Non-paper containing a draft self-assessment questionnaire for the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime

*Status: 25 September 2019*

**Introduction**

In accordance with resolution 9/1, the Intergovernmental expert group (IEG) of the Conference of the Parties to UNTOC has been tasked with, inter alia, finalizing and harmonizing the self-assessment questionnaires. Moreover, consistent with the workplan for the implementation of resolution 9/1, adopted by the extended Bureau at its meeting on 5 February 2019, the President of the Conference and/or the Chair of the IEG were to make use of informal consultation to advance the substantive work on, among other documents, the questionnaires.

The draft questionnaire for the implementation of the Trafficking in Persons Protocol was discussed in the informal consultations held on 16 September 2019, led by the Chair of the IEG.

The present document reflects the outcome of the above-mentioned informal consultation and it includes minor editorial changes made after the meeting to ensure consistency in the terminology used and the appropriate formatting of the questionnaire based on the discussions during the informal consultation.

Draft text by the Chair

1. Is trafficking in persons, when committed intentionally, criminalized under your country’s domestic legislation (art. 5, para. 1, in conjunction with art. 3, of the Protocol)?

Yes  No

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

[provisionally agreed in informals as amended]

2. If the answer to question 1 is “No”, please specify how trafficking in persons is treated in your domestic legislation.

[Provisionally agreed in informals as amended]

3. If the answer to question 1 is “Yes”, is trafficking in persons treated as a criminal offence in your country in accordance with article 3, subparagraph (a), of the Protocol (combination of three constituent elements: action, means and purpose of exploitation).

Yes  No

Please explain:

[provisionally agreed in informals as amended]

4. If the answer to question 1 is “Yes” are the following actions of trafficking in persons criminalized in your country:

(a) Recruitment;

Yes  No

(b) Transportation;

Yes  No

(c) Transfer;

Yes  No

(d) Harbouring; and/or

Yes  No

(e) Receipt of persons?

Yes  No

(f) Other:

Please provide further details, if needed:

[provisionally agreed in informals as amended]

5. If the answer to question 1 is “Yes”, do the means of trafficking in persons consist of:

(a) Threat or use of force or other forms of coercion;

Yes  No

(b) Abduction;

Yes  No

(c) Fraud;

Yes  No

(d) Deception;

Yes  No

(e) Abuse of power;

Yes  No

(f) Abuse of position of vulnerability; and/or

Yes  No

(g) The giving or receiving of payments or benefits to achieve the consent of a person having control over another person?

Yes  No

1. Other:

Please provide further details, if needed:

[provisionally agreed in informals as amended]

6. If the answer to question 1 is “Yes”, does the purpose of exploitation include, at a minimum:

1. the exploitation of the prostitution of others or other forms of sexual exploitation;

Yes  No

(b) Forced labour or services;

Yes  No

(c) Slavery or practices similar to slavery;

Yes  No

(d) Servitude; and/or

Yes  No

(e) Removal of organs;

Yes  No

(f) Other (please specify)

[provisionally agreed in informals as amended]

7. Does your country ensure that when the means set forth in sub-paragraph 3 (a) have been established, the consent of the victim is irrelevant (in accordance with article 3 (b))?

Yes  No

Please explain.

[provisionally agreed in informals as amended]

8. Does your country’s legal system criminalize trafficking in children (recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation) even where it does not involve any of the means set forth in paragraph 3 (a) of the Protocol?

Yes  No

If yes, please cite the applicable law(s) and/or other measure(s), including the applicable sanctions for this offence

[provisionally agreed in informals; relocated from original question 13]

9. Who is considered to be a “child” under your domestic legislation (art. 3, subpara. (d))?

“Child” means any person under 18 years of age (art. 3, subpara. (d))

Other (please specify)

[provisionally agreed in informals]

10. Subject to the basic concepts of your legal system, does your country criminalize the attempt to commit trafficking in persons (art. 5, para. 2 (a), in conjunction with art. 3)?

Yes  Yes, in part  No

(a) Please explain. If the answer is “Yes” or “Yes, in part”, please cite the applicable law(s) and/or other measure(s), including the applicable sanctions for this offence.

(b) If your answer is “No”, do the basic concepts of your legal system prevent the adoption of measures to criminalize the attempt to commit trafficking in persons?

[provisionally agreed as amended]

11. Does your country criminalize participation as an accomplice in trafficking in persons (art. 5, para. 2 (b), in conjunction with art. 3)?

Yes  Yes, in part  No

(a) Please provide further details, if needed:

(b) If the answer is “Yes” or “Yes, in part”, please cite the applicable law(s) and/or other measure(s), including the applicable sanctions for this offence.

[provisionally agreed as amended]

12. Does your country criminalize the organization or the direction of other persons to commit trafficking in persons (art. 5, para. 2 (c), in conjunction with art. 3)?

Yes  Yes, in part  No

If your answer is “Yes” or “Yes, in part” please cite the applicable law(s) and/or other measure(s), including the applicable sanctions for this offence.

[provisionally agreed in informals]

13. Under your country’s domestic law, are there measures to protect the privacy and identity of victims of trafficking in persons, in appropriate cases and to the extent possible (art. 6, para. 1)?

Yes  No

If yes, please provide examples or links to published policy or guidance, including any specific measures under your legal system regarding identity, protection and assistance to victims of trafficking in persons, including, inter alia, making legal proceedings relating to such trafficking confidential.

[provisionally agreed as amended]

14. Does your country’s legal or administrative system contain measures to provide victims of trafficking in persons, in appropriate, cases, with the following: (a) information on relevant court and administrative proceedings; (b) assistance to enable their views and concerns to be presented and considered at appropriate stage of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defence (art. 6, para. 2)?

Please provide further details on such measures, if needed:

[provisionally agreed as amended]

[15. Has your country taken any of the following measures to provide for the physical, psychological and social recovery of victims of trafficking in persons as addressed in art. 6, para. 3, including, in appropriate cases, in cooperation with NGOs, other relevant organizations and other elements of civil society:

(a) Appropriate housing for victims of trafficking in persons? (art. 6, para. 3 (a)); and/or

Yes  No

(b) Counselling and information in a language that they can understand, in particular with respect to their legal rights? (art. 6, para. 3 (b)); and/or

Yes  No

(c) Medical, psychological and material assistance? (art. 6, para. 3 (c)); and/or

Yes  No

(d) Employment, educational and training opportunities? (art. 6, para. 3 (d));

Yes  No

Please provide information on such measures, if needed:]

[UK, Canada retain two questions] [Canada, alternatively add a box on NGOs and CSOs]

[16. If the answer to any of the subsections of question 15 is “Yes”, please specify and provide, including in appropriate cases, information on cooperation of your country with non-governmental or other organizations and other elements of civil society, in implementing the relevant measures (art. 6, para. 3)].

17. In implementing protective measures for victims of trafficking in persons, does your country take into account the age, gender and special needs of such victims, in particular the special needs of children, including appropriate housing, education and care (art. 6, para. 4)?

Yes  No

(a) If the answer is “No”, please explain.

(b) If the answer is “Yes”, please specify.

[provisionally agreed as amended]

18. Has your country taken any measures to provide for the physical safety of victims of trafficking in persons while they are within its territory (art. 6, para. 5)?

Yes  No

If the answer is “Yes”, please specify.

[provisionally agreed as amended]

[Deletion provisionally agreed – the issue will be addressed under original question 36- renumbered as 31]

[Deletion provisionally agreed - ensure that it is covered under the UNTOC questionnaire]

[Deletion provisionally agreed - ensure that it is covered under the UNTOC questionnaire]

[deletion of 23 and 24 provisionally agreed in informals – “witness” to be included in the UNTOC questionnaire]

19. Does your country’s domestic legal system contain measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered (art. 6, para. 6)?

Yes  No

If the answer is “No”, please explain.

[provisionally agreed as amended]

20. Has your country:

Adopted legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory temporarily or permanently, in appropriate cases (art. 7, para. 1)?

Yes  No

Please elaborate:

Alt (Japan) Adopted measures, in line with article 7 paragraph 2, that give appropriate consideration to humanitarian and compassionate factors when implementing article 7, para 1?

Yes  No

Please elaborate:

(provisionally agree to keep two paragraphs separate- text agreed to in informals)

Facilitated and accepted the return of victims of trafficking in persons, without undue or unreasonable delay, with due regard for the safety of that person, when the victim was a national of your State or had the right of permanent residence in your State at the time of entry into the country (art. 8, para. 1)?

Yes  No

Please elaborate:

(agreed- provisionally)

Verified at the request of another State party, whether a person who is a victim of trafficking in persons is a national of your State or is entitled to permanent residence in your State, without undue or unreasonable delay (art. 8, para. 3)?

Yes  No

Please elaborate:

(substance is approved in the informals subject to further drafting)

Given due regard to the safety of victims of trafficking in persons and for the status of any legal proceedings related to the fact that the person is a victim of trafficking in persons and to the fact that such return should preferably be voluntary, when returning a victim of trafficking in persons to a State party of which that person is a national or in which he or she has a right of permanent residence?

Yes  No

Please elaborate:

Issued travel documents or other authorization as may be necessary to enable a victim of trafficking in persons who is a national of your State or is entitled to permanent residence in your State, who is without proper documentation, to travel to and re-enter your country (art. 8, para. 4)

Yes  No

Please elaborate:

(approved in informals)

[21. Please provide any information relevant to your country’s efforts taken pursuant to Article 8 para.5]

[22. Please provide any information on agreements or arrangements relevant to your country’s efforts taken pursuant to Article 8 para.6]

23. Has your country established comprehensive policies, programmes and other measures to prevent and combat trafficking in persons (art. 9, para. 1 (a))?

Yes  Yes, in part  No

If the answer is “Yes” or “Yes, in part”, please summarize the policies, programmes or other measures and cite the relevant law or policy or provide links to published policy or guidance.

(provisionally approved as amended)

24. Has your country established comprehensive policies, programmes and other measures to protect victims of trafficking in persons, especially women and children, from revictimization (art. 9, para. 1 (b))?

Yes  Yes, in part  No

If the answer is “Yes” or “Yes, in part”, please summarize the policies, programmes or other measures and cite the relevant law or policy or provide links to published policy or guidance.

(provisionally approved as amended)

25. Has your country undertaken measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons (art. 9, para. 2)?

Yes  Yes, in part  No

If the answer is “Yes” or “Yes, in part”, please summarize the policies, programmes or other measures and cite the relevant law or policy

(provisionally approved as amended)

26. Do the policies, programmes and other measures undertaken by your country include cooperation with non-governmental organizations, other relevant organizations and other elements of civil society (art. 9, para. 3)?

Yes  Yes, in part  No

If the answer is “Yes” or “Yes, in part”, please summarize the policies, programmes or other measures and cite the relevant law or policy.

(provisionally approved as amended)

27. Has your country taken or strengthened measures, including though bilateral or multilateral cooperation to alleviate the factors that make persons, especially women and children, vulnerable to trafficking in persons, such as poverty, underdevelopment and lack of equal opportunity (art. 9, para. 4)?

Yes  Yes, in part  No

If the answer is “Yes” or “Yes, in part”, please summarize the measures.

(provisionally approved as amended)

28. Has your country adopted or strengthened legislative or other measures such as educational, social or cultural measures including, through bilateral or multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking in persons (art. 9, para. 5)?

Yes  Yes, in part  No

If the answer is “Yes” or “Yes, in part”, please summarize the policies, programmes or other measures and cite the relevant law, policy or cooperation arrangements.

[provisionally agreed as amended]

[29. If the policies, programmes or other measures taken by your country have been assessed or analysed, please cite any relevant documents (e.g., assessments, gap analysis) (art. 9)).] [remove (China)] [retain (Canada, USA, UK)]

30. Do law enforcement, immigration or other relevant authorities of your country cooperate with other States parties’ authorities by exchanging information, in accordance with domestic law, to enable them to determine (art. 10, para. 1):

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 (art. 10, para. 1 (a))

The types of travel documents that individuals have used or attempted to use to cross an international border for the purpose of trafficking in persons (art. 10,   
para. 1 (b))

The means and methods used by organized 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 (art. 10, para. 1 (c))

Please provide details.

[preliminary agreed as amended]

31. Has specialized training that focuses on methods used in the prevention of trafficking in persons, the prosecution of the traffickers, or the protection of the rights of victims been provided to any of the following actors?

Law enforcement authorities

Immigration authorities

Judicial authorities

Prosecutors

Labour inspectors

Consular officers

Emergency and first responders

Health-care staff

Airline or travel industry personnel

Social workers

Probation officers

Military

Local government(s)

Civil society or other organizations responsible for victims’ support

Other (please specify)

32. Has your country provided or strengthened training that focuses on methods used in the prevention of trafficking in persons, prosecuting the traffickers, or protecting the rights of victims, including protecting them from the traffickers, to the following officials: (art. 10 para 2)

Law enforcement

Immigration authorities

Other relevant officials (please specify), [which may include, but not be limited to, judicial authorities, prosecutors, labour inspectors, consular officers, public emergency/first responders, public healthcare staff, social workers, prison and probation officers].

33. Does the training referenced in question 31 above also take into account the need to consider human rights, child sensitive issues and gender sensitive issues (art. 10 para 2)?

Yes  No

(provisionally agreed in informals)

34. Does the training referred to in question 31 above encourage cooperation with non-governmental organizations, other relevant organizations and other elements of civil society (art. 10 para 2)

Yes  No

(provisionally agreed in informals)

35. [Has your country provided or strengthened such training to the private sector, for example private healthcare staff, airline or travel industry personnel or other (please specify).(art. 10 para. 2)]

36. Does your country comply with any restrictions on use placed on information transmitted from another State party (art. 10, para. 3)?

Yes  Yes, in part  No

Please, summarize any relevant measures in place to comply with restrictions and cite the relevant law, policy or cooperation arrangement.

(provisionally agreed as amended)

37. Has your country strengthened border controls to prevent and detect trafficking in persons (art. 11, para. 1)?

Yes  Yes, in part  No

If the answer is “Yes” or “Yes, in part”, please summarize the measures and cite the relevant law or policy or provide links to published policy or guidance

(provisionally agreed as amended)

38. Has your country adopted legislative or other measures to prevent the means of transport operated by commercial carriers from being used in the commission of offences established in accordance with article 5 of the Protocol (art. 11, para. 2)?

Yes  Yes, in part  No

If the answer is “Yes” or “Yes, in part”, please summarize the measures and cite the relevant law or policy or provide links to published policy or guidance

(provisionally agreed as amended)

39. Do the measures referred to in question 38 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 travel documents required for entry into the receiving State (art. 11, para. 3)?

Yes  Yes, in part  No

If the answer is “Yes” or “Yes, in part”, please summarize the measures and cite the relevant law or policy.

(provisionally agreed as amended)

40. Do the measures referred to in question 38 include sanctions in cases of a violation of 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 travel documents required for entry into the receiving State (art. 11, para. 4)?

Yes  Yes, in part  No

If the answer is “Yes” or “Yes, in part”, please summarize the measures and cite the relevant law or policy.

(provisionally agreed as amended)

41. Has your country taken measures that permit, in accordance with domestic law, the denial of entry or revocation of visas of persons implicated in the commission of offences established in accordance with the Protocol (art. 11, para. 5)?

Yes  Yes, in part  No

If the answer is “Yes” or “Yes, in part”, please summarize the measures and cite the relevant law or policy or provide links to published policy or guidance.

(provisionally agreed as amended)

42. Has your country taken measures to strengthen cooperation between your border control agencies and those of other States parties , such as by establishing and maintaining direct channels of communication (art. 11, para. 6)?

Yes  Yes, in part  No

If the answer is “Yes” or “Yes, in part”, please summarize the measures and cite the relevant law or policy.

(provisionally agreed as amended)

43. Has your country taken measures to ensure that travel or identity documents issued by it are of such quality that they cannot be easily misused and readily falsified or unlawfully altered, replicated or issued (art. 12, subpara. (a))?

Yes  Yes, in part  No

If the answer is “Yes” or “Yes, in part”, please summarize the measures or provide links to published policy or guidance.

(provisionally agreed as amended)

44. Has your country taken measures to ensure the integrity and security of travel or identity documents issued by or on behalf of your country and to prevent their unlawful creation, issuance and use (art. 12, subpara. (b))?

Yes  Yes, in part  No

If the answer is “Yes” or “Yes, in part”, please summarize the measures or provide links to published policy or guidance.

(provisionally agreed as amended)

45. Has your country taken measures to ensure that requests from another State party to verify the legitimacy and validity of travel or identity documents issued or purported to have been issued in its name and suspected of having been used for trafficking in persons, in accordance with your domestic law, are responded to within a reasonable time (art. 13)?

Yes  Yes, in part  No

If the answer is “Yes” or “Yes, in part”, please summarize the measures or provide links to published policy or guidance.

(provisionally agreed as amended)

46. Does your country encounter difficulties in implementing the provisions of the Trafficking in Persons Protocol?

Yes  No

If the answer is “Yes”, please explain.

(provisionally agreed as amended)

47. Does your country have a designated focal point/coordinator on trafficking in persons?

Yes  No

If the answer is “Yes”, please explain.

48. What internal coordination mechanisms are there between government departments on implementation?

Yes  No

If the answer is “Yes”, please explain.

49. Do you have a national action plan or strategy to combat trafficking in persons?

Yes  No

If the answer is “Yes”, please explain.

50. If domestic legislation has not been adapted to the requirements of the Protocol, please specify what steps remain to be taken.

51. States are invited to share examples of their positive experience or good practices in applying the Protocol, with particular regard to: (a) promoting multi-agency networks or cooperation agreements among state actors, specialized agencies and NGOs devoted to monitor and to assist groups of persons vulnerable to trafficking and to refer potential cases of trafficking to competent authorities; (b) putting in place further forms of cooperation among state actors and civil society on preventing and combatting trafficking in persons.

52. [States are also invited to provide any analysis, reports of other international and regional review mechanisms, and policy studies [links or attachments].

53. Does your country require technical assistance to implement the Protocol?

Yes  No

If yes, please indicate the type of assistance required:

Assessment of criminal justice response to trafficking in persons

Legal advice or legislative drafting support

Model legislation, regulations or agreements

Development of strategies, policies or action plans

Good practices or lessons learned

Capacity-building through the training of criminal justice practitioners and/or the training of trainers

Capacity-building through awareness-raising of the judiciary

On-site assistance by a relevant expert

Institution-building or -strengthening

Prevention or awareness-raising

Technological assistance and equipment

Please be specific.

Development of data collection or database(s)

Workshops or a platform to enhance regional and international cooperation

Specialized tools such as e-learning modules, manuals, guidelines and standard operating procedures

Other (please specify)

(provisionally agreed in informals)

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

(provisionally agreed in informals)

|  |  |
| --- | --- |
| 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 |  |