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Conference of the Parties to the United Nations Convention against Transnational Organized Crime Fourth session Vienna, 8-17 October 2008

> Information submitted by States in their responses to the checklist/ questionnaire on the Implementation of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime for the first reporting cycle

#### **Note by the Secretariat**

The present document is to be considered jointly with the report of the Secretariat on the implementation of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime: consolidated information received from States for the first reporting cycle (CTOC/COP/2005/4/Rev.2).



#### Definition and criminalization requirements in the Migrants Protocol

	1. Is SOM criminalized?					2. If no to 1.b, specify how SOM is defined in domestic legislation.	3. Do you distinguish SOM and TIP?				4. Is producing, procuring, providing or possessing a fraudulent travel or identity document (as defined in art. 3.c) for the purpose of SOM criminalized?		
	a.			b.			a.		b.				
	Yes	No	Specify	Yes	No		Yes	Specify	No	Explain	Yes	No	
Algeria		Х	Pending		Х			<u> </u>	Х	Pending	Х		
Angola		Х	Ŭ		Х				Х	Ĭ		X	
Argentina	Х				Х		Х				Х		
Australia	Х			Х			Х				Х		
Austria	Х			Х			Х				X		
Azerbaijan		Х									X		
Belarus	X				Х		Х				Х		
Belgium	X			Х			Х				Х		
Bosnia and Herzegovina	X			Х			Х					X	
Brazil	X				Х		Х				X		
Bulgaria	X				Х		Х					Х	
Burkina Faso	X			Χ					Х		X		
Cameroon	Х				Х				Х		X		
Canada	X			Х			Х				Х		
Central African Republic	X			Χ			Х				X		
Chad	X			Χ			Х				X		
Chile		Х					Х					Х	
Congo (Republic of the)		Х							Χ		X		
Costa Rica		Χ	pending				Х				X		
Croatia	Х			Χ			Х				X		
Cyprus	Х			Χ			Х				X		
Czech Republic	Х			Х			Х				Х		
Democratic Republic				•	_								
of the Congo	X			Χ			Х				X		
Egypt	Х			Χ			Х				Х		
El Salvador	X				Х		Χ					X	
Estonia	X			Х			X				X		

	1. Is SOM criminalized?					2. If no to 1.b, specify how SOM is defined in domestic legislation.					4. Is producing, procuring, providing or possessing a fraudulent travel or identity document (as defined in art. 3.c) for the purpose of SOM criminalized?		
	a.			b.			a.		b.				
	Yes	No	Specify	Yes	No		Yes	Specify	No	Explain	Yes	No	
Finland	Х				Х		X				X		
France	Х			Χ			Х				X		
Germany	Х			Χ			Х				X		
Greece	Х			Х			X				X		
Guatemala	Х				Х		Х					Х	
Guinea		Χ											
Honduras	Х			Х					Х		X		
Iceland	Х			Х			Х				X		
Indonesia	Х				Х		Х				X		
Ireland			Pending										
Italy	Х			Х			X				X		
Jamaica		Х							Х		X		
Kazakhstan	Х			Х			Х				Х		
Korea (Republic of)	Х				Х		Х				Х		
Kuwait	Х				Х		Х				Х		
Latvia	Х				Х		Х				Х		
Lithuania	Х			Х			Х				Х		
Madagascar		Х					Х				Х		
Malaysia	Х				Х		Х				Х		
Maldives	Х				Х				Х		X		
Malta	Х			Х			Х				Х		
Mexico	Х			Х			Х				Х		
Moldova (Republic of)	Х						Х				Х		
Montenegro	Х			Х			Х				Х		
Myanmar	Х				Х				Х		Х		
Namibia	Х			Х	İ		Х				Х		
Netherlands	Х			Х			Х				X		
New Zealand	Х			Х			Х				Х		
Nicaragua	Х			Х			Х				Х		
Nigeria		Х			Х		Х				Х		
Norway	Х			Х			Х				Х		
Panama	X				Х		X	1		1	X		
			1				_ ^				^		

	1. Is SOM	1. Is SOM criminalized?				2. If no to 1.b, specify how SOM is defined in domestic legislation.	3. Do you distinguish SOM and TIP?				4. Is producing, procuring, providing or possessing a fraudulent travel or identity document (as defined in art. 3.c) for the purpose of SOM criminalized?		
	a.			b.			a.		b.				
	Yes	No	Specify	Yes	No		Yes	Specify	No	Explain	Yes	No	
Philippines	X			Χ			X					X	
Poland	X			Х			Х				X		
Portugal	X			Х			Х				X		
Romania	Х			Χ			Х				X		
Russian Federation	X			Х			Х				X		
Serbia	X			Х			Х				X		
Slovakia	X			Х			Х				X		
Slovenia	Х			Х			Х						
South Africa		Х	Pending								Х		
Spain	X			Х			Х				Х		
Sweden	X				Х		Х				Х		
Switzerland	X			Х			X				Х		
Syria	Х			Х			Х				Х		
Tajikistan		Х			Х						Х		
Tanzania (United Republic of)	Х				Х		Х				Х		
Thailand	X			Х			Х				Х		
The Former Yugoslav													
Republic of Macedonia	X			Χ			X				X		
Togo		Х	Pending								X		
Tunisia	Х			Χ			X				X		
Turkey	Х			X			Х				Х		
United Kingdom of													
Great Britain and													
Northern Ireland	X			Χ			X				X		
United States of America	X			Χ			Х						
	67	13	5	48	22		66		9	1	70	7	

	5. If not, explain.	by using the means referred to it	n in its territory without quirements for legally remaining,	7. If not, explain.	8. Is attem commit the 1., 4., 6. (a criminalize	offences in art. 6.2.a)	9. If not, explain.	accomplic	
		Yes	No		Yes	No		Yes	No
Algeria		X	110		X	INO		X	INO
Angola		^	X			Х		^	X
Argentina		X	^		Х			Х	
5		X			X			X	
Australia Austria		X			X			X	
Azerbaijan		^	X		X			X	
Belarus		X	^		X			X	
Belgium		X	+		X			X	
		X			X			X	
Bosnia and Herzegovina Brazil		X			X			X	
		^							
Bulgaria			X		X			X	
Burkina Faso		X			X			X	
Cameroon		X			Х			Х	
Canada		X			Х			Х	
Central African Republic		X			Х			X	
Chad		X			X			X	
Chile			X			Х			X
Congo (Republic of the)			X			Х		X	
Costa Rica		X							
Croatia		X			X			X	
Cyprus		X			Х			Χ	
Czech Republic		X			X			X	
Democratic Republic									
of the Congo		X			X			X	
Egypt		X			Х			Х	
El Salvador		X			Х			Х	
Estonia		X			Х			Х	

	5. If not, explain.	6. Is enabling a person who is no resident in your country to remain complying with the necessary rec by using the means referred to in means, criminalized under your country.	n in its territory without puirements for legally remaining, 4. above or any other illegal	8. Is attempt commit the 1., 4., 6. (a criminalized	offences in rt. 6.2.a)	9. If not, explain.	10. Is participating as an accomplice in the offences referred to in questions 1., 4. and 6. (art. 6.2.b) criminalized?	
		Yes	No	Yes	No		Yes	No
Finland		X			X		X	
France		X		X			Х	
Germany			X	X			Х	
Greece		X		Х				
Guatemala			X		X			Х
Guinea						1	ļ .,	
Honduras		X		X			Х	
Iceland		X		X			Х	
Indonesia		X		X			X	
Ireland								
Italy		X		Х			X	
Jamaica		Х		X			X	
Kazakhstan		X		X			Х	
Korea (Republic of)		X		X			Χ	
Kuwait		X		X			Х	
Latvia		X		X			Х	
Lithuania		X		X			Х	
Madagascar		X		X			Х	
Malaysia		X		X			Х	
Maldives		X		X			Х	
Malta		X		X			Х	
Mexico		X		X			Х	
Moldova (Republic of)		X		X			Х	
Montenegro		X		X			Х	
Myanmar		X		X			Х	
Namibia		X		X			Х	
Netherlands		X		X			Х	
New Zealand		Х		X			Х	
Nicaragua		Х			Х		Х	
Nigeria		Х		X			Х	
Norway		Х		Х			Х	
Panama		X		X		1	X	
Peru		X		X		1	X	

	5. If not, explain.	6. Is enabling a person who is no resident in your country to remain complying with the necessary req by using the means referred to in means, criminalized under your d 1 (c), of the Protocol)?	in its territory without uirements for legally remaining, 4. above or any other illegal	7. If not, explain.	8. Is attem commit the 1., 4., 6. (a criminalize	offences in art. 6.2.a)	9. If not, explain.	accomplice	
		Yes	No		Yes	No		Yes	No
Philippines		X			Х			Х	
Poland		X						X	
Portugal		X			X			X	
Romania		Х			X			X	
Russian Federation		X			X			X	
Serbia		X			X			X	
Slovakia		X			X			Х	
Slovenia									
South Africa		X			Х			Х	
Spain		X			Х			Х	
Sweden		X			Х			Х	
Switzerland		X			Х			Х	
Syria		Х			Х			Х	
Tajikistan		Х			Х			Χ	
Tanzania (United Republic of)		Х			Х			Х	
Thailand		Х			Х			Х	
The Former Yugoslav									
Republic of Macedonia		X			X			X	
Togo		X			X			Х	
Tunisia		X			Х			Х	
Turkey		X			Х			Х	
United Kingdom of									
Great Britain and									
Northern Ireland		X			Х			X	
United States of America									
		70	7		69	6		72	3

	12. Is organizing or directing other persons to commit the offences referred to in questions1., 4. and 6. (art. 6.2.c) criminalized?		13. If not, explain.	in questions 1., 4.,	ne offences referred to 6., 10. and 12. conduct the lives or safety of the	15. If not, explain	.16. Do you provide for any measure of criminal or administrative nature agains smuggled migrants who entered the country (art. 5 and 6.4)?		
	Vaa	NI-		Vaa	l Na		V	l Na	
Almaria	Yes X	No		Yes X	No		Yes X	No	
Algeria				X	X		Χ	X	
Angola	X				Χ		V	Χ	
Argentina	X			X			X		
Australia	X			X			X		
Austria	X			X			X		
Azerbaijan	X			X			X		
Belarus	Х	.,		X			X		
Belgium		X		X			X		
Bosnia and Herzegovina	X			X			X		
Brazil		X		X			X		
Bulgaria		Х			X				
Burkina Faso	X			X			X		
Cameroon	X			X				X	
Canada	X			X			X		
Central African Republic	X				Χ		X		
Chad	X			X				X	
Chile		X			X		X		
Congo (Republic of the)	X				Х		X		
Costa Rica					Х		Х		
Croatia	X			X			X		
Cyprus	X			Х					
Czech Republic	Х				X		X		
Democratic Republic									
of the Congo	X			X			X		
Egypt	Х			X			X		
El Salvador	Х			X				X	
Estonia	X			X			Х		

	other persons offences refer questions1., 4	12. Is organizing or directing other persons to commit the offences referred to in questions1., 4. and 6. (art. 6.2.c) criminalized?		in questions 1., 4.,	ne offences referred to 6., 10. and 12. conduct the lives or safety of the	15. If not, explain. 16. Do you provide for any measure o criminal or administrative nature agair smuggled migrants who entered the country (art. 5 and 6.4)?			
	Vaa	N <sub>0</sub>		Vac	l No		Vas	l Na	
Finland	Yes X	No		Yes	No X		Yes X	No	
France	X			X	^		X		
Germany	X			X			X		
Greece	^	Х		^	X		X		
Greece		^			^		^		
Guinea	X			X			Х		
Honduras	X		+	^	X	1	X		
Iceland	^	Х			X		X		
Indonesia		^			^		^		
Ireland	X			X			Х		
Italy	^	X		^	X		^	X	
Jamaica	X	^			X		Х	^	
Kazakhstan	X			X	^		^	X	
							V	^	
Korea (Republic of)	X			X			X		
Kuwait	X			X			Χ		
Latvia	X			X			X		
Lithuania				λ					
Madagascar	X				V		X		
Malaysia	X				X		X		
Maldives	X			V	Х		X	V	
Malta	X			X				X	
Mexico	X			X			X		
Moldova (Republic of)	X			X			X		
Montenegro	X			X			X		
Myanmar	X			V			Х	V	
Namibia	X			X				X	
Netherlands	X		1	X				, X	
New Zealand	X		-	X			X		
Nicaragua	X			.,	X		Х	,,	
Nigeria	X			X				X	
Norway	X			X			X		
Panama	X		1	X			X	,,	
Peru	X			X				X	

Philippines X Poland X Portugal X Romania X Russian Federation X Serbia X Slovakia Slovenia X South Africa X Spain X Sweden X Switzerland X Syria X Tajikistan X Tanzania (United Republic of) Thailand X The Former Yugoslav Republic of Macedonia X Togo X	No		Yes X X X X X X X	No X	Yes X X X	No
Philippines         X           Poland         X           Portugal         X           Romania         X           Russian Federation         X           Serbia         X           Slovakia         Slovenia           South Africa         X           Spain         X           Sweden         X           Switzerland         X           Syria         X           Tajikistan         X           Tanzania (United Republic of)         X           The Former Yugoslav         X           Republic of Macedonia         X			X X X		X X X	
Poland         X           Portugal         X           Romania         X           Russian Federation         X           Serbia         X           Slovakia         X           Slovenia         X           South Africa         X           Spain         X           Sweden         X           Switzerland         X           Syria         X           Tajikistan         X           Tanzania (United Republic of)         X           The Former Yugoslav         X           Republic of Macedonia         X			X X X	X	X X X	
Portugal         X           Romania         X           Russian Federation         X           Serbia         X           Slovakia         X           Slovenia         X           South Africa         X           Spain         X           Sweden         X           Switzerland         X           Syria         X           Tajikistan         X           Tanzania (United Republic of)         Thailand           The Former Yugoslav         X           Republic of Macedonia         X			X		X	
Romania         X           Russian Federation         X           Serbia         X           Slovakia         X           Slovenia         X           South Africa         X           Spain         X           Sweden         X           Switzerland         X           Syria         X           Tajikistan         X           Tanzania (United Republic of)         X           The Former Yugoslav         X           Republic of Macedonia         X			X		Х	
Serbia         X           Slovakia         Slovenia           South Africa         X           Spain         X           Sweden         X           Switzerland         X           Syria         X           Tajikistan         X           Tanzania (United Republic of)         X           Thailand         X           The Former Yugoslav         Republic of Macedonia         X						
Slovakia           Slovenia         X           South Africa         X           Spain         X           Sweden         X           Switzerland         X           Syria         X           Tajikistan         X           Tanzania (United Republic of)         X           Thailand         X           The Former Yugoslav         X           Republic of Macedonia         X			X		+	
Slovenia         X           South Africa         X           Spain         X           Sweden         X           Switzerland         X           Syria         X           Tajikistan         X           Tanzania (United Republic of)         X           Thailand         X           The Former Yugoslav         X           Republic of Macedonia         X					X	
South Africa         X           Spain         X           Sweden         X           Switzerland         X           Syria         X           Tajikistan         X           Tanzania (United Republic of)         X           Thailand         X           The Former Yugoslav         X           Republic of Macedonia         X		1				
Spain         X           Sweden         X           Switzerland         X           Syria         X           Tajikistan         X           Tanzania (United Republic of)         X           Thailand         X           The Former Yugoslav         X           Republic of Macedonia         X			X		X	
Sweden X Switzerland X Syria X Tajikistan X Tanzania (United Republic of) Thailand X The Former Yugoslav Republic of Macedonia X			X		Х	
Switzerland X Syria X Tajikistan X Tanzania (United Republic of) Thailand X The Former Yugoslav Republic of Macedonia X			X		Х	
Syria X Tajikistan X Tanzania (United Republic of) Thailand X The Former Yugoslav Republic of Macedonia X			X		Х	
Tajikistan X Tanzania (United Republic of) Thailand X The Former Yugoslav Republic of Macedonia X				X	X	
Tanzania (United Republic of) Thailand X The Former Yugoslav Republic of Macedonia X				X	X	
Thailand X The Former Yugoslav Republic of Macedonia X			X			X
The Former Yugoslav Republic of Macedonia X						
Republic of Macedonia X						
<del>                                     </del>						
Togo X			X		Х	
				X	Х	
Tunisia X			X	.,		X
Turkey X				X	 X	
United Kingdom of						
Great Britain and						
Northern Ireland					<del> </del>	
United States of America 67			51	21	57	13