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| Intergovernmental expert group established in accordance with Conference resolution 9/1Vienna, 13–15 July 2020Item 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))? **(agreed upon at meeting 4)**

[ ]  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 (a) is “Yes”, please cite the applicable laws and/or other measures, including the applicable sanctions for this offence. **(agreed upon at meeting 4)**

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 (d) 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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* 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 (agreed upon at meeting 4)

* 1. 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

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

[ ]  Yes [ ]  No

 – Please indicate any method or 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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 (ii) 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[[2]](#footnote-2) fall under the definition of firearms in your country’s legal framework (art. 3, para. (a))?

[ ]  Yes [ ]  No

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

[ ]  Yes [ ]  No

(c) Ammunition (art. 3, para. (c))

[ ]  Yes [ ]  No

 (i) If the answer is “Yes”, please indicate which of 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

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

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(f) 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.

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 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 provide] (Brazil) [States are invited to provide] (Canada) additional information about the licensing or authorization framework, including any applicable laws or regulations and examples of implementation. (Japan: Split question in mandatory and non-mandatory part)]

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 [OPTION PREPARED BY THE SECRETARIAT

 [71bis. Does your country’s legal framework require manufacturers to hold a licence or other authorization to manufacture the following items (art. 5, para. 1 (a), and art. 3, para. (d))?

1. firearms,

[ ]  Yes [ ]  Yes, in part [ ]  No

1. ammunition,

[ ]  Yes [ ]  Yes, in part [ ]  No

1. the parts and components of firearms

[ ]  Yes [ ]  Yes, in part [ ]  No

 (i) If the answer to question 71 (a) and (b) is “Yes” or “Yes, in part”, please provide additional information about the licensing or authorization framework, including any applicable laws or regulations and examples of implementation.

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 (ii) If the answer to question 71 (c) is “Yes” or “Yes, in part”, States are invited to provide additional information about the licensing or authorization framework, including any applicable laws or regulations and examples of implementation.]

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* 1. States are invited to indicate, 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) States are invited to provide additional information, including any applicable laws or regulations and examples of implementation. **(agreed upon at meeting 3)**

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 [Move questions 71, 72 to cluster II (UK)]

* 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?[[3]](#footnote-3)

[ ]  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 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): **(agreed upon at meeting 4)**

[ ]  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

Questions 80-85 were moved to Cluster II (**agreed upon at meeting 4**)]

 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. 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-2)
3. 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-3)