

Smuggling of Human Beings

Session IV

**Trafficking and Smuggling in Human
Beings: An examination of the Palermo
Protocols**

United Nations Convention Against Transnational Organized Crime, 2000

- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children
- Protocol Against the Smuggling of Migrants by Land, Sea and Air

The number of countries that have signed and ratified the instruments (status as of 16 May 2007):

The Convention:	Parties: 133
Trafficking Protocol:	Parties: 111
Smuggling Protocol:	Parties: 105

Protocol Against Smuggling

Definitions:

“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;

“Illegal entry” shall mean crossing borders without
complying with the necessary requirements for legal entry
into the receiving State.

Protocol Against the Smuggling of Migrants by Land, Sea and Air

Smuggling Phenomenon

The Causes of Smuggling:

- **Poverty, unemployment, and lack of opportunities**
- **Political and humanitarian crises**
- In many less developed regions of the world, children are entrusted to more affluent friends or acquaintances with the intention to improve their lives and relieve their families of economic burden
- **Demand for inexpensive labour**
- **Restrictive immigration policies in traditional countries of destination**
- **Criminal networks and transnational organized crime**

The Smuggling process

Transfer

Agreement with the smuggler

Destination



BORDER

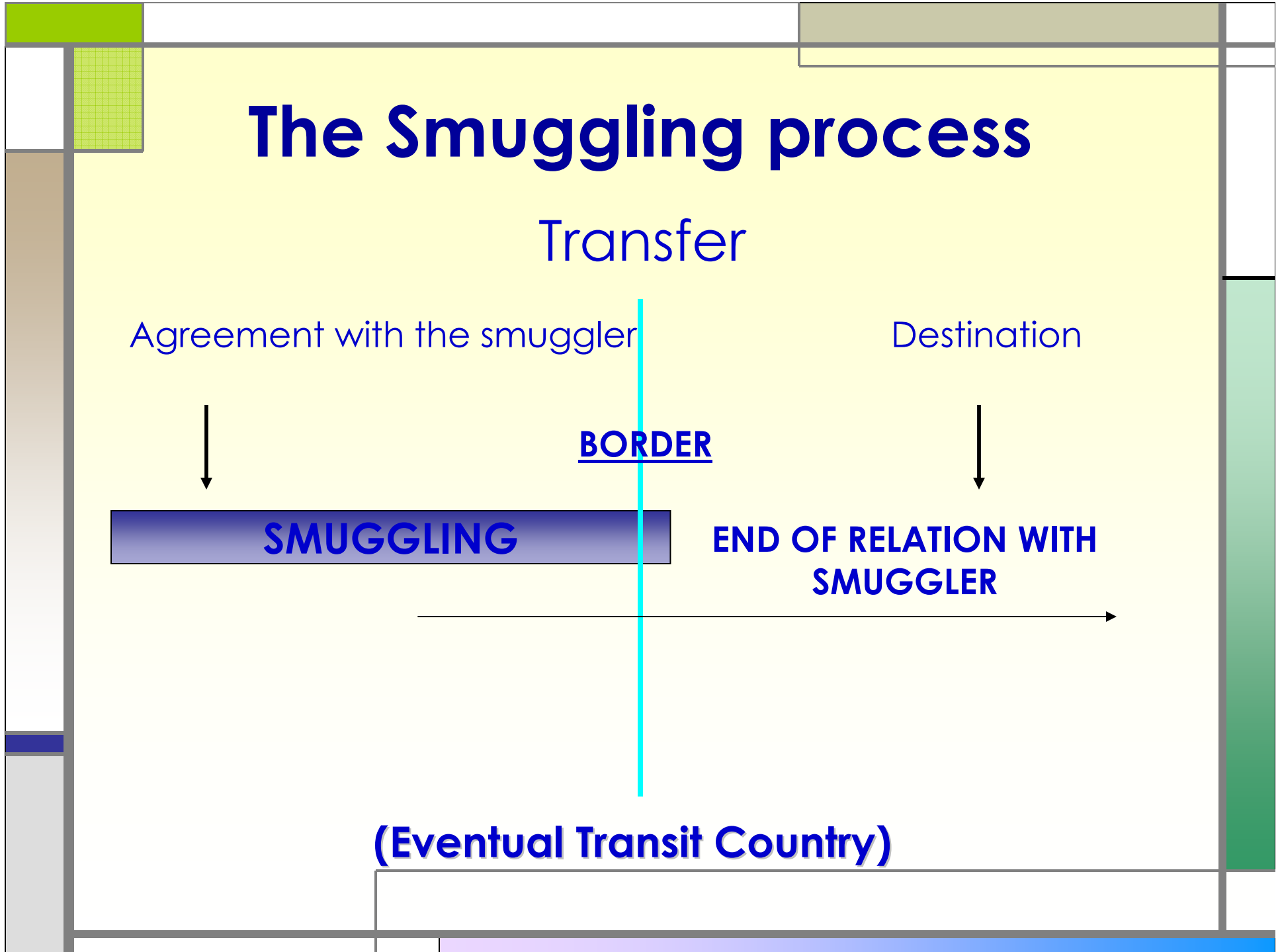


SMUGGLING

**END OF RELATION WITH
SMUGGLER**



(Eventual Transit Country)



Migrant Smuggling

The nature of migrant smuggling

- While, by definition, migrants cooperate with their smugglers – even seeking them out and paying them—**the act of smuggling can often be a dangerous and abusive one.**
- Smuggling operations have many of the following characteristics:
 - a broad transnational reach
 - networks of service providers to help in various stages of the operations
 - influence on government officials at many levels
 - access to large sums of money at many locations
 - ties with other criminal enterprises
 - the ability to shift areas of operation according to "market" conditions
 - an association with persons capable of violence within their networks

Protocol Against Smuggling

The Protocol supplements the Convention against Transnational Organized Crime and shall be interpreted together with the Convention

Purposes:

- ❑ To prevent and combat smuggling
- ❑ To promote cooperation amongst States
- ❑ To protect the rights of smuggled migrants

Requires States to:

- ❑ Criminalise smuggling
- ❑ Co-operate to prevent smuggling
- ❑ Strengthen border controls to detect smuggling (Art. 11)
- ❑ Address root causes
- ❑ Appropriate measures to “preserve and protect” rights
- ❑ Cooperate in return

Protocol Against Smuggling

Migrants shall not become liable to criminal prosecution under this Protocol for the fact of having been the object of smuggling

Prevention, cooperation and other measures:

- Information
- Border measures
- Security and control of documents
- Legitimacy and validity of documents
- Training and technical cooperation
- Protection and assistance measures
- Agreements and arrangements
- Return of smuggled migrants

Difference between Smuggling and Trafficking

Consent

The **smuggling** of migrants, while often undertaken in dangerous or degrading conditions, involves migrants who have consented to being smuggled

whereas

Trafficking victims have either never consented or, if they initially consented, that consent has been rendered meaningless by the coercive, deceptive, or abusive actions of the traffickers

Difference between Smuggling and Trafficking

Exploitation

Smuggling ends with the arrival of the migrants at their destination,

whereas

Trafficking involves the ongoing exploitation of the victims in some manner to generate illicit profits for the traffickers.

Difference between Smuggling and Trafficking

Transnationality

Smuggling is always transnational
whereas

Trafficking can occur regardless of whether victims are taken to another country or only moved from one place to another within the same country.

Difference between Trafficking and Smuggling

- ***Trafficking is ...***

A Crime against the Individual

- ***Smuggling is...***

A Crime against the State