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English only

Working Group on Trafficking in Persons
Vienna, 2-3 July 2018

Non-paper containing a draft questionnaire for the review of the Trafficking in Persons Protocol, in accordance with Conference resolution 8/2 of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime

Circulated at the request of the Chair of the 7th session of the Working Group on Trafficking in Persons, held from 7 to 9 September 2017*

At its 7th session, held from 4 to 6 September 2017, the Working Group on Trafficking in Persons had before it a draft questionnaire prepared by the Secretariat for review of implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. This was prepared in accordance with resolution 8/2 of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime, which decided that "the relevant working group shall define, in the next two years, with the assistance of the Secretariat a short, precise and focused self-assessment questionnaire".

The present draft questionnaire builds on long-standing work conducted by the Conference. Towards the end of its first session in 2004, the Conference realised there was a need for information from States parties regarding how they were implementing the Convention and its Protocols. A questionnaire was thus circulated to Member States in 2004 for their response, focusing on issues such as liability and jurisdiction, with approximately 60% of States parties responding. In 2005, a second questionnaire was disseminated focusing on Convention provisions not included in the first questionnaire, such as those concerning prevention, as well as questions concerning the Protocols. Over time, more responses were made by States, but the overall numbers of States parties to the instruments also increased. Seeking to, therefore, enhance the responses by States parties on their implementation practices, a comprehensive survey software (Omnibus), first circulated as an interim self-assessment checklist, was developed in order to take advantage of the interactivity offered by the computer-based format, including the cross-referencing of State information that had already been submitted to the Secretariat concerning implementation of requirements of the UN Convention Against Corruption (UNCAC). However, the questions pertaining to the Convention against Corruption contained in the software were recently redesigned in close consultation with States,

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meaning it was not possible to retain all the cross references in the omnibus survey software between the two Conventions. Therefore, if the cross references were to be recreated, a restructuring of the portion of the software relating to the Organized Crime Convention and the Protocols thereto would also be required for States to be able to import their responses from the self-assessment on one Convention to the other.

At its last meeting, the Conference decided on a process to define self-assessment questionnaires to support the establishment of a review mechanism of implementation of the Convention and its Protocols. Member States have been clear on the need for questionnaires that are precise, concise and that focus on the issues addressing States, but that also ask the right questions and are not too burdensome to complete. In line with resolution 8/2, the Chair of the Working Group on Trafficking in Persons therefore invited States in its 7th session to provide comments related to a draft questionnaire prepared by the Secretariat, including views on what the focus and objective of the questionnaire should be. That draft questionnaire and the corresponding comments are reflected here in this non-paper.

The aim of further discussions on the subject matter addressed here is to submit a final version of the questionnaire for consideration by States parties at the 9th session of the Conference of the Parties, to be held in 2018.

I. Definition and Criminalization

1. Does your legal framework criminalize trafficking in persons (article 5.1, in conjunction with art. 3, Protocol)?

Yes Yes, in part No

Please cite the applicable law(s) and/or other measure(s), including the applicable sanctions for this offence.

[USA: refer to the Questionnaire of 2004 for the wording on this topic.]

A. Criminalization of ancillary offences (article 5.2 of the Protocol)

2. Does your country criminalize the attempt to commit trafficking in persons (article 5.2 (a), in conjunction with art. 3)?

Yes Yes, in part No

Please cite the applicable law(s) and/or other measure(s), including the applicable sanctions for this offence.

[Switzerland: q. 5 refer to specific Protocol articles]

[Germany: q. 5: has no legal basis. We should either precise the basis, delete it or refer to other reports such as GRETA reports]

[Japan, Canada, Mexico, China: q. 5. Out of the scope. Delete.]

[Mexico: Translation issue: Q. 4 and 5 are identical in the Spanish version, but the q.5. of the English version is missing]

[Peru: q 2. 'criminalize the attempt' is not in line with Protocol. Delete.]

[UK: q.5: expand the scope of the question]

[Argentina: re: q.2., "attempt": keep it but specify it]

[Belgium: q5: keep it. Address it by referring to GRETA report.]

[Thailand: q 5: keep it: it is very important to have the assistance of victims for prosecutions. Precise more concretely what is meant by “compelled to do so”. Separate q.2 to 5]

3. Does your country criminalize the participation as an accomplice in trafficking in persons (article 5.2 (b), in conjunction with article 3)?

Yes Yes, in part No

Please cite the applicable law(s) and/or other measure(s), including the applicable sanctions for this offence.

4. Does your legal framework criminalize the organization or the direction of other persons to commit trafficking in persons (article 5.2 (c), in conjunction with article 3)?

Yes Yes, in part No

Please cite the applicable law(s) and/or other measure(s), including the applicable sanctions for this offence.

5. Does your country prevent trafficked persons from being prosecuted, detained or punished for their involvement in unlawful activities, to the extent that they have been compelled to do so?

Yes No

Please cite the applicable law(s) and/or other measure(s).

B. Consent of the victim (article 3 (b) of the Protocol)

6. Does your country ensure that when the means has been established, the consent of the victim is irrelevant (in accordance with article 3 (b))?

Yes No

Please provide details.

[Canada: Add: “... when the means set forth in sub-paragraph 3.a...”]

[Algeria: specify: when related to minors, consent is always irrelevant]

[Peru: specify which ‘means’ are referred to]

C. Criminalization of trafficking in children (article 3 (c) of the Protocol)

7. Does your country have any of the following in place? (select as many as relevant)

- Legislation that specifies that the means element is not required for trafficking in children.
- A separate offence concerning trafficking in children.
- Legislation that increases the gravity of trafficking in persons when children are involved as victims.
- Legislation that includes trafficking in children among aggravating circumstances of the crime.
- Other.

[Japan, Canada: sub-points 3 and 4 should be deleted.]

[Australia: combine sub-points 3 and 4]

[Canada: Rephrase question 7 as such: “Does your legal framework criminalize trafficking in children without involving any of the means set forth in para 3.a. of the Protocol?”]

[Argentina: keep this section as it is.]

II. Protection/Assistance (articles 6, 7 and 8 of the Protocol)

8. Does your country have existing regulations/directives/guidelines regarding protection and assistance to victims of trafficking?

Yes No

Please describe in detail and cite the applicable measures:

-
9. Has your country implemented any of the measures listed below?

- Identification processes, including identification guidelines and procedures
- National referral mechanism
- Mutual referral mechanisms between different protection processes e.g. child protection system, asylum system, migrants’ protection, worker protection system
- Other measures (please specify)

[Israel: combine q. 8 and 9: delete “Please describe in detail and cite the applicable measures:” in q. 8, and go directly to next “take any of the options below (referring to the ones mentioned in 9)]

[Thailand: draft the second box on the same model as the third one, to clarify]

[Singapore: delete “mutual referral mechanism”]

[Armenia: combine 8 and 9 and make an open-ended question. Q 8: what are the details and applicable measures expected to be given from states parties?]

If you have selected one or more of the above, please describe the concrete measures taken and cite the applicable policy/policies or law(s), and provide examples of their successful implementation.

A. Protect the privacy and identity of victims in appropriate cases and to the extent possible under domestic law (article 6.1 of the Protocol) and witnesses (article 24.2 of the Convention) of trafficking in persons

10. Has your country enacted/implemented any of the measures listed below?

- Procedures to protect the confidentiality and/or privacy of victims of trafficking.
- Enabled victim/witness testimony to be taken in a confidential manner by using communications technology such as video links, closed court or screened victim/witness, relocation.
- Other measures (please specify).

If you have selected one or more of the above, please describe the concrete measures taken and cite the applicable policy/policies or law(s), and provide examples of their successful implementation.

[Peru: “procedures to protect confidentiality” should say “procedures to protect the confidentiality of the statements and declarations delivered by the victims” and instead of privacy, state “the identity of the victims”]
[Japan: 10.2: replace ‘confidential’ by ‘secure’]
[UK: precise need for mutual recognition of privacy by other countries, such as source countries]
[Philippines: re: identity of the victim, precise ‘families of the victim’]
[USA: art. 6.1 “protect the privacy and identity”: respect the exact language of the Protocol].
[Iran: 10.1. Add: ‘...trafficking regarding his or her witness’]

B. Participation of victims in proceedings (articles 6.3 (b) and 6.2 of the Protocol)

11. Does victim status determination in your country depend on participation in criminal proceedings?

Yes No

12. Has your country implemented any of the following measures?

- Ensured that trafficked persons are allowed a period of reflection to decide on their participation in a judicial procedure.
- Ensured that trafficked persons are informed, in writing or orally, about relevant judicial and administrative procedures in a language they understand.
- Ensured that state legal aid services or specialized structures, as may be applicable, inform trafficked persons of their rights, in writing or orally in a language they understand.

- Established judicial procedures to avoid the re-victimization of trafficked persons, in particular children, during the judicial process.
- Ensured trafficking victims have access to legal aid during the entire period of civil or legal action against perpetrators of trafficking.

[Norway: Title should read 6.3.b not 3.b. Typo issue.]

[Algeria: refer to Art. 25 UNTOC and art. 6 Protocol]

[Singapore: q 12: delete option 12.1., as it is out of scope. Option 12.3: include as may be applicable, inform...]

[USA: q11 and Q 12 : out of scope: keep only 12.2., delete all the other boxes]

[Belgium: reflection period should be maintained. Other measures that states ask to be deleted should stay]

[Canada: delete q 11, and q.12 points 4 to 6. Add in q 12 a reference to art. 6.2.b as well.]

[Iran: q 12. 1,2,3,5: delete, as no tool to measure 'ensuring'.]

[Malaysia: delete q.12. 1.2.3 and 5.]

C. Housing (article 6.3 (a) of the Protocol)

13. Does your country provide safe and secure accommodation for trafficked persons?

Yes No

If yes, please specify if the accommodation is in specialized/non-specialized shelters, how they take into consideration gender and age, and how safety is ensured.

[Peru: should read 'suitable housing', not just 'housing']

[Canada, Singapore: replace 'safe and secure accommodation' by 'appropriate housing', and replicate the question for sub-para b, c and d]

Singapore: In paragraph 'if yes, please...': also rephrase and add 'appropriate housing', as per the Protocol]

D. Medical, psychological and material assistance to victims of trafficking (article 6.3 (c) of the Protocol)

14. Does your country have existing measures for the physical, psychological, and social recovery of trafficked persons? Please provide details.

15. Has your country implemented any of the following measures?

- Created support services or specialized organizations or specialized crisis centres equipped to respond to trafficked persons' needs as appropriate.
- Ensured that support services or specialized service providers are distributed appropriately throughout a State's territory and are part of a network, in order to secure effective referral.

- Promoted the creation of specialized networks to support medical, psychological and social assistance to victims.
- Other measures (please specify).

If you have selected one or more of the above, please describe the concrete measures taken and cite the applicable policy/policies or law(s), and provide examples of their successful implementation.

[Japan: Q 14: replace ‘social recovery’ by ‘material recovery’]

[Canada, USA: replace Q. 14 to 16, by replicating the phrasing proposed in Q 13 to cover obligations covered in sub-para b, c, and d to reflect the language of the Protocol]

[Peru: Add ‘Does your country have measures to provide medical, psychological and social assistance to trafficking victims, as per art. 6 protocol?’]

[Singapore: take Q 3 of 2005 Questionnaire instead of q 13 to 16.]

[Malaysia, Iran: Q.15.3: ‘specialized networks’: delete, and keep instead ‘Promote the creation of medical, psychological and social assistance to victims.’]

[Thailand: Q 14: ‘social recovery’ is not a term from the Protocol. Stick to same terminology]

E. Employment, education, training opportunities (article 6.3 (d) of the Protocol)

16. Has your country implemented, in collaboration with national stakeholders, including private sector, programmes providing livelihood options (including employment opportunities, vocational training, educational programmes) for trafficked persons and those vulnerable to trafficking?

Yes Yes, in part No

Please provide details

[Singapore: 2005 Questionnaire question to replace this one]

F. Physical safety of victims and witnesses (article 6.5 of the Protocol, articles 24 and 25.1 of the Convention)

[Canada, Singapore: We should exchange on the wider issue of integrating UNTOC provisions or not. Questions 17, 18, 19 and 21, delete and replace by a question focusing on the same wording as Art. 6.5 on ‘legislative measures, policies, safeguards...’. Add a question on special needs of child victims, linking to art. 6.4]

[Netherlands: delete questions related to UNTOC]

[Singapore: delete Q. 17, 18, 19, 20, 21, and refer to questions 5 and 6 of old questionnaire 2005 instead.]

[Iraq: Q.17: State ‘is witness protection legislation applied to TIP victims’ (delete ‘particular protection’)]

17. Is witness protection legislation, in particular concerning physical protection, applied to trafficking victims?
 Yes Yes, in part No

18. Have law enforcement services and other competent authorities been given training regarding their responsibility to ensure the safety of trafficking victims?
 Yes Yes, in part No

19. Please specify the witness protection measures available for victims of trafficking in persons:

- Confidentiality or change of identity.
- Relocation to new accommodation or geographic location.
- Arrangements with other States to provide protective measures for witnesses or victims, such as a new residence.
- Use of special communications techniques to assist the witness, such as video link, recorded testimony, or closed trials).
- Other measures (please specify)

.....

20. Please provide details on the available witness protection measures

.....

21. Do you have standard operating procedures with regard to child victims and witnesses?
 Yes Yes, in part No

Please provide details on these procedures

.....

G. Possibility of obtaining compensation (article 6.6 of the Protocol and article 25.2 of the Convention)

[Singapore, Malaysia, Australia: Q. 22 beyond the scope of the Protocol. Art. 6.6. mentions the *possibility*: add ‘...possibility to obtain...’. Delete Q. 23 and 24.]

[Canada, China, Belarus, Thailand: reflect art. 6.4: Q. 23 and 24 out of scope. Delete]

[UK: Compensation for ‘damage suffered’: should be integrated, as it is narrower.]

[Indonesia: stick to art. 6.6. and 26. Delete Q.23 and 24. Restrict Q. 22 by deleting ‘through criminal, civil and/or administrative proceedings’]

22. Does your country have appropriate procedures to allow victims to obtain compensation and restitution (article 25.2, Convention) through criminal, civil and/or administrative proceedings?
 Yes Yes, in part No

If yes, or yes in part, please provide details

.....

23. Does your country have a dedicated victim compensation fund or scheme from which victims' claims can be met?

Yes No

If yes, please provide details

.....

24. Where a general victim compensation fund exists, how do you ensure that victims of trafficking in persons have access to it?

.....

H. Special needs of children (article 6.4 of the Protocol)

[Canada, Australia, Indonesia: 6.4 is broader than Q. 25 and 26. Cover the full scope of art. 6.4. not only the special needs of children, but also the gender component.]

[Cote d'Ivoire: Refer to healthcare in Q. 26, as per art. 6.4]

[Singapore: delete Q. 27. Regarding Q 25 and 26, they are covered by Q5 of older questionnaire. Delete reference to social integration]

[Egypt: 'trafficked children', not 'trafficking children' in Q. 25.]

[UK: Reflect on how age of a child is to be assessed]

[Indonesia Q 27: find a global standard for the age of a child's assessment]

[Russian Federation: Q 26: delete 'social integration'. In Q 27: delete, not rework.]

[Peru: delete Q 26. Art.3.3. states children is any person under 18 years. Q 25: art. 6.4. mentions 'accommodation and suitable care'. Add to it.]

[Nigeria, Thailand: not delete Q. 26. It is important]

[Thailand: delete social integration and write 'care' instead.]

25. Does your country have specific measures to ensure the physical and psychological care of trafficking children?

Yes Yes, in part No

Please provide details on the different measures.

.....

26. Do trafficked children have access to education and means of social integration?

Yes Yes, in part No

Please provide details.

.....

27. Has your country implemented any of the following measures?

- Ensured the implementation of United Nations Children’s Fund (UNICEF) Guidelines: Where the age of the child is uncertain and there are reasons to believe that the victim is a child, the presumption shall be that the victim is a child.
- Dedicated centres and/or shelters specifically for trafficked children.
- Alternative care arrangements that respect the rights and dignity of the trafficked child, in situations where the safe return of the child to his or her family is not possible, or where such return would not be in the child’s best interest.
- Other measures (please specify).

I. Status of victims (article 7 of the Protocol)

28. Has your country implemented any of the following measures?

- Adopted regulations or guidelines to guarantee effective issuance of residence permits to trafficking victims.
- Ensured that the issuance of residence permits to victims of trafficking is not discretionary.
- Ensured that immigration status or return of the victim does not prevent the victim from filing for, being awarded and receiving compensation.
- Facilitated access by all trafficked persons to all measures available to victims of crime.
- Ensured that trafficked persons receive information regarding their right to request asylum.
- Referral to the Office of the United Nations High Commissioner for Refugees (UNHCR), other refugee protection actors and/or asylum of trafficked persons who claim that they are facing persecution or other serious harm upon return.
- Respected the principle of non-refoulement and ensured that all victims of trafficking who express a wish to seek asylum or a fear to return are allowed access to asylum procedure for an examination of their claim.
- Other measures (please specify).

29. If you have selected one or more of the above, please describe the concrete measures taken and cite the applicable policy/policies or law(s), and provide examples of their successful implementation.

[Iran: Q 28 beyond the scope of the Protocol]

[Canada, Bahamas, Australia, China, Singapore, India, Paraguay, Malaysia: replace Q 28 and Q 29 to reflect 7.1 and 7.2: ‘Have States adopted appropriate legislation and other appropriate measures, etc., and provide examples of such.’]

[USA, Singapore: refer to Q 8 of old questionnaire]

[Peru: Q 28 and 29 should be replaced by more open formula]

[Paraguay: include situations of mixed migration taking into account humanitarian or personal factors of the victims, the refugee status of many victims]

[Morocco: Q 28: include measures to guarantee TIP victims' access to free legal assistance]

[UK: Q 28: include Q. 11 and 12: residence permit for those participating in criminal proceedings]

[Finland: Q 28: 28.4 goes under principle of non-discrimination]

J. Repatriation of victims (article 8 of the Protocol)

[Canada, Thailand, China, Australia, Singapore: replace Q 30 to 33 with specific questions reflecting art. 8 provisions.]

[Norway: Art. 8 focuses on origin countries and that should be reflected]

[Australia: ticked boxes are practical. Q 33: delete]

[Armenia, Belarus: delete Q 31 and 33]

[Paraguay: reword 'Does the country facilitate and accept without delay the voluntary repatriation of trafficking victims?' 'Please specify measures and provide details'. Risks assessments are beyond art. 8]

[Japan: checklists are efficient but should be neutral]

[India: Q 31 is beyond the scope of the Protocol. Too intrusive to have a risk assessment.]

[Morocco: delete Q 31]

[Nigeria, Azerbaijan, Bahamas, UK, France: Q 31 is extremely important.]

[UK: link Q 30 to Q 11 on participation of victims on criminal proceedings]

~~29~~.30. Do you have legislative provisions allowing trafficking victims to not be repatriated while judicial proceedings are pending?

Yes No

If yes, please provide details.

~~30~~.31. Do you systematically carry out a proper risk assessment in the victims' country of origin before repatriation?

Yes No

~~31~~.32. Has your country implemented any of the following measures?

- Access to consular services is provided if appropriate.
- To the extent possible, the return of trafficked persons is undertaken on a voluntary basis.
- A clear identification procedure of victims' nationalities with the respective embassies of the victims' native countries.
- Other measures (please specify).

.....
Please provide details.
.....

~~32~~.33. Has your country assessed existing legislation on social and victim protection?

Yes No

If yes, please cite any relevant document(s) (e.g. assessments, gap analysis, reports of other international and regional review mechanisms, policy studies, etc.).
.....

III. Prevention

A. Prevention of trafficking in persons (article 9 of the Protocol)

[Peru: Q 34: replace and use art. 9 phrasing: 'does your country have legislation or public policies, programmes or other comprehensive measures to prevent and combat trafficking in persons and protect the victims, especially women and children, against re-victimization?'. Q 36: wide in scope and beyond the Protocol. Take wording of art. 9 Protocol]

[Belarus: Q 34: keep and ask for detailed info. Q 35 and 36 should be deleted.]

[Australia: Combine Q 34 and 36: phrasing proposed by Peru, followed by boxes proposed in Q 36.]

[Canada, USA, Netherlands, Indonesia, Malaysia, Singapore, Thailand: Use wording of Art. 9. Delete existing questions and redraft according to art. 9]

[USA: old questionnaires lacked this section. Important improvements.]

[Nigeria: Q 36: important.]

[The Gambia: Q 34 and 35: merge. Q 36: very important]

[Philippines: Q 36: identification process already referred to in Q 9: is it repetition? Or a new one?]

[Finland: Art.6.4 mentions gender. Art. 9.1.b as well. Not the questions. Make sure this wording on women and children is reflected.]

[Morocco: Q 36: replace 'surveillance' by 'control'. 'Improvement of job market conditions' is too broad. 'Working conditions' would be more fitting, as per ILO practices.]

[Indonesia: Art. 9 not reflected well. Questions go beyond. Q 34 and 35: merge. Delete Q 36]

[Azerbaijan: Q 35 should be deleted. Q 34 and Q 36 should be merged]

[UK: 'bilateral and multilateral cooperation' should be included in the section as well]

[Sri Lanka: Q 36.4: add recruitment agencies']

~~33~~.34. Does your country have legislation or policies to prevent trafficking in persons?

Yes Yes, in part No

If the answer is yes or yes, in part, please elaborate on the approach. Please cite the relevant law or policy.

34,35. Has your country assessed existing legislation and/or policies to prevent trafficking in persons?

Yes No

Please cite any relevant document(s) (e.g. assessments, gap analysis, reports of other international and regional review mechanisms, policy studies, etc.).

35,36. Does your country implement any other measure(s) or programme(s) to prevent trafficking in persons?

- Strengthened monitoring and management of labour markets, including regulation and monitoring of workplaces and recruitment processes.
- Conducted research and data collection into the nature and extent of the problem including labour exploitation, root causes, trends of trafficking, demand for exploitative services and labour, and on the gaps and shortcomings on assistance to prevent re-victimization.
- Identified groups and communities vulnerable to trafficking, and those who may come into contact with trafficking situations.
- Implemented awareness-raising campaigns to address potential victims of trafficking (e.g. through free hotlines, or other accessible open sources, including information on how to obtain legal employment, migration information, the risks of trafficking in persons).
- Implemented awareness-raising campaigns to address potential consumers of exploited labour.
- Established rapid response strategy and capacity to prevent trafficking in persons in situations of war, natural disaster, and other crises that may result in refugee flows.
- Conducted regular impact assessment of prevention measures on the target group and identified gaps and shortcomings.
- Other measures (please specify).

B. Training (article 10 of the Protocol)

[Sri Lanka: add 'public awareness', and in the categories: add 'social workers' and 'probation officers'.]

[Australia, Peru, Philippines, Belarus, Singapore, Morocco: add a separate question on 'information exchange' in the questionnaire.]

[Gambia: Q 37: add 'hoteliers']

[Canada, Singapore, Japan: redraft and reflect all 3 paragraphs of Art. 10. And group the boxes as to make only an example of it: ‘law enforcement, immigration authorities, etc’]

[Peru: 10.2 Protocol refers to cooperation with NGOs and CSOs. This is missing. Include three questions.]

[USA: art. 10 is also in other provisions]

[Philippines: ticked boxes appreciated. Who are first responders? Delete. Confusing. Add ‘social workers’ and ‘other relevant actors’]

[Nigeria: add ‘airline operators’ and ‘travel agencies’]

[Indonesia: Art. 10 is in three parts: training of law enforcement, content of the training, and information exchange. All three should be present.]

[Morocco: keep the list.]

[Cote d’Ivoire: distinguish law enforcement, as well as merge prosecutors and judicial services]

36.37. Has specialized training on trafficking in persons been provided to any of the following actors:

- Law enforcement
- Immigration authorities
- Judicial authorities
- Prosecutors
- Labour inspectors
- Consular officers
- First responders
- Health-care staff
- Other (please specify)

.....
.....
Please provide details
.....
.....

IV. Coordination/Cooperation

A. Border measures dealing with commercial carriers (article 11 of the Protocol)

[Iran: Q38.1 and 38.3: remove ‘ensured’. In Q 38.2, Add ‘ensure that border control measures, in accordance with the national laws and regulations, are in line with...’]

[Malaysia: Q38.2: refugee law reference to be deleted. 38.4: too specific. Redraft to capture art. 11]

[USA: use the old questionnaires’ phrasing]

[Canada: Q 38: some measures out of scope. Others missing, such as commercial carriers.]

[China: revise Q 38.2: ‘...with international human rights and refugee law, which is applicable through adequate protection safeguards’]

[Australia: Q 38.2: repeat wording of the Protocol]

[Singapore: Q 38.1: border capacity is beyond the Protocol. Delete. 38.2 as well, and refer to art. 11 ‘...all border measures in accordance with national law’.]

[Nigeria: Do we keep the spirit of the Protocol?]

37.38. _____ Has your country implemented any of the following measures?

- Ensured or strengthened border capacity to prevent and detect trafficking in persons.
- Ensured that border control measures are in line with international human rights and refugee law through adequate protection safeguards.
- Ensured or strengthened cross-border cooperation.
- Developed, implemented and/or offered awareness and capacity-building programmes targeting commercial carriers.
- Other measures (please specify).

B. Measures relating to travel or identity documents (article 12 of the Protocol)

[Thailand: what is meant by documents forensics? How to train foreign officials? In 39.4, do we refer to all migrants?]

[Philippines: Q 39.4 delete.]

[UK: refugees and migrants: not applicable here.]

[Canada, Paraguay: art. 12 refers to quality and integrity of travel documents. Not here. Add.]

[Malaysia: 39.2: delete foreign officers reference, as well as refugees in 39.4]

[Paraguay: delete and rephrase as per art. 12]

[Belarus: keep only the paragraph 39.1 relating to diplomatic services, and delete the rest]

[Singapore, Poland, China, France: delete 39.4]

[Morocco: Q 39.4: delete ‘refugees and migrants’. Forged documents detection is prerogative of police, not commercial carriers.]

[Iran: 39.4: forged documents is a crime in all systems]

[Nigeria: yes, but distinguish: TIP victims are forced at times to have forged documents and should not be punished]

[Belgium: unclear. We refer to non-punishment here, but there were reluctances to do that earlier.]

[Cote d’Ivoire: 39.4 should be replaced by security and integrity of documents.]

[The Gambia: Q 38: keep in mind the free movement principle]

[Indonesia: training is not the only way. Create the system in which forged documents cannot be made]

~~38~~.39. Has your country implemented any of the following measures?

- Trained front line law enforcers specifically on document forensics.
 - Trained foreign officers and consular officials to identify forged identity and travel documents.
 - Trained commercial carriers to identify forged identity and travel documents.
 - Ensured that refugees and migrants are not punished for irregular entry, including by using forged identity and travel documents.
 - Other measure (please specify).
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-

C. National coordination/cooperation among all stakeholders
(article 10 of the Protocol)

[Philippines, Canada: Q 40: should be more general and not just police and judicial structures. Q 41: add to section Q 37, adding after the training part of Q 37. Groups both.]

[Thailand: Q 37 and 40 are different. Q 40 refers to structures. Not merge.]

[Canada: Q.41.4 should be merged with Q 37.]

[Nigeria: Q 40 too restrictive: change ‘law enforcement agencies’, instead of ‘police’ units.]

~~39~~.40. Has your country established specialized police units and judicial structures to deal with trafficking in persons?

Yes No

If yes, please specify specialized police units and judicial structures established.

.....

.....

~~40~~.41. Has your country implemented any of the following measures?

- Took stock and carried out an assessment of existing policies or measures on trafficking in persons.
- Adopted a comprehensive strategy and/or a plan of action specifically related to trafficking in persons, or including references to trafficking in persons.
- Established a multidisciplinary coordination mechanism or body in charge of implementing a coordinated national response to trafficking in persons.
- Established a system or mechanism of cooperation to exchange information between law enforcement, immigration and other relevant authorities (article 10.1, Protocol).

If you have selected one or more of the above, please describe the concrete measure(s) taken and cite the applicable policy/policies or law(s), and provide examples of their successful implementation.

.....

.....

D. State actors' cooperation with civil society (articles 6.3 and 9.3 of the Protocol)

~~41.42.~~ Has your country implemented any formal cooperation agreements with civil society partners regarding trafficking in persons?

Yes No

If yes, please provide details on the cooperation agreements.

[Egypt: disproportionate section for CSOs. Remove it and add it under Prevention of TIP section.]

[Canada: Q 42 already covered. Delete]

[China, Australia, Singapore, Indonesia, Finland, Malaysia: exceeds Protocol. Delete or modify it 'Has your country implemented any cooperation with civil society partners regarding TIP?']

[Gambia: keep Q 42. CSOs and NGOs are key against TIP. Cooperation agreement is also a right phrasing.]

[Indonesia: no formal agreements usual with CSOs]

[Iran: no need for agreement with CSOs. Remove or replace with: Does your country invite civil society for consultations regarding trafficking in persons?]

[Finland: strong cooperation with CSOs. Possible to refer to GRETA reports]

[Nigeria: keep as important]

[Thailand: keep, but delete the word 'formal' (China). Add "with NGOs and civil society regarding TIP" and delete 'partners']

[Morocco: refer to 'partnership', not 'agreement', with CSOs.]

D. Measures to strengthen cooperation among border control agencies by, inter alia, establishing and maintaining direct channels of communication (article 11.6 of the Protocol)

[Algeria: Q43: add 'Afripol']

[Poland: add 'unclassified' as such: 'provide unclassified details']

[Paraguay: Q 43 would be covered by the new Q 37 on information exchange. So delete Q 43]

[Japan, Canada, Singapore: replace Q 43 by a more general question: indicate your efforts to engage in cross-channels of communication?]

~~42.43.~~ Does your country make use of the framework of regional organizations such as Ameripol, Europol, the Eastern Africa Police Chiefs Cooperation Organization (EAPCCO), the Southern African Development Community (SADC), the Southern African Regional Police Chiefs Cooperation Organization (SARPCO), the Chiefs of ASEAN Police (ASEANAPOL), the Commonwealth of Independent States (CIS) or the International Criminal Police Organization (INTERPOL) to facilitate operational cooperation among regional partners?

Yes Yes, in part No

If the answer is yes or yes, in part, please provide details of the frameworks being used.

F. International cooperation among Member States

43.44. Has your country conducted a needs assessment to determine requirements for effective cooperation?

Yes No

If the answer is yes, please elaborate further on the needs assessment(s) and provide examples of their implementation, and cite also the applicable policy/policies or law(s)

[Germany, Belarus, Canada, Poland, France, Singapore: delete Q 44, out of scope]

[Germany: not refer to UNTOC. 45 to 49 and 51: group. Include 51. Has your country adopted any legislation or measures outside the scope... complete the list as per the questions' headings (Q44 to 54)]

[Nigeria, UK: keep]

[Mexico, Netherlands, Singapore, Peru, Russian Fed., Indonesia: defer consideration of questions addressing UNTOC to joint meeting of WG on TA and IC]

[Thailand: keep provision on MLA. Delete Q 48. Re: Q 47: precise 'focal point' and add 'to act as liaison on mutual legal assistance...']

[Romania: remove Q 47. Re: Q 54: add to general UNTOC questionnaire. Q.55: replace 'infiltration' by 'undercover'.]

[Canada, Finland: add to UNTOC questionnaire and remove from here.]

[Morocco: Q 45: Arabic translation does not match.]

[China, Paraguay, Singapore: Q 48: out of the scope of the questionnaire: delete.]

[Germany, Iran, Morocco: Q 53: should not refer to Art. 11 UNTOC but art. 6.4 protocol, and move it to Q 27. And Q54: too much. Delete.]

[Paraguay: Q 47: replace 'national coordinator' with 'national authority'. Q 52: include a list of the penalties resulting from TIP]

[Japan: Q 52: based on a misunderstanding. Delete.]

[Mexico, Indonesia: Q 48: important to reconsider the reference to asylum. Different legal regime for asylum and TIP victims. Need for rewording if the question is kept in.]

[Poland: delete Q 46 and 47.]

[Canada: experts in country on MLA and other UNTOC provisions should have to answer questions once, and not three times for the three questionnaires. Better to keep it all for the UNTOC questionnaire.]

[Argentina: if we make an Annex, it should take into account the progress made by states on some provisions such as non-criminalization of victims, and other provisions of the WG.]

G. Mutual legal assistance (article 18 of the Convention)

44.45. Does your country's legislation establish a mutual legal assistance procedure using the Organized Crime Convention as a legal basis (article 18, para.7) in human trafficking cases?

Yes Yes, in part No

If the answer is yes or yes, in part, please cite the applicable policy or policies, law(s) and/or other measure(s) and provide information and practical examples on cases of mutual legal assistance related to trafficking in persons.

45.46. Has your country strengthened national capacity in order to make and execute mutual legal assistance requests?

Yes Yes, in part No

If the answer is yes or yes, in part, please cite the applicable policy or policies, law(s) and/or other measure(s) and provide information and practical examples on cases of strengthened national capacity.

46.47. Has your country identified a national focal point to act as liaison between it and other States parties on matters relating to this Protocol?

Yes Yes, in part No

Please explain, and please provide the name and functions of the designated national focal point when applicable.

47.48. How does your country ensure that no information on trafficking victims' asylum applications are shared with their country of origin?

Please elaborate on the measures taken.

H. Joint investigations (article 19 of the Convention)

48.49. Does your country make use of co-located or non-co-located joint investigation teams in human trafficking cases?

Yes Yes, in part No

If the answer is yes or yes, in part, please provide details on the type of joint investigation teams used.

I. Liability of legal persons (article 10 of the Convention)

49.50. Is it possible to establish the liability of legal persons (article 10.4) for trafficking in persons in your country?

Yes No

Please indicate if the following is provided in your legislation: (select as many as relevant)

- Liability of legal persons can be criminal, civil or administrative without prejudice to the criminal liability of natural persons having committed the crime of trafficking in persons (article 10.2 and 3 Convention).
- Legal persons held liable are subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions (article 10.4 Convention).

If you have selected one or more of the above, please describe in detail, cite the applicable law(s), and provide examples of their successful implementation:

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.....

J. Criminalization and measures against corruption (articles 8 and 9 of the Convention)

50.51. Has your country adopted any specific legislative, administrative or other measures to prevent, investigate or prosecute corruption in relation to trafficking in persons?

Yes No

If yes, please specify.

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.....

K. Sanctions (article 11.1 of the Convention)

51.52. Is a conviction of trafficking in persons punishable by a deprivation of liberty of at least four years?

Yes No

Please provide details on the length of the sanction:

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.....

52.53. Where parents/legal guardians are involved in the trafficking of their children can they be deprived of their parental rights, with due regard to the best interests of the child?

Yes No

L. Confiscation and seizure of assets and proceeds of crime in trafficking in persons cases (articles 12, 13 and 14 of the Convention)

~~53~~.54. Has your country adopted/used any of the below listed measures?

- Procedural means such as those in article 12 of the Convention to ensure effective confiscation and seizure of assets and/or proceeds of crime
- International cooperation mechanisms for confiscation of assets (article 13 of the Convention)
- Procedural means to direct proceeds of crime or confiscated property of convicted traffickers to compensate victims (article 14, para. 2, of the Convention)
- Other measures (please specify)

If you have selected one or more of the above, please describe in detail and cite the applicable law(s) and procedures, and provide examples of their successful implementation.

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M. Special investigative techniques (article 20 of the Convention)

~~54~~.55. Has your country adopted/ensured any of the below listed measures?

- Standing agreement(s) with other countries for the use of co-located or non-co-located joint investigation teams in the investigation of trafficking in persons
- Proactive, intelligence-led investigative techniques
- Electronic surveillance and infiltration operations within national and international investigations (Convention article 20, para. 1)
- Other measures (please specify)

If you have selected one or more of the above, please describe in detail, and provide examples of their effective implementation of the techniques.

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V. Difficulties encountered and assistance required

~~55~~.56. Please describe challenges by your country in the implementation of the Trafficking in Persons Protocol provisions.

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If domestic legislation has not been adapted to the Protocol's requirements, what steps remain to be taken? Please specify.

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~~56~~.57. Does your country require technical assistance to implement the Protocol?

Yes No

If yes, please indicate the type of assistance required to implement the Protocol:

- Assessment of criminal justice response to trafficking in persons.
- Legal advice/legislative drafting support.
- Model legislation/regulation(s)/agreement(s).
- Development of strategies/policies, action plans.
- Good practices/lessons learned.
- Capacity-building through the training of criminal justice practitioners and/or the training of trainers.
- Capacity-building through awareness-raising among judiciary.
- On-site assistance by a relevant expert.
- Institution-building/strengthening.
- Prevention/awareness-raising.
- Technological assistance and equipment (please be specific).
- Development of data collection/database(s).
- Workshops/platform to enhance regional and international cooperation.
- Specialized tools such as e-learning modules, manuals, guidelines and standard operating procedures.
- Other (please specify):

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57-58. Are you already receiving technical assistance in these areas? Please specify the area of assistance and who is providing it.

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Country:	_____
Date on which the questionnaire was received:	_____
	____/____/____ (day/month/year)
The official(s) responsible for responding to the questionnaire is (are):	
Ms./Mr.	_____
Title and/or position:	_____

Agency and/or office:	_____

Mailing address:	

Telephone number:	_____
Telefax number:	_____
Email address:	_____
