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| Intergovernmental expert group established in accordance with  Conference resolution 9/1  Vienna, 13–15 July 2020  Item 2 of the provisional agenda[[1]](#footnote-1)\*  Finalization and harmonization of the  self-assessment questionnaires for the review of the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto |  |  |
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Self-assessment questionnaire for the United Nations Convention against Transnational Organized Crime and the Protocols thereto – Cluster I

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| General guidance for replying to the questionnaire   * States will be reviewed on the basis of the information that they have provided to the reviewing States parties, in accordance with section V of the procedures and rules for the functioning of the Mechanism for the Review of the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto. If they have not yet provided the relevant documents to the Secretariat, States are called upon to upload either any laws, regulations, cases and other documents or brief descriptions of them that are of relevance for responding to the questionnaire to the knowledge management portal known as Sharing Electronic Resources and Laws on Crime (SHERLOC). * Links to the information uploaded to SHERLOC can be then provided as part of the replies to each question. * In addition to providing links to the information uploaded to SHERLOC, States are called upon to specify the applicable legislation and relevant provisions under each question to which the answer is “Yes” and, where appropriate, under any other questions. * States are requested to refrain from attaching any annexes, including hard copies of documentation, to the completed questionnaires. * When responding to the self-assessment questionnaires, States parties may also refer to information provided in the context of other relevant review mechanisms of instruments to which they are parties. States parties shall bear in mind that any update since previous submissions of information under other review mechanisms should be appropriately reflected in the responses. In particular, when reviewing the same legislation for obligations that are identical or similar to those under the United Nations Convention against Corruption, a State party under review may refer to responses and additional documentation that it has submitted under the Mechanism for the Review of Implementation of the United Nations Convention against Corruption. * The provisions of the Organized Crime Convention and the Protocols thereto contain various degrees of requirements. In accordance with the procedures and rules, the Mechanism for the Review of the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto shall progressively address all articles of the Convention and the Protocols thereto. The different nature of each provision should therefore be taken into account in formulating the responses to the related questions and when reviewing them in the following phases of the country review. * Article 1, paragraph 2, of each of the Protocols states that the provisions of the Convention shall apply mutatis mutandis to the Protocols unless otherwise provided therein. Paragraph 19 of the procedures and rules for the functioning of the Mechanism states that provisions of the Convention that apply to the Protocols, mutatis mutandis, will be reviewed under the Convention only. In answering the questions related to the implementation of the Convention, States are requested to take into account the application of the relevant provisions of the Convention, as appropriate, to the subject matter of each Protocol to which they are a party. National [Governmental] experts are therefore reminded to include in their answers reference to the application of such provisions of the Convention to the Protocols to which their country is a party. For example, in answering the questions on the scope of application of article 10 on the liability of legal persons, national [governmental] experts should take into account the applicability of article 10 to the offences covered by the three Protocols and answer accordingly. * In the questionnaire, some questions are introduced by the words “States are invited”. In such cases, governmental experts may provide information on a voluntary basis, and no inference shall be drawn from the lack of such information. **(Agreed upon at meeting 2)** |
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I. United Nations Convention against Transnational Organized Crime

Cluster I: criminalization and jurisdiction (arts. 2, 5, 6, 8, 9, 10, 15 and 23 of the Convention)

Article 2. Use of terms

* 1. Does your country’s legal framework include the definitions set forth in   
     article 2?

Yes  Yes, in part  No

(a) Please explain.

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* 1. Does your country’s legal framework permit it to implement the Convention without adopting the specific definitions set forth in article 2?

Yes  Yes, in part  No

(a) Please explain.

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Article 5. Criminalization of participation in an organized criminal group

* 1. [Is participation in an organized criminal group criminalized under your country’s legal framework, in accordance with article 5?

Yes  No (a) If the answer to question 3 is “Yes”, does participation in an organized criminal group consist of [agreeing with one or more other persons to commit a serious crime in order to obtain, directly or indirectly, a financial or other material benefit (art. 5, para. 1 (a) (i))]?

Yes  Yes, in part  No

(i) If the answer to question 3 (a) is “Yes”, does the criminal offence as provided in your domestic law require an act undertaken by one of the participants in furtherance of the agreement or involving an organized criminal group (art. 5, para. 1 (a) (i))?

Yes  Yes, in part  No

(b) If the answer to question 3 is “Yes”, does participation in an organized criminal group consist of taking an active part in the criminal activities of an organized criminal group with knowledge of either the aim and general criminal activity of that group or its intention to commit the crimes concerned, or taking an active part in other activities of an organized criminal group in the knowledge that such participation will contribute to the achievement of the criminal aim of that group (art. 5, para. 1 (a) (ii))?

Yes  Yes, in part  No

(c) [If the answer to question 3 (b) (Japan) is “Yes”, is your country’s national legal framework on participation in an organized criminal group also applicable to any of the offences established in accordance with the Convention and the Protocols to which your State is a party (art. 5, para. 1 (a), in conjunction with art. 2, para. (a))?]

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(d) [If the answer to question 3 (a) is “Yes”, please cite the applicable laws and/or other measures, including the applicable sanctions for this offence. (Pending drafting by interested States of appropriate language under general guidance.)]

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(e) If the answer to question 3 (a) is “Yes in part” or “No”, please specify how participation in a criminal group is treated under your country’s framework.]

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[(Proposal by Russian Federation; Retain original: Italy, United Kingdom, United States, Japan):

*Delete the above text in brackets and redact question 3 as per the below:*

Is participation in an organized criminal group criminalized under your country’s legal framework, in accordance with article 5?

Yes  Yes, in part  No

Please briefly explain:

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* 1. If your domestic law requires an act in furtherance of the agreement, has your country so informed the Secretary-General of the United Nations, as required under article 5, paragraph 3?

Yes  No

* 1. Does your country’s legal framework establish as criminal offences the acts of organizing, directing, aiding, abetting, facilitating or counselling the commission of serious crime involving an organized criminal group (art. 5, para. 1 (b))?

Yes  Yes, in part  No

(a) Please explain, if needed.

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Article 6. Criminalization of the laundering of proceeds of crime

* 1. Is the laundering of proceeds of crime criminalized under your country’s legal framework, in accordance with article 6, paragraph 1 (a), of the Convention (art. 6, paras. 1 (a) (i)–(ii))?

Yes  Yes, in part  No

(a) If the answer is “Yes, in part”, please specify the manner in which the laundering of proceeds of crime is criminalized under your country’s legal framework.

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* 1. Are the acquisition, possession and use of property known at the time of receipt to be the proceeds of crime criminalized under your country’s legal framework   
     (art. 6, para. 1 (b) (i))?

Yes  Yes, in part  No

(a) Please explain briefly.

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* 1. Are participation in, association with and conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of a   
     money-laundering offence criminalized under your country’s legal framework (art. 6, para. 1 (b) (ii))?

Yes  Yes, in part  No

(a) Please explain briefly.

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* 1. If the answer to question 6, 7 or 8 is “Yes”, are all serious crimes and the offences covered by the Convention and the Protocols to which your State is a party predicate offences under your domestic law to the offence of money-laundering   
     (art. 6, paras. 2 (a) and (b))?

Yes  No

(a) If the answer is “No”, please specify which of the offences covered by the Convention and the Protocols to which your State is a party are not predicate offences under your domestic law to the offence of money-laundering (art. 6, para. 2 (b)).

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* 1. Please provide information on the scope of predicate offences set out in your domestic law, including any list of specific predicate offences that may be set out by your domestic law; indicate, for example, the relevant acts and article numbers   
     (art. 6, para. 2 (b)).

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* 1. Does your country’s legal framework include predicate offences committed outside your country’s jurisdiction (art. 6, para. 2 (c))?

Yes  Yes, in part  No

(a) If the answer is “Yes” or “Yes, in part”, please describe the circumstances under which a predicate offence committed in a foreign jurisdiction may be recognized pursuant to your domestic law.

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* 1. Has your country furnished copies of its laws that give effect to article 6 and of any subsequent changes to such laws or a description thereof to the Secretary-General of the United Nations (art. 6, para. 2 (d))?

(a) If yes, please provide a link.

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(b) If not, please provide this information.

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Article 8. Criminalization of corruption

*The review of articles 8 and 9 of the Convention is only for those States parties to the Organized Crime Convention that are not parties to the United Nations Convention against Corruption.*

* 1. Is the conduct described in article 8, paragraph 1 (a), criminalized in your country’s legal framework?

Yes  Yes, in part  No

(a) Please explain briefly.

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* 1. Is the conduct described in article 8, paragraph 1 (b), criminalized in your country’s legal framework?

Yes  Yes, in part  No

(a) Please explain briefly.

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* 1. Is the form of corruption described in article 8, paragraph 1, involving a foreign public official or international civil servant criminalized in your country’s legal framework (art. 8, para. 2)?

Yes  Yes, in part  No

(a) If appropriate, please explain briefly.

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* 1. Is any other form of corruption established as a criminal offence in your country’s legal framework (art. 8, para. 2)?

Yes  Yes, in part  No

(a) If appropriate, please explain briefly.

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* 1. Is participation as an accomplice in offences established in accordance with article 8 criminalized under your country’s legal framework (art. 8, para. 3)?

Yes  No

Article 9. Measures against corruption

*The review of articles 8 and 9 of the Convention is only for those States parties to the Organized Crime Convention that are not parties to the Convention against Corruption.*

* 1. Has your country adopted measures to promote integrity and to prevent, detect and punish the corruption of public officials (art. 9, para. 1)?

Yes  No

(a) If the answer is “Yes”, please specify the measures implemented to promote integrity and to prevent, detect and punish the corruption of public officials.

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* 1. Has your country taken measures to ensure effective action by its authorities in the prevention, detection and punishment of the corruption of public officials, including providing such authorities with adequate independence to deter the exertion of inappropriate influence on their actions (art. 9, para. 2)?

Yes  No

(a) If the answer is “Yes”, please specify the measures implemented to ensure effective action by its authorities in the prevention, detection and punishment of the corruption of public officials, including providing such authorities with adequate independence to deter the exertion of inappropriate influence on their actions.

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Article 10. Liability of legal persons

* 1. Is the liability of legal persons for participation in serious crimes involving an organized criminal group and for the offences covered by the Convention and the Protocols to which your State is a party established under your country’s legal framework (art. 10)?

Yes  Yes, in part  No

(a) If the answer is “Yes, in part” or “No”, please explain.

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* 1. If the answer is “Yes”, is this liability:

(a) Criminal?

Yes  No

(b) Civil?

Yes  No

(c) Administrative?

Yes  No

* 1. What kind of sanctions are provided for in your country’s legal framework to implement article 10, paragraph 4, bearing in mind article 11, paragraph 6, of the Convention?

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Article 15. Jurisdiction

* 1. Are there any circumstances under which your country does not have jurisdiction over offences established in accordance with articles 5, 6, 8 and 23 of the Convention and the Protocols to which it is a party committed in its territory (art. 15, para. 1 (a))?

Yes  No

(a) If the answer is “Yes”, please specify the circumstance(s) under which your country does not have jurisdiction over offences committed in its territory.

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* 1. Does your country have jurisdiction to prosecute the offences established in accordance with articles 5, 6, 8 and 23 of the Convention and the Protocols to which it is a party when the offences are committed on board a vessel flying its flag or an aircraft registered under its laws (art. 15, para. 1 (b))?

Yes  Yes, in part  No

(a) If the answer is “Yes” or “Yes, in part”, please specify the manner in which your country has jurisdiction to prosecute the offences covered by the Convention and the Protocols to which it is a party, in accordance with article 15, paragraph 1 (b).

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* 1. Does your country’s legal framework allow for the following extraterritorial jurisdictional bases:

(a) Jurisdiction to prosecute the offences established in accordance with articles 5, 6, 8 and 23 of the Convention and the Protocols to which your country is a party when committed outside its territory by its nationals (or stateless persons who have habitual residence in the country) (art. 15, para. 2 (b))?

Yes  No

(b) Jurisdiction to prosecute the offences established in accordance with articles 5, 6, 8 and 23 of the Convention and the Protocols to which your country is a party when committed outside its territory against its nationals (art. 15, para. 2 (a))?

Yes  No

(c) Jurisdiction to prosecute participation in an organized criminal group that occurred outside its territory with a view to the commission of a serious crime (art. 2, para. (b)) within its territory (art. 15, para. 2 (c) (i))?

Yes  No

(d) Jurisdiction to prosecute ancillary offences related to money-laundering offences committed outside its territory with a view to the commission of the laundering of proceeds of crime in its territory (art. 15, para. 2 (c) (ii))?

Yes  No

Article 23. Criminalization of obstruction of justice

* 1. Is obstruction of justice in relation to offences covered by the Convention and the Protocols to which your country is a party criminalized under your country’s legal framework, in accordance with article 23 of the Convention?

Yes  Yes, in part  No

(a) Please explain briefly.

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Criminalization: cases and judgments

* 1. States are invited to provide examples, relevant cases or judgments of successful implementation and enforcement for each of the criminal offences reviewed above. **(Agreed upon at meeting 2)**

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Difficulties encountered

* 1. Has your country encountered any difficulties or challenges in implementing the Convention?

Yes  No

(a) If the answer is “Yes”, please specify:

Problems with the formulation of legislation

Need for further implementing legislation (laws, regulations, decrees, etc.)

Reluctance of practitioners to use existing legislation

Insufficient dissemination of existing legislation

Limited inter-agency coordination

Specificities of the legal system

Competing priorities for the national authorities

Limited resources for the implementation of existing legislation

Limited cooperation with other States

Lack of awareness of the existing legislation

Other issues (please specify)

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Need for technical assistance

* 1. Does your country require technical assistance to overcome difficulties in implementing the Convention?

Yes  No

* 1. If the answer is “Yes”, please specify the type of technical assistance needed.

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* 1. Which of the following forms of technical assistance, if available, would assist your country in fully implementing the provisions of the Convention? In identifying the forms of technical assistance as listed below, please also indicate for which provisions of the Convention such assistance would be needed.

Legal advice

Legislative drafting support

Model legislation or regulations

Model agreements

Standard operating procedures

Development of strategies, policies or action plans

Dissemination of good practices or lessons learned

Capacity-building through the training of practitioners or trainers

On-site assistance by a mentor or relevant expert

Institution-building or the strengthening of existing institutions

Prevention and awareness-raising

Technological assistance

Establishment or development of information technology infrastructure, such as databases or communication tools

Measures to enhance regional cooperation

Measures to enhance international cooperation

Other assistance (please specify)

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* 1. Please provide any other information that you believe is important for the Conference of the Parties to the United Nations Convention against Transnational Organized Crime to consider regarding aspects of, or difficulties in, the implementation of the Convention other than those mentioned above.

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II. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime

Cluster I: criminalization and jurisdiction (arts. 3 and 5 of the Protocol)

Article 3, Use of terms, and article 5, Criminalization

* 1. Is trafficking in persons, when committed intentionally, criminalized under your country’s legal framework (art. 5, para. 1, in conjunction with art. 3)?

Yes  Yes, in part **(Agreed upon at meeting 2)**  No

(a) If yes, please cite the applicable laws and/or other measures, including the applicable sanctions for this offence.

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* 1. If the answer to question 33 is “Yes, in part” or “No”, please specify how trafficking in persons is treated under your country’s legal framework. **(Agreed upon at meeting 2)**

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* 1. If the answer to question 33 is “Yes”, is trafficking in persons treated as a criminal offence in your country, in accordance with article 3, paragraph (a), of the Protocol (combination of three elements: action, means and purpose of exploitation)?

Yes  No

(a) Please explain.

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* 1. If the answer to question 33 is “Yes”, are the following actions of trafficking in persons criminalized in your country (art. 3, para. (a))?

(a) Recruitment

Yes  No

(b) Transportation

Yes  No

(c) Transfer

Yes  No

(d) Harbouring

Yes  No

(e) Receipt of persons

Yes  No

(f) Other actions, please specify.

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(g) Please provide further detail, if needed.

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* 1. If the answer to question 33 is “Yes”, do the means of trafficking in persons consist of any of the following (art. 3, para. (a))?

(a) Threat or the 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

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

(h) Other means, please specify.

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(i) Please provide further details, if needed.

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* 1. If the answer to question 33 is “Yes”, does the purpose of exploitation include, at a minimum, any of the following (art. 3, para. (a))?

(a) 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

Yes  No

(e) The removal of organs

Yes  No

(f) Other purpose, please specify.

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(g) Please provide further details, if needed.

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* 1. Does your country ensure that, when the means set forth in article 3,   
     paragraph (a), of the Protocol have been established, the consent of the victim to the intended exploitation is irrelevant (art. 3, para. (b))?

Yes  No

(a) Please explain.

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* 1. Does your country’s legal framework 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 article 3, paragraph (a), of the Protocol (art. 3, para. (c))?

Yes  No

(a) If yes, please cite the applicable laws and/or other measures, including the applicable sanctions for this offence.

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* 1. Who is considered to be a “child” under your country’s legal framework (art. 3, para. (d)):

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

Other? Please specify.

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* 1. Subject to the basic concepts of your legal framework, does your country criminalize attempting 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 laws and/or other measures, including the applicable sanctions for this offence.

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

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* 1. Does your country criminalize participating 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.

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

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* 1. Does your country criminalize organizing or directing other persons to commit trafficking in persons (art. 5, para. 2 (c), in conjunction with art. 3)?

Yes  Yes, in part  No

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

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Criminalization: cases and judgments

* 1. States are invited to provide examples, relevant cases or judgments of successful implementation and enforcement for each of the criminal offences reviewed above. **(Agreed upon at meeting 2)**

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Difficulties encountered

* 1. Does your country encounter difficulties or challenges in implementing any provisions of the Trafficking in Persons Protocol relevant to cluster I?

Yes  No

(a) If the answer is “Yes”, please explain.

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Need for technical assistance

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

Yes  No

(a) If the answer is “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 among the judiciary

On-site assistance by a relevant expert

Institution-building or the strengthening of existing institutions

Prevention and awareness-raising

Technological assistance and equipment

(b) Please be specific.

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Development of data collection or databases

Workshops or platforms 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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* 1. Is your country already receiving technical assistance in those areas?

Yes  No

(a) If the answer is “Yes”, please specify the area of assistance and who is providing it.

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* 1. Please provide any other information that you believe is useful to understand your implementation of the Trafficking in Persons Protocol and information that is important for the Conference of the Parties to the United Nations Convention against Transnational Organized Crime to consider regarding aspects of, or difficulties in, the implementation of the Protocol.

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III. Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime

Cluster I: criminalization and jurisdiction (arts. 3, 5 and 6 of the Protocol)

Article 3, Use of terms, article 5, Criminal liability of migrants, and article 6, Criminalization

* 1. Is the smuggling of migrants criminalized under your domestic legal framework (art. 6, para. 1)?

Yes  No

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

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(b) If the answer is “Yes”, is the smuggling of migrants defined in your country as a criminal offence, in accordance with article 3, paragraph (a)?

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* 1. Is in particular the purpose of obtaining a “financial or other material benefit” a constituent element of the offence, in accordance with article 6, paragraph 1, in conjunction with article 3, paragraph (a), of the Protocol?

Yes  No

* 1. Can the presence of a “financial or other material benefit”, when appropriate, constitute an aggravating circumstance of the crime?

Yes  No

(a) Please cite the applicable laws and/or other measures, including the applicable sanctions for this offence.

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* 1. Does your country’s legal framework make a distinction between the smuggling of migrants and trafficking in persons?

Yes  No

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

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* 1. Is producing, procuring, providing or possessing a fraudulent travel or identity document (as defined in art. 3, para. (c)) for the purpose of smuggling migrants criminalized under your country’s legal framework (art. 6, para. 1 (b)), or as a related offence or offences?

Yes  No

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

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* 1. Is enabling a person who is not a national of or a permanent resident in your country to remain in its territory without complying with the necessary requirements for legally remaining, by using the means referred to in question 54 or any other illegal means, criminalized under your domestic legislation (art. 6, para. 1 (c))?

Yes  No

* 1. Does your country’s legal framework establish as a criminal offence the attempt to commit the offences referred to in questions 50, 54 and 55 (art. 6, para. 2 (a), in conjunction with art. 6, para. 1)?

Yes  No

(a) If the answer is “Yes”, please cite the applicable laws and/or other measures, including the applicable sanctions.

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* 1. Is participating as an accomplice in the offences referred to in questions 50, 54 and 55 criminalized under your country’s legal framework (art. 6, para. 2 (b), in conjunction with art. 6, para. 1)?

Yes  No

(a) If the answer is “Yes”, please cite the applicable laws and/or other measures, including the applicable sanctions.

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* 1. Is organizing or directing other persons to commit the offences referred to in questions 50, 54 and 55 criminalized under your country’s legal framework (art. 6, para. 2 (c), in conjunction with art. 6, para. 1)?

Yes  No

(a) If the answer is “Yes”, please cite the applicable laws and/or other measures, including the applicable sanctions.

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* 1. Does your country adopt such legislative and other measures as might be necessary to establish as aggravating circumstances to any of the offences referred to in questions 50, 54, 55, 57 and 58, conduct that endangers, or is likely to endanger, the lives or safety of the smuggled migrants or that subjects them to inhuman or degrading treatment, including for exploitation (art. 6, para. 3, in conjunction with art. 6, paras. 1 and 2)?

Yes  No

(a) If the answer is “Yes”, please cite the applicable laws and/or other measures, including the applicable sanctions.

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Criminalization: cases and judgments

* 1. States are invited to provide examples, relevant cases or judgments of successful implementation and enforcement for each of the criminal offences reviewed above. **(Agreed upon at meeting 2)**

Difficulties encountered

* 1. Does your country encounter difficulties or challenges in implementing any provisions of the Smuggling of Migrants Protocol relevant to cluster I?

Yes  No

(a) If the answer is “Yes”, please explain.

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

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Need for technical assistance

* 1. Does your country require additional measures, resources or technical assistance to implement the Protocol effectively?

Yes  No

(a) If the answer is “Yes”, please indicate the type of assistance required to implement the Protocol:

Assessment of criminal justice response to the smuggling of migrants

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 among the judiciary

On-site assistance by a relevant expert

Institution-building or the strengthening of existing institutions

Prevention and awareness-raising

Technological assistance and equipment (please be specific)

Development of data collection or databases

Workshops or platforms 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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* 1. In which areas would border, immigration and law enforcement officials in your country need more capacity-building?

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* 1. In which areas would criminal justice institutions in your country need more capacity-building?

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* 1. Is your country already receiving technical assistance in those areas?

Yes  No

(a) If the answer is “Yes”, please specify the area of assistance and who is providing it.

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IV. Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime

Cluster I: criminalization and jurisdiction (arts. 3, 5 and 8 of the Protocol)

General information

* 1. States are invited to list other multilateral, regional or bilateral international firearms control regimes to which they are a party. **(Agreed upon at meeting 2)**

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Article 3. Use of terms

[OPTION 1:]

* 1. [Does your country’s legal framework include the definitions set forth in   
     article 3 of the Firearms Protocol? (Italy, USA, Canada)

Yes  Yes, in part  No

(a) Please explain.[[2]](#footnote-2)]

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[69. Does your country’s legal framework permit your country to implement the Firearms Protocol without adopting the specific definitions set forth in article 3 of the Firearms Protocol?

Yes  Yes, in part  No

(a) Please explain.]

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[OPTION 2: (if States decide to adopt option 2, only the subparagraphs in square brackets are still pending, and not the entire question.)] (Brazil, Guatemala, Palestine)

[68. Does your country’s legal framework permit your country to implement the Firearms Protocol without adopting the specific definitions set forth in article 3 of the Firearms Protocol?

Yes  Yes, in part  No

(a) Please explain.

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* 1. Does your country’s legal framework include definitions for the following terms?

(a) Firearms (art. 3, para. (a))

Yes  Yes, in part  No

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(i) If the answer is “Yes”, please specify whether the definition of firearm used in your country’s legal system is based on:

– Physical or forensic characteristics associated with firearms (e.g., size, portability, type of rifling, type of action or shooting mechanism, etc.)

Yes  No

– [Categories (e.g., prohibited or restricted arms, categories based on the particular legal regime of the weapons, etc.)]

Yes  No

– [Qualifying terms indicating the intended application for which the firearms were designed (e.g., military, sporting or recreational firearms)]

Yes  No

– Please explain.

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(iii) If the answer to question 69 (a) is “Yes” or “Yes, in part”, are antique firearms and their replicas excluded from the definition of firearms?

Yes  No

– Please indicate any threshold used to exclude antique firearms and describe any criterion used to exclude replicas from the scope of application of your country’s national laws on firearms.

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(iv) If the answer to question 69 (a) is “Yes” or “Yes, in part”, do weapons that may be readily converted to expel a shot, bullet or projectile by the action of   
an explosive[[3]](#footnote-3) fall under the definition of firearms in your country’s legal framework (art. 3, para. (a))?

Yes  No

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(b) Parts and components of firearms (art. 3, para. (b))

Yes  No

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(c) Ammunition [used in a firearm] (art. 3, para. (c))

Yes  No

(i) Please also indicate whether the components of ammunition referred to in article 3, paragraph (c), are themselves subject to authorization in your country.

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(d) Tracing (art. 3, para. (f))

Yes  No

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(e) [Broker or brokering activity]

Yes  No

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(f) Other definitions relevant to the implementation of the Firearms Protocol (please cite them).]

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(Italy, Canada: Streamline Option 1, delete follow up questions on relevant laws, regulations and definitions, include the following follow-up question instead:)

(g) If the answer to any of the follow-up questions 69 (a) to (e) is “Yes”, please cite the relevant laws or regulations and definitions.

Article 5. Criminalization

* 1. Is the illicit manufacturing or assembly of firearms, their parts and components, and ammunition, when committed intentionally, a criminal offence under your country’s legal framework, according to article 5, paragraph 1 (a), in conjunction with article 3, paragraph (d)?

Yes  Yes, in part  No

(a) If the answer is “Yes, in part” or “No”, please explain, if needed.

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(b) If the answer is “Yes” or “Yes, in part”, are the following conducts, when committed intentionally, included in the criminal offence of the illicit manufacturing or assembly of firearms, their parts and components, and ammunition?

(i) The manufacturing or assembly of firearms from illicitly trafficked parts and components (art. 5, para. 1 (a), in conjunction with art. 3, para. (d) (i))

Yes  Yes, in part  No

(ii) The manufacturing or assembly of firearms, their parts and components and ammunition without a licence or authorization from a competent national authority (art. 5, para. 1 (a), in conjunction with art. 3, para. (d) (ii))

Yes  Yes, in part  No

(iii) The reactivation of deactivated firearms or essential parts thereof without a licence or authorization from a competent national authority (art. 5, para. 1 (a), and art. 3, para. (d) (ii), in conjunction with art. 9 (1))

Yes  Yes, in part  No

(iv) The conversion of weapons into a firearm without a licence or authorization from a competent national authority (art. 5, para. 1 (a), in conjunction with art. 3, para. (d) (ii))

Yes  Yes, in part  No

(v) The manufacturing or assembly of firearms, without marking them at the time of manufacture or with markings that do not meet the requirements of article 8of the Firearms Protocol (art. 5, para. 1 (a), in conjunction with art. 3, para. (d) (iii))

Yes  Yes, in part  No

(c) If the answer to any of these questions is “Yes” or “Yes, in part”, please cite for each of these modalities the applicable laws and regulations and/or other measures, including the applicable sanctions.

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(d) If the answer to any of these questions is “Yes, in part” or “No”, please explain how the modalities of the illicit manufacturing or assembly of firearms, their parts and components and ammunition are treated under your country’s legal framework.

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* 1. [Does your country’s legal framework require manufacturers to hold a licence or other authorization to manufacture firearms, their parts and components and ammunition (art. 5, para. 1 (a), and art. 3, para. (d))?

Yes  Yes, in part  No

(a) If the answer is “Yes” or “Yes, in part”, please cite the relevant laws and regulations and/or other measures. [

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] (delete, Canada, USA, India)

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[COMMENT: in accordance with the clusters of articles appended to the procedures and rules, articles 3 and 5 will be reviewed under cluster I.

However, as the licensing and authorization regime for the licit manufacturing of firearms is a prerequisite for the criminal provision of illicit manufacturing, in accordance with articles 3 and 5, but is not expressively regulated under the Firearms Protocol, member States may decide to move questions 71 and 72 to cluster II, under an independent section entitled “Manufacturing of firearms”. Otherwise, criminal justice experts responding to cluster I (criminalization and jurisdiction) might encounter difficulties in reviewing the administrative licensing and authorization requirements for the manufacturing of firearms.]

* 1. [States are invited to indicate, on a voluntary basis, whether their legal framework allows for new and emerging forms of illicit manufacturing, such as additive manufacturing or similar, to be addressed.

Yes  Yes, in part  No

(a) If the answer is “Yes” or “Yes, in part”, please provide details, cite the applicable laws and regulations and provide examples of their implementation.

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(b) If the answer is “Yes, in part” or “No”, please explain how these forms of illicit manufacturing are treated under your country’s legal framework.] (delete question 72, Canada, USA, India; retain original, Colombia, Mexico, Guatemala, Brazil)

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* 1. Is the offence of illicit trafficking in firearms, their parts and components and ammunition, when committed intentionally, criminalized under your country’s legal framework, in accordance with article 5, paragraph 1 (b), in conjunction with   
     article 3, paragraph (e), of the Firearms Protocol?

Yes  Yes, in part  No

(a) If the answer is “Yes, in part” or “No”, please explain, if needed.

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(b) If the answer is “Yes” or “Yes, in part”, are the following conducts, when committed intentionally, included in the criminal offence of illicit trafficking in firearms, their parts and components and ammunition?

(i) The import, export, acquisition, sale, delivery, movement or transfer of firearms, their parts and components or ammunition from or across the territory of one State to that of another State without authorization of any of the countries concerned (art. 5, para. 1 (b), in conjunction with art. 3, para. (e), and art. 10)

Yes  Yes, in part  No

(ii) The import, export, acquisition, sale, delivery, movement or transfer of firearms from or across the territory of one State to that of another State without appropriate marking, in accordance with article 8 of the Firearms Protocol (art. 5, para. 1 (b), in conjunction with art. 3, para. (e), and art. 8)

Yes  Yes, in part  No

(c) If the answer to any of the questions above is “Yes” or “Yes, in part”, please cite for each of the modalities the applicable laws and regulations and/or other measures, including the applicable sanctions.

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(d) If the answer to any of the questions above is “Yes, in part” or “No”, please explain how these modalities of the illicit transfer of firearms, their parts and components and ammunition are treated under your country’s legal framework.

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* 1. If the answer to question 73 is “Yes” or “Yes, in part”, are any of the following actions included in the offence(s) of illicit trafficking established under your country’s legal framework (art. 5, para. 1 (b), in conjunction with art. 3, para. (e))?

Import

Export

Acquisition

Sale

Delivery

Movement

Transfer

Other, if any

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(a) Please provide further details, if needed.

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* 1. If the answer to question 73 is “Yes” or “Yes, in part”, does the offence of illicit trafficking established under your country’s legal framework require a transnational transfer of the items between at least two States to qualify as illicit trafficking under your country’s legal framework (art. 5, para. 1 (b), in conjunction with art. 3,   
     para. (e))?

Yes  Yes, in part  No

(a) If your answer is “Yes, in part” or “No”, please explain, on a voluntary basis, and cite the applicable laws and regulations and/or other measures.

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* 1. Is the act of falsifying or illicitly obliterating, removing or altering the marking(s) on firearms, when committed intentionally, criminalized under your country’s legal framework according to article 5, paragraph 1 (c), in conjunction with article 8 of the Firearms Protocol?[[4]](#footnote-4)

Yes  Yes, in part  No

(a) If the answer is “Yes” or “Yes, in part”, please cite the applicable laws and regulations and/or other measures, including the applicable sanctions for this offence(s).

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(b) If the answer is “Yes, in part” or “No”, please explain how the falsifying, obliterating, removing or altering of required marking(s) on firearms is treated under your country’s legal framework.

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* 1. Subject to the basic concepts of its legal system, does your country’s legal framework criminalize the following ancillary offences:

– Attempting to commit any of the offences covered by article 5, paragraph 1   
(art. 5, para. 2 (a))?

Yes  Yes, in part  No

– Participating as an accomplice in any of the offences covered by article 5, paragraph 1 (art. 5, para. 2 (a))?

Yes  Yes, in part  No

– Organizing, directing, aiding, abetting, facilitating or counselling the commission of any of the offences covered by article 5, paragraph 1 (art. 5, para. 2 (b))?

Yes  Yes, in part  No

(a) If the answer to any of the questions above is “Yes” or “Yes, in part”, please cite for each of these offences the applicable laws and regulations and/or other measures, including the applicable sanctions.

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(b) If the answer to any of the questions above is “Yes, in part” or “No”, please explain how these conducts are treated under your country’s legal framework.

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* 1. [States are invited to provide[, on a voluntary basis,] any information on any additional criminal offences that may be established under their country’s legal framework to enforce the provisions of the Firearms Protocol (art. 34, para. 3, of the Convention, in conjunction with art. 1, para. 2, of the Firearms Protocol):

Acts related to the failure to keep records of firearms and, where appropriate and feasible, their parts and components and ammunition, and the falsification and destruction of such records, when committed intentionally (art. 7 of the Firearms Protocol)

Criminalization of acts of intentionally giving false or misleading information likely to unduly influence the issuance of the required licence or authorization for either the manufacture or assembly of firearms, their parts and components or ammunition or for actions referred to under article 3, paragraph (e), of the Firearms Protocol, including, when requested by law, end use or end user certificates

Criminalization of acts related to the intentional falsification or misuse of documents for the purpose of achieving the issuance of the required licence or authorization for either the manufacture or assembly of firearms, their parts and components or ammunition or for actions referred to under article 3, paragraph (e), of the Firearms Protocol, including, when requested by law, end use or end user certificates

Criminalization of acts related to the intentional possession or use of fraudulent licences or authorizations in relation to the manufacture or assembly of firearms, their parts and components or ammunition or for actions referred to under article 3, paragraph (e), of the Firearms Protocol, including, when requested by law, fraudulent end use or end user certificates

Criminalization of intentional acts related to the illicit reactivation of deactivated firearms, consistent with article 9, paragraphs (a) to (c), of the Firearms Protocol

Criminalization of the illicit brokering of firearms, their parts and components or ammunition and failure to provide required information about brokering activities (see also art. 15)

Other(s) (please specify)

(a) Please explain and cite the applicable laws and regulations and/or other measures, including the applicable sanctions.]

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Criminalization: cases and judgments

* 1. If possible, provide examples, relevant cases or judgments of successful implementation and enforcement for each of the criminal offences reviewed above.

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Article 8. Marking of firearms

[COMMENT: in accordance with the clusters of articles appended to the procedures and rules, article 8 will be reviewed under cluster I. However, for ease of reference, member States may decide to move questions 80 to 85 referring to article 8 and the marking of firearms to cluster II (prevention, technical assistance, protection measures and other measures). Otherwise, criminal justice experts responding to cluster I (criminalization and jurisdiction) might encounter difficulties in reviewing the complex administrative marking requirements under article 8.]

* 1. Does your country’s legal framework require the unique marking of firearms at the time of manufacturing, in accordance with article 8, paragraph 1 (a), of the Firearms Protocol?

Yes  Yes, in part  No

(a) If the answer is “Yes” or “Yes, in part”, please specify whether the marking applied in your country provide for the following information:

Name of manufacturer

Country or place of manufacture

Serial number

Simple geometric symbols in combination with numeric or alphanumeric codes

Other, such as model and calibre (please specify)

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(b) If the answer to question 80 is “Yes” or “Yes, in part”, please cite the applicable, laws and regulations and/or other measures.

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(c) If the answer to question 80 is “Yes, in part” or “No”, please explain how the marking of firearms is treated under your country’s legal framework.

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(d) States are invited to describe, on a voluntary basis, the method(s) and criteria applied for marking and which parts of the firearms have to be marked, and to provide examples and pictures of such marking(s).

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(e) States are invited to describe, on a voluntary basis, their experience, lessons learned and examples of implementation of this provision.

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* 1. Does your country’s legal framework require a simple marking on each imported firearm in order to enable competent authorities to identify and trace the firearm   
     (art. 8, para. 1 (b))?

Yes  Yes, in part  No

(a) If the answer is “Yes” or “Yes, in part”, please specify whether the import markings applied in your country provide for the following information:

Country of import

Year of import, where possible

Unique marking (if the firearm does not already bear such marking)

Other (please specify)

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(b) If the answer to question 81 is “Yes” or “Yes, in part”, please cite the applicable laws and regulations and/or other measures.

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(c) If the answer to question 81 is “Yes, in part” or “No”, please explain.

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(d) States are invited to describe, on a voluntary basis, their experience, lessons learned and examples of implementation of this provision and, where possible, provide pictures of such import marking(s).

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* 1. Recognizing that the requirements of import marking need not be applied to temporary imports of firearms for verifiable lawful purposes, States are invited to indicate whether import marking is also required for temporarily imported firearms (art. 8, para. 1 (b), in conjunction with art. 10, para. 6).

Yes  Yes, in part  No

(a) If the answer is “Yes” or “Yes, in part”, please cite the applicable laws and regulations and/or other measures and provide details of the marking applied for such temporarily imported firearms.

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(b) If the answer is “Yes, in part” or “No”, please explain how the temporary imports of firearms are treated under your country’s legal framework.

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* 1. Does your country’s legal framework require the marking of firearms that are transferred from government stocks to permanent civilian use (art. 8, para. 1 (c))?

Yes  Yes, in part  No

(a) If the answer is “Yes” or “Yes, in part”, please cite the applicable laws and regulations and/or other measures.

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(b) If the answer is “Yes, in part” or “No”, please explain how transfers of firearms from government stock to permanent civilian use are treated under your country’s legal framework.

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(c) If the answer is “Yes” or “Yes, in part”, States are invited to provide, on a voluntary basis, details on the marking applied for firearms that are transferred from government stock to permanent civilian use and to describe their experience, lessons learned and examples of successful implementation of this provision.

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* 1. How has your country encouraged the manufacturing industry to develop measures against the removal or alteration of firearm marking (art. 8, para. 2)?

(a) Please describe the steps taken by your country and provide examples of their implementation, on a voluntary basis.

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* 1. States are invited to indicate, on a voluntary basis, whether their legal framework stipulates more strict or severe measures with regard to marking (in accordance with art. 1, para. 2, of the Firearms Protocol and art. 34, para. 3, of the Organized Crime Convention), such as:

Requirement to apply additional markings (e.g., security markings or proof marks)

Requirement to mark parts and components

Requirement to mark ammunition

(a) If yes, please specify whether the offences referred to in questions 70 (b) (v), 73 (b) (ii) and 82 also apply to the cases mentioned above (art. 34, para. 3, of the Convention, and art. 1, para. 2, of the Firearms Protocol).

Yes  Yes, in part  No

(i) If the answer is “Yes” or “Yes, in part”, please cite the applicable laws and regulations and/or other measures, including the applicable sanctions for those offences.

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Difficulties encountered

* 1. Does your country encounter difficulties in implementing the provisions of the Firearms Protocol?

Yes  Yes, in part  No

(a) If the answer is “Yes” or “Yes, in part”, please explain.

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* 1. Has your country assessed the effectiveness of its measures against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition?

Yes  No

(a) If the answer is “Yes”, please explain and cite any relevant document(s) (e.g., assessments, gap analysis, reports of other international and regional review mechanisms, policy studies, etc.).

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* 1. Does your country have a national strategy or action plan to counter the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition or to implement relevant regional or international instruments in this field?

Yes  No

(a) If the answer is “Yes”, please cite the relevant strategy or action plan, providing a short explanation of their scope, and/or other measure(s).

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* 1. If your country’s domestic legal framework has not been adapted to the Protocol requirements, please specify what steps remain to be taken.

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(a) Are there any difficulties with regard to the adoption of new national legislation or the implementation of national legislation?

Yes  No

(i) If the answer is “Yes”, does any of the below apply?

Problems with the formulation of legislation

Need for institutional reforms or the establishment of new institutions

Need for further implementing legislation (laws, regulations, decrees, etc.)

Difficulties encountered by practitioners in using legislation

Lack of awareness

Lack of inter-agency coordination

Specificities of the legal framework

Lack of technical knowledge and skills

Limited or no cooperation from other States

Limited resources for implementation

Other issues (please specify)

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Need for technical assistance

* 1. Does your country require technical assistance to overcome difficulties in implementing the Protocol?

Yes  No

(a) If the answer is “Yes”, please indicate the type of assistance required:

Assessment of criminal justice response to the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition and its links to other serious crimes

Legal advice or legislative reforms and regulations

Model legislation, regulations or agreements

Establishment of competent authorities, national focal points or points of contacts on firearms

Institution-building or the strengthening of existing institutions

Development of strategies, policies or action plans

Dissemination of good practices or lessons learned

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

Prevention and awareness-raising

On-site assistance by a mentor or relevant expert

Border control and risk assessment

Standard operating procedures

Detection of illicit trafficking flows at border crossings, by postal services or by means of the Internet

Information exchange

Investigation and prosecution

Measures to enhance regional and international cooperation

Establishment or development of information technology infrastructure, such as record-keeping systems, digital templates and tools, databases or communication tools

Collection and analysis of firearms trafficking data

Other areas (please specify). Please prioritize the technical assistance needs and refer to the specific provisions of the Protocol when providing information.

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(b) Technological assistance and equipment:

Marking

Record-keeping systems

Identification and tracing of firearms

Transfer controls

Collection campaigns

Deactivation and destruction

Stockpile management

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(c) Is your country already receiving technical assistance in those areas?

Yes  No

(i) If the answer is “Yes”, please specify the area of assistance and who is providing it.

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(d) Please describe practices in your country that you consider to be good practices in relation to the control of firearms and to prevent and combat the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, which might be of interest to other States in their efforts to implement the Firearms Protocol.

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(e) Please provide any other information that you believe is important to consider regarding aspects of, or difficulties in, the implementation of the Protocol other than those mentioned above.

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1. \* CTOC/COP/WG.10/2020/1. [↑](#footnote-ref-1)
2. [In particular, please cite the relevant laws or regulations and the definitions for the terms “firearms”, “parts and components” and “ammunition”, defined as followed in article 3, paragraphs (a) to (c), of the Firearms Protocol:

   – “Firearm” shall mean any portable barrelled weapon that expels, is designed to expel or may be readily converted to expel a shot, bullet or projectile by the action of an explosive, excluding antique firearms or their replicas. Antique firearms and their replicas shall be defined in accordance with domestic law. In no case, however, shall antique firearms include firearms manufactured after 1899.

   – “Parts and components” shall mean any element or replacement element specifically designed for a firearm and essential to its operation, including a barrel, frame or receiver, slide or cylinder, bolt or breech block, and any device designed or adapted to diminish the sound caused by firing a firearm.

   – “Ammunition” shall mean the complete round or its components, including cartridge cases, primers, propellant powder, bullets or projectiles, that are used in a firearm, provided that those components are themselves subject to authorization in the respective State party.] [↑](#footnote-ref-2)
3. A convertible weapon is a device capable of being converted to expel a shot, bullet or projectile which has the appearance of a firearm, and, as a result of its construction or the material from which it is made, it can be so converted. Explanation: these weapons primarily include   
   short-barrelled weapons (firearms such as pistols and revolvers) built to fire irritant gas ammunition and blank-firing weapons variously referred to as signal, starting and alarm guns, as well as some partially deactivated firearms used as props, for example in film production. Another example is air guns, which can be converted to fire cartridges. [↑](#footnote-ref-3)
4. The answers to question 76 should be prepared in conjunction with the answers to the relevant questions on the marking of firearms in cluster I. [↑](#footnote-ref-4)