b) 'illegal entry' shall mean crossing borders without complying with the necessary requirements for legal entry into the receiving State;

- (c) 'fraudulent travel or identity document' shall mean any travel or identity document:
- (i) that has been falsely made or altered in some material way by anyone other than a person or agency lawfully authorised to make or issue the travel or identity document on behalf of a State; or
 - (ii) that has been improperly issued or obtained through misrepresentation, corruption or duress or in any other unlawful manner; or
 - (iii) that is being used by a person other than the rightful holder;
- (d) 'vessel' shall mean any type of water craft, including non-displacement craft and seaplanes, used or capable of being used as a means of transportation on water, except a warship, naval auxiliary or other vessel owned or operated by a Government and used, for the time being, only on government non-commercial service.

Article 4

Scope of application

This Protocol shall apply, except as otherwise stated herein, to the prevention, investigation and prosecution of the offences established in accordance with article 6 of this Protocol, where the offences are transnational in nature and involve an organised criminal group, as well as to the protection of the rights of persons who have been the object of such offences.

Article 5

Criminal liability of migrants

Migrants shall not become liable to criminal prosecution under this Protocol for the fact of having been the object of conduct set forth in article 6 of this Protocol.

Article 6

Criminalisation

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally and in order to obtain, directly or indirectly, a financial or other material benefit:
 - (a) the smuggling of migrants;
 - (b) when committed for the purpose of enabling the smuggling of migrants:
 - (i) producing a fraudulent travel or identity document;
 - (ii) procuring, providing or possessing such a document;
 - (c) enabling a person who is not a national or a permanent resident to remain in the State concerned without complying with the necessary requirements for legally remaining in the State by the means mentioned in

subparagraph (b) of this paragraph or any other illegal means.

2. Each State Party shall also adopt such legislative and other measures as may be necessary to establish as criminal offences:
 - (a) subject to the basic concepts of its legal system, attempting to commit an offence established in accordance with paragraph 1 of this article;
 - (b) participating as an accomplice in an offence established in accordance with paragraph 1 (a), (b) (i) or (c) of this article and, subject to the basic concepts of its legal system, participating as an accomplice in an offence established in accordance with paragraph 1 (b) (ii) of this article;
 - (c) organising or directing other persons to commit an offence established in accordance with paragraph 1 of this article.
3. Each State Party shall adopt such legislative and other measures as may be necessary to establish as aggravating circumstances to the offences established in accordance with paragraph 1 (a), (b) (i) and (c) of this article and, subject to the basic concepts of its legal system, to the offences established in accordance with paragraph 2 (b) and (c) of this article, circumstances:
 - (a) that endanger, or are likely to endanger, the lives or safety of the migrants concerned; or
 - (b) that entail inhuman or degrading treatment, including for exploitation, of such migrants.
4. Nothing in this Protocol shall prevent a State Party from taking measures against a person whose conduct constitutes an offence under its domestic law.

II. SMUGGLING OF MIGRANTS BY SEA

Article 7

Cooperation

States Parties shall cooperate to the fullest extent possible to prevent and suppress the smuggling of migrants by sea, in accordance with the international law of the sea.

Article 8

Measures against the smuggling of migrants by sea

1. A State Party that has reasonable grounds to suspect that a vessel that is flying its flag or claiming its registry, that is without nationality or that, though flying a foreign flag or refusing to show a flag, is in reality of the nationality of the State Party concerned is engaged in the smuggling of migrants by sea may request the assistance of other States Parties in suppressing the use of the vessel for that purpose. The States Parties so requested shall render such assistance to the extent possible within their means.

2. A State Party that has reasonable grounds to suspect that a vessel exercising freedom of navigation in accordance with international law and flying the flag or displaying the marks of registry of another State Party is engaged in the smuggling of migrants by sea may so notify the flag State, request confirmation of registry and, if confirmed, request authorisation from the flag State to take appropriate measures with regard to that vessel. The flag State may authorise the requesting State, *inter alia*:

- (a) to board the vessel;
- (b) to search the vessel; and
- (c) if evidence is found that the vessel is engaged in the smuggling of migrants by sea, to take appropriate measures with respect to the vessel and persons and cargo on board, as authorised by the flag State.

3. A State Party that has taken any measure in accordance with paragraph 2 of this article shall promptly inform the flag State concerned of the results of that measure.

4. A State Party shall respond expeditiously to a request from another State Party to determine whether a vessel that is claiming its registry or flying its flag is entitled to do so and to a request for authorisation made in accordance with paragraph 2 of this article.

5. A flag State may, consistent with article 7 of this Protocol, subject its authorisation to conditions to be agreed by it and the requesting State, including conditions relating to responsibility and the extent of effective measures to be taken. A State Party shall take no additional measures without the express authorisation of the flag State, except those necessary to relieve imminent danger to the lives of persons or those which derive from relevant bilateral or multilateral agreements.

6. Each State Party shall designate an authority or, where necessary, authorities to receive and respond to requests for assistance, for confirmation of registry or of the right of a vessel to fly its flag and for authorisation to take appropriate measures. Such designation shall be notified through the Secretary-General to all other States Parties within one month of the designation.

7. A State Party that has reasonable grounds to suspect that a vessel is engaged in the smuggling of migrants by sea and is without nationality or may be assimilated to a vessel without nationality may board and search the vessel. If evidence confirming the suspicion is found, that State Party shall take appropriate measures in accordance with relevant domestic and international law.

Article 9

Safeguard clauses

1. Where a State Party takes measures against a vessel in accordance with article 8 of this Protocol, it shall:

- (a) ensure the safety and humane treatment of the persons on board;
- (b) take due account of the need not to endanger the security of the vessel or its cargo;
- (c) take due account of the need not to prejudice the commercial or legal interests of the flag State or any other interested State;
- (d) ensure, within available means, that any measure taken with regard to the vessel is environmentally sound.

2. Where the grounds for measures taken pursuant to article 8 of this Protocol prove to be unfounded, the vessel shall be compensated for any loss or damage that may have been sustained, provided that the vessel has not committed any act justifying the measures taken.

3. Any measure taken, adopted or implemented in accordance with this chapter shall take due account of the need not to interfere with or to affect:

- (a) the rights and obligations and the exercise of jurisdiction of coastal States in accordance with the international law of the sea; or
- (b) the authority of the flag State to exercise jurisdiction and control in administrative, technical and social matters involving the vessel.

4. Any measure taken at sea pursuant to this chapter shall be carried out only by warships or military aircraft, or by other ships or aircraft clearly marked and identifiable as being on government service and authorised to that effect.

III. PREVENTION, COOPERATION AND OTHER MEASURES

Article 10

Information

1. Without prejudice to articles 27 and 28 of the Convention, States Parties, in particular those with common borders or located on routes along which migrants are smuggled, shall, for the purpose of achieving the objectives of this Protocol, exchange among themselves, consistent with their respective domestic legal and administrative systems, relevant information on matters such as:

- (a) embarkation and destination points, as well as routes, carriers and means of transportation, known to be or suspected of being used by an organised criminal group engaged in conduct set forth in article 6 of this Protocol;
- (b) the identity and methods of organisations or organised criminal groups known to be or suspected of being engaged in conduct set forth in article 6 of this Protocol;

- (c) the authenticity and proper form of travel documents issued by a State Party and the theft or related misuse of blank travel or identity documents;
- (d) means and methods of concealment and transportation of persons, the unlawful alteration, reproduction or acquisition or other misuse of travel or identity documents used in conduct set forth in article 6 of this Protocol and ways of detecting them;
- (e) legislative experiences and practices and measures to prevent and combat the conduct set forth in article 6 of this Protocol; and
- (f) scientific and technological information useful to law enforcement, so as to enhance each other's ability to prevent, detect and investigate the conduct set forth in article 6 of this Protocol and to prosecute those involved.

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

Article 11

Border measures

1. Without prejudice to international commitments in relation to the free movement of people, States Parties shall strengthen, to the extent possible, such border controls as may be necessary to prevent and detect the smuggling of migrants.
2. Each State Party shall adopt legislative or other appropriate measures to prevent, to the extent possible, means of transport operated by commercial carriers from being used in the commission of the offence established in accordance with article 6, paragraph 1 (a), of this Protocol.
3. Where appropriate, and without prejudice to applicable international conventions, such measures shall include establishing the obligation of commercial carriers, including any transportation company or the owner or operator of any means of transport, to ascertain that all passengers are in possession of the travel documents required for entry into the receiving State.
4. Each State Party shall take the necessary measures, in accordance with its domestic law, to provide for sanctions in cases of violation of the obligation set forth in paragraph 3 of this article.
5. Each State Party shall consider taking measures that permit, in accordance with its domestic law, the denial of entry or revocation of visas of persons implicated in the commission of offences established in accordance with this Protocol.

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

Article 12

Security and control of documents

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

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

Article 13

Legitimacy and validity of documents

At the request of another State Party, a State Party shall, in accordance with its domestic law, verify within a reasonable time the legitimacy and validity of travel or identity documents issued or purported to have been issued in its name and suspected of being used for purposes of conduct set forth in article 6 of this Protocol.

Article 14

Training and technical cooperation

1. States Parties shall provide or strengthen specialised training for immigration and other relevant officials in preventing the conduct set forth in article 6 of this Protocol and in the humane treatment of migrants who have been the object of such conduct, while respecting their rights as set forth in this Protocol.
2. States Parties shall cooperate with each other and with competent international organisations, non-governmental organisations, other relevant organisations and other elements of civil society as appropriate to ensure that there is adequate personnel training in their territories to prevent, combat and eradicate the conduct set forth in article 6 of this Protocol and to protect the rights of migrants who have been the object of such conduct. Such training shall include:

- (a) improving the security and quality of travel documents;
- (b) recognizing and detecting fraudulent travel or identity documents;

- (c) Gathering criminal intelligence, relating in particular to the identification of organised criminal groups known to be or suspected of being engaged in conduct set forth in article 6 of this Protocol, the methods used to transport smuggled migrants, the misuse of travel or identity documents for purposes of conduct set forth in article 6 and the means of concealment used in the smuggling of migrants;
- (d) improving procedures for detecting smuggled persons at conventional and non-conventional points of entry and exit; and
- (e) the humane treatment of migrants and the protection of their rights as set forth in this Protocol.

3. States Parties with relevant expertise shall consider providing technical assistance to States that are frequently countries of origin or transit for persons who have been the object of conduct set forth in article 6 of this Protocol. States Parties shall make every effort to provide the necessary resources, such as vehicles, computer systems and document readers, to combat the conduct set forth in article 6.

Article 15

Other prevention measures

1. Each State Party shall take measures to ensure that it provides or strengthens information programmes to increase public awareness of the fact that the conduct set forth in article 6 of this Protocol is a criminal activity frequently perpetrated by organised criminal groups for profit and that it poses serious risks to the migrants concerned.

2. In accordance with article 31 of the Convention, States Parties shall cooperate in the field of public information for the purpose of preventing potential migrants from falling victim to organised criminal groups.

3. Each State Party shall promote or strengthen, as appropriate, development programmes and cooperation at the national, regional and international levels, taking into account the socio-economic realities of migration and paying special attention to economically and socially depressed areas, in order to combat the root socio-economic causes of the smuggling of migrants, such as poverty and underdevelopment.

Article 16

Protection and assistance measures

1. In implementing this Protocol, each State Party shall take, consistent with its obligations under international law, all appropriate measures, including legislation if necessary, to preserve and protect the rights of persons who have been the object of conduct set forth in article 6 of this Protocol as accorded under applicable international law, in particular the

right to life and the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment.

2. Each State Party shall take appropriate measures to afford migrants appropriate protection against violence that may be inflicted upon them, whether by individuals or groups, by reason of being the object of conduct set forth in article 6 of this Protocol.

3. Each State Party shall afford appropriate assistance to migrants whose lives or safety are endangered by reason of being the object of conduct set forth in article 6 of this Protocol.

4. In applying the provisions of this article, States Parties shall take into account the special needs of women and children.

5. In the case of the detention of a person who has been the object of conduct set forth in article 6 of this Protocol, each State Party shall comply with its obligations under the Vienna Convention on Consular Relations,⁽¹⁾ where applicable, including that of informing the person concerned without delay about the provisions concerning notification to and communication with consular officers.

Article 17

Agreements and arrangements

States Parties shall consider the conclusion of bilateral or regional agreements or operational arrangements or understandings aimed at:

- (a) establishing the most appropriate and effective measures to prevent and combat the conduct set forth in article 6 of this Protocol; or
- (b) enhancing the provisions of this Protocol among themselves.

Article 18

Return of smuggled migrants

1. Each State Party agrees to facilitate and accept, without undue or unreasonable delay, the return of a person who has been the object of conduct set forth in article 6 of this Protocol and who is its national or who has the right of permanent residence in its territory at the time of return.

2. Each State Party shall consider the possibility of facilitating and accepting the return of a person who has been the object of conduct set forth in article 6 of this Protocol and who had the right of permanent residence in its territory at the time of entry into the receiving State in accordance with its domestic law.

⁽¹⁾ Ibid., vol. 596, Nos 8638 to 8640.

3. At the request of the receiving State Party, a requested State Party shall, without undue or unreasonable delay, verify whether a person who has been the object of conduct set forth in article 6 of this Protocol is its national or has the right of permanent residence in its territory.

4. In order to facilitate the return of a person who has been the object of conduct set forth in article 6 of this Protocol and is without proper documentation, the State Party of which that person is a national or in which he or she has the right of permanent residence shall agree to issue, at the request of the receiving State Party, such travel documents or other authorisation as may be necessary to enable the person to travel to and re-enter its territory.

5. Each State Party involved with the return of a person who has been the object of conduct set forth in article 6 of this Protocol shall take all appropriate measures to carry out the return in an orderly manner and with due regard for the safety and dignity of the person.

6. States Parties may cooperate with relevant international organisations in the implementation of this article.

7. This article shall be without prejudice to any right afforded to persons who have been the object of conduct set forth in article 6 of this Protocol by any domestic law of the receiving State Party.

8. This article shall not affect the obligations entered into under any other applicable treaty, bilateral or multilateral, or any other applicable operational agreement or arrangement that governs, in whole or in part, the return of persons who have been the object of conduct set forth in article 6 of this Protocol.

IV. FINAL PROVISIONS

Article 19

Saving clause

1. Nothing in this Protocol shall affect the other rights, obligations and responsibilities of States and individuals under international law, including international humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and the principle of non-refoulement as contained therein.

2. The measures set forth in this Protocol shall be interpreted and applied in a way that is not discriminatory to persons on the ground that they are the object of conduct set forth in article 6 of this Protocol. The interpretation and application of those measures shall be consistent with internationally recognised principles of non-discrimination.

Article 20

Settlement of disputes

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

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

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

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

Article 21

Signature, ratification, acceptance, approval and accession

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

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

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

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

Article 22

Entry into force

1. This Protocol shall enter into force on the 90th day after the date of deposit of the 40th instrument of ratification, acceptance, approval or accession, except that it shall not enter into force before the entry into force of the Convention. For the purpose of this paragraph, any instrument deposited by a regional economic integration organisation shall not be counted as additional to those deposited by member States of such organisation.

2. For each State or regional economic integration organisation ratifying, accepting, approving or acceding to this Protocol after the deposit of the 40th instrument of such action, this Protocol shall enter into force on the 30th day after the date of deposit by such State or organisation of the relevant instrument or on the date this Protocol enters into force pursuant to paragraph 1 of this article, whichever is the later.

Article 23

Amendment

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

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

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

4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party 90 days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment.

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

Article 24

Denunciation

1. A State Party may denounce this Protocol by written notification to the Secretary-General of the United Nations. Such denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.

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

Article 25

Depositary and languages

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

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

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

ANNEX II

Declaration concerning the competence of the European Community with regard to matters governed by the Protocol Against the Smuggling of Migrants by Land, Air and Sea, supplementing the United Nations Convention Against Transnational Organised Crime

Article 21(3) of the Protocol provides that the instrument of accession of a regional economic integration organisation shall contain a declaration specifying the matters governed by the Protocol in respect of which competence has been transferred to the organisation by its Member States which are Parties to the Protocol.

The Protocol against the smuggling of migrants by land, air and sea shall apply, with regard to the competences transferred to the European Community, to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty, in particular Article 299 thereof and the Protocols annexed to it.

This declaration is without prejudice to the position of the United Kingdom and Ireland under the Protocol integrating the Schengen *acquis* into the framework of the European Union and under the Protocol on the position of the United Kingdom and Ireland, annexed to the Treaty on European Union and the Treaty establishing the European Community.

This declaration is equally without prejudice to the position of Denmark under the Protocol on the position of Denmark annexed to the Treaty on European Union and the Treaty establishing the European Community.

Pursuant to Article 299, this declaration is also not applicable to the territories of the Member States in which the said Treaty does not apply and is without prejudice to such acts or positions as may be adopted under the Protocol by the Member States concerned on behalf of and in the interests of those territories. In accordance with the provision referred to above, this declaration indicates the competence that the Member States have transferred to the Community under the Treaties in matters governed by the Protocol. The scope and the exercise of such Community competence are, by their nature, subject to continuous development as the Community further adopts relevant rules and regulations, and the Community will complete or amend this declaration, if necessary, in accordance with Article 21(3) of the Protocol.

The Community points out that it has competence with regard to the crossing of external borders of the Member States, regulating standards and procedures when carrying out checks on persons at such borders and rules on visas for intended stays of no more than three months. The Community is also competent for measures on immigration policy regarding conditions of entry and residence and measures to counter illegal immigration and illegal residence, including repatriation of illegal residents. Moreover, it can take measures to ensure cooperation between the relevant departments of the administrations of the Member States, as well as between those departments and the Commission, in the aforementioned areas. In these fields the Community has adopted rules and regulations and, where it has done so, it is hence solely for the Community to enter into external undertakings with third States or competent international organisations.

In addition, Community policy in the sphere of development cooperation complements policies pursued by Member States and includes provisions to prevent and combat smuggling of migrants.

COUNCIL DECISION

of 24 July 2006

on the conclusion, on behalf of the European Community, of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women And Children, supplementing the United Nations Convention Against Transnational Organised Crime concerning the provisions of the Protocol, in so far as the provisions of this Protocol fall within the scope of Articles 179 and 181a of the Treaty establishing the European Community

(2006/618/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 179 and 181a, in conjunction with the first subparagraph of Article 300(2), and first subparagraph of Article 300(3) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas:

- (1) The elements of the Protocol which are subject to Community competence were negotiated by the Commission, with the approval of the Council, on behalf of the Community.
- (2) The Council instructed the Commission to negotiate the accession of the Community to the international agreement in question.
- (3) Negotiations were successfully concluded and the resulting instrument was signed by the Community on 12 December 2000 in accordance with Council Decision 2001/87/EC of 8 December 2000 ⁽²⁾.
- (4) Some Member States are parties to the Protocol while the ratification process is under way in other Member States.
- (5) The conclusion of the Convention was approved on behalf of the Community by Council Decision 2004/579/EC of 29 April 2004 ⁽³⁾ which is a condition for the Community to become a Party to the Protocol, pursuant to Article 37(2) of the Convention.
- (6) The other conditions permitting the Community to deposit the instrument of approval provided for in Article 36(3) of the Convention and Article 16(3) of the Protocol have been fulfilled.
- (7) In so far as the provisions of the Protocol fall within the scope of Articles 179 and 181a of the Treaty, the conclusion of the Protocol should be approved on behalf of the Community.
- (8) In so far as the provisions of the Protocol fall within the scope of Part III, Title IV of the Treaty, the conclusion of the Protocol on behalf of the Community should be

approved by means of a separate decision of the Council ⁽⁴⁾.

- (9) The Community should, when depositing the instrument of approval, also deposit a declaration on the extent of the Community's competence with respect to matters governed by the Protocol under Article 16(3) of the Trafficking Protocol,

HAS DECIDED AS FOLLOWS:

Article 1

The Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against transnational organised crime, as set out in Annex I, is hereby approved on behalf of the European Community.

The Community's instrument of formal confirmation shall comprise a declaration of competence according to Article 16(3) of the Protocol as set out in Annex II.

Article 2

This Decision shall apply in so far as the provisions of the Protocol fall within the scope of Articles 179 and 181a of the Treaty.

Article 3

The President of the Council is authorised to designate the person empowered to deposit the instrument of formal confirmation in order to bind the Community.

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 24 July 2006.

For the Council

The President

K. RAJAMÄKI

⁽¹⁾ Not yet Published in the Official Journal.

⁽²⁾ OJ L 30, 1.2.2001, p. 44.

⁽³⁾ OJ L 261, 6.8.2004, p. 69.

⁽⁴⁾ See page 51 of this Official Journal.

ANNEX I

PROTOCOL

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

PREAMBLE

THE STATES PARTIES TO THIS PROTOCOL,

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

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

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

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

CONVINCED that supplementing the United Nations Convention against Transnational Organised Crime with an international instrument for the prevention, suppression and punishment of trafficking in persons, especially women and children, will be useful in preventing and combating that crime,

HAVE AGREED AS FOLLOWS:

I. GENERAL PROVISIONS

Article 3

Article 1

Use of terms

**Relation with the United Nations Convention against
Transnational Organised Crime**

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

Article 2

Statement of purpose

The purposes of this Protocol are:

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

For the purposes of this Protocol:

- (a) 'trafficking in persons' shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;
- (b) the consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- (c) the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered 'trafficking in persons' even if this does not involve any of the means set forth in subparagraph (a) of this article;
- (d) 'child' shall mean any person under 18 years of age.

*Article 4***Scope of application**

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

*Article 5***Criminalisation**

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

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

- (a) subject to the basic concepts of its legal system, attempting to commit an offence established in accordance with paragraph 1 of this article;
- (b) participating as an accomplice in an offence established in accordance with paragraph 1 of this article; and
- (c) organising or directing other persons to commit an offence established in accordance with paragraph 1 of this article.

II. PROTECTION OF VICTIMS OF TRAFFICKING IN PERSONS*Article 6***Assistance to and protection of victims of trafficking in persons**

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

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

- (a) information on relevant court and administrative proceedings;
- (b) assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defence.

3. Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organisations,

other relevant organisations and other elements of civil society, and, in particular, the provision of:

- (a) appropriate housing;
- (b) counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;
- (c) medical, psychological and material assistance; and
- (d) employment, educational and training opportunities.

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

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

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

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

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

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

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

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

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

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

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

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

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

III. PREVENTION, COOPERATION AND OTHER MEASURES

Article 9

Prevention of trafficking in persons

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

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

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

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

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

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

Article 10

Information exchange and training

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

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

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

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

Article 11

Border measures

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

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

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

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

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

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

Article 12

Security and control of documents

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

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

Article 13

Legitimacy and validity of documents

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

IV. FINAL PROVISIONS

Article 14

Saving clause

1. Nothing in this Protocol shall affect the rights, obligations and responsibilities of States and individuals under international law, including international humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention ⁽¹⁾ and the 1967 Protocol ⁽²⁾ relating to the Status of Refugees and the principle of non-refoulement as contained therein.

2. The measures set forth in this Protocol shall be interpreted and applied in a way that is not discriminatory to persons on the ground that they are victims of trafficking in persons. The interpretation and application of those measures

shall be consistent with internationally recognised principles of non-discrimination.

Article 15

Settlement of disputes

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

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

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

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

Article 16

Signature, ratification, acceptance, approval and accession

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

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

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

⁽¹⁾ United Nations, *Treaty Series*, vol. 189, No 2545.

⁽²⁾ *Ibid.*, vol. 606, No 8791.

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

Article 17

Entry into force

1. This Protocol shall enter into force on the 90th day after the date of deposit of the 40th instrument of ratification, acceptance, approval or accession, except that it shall not enter into force before the entry into force of the Convention. For the purpose of this paragraph, any instrument deposited by a regional economic integration organisation shall not be counted as additional to those deposited by Member States of such organisation.

2. For each State or regional economic integration organisation ratifying, accepting, approving or acceding to this Protocol after the deposit of the 40th instrument of such action, this Protocol shall enter into force on the 30th day after the date of deposit by such State or organisation of the relevant instrument or on the date this Protocol enters into force pursuant to paragraph 1 of this article, whichever is the later.

Article 18

Amendment

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

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

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

4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party 90 days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment.

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

Article 19

Denunciation

1. A State Party may denounce this Protocol by written notification to the Secretary-General of the United Nations. Such denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.

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

Article 20

Depositary and languages

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

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

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

ANNEX II

Declaration concerning the competence of the European Community with regard to matters governed by the protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women And Children, supplementing the United Nations Convention Against Transnational Organised Crime

Article 16(3) of the Protocol to prevent, suppress and punish trafficking in persons, especially women and children, provides that the instrument of ratification, acceptance or approval of a regional economic integration organisation shall contain a declaration specifying the matters governed by the Protocol in respect of which competence has been transferred to the organisation by its Member States which are Parties to the Protocol.

The Protocol to prevent, suppress and punish trafficking in persons, especially women and children, shall apply, with regard to the competences transferred to the European Community, to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty, in particular Article 299 thereof and the Protocols annexed to it.

This declaration is without prejudice to the position of the United Kingdom and Ireland under the Protocol integrating the Schengen *acquis* into the framework of the European Union and under the Protocol on the position of the United Kingdom and Ireland, annexed to the Treaty on European Union and the Treaty establishing the European Community.

This declaration is equally without prejudice to the position of Denmark under the Protocol on the position of Denmark annexed to the Treaty on European Union and the Treaty establishing the European Community.

Pursuant to Article 299, this declaration is also not applicable to the territories of the Member States in which the said Treaty does not apply and is without prejudice to such acts or positions as may be adopted under the Protocol by the Member States concerned on behalf of and in the interests of those territories. In accordance with the provision referred to above, this declaration indicates the competence that the Member States have transferred to the Community under the Treaties in matters governed by the Protocol. The scope and the exercise of such Community competence are, by their nature, subject to continuous development as the Community further adopts relevant rules and regulations, and the Community will complete or amend this declaration, if necessary, in accordance with Article 16(3) of the Protocol.

The Community points out that it has competence with regard to the crossing of external borders of the Member States, regulating standards and procedures when carrying out checks on persons at such borders and rules on visas for intended stays of no more than three months.

The Community is also competent for measures on immigration policy regarding conditions of entry and residence and measures to counter illegal immigration and illegal residence, including repatriation of illegal residents. Moreover, it can take measures to ensure cooperation between the relevant departments of the administrations of the Member States, as well as between those departments and the Commission, in the aforementioned areas. In these fields the Community has adopted rules and regulations and, where it has done so, it is hence solely for the Community to enter into external undertakings with third States or competent international organisations.

In addition, Community policy in the sphere of development cooperation complements policies pursued by Member States and includes provisions to prevent and combat trafficking in persons.

COUNCIL DECISION

of 24 July 2006

on the conclusion, on behalf of the European Community, of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women And Children, supplementing the United Nations Convention Against Transnational Organised Crime concerning the provisions of the Protocol, in so far as the provisions of the Protocol fall within the scope of Part III, Title IV of the Treaty establishing the European Community

(2006/619/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 62 point 2, Article 63 point 3 and Article 66 in conjunction with the first subparagraph of Article 300(2), and first subparagraph of Article 300(3) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas:

- (1) The elements of the Protocol which are subject to Community competence were negotiated by the Commission, with the approval of the Council, on behalf of the Community.
- (2) The Council instructed the Commission to negotiate the accession of the Community to the international agreement in question.
- (3) Negotiations were successfully concluded and the resulting instrument was signed by the Community on 12 December 2000 in accordance with Council Decision 2001/87/EC of 8 December 2000 ⁽²⁾.
- (4) Some Member States are parties to the Protocol while the ratification process is under way in other Member States.
- (5) This Decision is without prejudice to the position of the United Kingdom and Ireland under the Protocol integrating the Schengen *acquis* into the framework of the European Union and under the Protocol on the position of the United Kingdom and Ireland, annexed to the Treaty on European Union and the Treaty establishing the European Community, hence the UK and Ireland are not bound by this Decision to the extent that it concerns the exercise of an external power by the Community in fields where its internal legislation does not bind the UK and/or Ireland.
- (6) This Decision is without prejudice to the position of Denmark under the Protocol on the position of Denmark annexed to the Treaty on European Union and the Treaty establishing the European Community, hence Denmark does not take part in its adoption and is not bound by it.

- (7) The conclusion of the Convention was approved on behalf of the Community by Council Decision 2004/579/EC of 29 April 2004 ⁽³⁾ which is a condition for the Community to become a Party to the Protocol, pursuant to Article 37(2) of the Convention.
- (8) The other conditions permitting the Community to deposit the instrument of approval provided for in Article 36(3) of the Convention and Article 16(3) of the Protocol have been fulfilled.
- (9) In so far as the provisions of the Protocol fall within the scope of Part III, Title IV of the Treaty, the conclusion of the Protocol should be approved on behalf of the Community.
- (10) In so far as the provisions of the Protocol fall within the scope of Articles 179 and 181a of the Treaty, the conclusion of the Protocol on behalf of the Community should be approved by means of a separate decision of the Council ⁽⁴⁾.
- (11) The Community should, when depositing the instrument of approval, also deposit a declaration on the extent of the Community's competence with respect to matters governed by the Protocol under Article 16(3) of the Trafficking Protocol,

HAS DECIDED AS FOLLOWS:

Article 1

The Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against transnational organised crime, as set out in Annex I, is hereby approved on behalf of the European Community.

The Community's instrument of formal confirmation shall comprise a declaration of competence according to Article 16(3) of the Protocol as set out in Annex II.

⁽¹⁾ Not yet published in the Official Journal.

⁽²⁾ OJ L 30, 1.2.2001, p. 44.

⁽³⁾ OJ L 261, 6.8.2004, p. 69.

⁽⁴⁾ See page 44 of this Official Journal.

Article 2

This Decision shall apply in so far as the provisions of the Protocol fall within the scope of Part III, Title IV of the Treaty.

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 24 July 2006.

Article 3

The President of the Council is authorised to designate the person empowered to deposit the instrument of formal confirmation in order to bind the Community.

For the Council
The President
K. RAJAMÄKI

ANNEX I

PROTOCOL

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

PREAMBLE

THE STATES PARTIES TO THIS PROTOCOL,

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

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

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

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

CONVINCED that supplementing the United Nations Convention against Transnational Organised Crime with an international instrument for the prevention, suppression and punishment of trafficking in persons, especially women and children, will be useful in preventing and combating that crime,

HAVE AGREED AS FOLLOWS:

I. GENERAL PROVISIONS

Article 3

Article 1

Use of terms

**Relation with the United Nations Convention against
Transnational Organised Crime**

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

Article 2

Statement of purpose

The purposes of this Protocol are:

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

For the purposes of this Protocol:

- (a) 'trafficking in persons' shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;
- (b) the consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- (c) the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered 'trafficking in persons' even if this does not involve any of the means set forth in subparagraph (a) of this article;
- (d) 'child' shall mean any person under 18 years of age.

Article 4

Scope of application

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

Article 5

Criminalisation

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

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

- (a) subject to the basic concepts of its legal system, attempting to commit an offence established in accordance with paragraph 1 of this article;
- (b) participating as an accomplice in an offence established in accordance with paragraph 1 of this article; and
- (c) organising or directing other persons to commit an offence established in accordance with paragraph 1 of this article.

II. PROTECTION OF VICTIMS OF TRAFFICKING IN PERSONS

Article 6

Assistance to and protection of victims of trafficking in persons

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

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

- (a) information on relevant court and administrative proceedings;
- (b) assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defence.

3. Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organisations,

other relevant organisations and other elements of civil society, and, in particular, the provision of:

- (a) appropriate housing;
- (b) counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;
- (c) medical, psychological and material assistance; and
- (d) employment, educational and training opportunities.

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

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

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

Article 7

Status of victims of trafficking in persons in receiving States

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

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

Article 8

Repatriation of victims of trafficking in persons

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

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

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

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

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

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

III. PREVENTION, COOPERATION AND OTHER MEASURES

Article 9

Prevention of trafficking in persons

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

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

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

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

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

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

Article 10

Information exchange and training

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

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

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

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

Article 11

Border measures

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

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

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

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

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

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

Article 12

Security and control of documents

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

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

Article 13

Legitimacy and validity of documents

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

IV. FINAL PROVISIONS

Article 14

Saving clause

1. Nothing in this Protocol shall affect the rights, obligations and responsibilities of States and individuals under international law, including international humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention⁽¹⁾ and the 1967 Protocol⁽²⁾ relating to the Status of Refugees and the principle of non-refoulement as contained therein.

2. The measures set forth in this Protocol shall be interpreted and applied in a way that is not discriminatory to persons on the ground that they are victims of trafficking in persons. The interpretation and application of those measures

shall be consistent with internationally recognised principles of non-discrimination.

Article 15

Settlement of disputes

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

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

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

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

Article 16

Signature, ratification, acceptance, approval and accession

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

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

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

⁽¹⁾ United Nations, *Treaty Series*, vol. 189, No 2545.

⁽²⁾ *Ibid.*, vol. 606, No 8791.

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

Article 17

Entry into force

1. This Protocol shall enter into force on the 90th day after the date of deposit of the 40th instrument of ratification, acceptance, approval or accession, except that it shall not enter into force before the entry into force of the Convention. For the purpose of this paragraph, any instrument deposited by a regional economic integration organisation shall not be counted as additional to those deposited by Member States of such organisation.

2. For each State or regional economic integration organisation ratifying, accepting, approving or acceding to this Protocol after the deposit of the 40th instrument of such action, this Protocol shall enter into force on the 30th day after the date of deposit by such State or organisation of the relevant instrument or on the date this Protocol enters into force pursuant to paragraph 1 of this article, whichever is the later.

Article 18

Amendment

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

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

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

4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party 90 days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment.

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

Article 19

Denunciation

1. A State Party may denounce this Protocol by written notification to the Secretary-General of the United Nations. Such denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.

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

Article 20

Depositary and languages

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

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

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

ANNEX II

Declaration concerning the competence of the European Community with regard to matters governed by the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women And Children, supplementing the United Nations Convention Against Transnational Organised Crime

Article 16(3) of the Protocol to prevent, suppress and punish trafficking in persons, especially women and children, provides that the instrument of ratification, acceptance or approval of a regional economic integration organisation shall contain a declaration specifying the matters governed by the Protocol in respect of which competence has been transferred to the organisation by its Member States which are Parties to the Protocol.

The Protocol to prevent, suppress and punish trafficking in persons, especially women and children, shall apply, with regard to the competences transferred to the European Community, to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty, in particular Article 299 thereof and the Protocols annexed to it.

This declaration is without prejudice to the position of the United Kingdom and Ireland under the Protocol integrating the Schengen *acquis* into the framework of the European Union and under the Protocol on the position of the United Kingdom and Ireland, annexed to the Treaty on European Union and the Treaty establishing the European Community.

This declaration is equally without prejudice to the position of Denmark under the Protocol on the position of Denmark annexed to the Treaty on European Union and the Treaty establishing the European Community.

Pursuant to Article 299, this declaration is also not applicable to the territories of the Member States in which the said Treaty does not apply and is without prejudice to such acts or positions as may be adopted under the Protocol by the Member States concerned on behalf of and in the interests of those territories. In accordance with the provision referred to above, this declaration indicates the competence that the Member States have transferred to the Community under the Treaties in matters governed by the Protocol. The scope and the exercise of such Community competence are, by their nature, subject to continuous development as the Community further adopts relevant rules and regulations, and the Community will complete or amend this declaration, if necessary, in accordance with Article 16(3) of the Protocol.

The Community points out that it has competence with regard to the crossing of external borders of the Member States, regulating standards and procedures when carrying out checks on persons at such borders and rules on visas for intended stays of no more than three months.

The Community is also competent for measures on immigration policy regarding conditions of entry and residence and measures to counter illegal immigration and illegal residence, including repatriation of illegal residents. Moreover, it can take measures to ensure cooperation between the relevant departments of the administrations of the Member States, as well as between those departments and the Commission, in the aforementioned areas. In these fields the Community has adopted rules and regulations and, where it has done so, it is hence solely for the Community to enter into external undertakings with third States or competent international organisations.

In addition, Community policy in the sphere of development cooperation complements policies pursued by Member States and includes provisions to prevent and combat trafficking in persons.
