**Self-assessment questionnaire for the review of the implementation of the United Nations Convention against Transnational Organized Crime (UNTOC) and the Protocols thereto – Cluster I**

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| **General guidance for replying to the questionnaire**   * States will be reviewed based on the information 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 which 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 under any other questions where appropriate. * 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 are appropriately reflected in the responses. In particular, when reviewing the same legislation for obligations which 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 entail various degrees of requirements. In accordance with the procedures and rules, the Review Mechanism 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 while reviewing them in the following phases of the country review. * Article 1 para. 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 for the review of the implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto 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 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 instance, in answering the questions on the scope of application of article 10 on liability of legal persons, national experts should take into account the applicability of article 10 to the offences covered by the three Protocols and answer accordingly. |
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**United Nations Convention Against Transnational Organized Crime**

**CLUSTER 1 – Criminalization and Jurisdiction (articles 2, 5, 6, 8, 9, 15 and 23 of UNTOC)**

**Article 2 - Definitions**

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

Yes  Yes, in part  No

1. Please explain.

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

Yes  Yes, in part  No

1. 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

1. 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 (article 5 para. 1 (a) (i)) - Pending final review after translation]:

Yes  Yes, in part  No

* + 1. 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 (article 5, para. 1 (a) (i))

Yes  Yes, in part  No

1. 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 (article 5, para. 1 (a) (ii))?

Yes  Yes, in part  No

1. [If the answer to question 3 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 (article 5, para. 1 (a), in conjunction with article 2, subpara. (a))?” – Pending final review after translation]

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1. If the answer to question 3 is “yes” please cite the applicable law(s) and/or other measures, including the applicable sanctions for this offence.

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1. If the answer to q. 3 is “yes in part” or “no”, please specify how participation in a criminal group is treated in your country’s framework.

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3bis. 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 in paragraph 3 of article 5?

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 (article 5, para. 1 (b))?

Yes  Yes, in part  No

1. 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 (article 6 para.1 (a) (i) and (ii))?

Yes  Yes, in part  No

1. If the answer is “Yes, in part”, please specify the manner in which the laundering of proceeds of crime is criminalized under your domestic law.

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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 (article 6, para. 1 (b) (i))?

Yes  Yes, in part  No

1. 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 (article 6, para. 1 (b) (ii))?

Yes  Yes, in part  No

1. Please explain briefly.

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* 1. If the answer to question 5, 6 and/or 7 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 (article 6, para. 2 (a) and (b))?

Yes  No

1. 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 (article 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 (article 6, para. 2 (b)).

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

Yes  Yes, in part  No

1. 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 (article 6, para. 2 (d))?

1. If yes, please provide a link.

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1. 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, para. 1 (a) criminalized in your country’s legal framework?

Yes  Yes, in part  No

1. Please explain briefly.

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

Yes  Yes, in part  No

1. Please explain briefly.

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

Yes  Yes, in part  No

1. If appropriate, please explain briefly.

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

Yes  Yes, in part  No

1. 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 (article 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 United Nations Convention against Corruption.*

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

Yes  No

1. 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 (article 9, para. 2)?

Yes  No

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

Yes  Yes, in part  No

1. If the answer is “Yes, in part” or “No”, please explain.

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

Yes  No

* + 1. Civil

Yes  No

and/or

* + 1. Administrative

Yes  No

* 1. What kind of sanctions are provided for in your country’s legal framework to implement article 10 para. 4, bearing in mind article 11, para. 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 your country is a Party committed in its territory (article 15, para. 1 (a))?

Yes  No

1. 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 your country is a Party when the offences are committed on board a vessel flying its flag or an aircraft registered under its laws (article 15, para. 1 (b))?

Yes  Yes, in part  No

1. 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 your country is a Party as per article 15, paragraph 1 (b).

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

1. 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) (article 15, para. 2 (b))?

Yes  No

1. 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 (article 15, para. 2 (a))?

Yes  No

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

Yes  No

1. 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 (article 15, para. 2 (c) (ii))?

Yes  No

* 1. ~~If your country does not extradite an alleged offender on the sole ground that the offender is its national, does your country’s legal framework establish jurisdiction over offences covered by the Convention and the Protocols to which your country is a Party when those offences are committed by its nationals (articles 15, para. 3, and article 16, para. 10)?~~

~~Yes  Yes, in part  No~~

* 1. ~~If an alleged offender is present in your country’s territory and your country does not extradite him or her, does your country’s legal framework establish jurisdiction over offences covered by the Convention and by the Protocols to which your country is a Party in the circumstances described in article 15, paras. 1 and 2 when those offences are committed by that person (article 15, para. 4)?~~

~~Yes  Yes, in part  No~~

**Article 23 – Obstruction of Justice**

* 1. Is obstruction of justice in relation to offences covered by the Convention and by 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

1. Please explain briefly.

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**CLUSTER I - Difficulties encountered**

* 1. Has your country encountered any difficulties or challenges in implementing the Convention? If “Yes”, please specify.

Yes  No

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/regulation(s)

Model agreement(s)

Standard operating procedures

Development of strategies/policies, including action plans

Dissemination of good practices/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/or awareness-raising

Technological assistance

Establishment or development of IT 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 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, implementing the Convention other than those mentioned above.

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

**CLUSTER 1 – Criminalization and Jurisdiction (articles 3 and 5 of TIP)**

**Article 3 - Use of Terms - and Article 5 –Criminalization**

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

Yes  Yes, in part [pending final review after translation]  No

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

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* 1. If the answer to question 33 is “Yes, in part” [pending final review after translation] or “No”, please specify how trafficking in persons is treated in your country’s legal framework.

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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, subpara. (a) of the Protocol (combination of three elements: action, means and purpose of exploitation)?

Yes  No

1. 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 (article 3, subpara. (a)):

1. Recruitment

Yes  No

1. Transportation

Yes  No

1. Transfer

Yes  No

1. Harbouring; and/or

Yes  No

1. Receipt of persons

Yes  No

1. Other:

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1. 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 (article 3, subpara. (a)):

1. Threat or use of force or other forms of coercion

Yes  No

1. Abduction

Yes  No

1. Fraud

Yes  No

1. Deception

Yes  No

1. Abuse of power

Yes  No

1. Abuse of position of vulnerability

Yes  No

1. The giving or receiving of payments or benefits to achieve the consent of a person having control over another person?

Yes  No

1. Other

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1. 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 (article 3, subpara. (a)):

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

Yes  No

1. Forced labour or services

Yes  No

1. Slavery or practices similar to slavery

Yes  No

1. Servitude

Yes  No

1. Removal of organs

Yes  No

1. Other, please specify.

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1. Please provide further details, if needed.

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

Yes  No

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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, subpara. (a) of the Protocol (article 3, subpara. (c))?

Yes  No

1. If yes, please cite the applicable law(s) and/or other measure(s), 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 (article 3, subpara. (d))?

Child” means any person under 18 years of age (article 3, subpara. (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 (article 5, para. 2 (a), in conjunction with article 3)?

Yes  Yes, in part  No

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

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1. 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 (article 5, para. 2 (b), in conjunction with article 3)?

Yes  Yes, in part  No

1. Please provide, further details, if needed.

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

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

Yes  Yes, in part  No

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

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**CLUSTER I - Difficulties encountered**

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

Yes  No

1. 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

1. “Yes”, please indicate the type of assistance required:

Assessment of criminal justice response to trafficking in persons

Legal advice or legislative drafting support

Model legislation, regulations or agreements

Development of strategies, policies or action plans

Good practices or lessons learned

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

Capacity-building through awareness-raising of the judiciary

On-site assistance by a relevant expert

Institution-building or -strengthening

Prevention or awareness-raising

Technological assistance and equipment

1. Please be specific.

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Development of data collection or database(s)

Workshops or a platform to enhance regional and international cooperation

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

Other (please specify)

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

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* 1. Please provide any other information you believe is useful to understand your implementation of the 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, implementing the Protocol on Trafficking in Persons.

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

**CLUSTER 1 – Criminalization and Jurisdiction (articles 3, 5 and 6 of SOM)**

**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 (article 6, para. 1)?

Yes  No

1. If the answer is “No”, please explain.

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1. If the answer is “Yes”, is smuggling of migrants defined in your country as a criminal offence in accordance with article 3, subpara. (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, para. 1, in conjunction with article 3, subpara. (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

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

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

Yes  No

1. 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 article 3, subpara. (c)) for the purpose of smuggling of migrants criminalized under your country’s legal framework (article 6, para. 1 (b)), or as a related offence or offences?

Yes  No

1. 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 53 above or any other illegal means, criminalized under your domestic legislation (article 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 49, 53 and 54 above (article 6, para. 2 (a), in conjunction with article 6, para. 1)?

Yes  No

1. If the answer is “Yes”, please cite the applicable law(s) and/or other measure(s), including the applicable sanctions.

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* 1. Is participating as an accomplice in the offences referred to in questions 49, 53 and 54 above criminalized under your country’s legal framework (article 6, para. 2 (b) in conjunction with article 6, para. 1)?

Yes  No

1. If the answer is “Yes”, please cite the applicable law(s) and/or other measure(s), including the applicable sanctions.

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* 1. Are organizing or directing other persons to commit the offences referred to in questions 49, 53 and 54 above criminalized under your country’s legal framework (article 6, para. 2 (c), in conjunction with article 6, para. 1)?

Yes  No

1. If the answer is “Yes”, please cite the applicable law(s) and/or other measure(s), 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 49, 53, 54 56 and 57 above, 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 (article 6, para. 3, in conjunction with article 6, paras. 1 and 2)?

Yes  No

1. If the answer is “Yes”, please cite the applicable law(s) and/or other measure(s), including the applicable sanctions.

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**CLUSTER I - Difficulties encountered**

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

Yes  No

1. If the the answer is “Yes”, please explain.

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* 1. If domestic legislation has not been adapted to the Protocol’s 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 effectively implement the Protocol?

Yes  No

1. If the answer is “Yes”, please indicate the type of assistance required to implement the Protocol:

Assessment of criminal justice response to migrant smuggling

Legal advice/legislative drafting support

Model legislation/regulation(s)/agreement(s)

Development of strategies/policies, action plans

Good practices/lessons learned

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

Capacity-building through awareness-raising among judiciary

On-site assistance by a relevant expert

Institution-building/strengthening

Prevention/awareness-raising

Technological assistance and equipment (please be specific)

Development of data collection/database(s)

Workshops/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. On what areas would border, immigration and law enforcement officials in your country need more capacity-building?

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* 1. On what 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 these areas?

Yes  No

1. If the answer is “Yes”, please specify the area of assistance.

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**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 1 – Criminalization and Jurisdiction (articles 3, 5 and 8 of FP)**

**General information**

* 1. [If your country is a Party to other multilateral, regional or bilateral international firearms control regimes, please list them on a voluntary basis.]

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**Article 3 – Use of terms**

OPTION 1: (Italy)

* 1. [Does your country’s legal framework include the definitions set forth in article 3 of the Firearms Protocol?

Yes  Yes, in part  No

1. Please explain.[[1]](#footnote-2)]

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[68bis. 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

1. Please explain.]

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OPTION 2:

[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

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[68bis. Does your country’s legal framework include the definitions set forth in article 3 of the Firearms Protocol for the following terms:

1. Firearms (article 3, subpara. (a)).

Yes  Yes, in part  No

* + 1. If the answer is “Yes” or “Yes, in part”, please cite the relevant law(s) or regulation(s) and definition(s).

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* + 1. 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.) (and/or)

Yes  No

* [Categories (e.g. prohibited or restricted arms, categories based on particular legal regime of the weapons, etc.) (and/or)] (delete or voluntary element, Canada)

Yes  No

* [Qualifying terms indicating the intended application for which the firearms were designed (such as military, or sporting or recreational firearms) ] (delete or voluntary element, Canada)

Yes  No

* Please explain.

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1. Antique firearms and their replicas (article 3, subpara. (a)).

Yes  No

* + 1. If the answer is “Yes”, please cite the relevant law(s) or regulation(s) and definition(s) and provide available information on:

Any threshold used to exclude antique firearms from the scope of application of your country’s national law(s) on firearms (specific number of years or a date in time).

Any criteria used to exclude replicas of antique firearms from the scope of application of your country’s national law(s) or regulations on firearms (e.g. capabilities or appearance of the replicas).

* + 1. Please explain.

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1. Do weapons which may be readily converted to expel a shot, bullet or projectile by the action of an explosive**[[2]](#footnote-3)** fall under the definition of firearms in your country’s legal framework (article 3, subpara. (a))?

Yes  No

* + 1. If the answer is “Yes”, please explain and cite the relevant law(s) or regulation(s) and definition(s).

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1. Parts and components of firearms (article 3, subpara. (b))?

Yes  No

* + 1. If the answer is “Yes”, please cite the relevant law(s) or regulation(s) and definition(s).

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1. Ammunition [](delete, USA) (article 3, subpara (c))?

Yes  No

* + 1. If the answer is “Yes”, please explain and cite the relevant law(s) or regulation(s) and definition(s). Please indicate also whether components of ammunition referred to in article 3, subpara. (c), are themselves subject to authorization in your country or not.

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1. Tracing (article 3, subpara (f))?

Yes  No

* + 1. If the answer is “Yes”, please cite the relevant law(s) or regulation(s) and definition(s).

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1. Broker or brokering activity? (Delete, Canada)

Yes  No

* + 1. If the answer is “Yes”, please cite the relevant law(s) or regulation(s) and definition(s).

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1. Other definitions relevant to the implementation of the Firearms Protocol (please cite)?]

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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, para. 1 (a) in conjunction with article 3, subpara. (d)?

Yes  Yes, in part  No

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

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1. If the answer to question 71 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:

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

Yes  Yes, in part  No

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

Yes  Yes, in part  No

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

Yes  Yes, in part  No

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

Yes  Yes, in part  No

* 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 (article 5, para. 1 (a), in conjunction with article 3, subpara. (d) (iii)),

Yes  Yes, in part  No

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

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If the answer to any of these questions is “Yes, in part” or “No”, please explain how these modalities of the illicit manufacturing or assembly of firearms, their parts and components and ammunition is treated in 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 (article 5, para. 1 (a) and article 3, subpara. (d))?] (move to Cluster 2, proposal of secretariat, Guatemala, Italy, Spain)

Yes  Yes, in part  No

1. If the answer is “Yes” or “Yes, in part”, please cite the relevant law(s) and regulations and/or other measures. Please provide details on conditions, legal requirements and process established for obtaining such licences or authorizations, as well as the duration and conditions for suspension or revocation of the licence.

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1. If the answer is “Yes, in part” or “No”, please explain how the manufacturing or assembling of firearms, parts and components and ammunition are regulated in your country’s legal framework.

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* 1. [States are invited, on a voluntary basis, to indicate whether their legal framework allow to address new and emerging forms of illicit manufacturing such as through additive manufacturing, or similar.] (harmonize approach across instruments, USA, Spain, Canada; retain, Italy, France)

Yes  Yes, in part  No

1. If the answer is “Yes” or “Yes, in part”, please provide details and cite the applicable law(s) and regulation(s), and provide examples of its implementation.

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1. If the answer is “Yes, in part” or “No”, please explain if these forms of illicit manufacturing are treated under your country’s legal framework.

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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, para. 1 (b), in conjunction with article 3, subpara. (e) of the Firearms Protocol?

Yes  Yes, in part  No

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

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1. If the answer to question 77 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:

* 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 (article 5, para. 1 (b), in conjunction with articles 3, subpara. (e), and 10).

Yes  Yes, in part  No

* 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 (article 5, para. 1 (b), in conjunction with articles 3, para. (e) and 8).

Yes  Yes, in part  No

* + 1. If the answer to any of the questions above is “Yes” or “Yes, in part”, please cite for each of the modalities the applicable law(s) and regulations and/or other measure(s), including the applicable sanctions.

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* + 1. 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 in your country’s legal framework.

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* 1. If the answer to question 77 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 (article 5, para. 1 (b), in conjunction with article 3, subpara. (e))?

Import.

Export.

Acquisition.

Sale.

Delivery.

Movement.

Transfer.

Other, if any:

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1. Please provide further details, if needed.

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* 1. If the answer to question 77 is “Yes” or “Yes, in part”, does the offence(s) 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 (article 5, para. 1 (b), in conjunction with article 3, subpara. (e))?

Yes  Yes, in part  No

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

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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, para. 1 (c), in conjunction with article 8 of the Firearms Protocol?[[3]](#footnote-4)

Yes  Yes, in part  No

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

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1. 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 in 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, para. 1 (article 5, para. 2 (a))?

Yes  Yes, in part  No

— Participating as an accomplice in any of the offences covered by article 5, para. 1 (article 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, para. 1 (article 5, para. 2 (b))?

Yes  Yes, in part  No

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

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

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* 1. [States are invited[, on a voluntary basis,] (delete, Mexico; retain original Canada, USA, Guatemala, Italy) 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 (article 34, para. 3 of UNTOC, in conjunction with article 1, para. 2 of the Firearms Protocol):] (Harmonized approach across instruments, Mexico, Canada, USA)

— 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 (article 7 of the Firearms Protocol)?

Yes  Yes, in part  No

— 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, subpara. (e) of the Firearms Protocol, including, when requested by law, end-use or end user certificates?

Yes  Yes, in part  No

— 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, subpara. (e) of the Firearms Protocol, including, when requested by law, end-use or end user certificates?

Yes  Yes, in part  No

— Criminalization of the 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, subpara. (e) of the Firearms Protocol, including, when requested by law, fraudulent end-use or end user certificates?

Yes  Yes, in part  No

— Criminalization of intentional acts related to the illicit reactivation of deactivated firearms, consistent with article 9, subpara. (a) – (c) of the Firearms Protocol?

Yes  Yes, in part  No

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

Yes  Yes, in part  No

* Other(s)? (Please specify)

Yes  Yes, in part  No

(Delete bullet points, USA, Guatemala)

* + 1. Please explain (Canada)

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84bis. If possible, provide for each of the criminal offences reviewed above, examples, relevant cases or judgments, of their successful implementation and enforcement.

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**Article 8 – Marking of firearms**

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

Yes  Yes, in part  No

1. If the answer is “Yes” or “Yes, in part”, please specify if 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 and/or alphanumeric codes.

Other (such as model and calibre), please specify.

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1. If the answer to question 85 is “Yes” or “Yes, in part”, please cite the applicable, law(s) and regulations and/or other measure(s).

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1. If the answer to question 85 is “Yes, in part” or “No”, please explain how marking of firearms is treated in your country’s legal framework.

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

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1. States are invited, on a voluntary basis, to describe 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 (article 8, para. 1 (b))?

Yes  Yes, in part  No

1. If the answer is “Yes” or “Yes, in part”, please specify if 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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1. If the answer to question 86 is “Yes” or “Yes, in part”, please cite the applicable law(s) and regulations and/or other measure(s).

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1. If the answer to question 86 is “Yes, in part” or “No”, please explain.

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

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* 1. Recognizing that the requirements of import marking need not to 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 (article 8, para. 1 (b), in conjunction with article 10, para. 6)?

Yes  Yes, in part  No

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

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1. If the answer is “Yes, in part” or “No”, please explain how 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 (article 8, para. 1 (c))?

Yes  Yes, in part  No

1. If the answer is “Yes” or “Yes, in part”, please cite the applicable law(s) and regulations and/or other measure(s).

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

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1. If the answer is “Yes” or “Yes, in part”, States are invited, on a voluntary basis, to provide 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 (article 8, para. 2)?

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

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

Requirement to mark parts and components

Requirement to mark ammunition

1. If yes, please specify if the offences referred to in questions 75, 79 and 82 also apply to the above cases (article 34, para. 3 of the Organized Crime Convention, and article 1, para. 2 of the Firearms Protocol).

Yes  Yes, in part  No

* + 1. If the answer is “Yes” or “Yes, in part”, please cite the applicable law(s) and regulations and/or other measure(s), including the applicable sanctions for this offence(s)).

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**CLUSTER I - Difficulties encountered**

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

Yes  Yes, in part  No

1. 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 illicit manufacturing of and trafficking in firearms, their parts and components and ammunition?

Yes  No

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

Yes  No

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

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

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1. Are there any difficulties with regard to the adoption of new or the implementation of national legislation?

Yes  No

* + 1. If the answer is “Yes”, does any of the below apply?

Problems with the formulation of legislation

Need for institutional reforms/establishment of new institutions

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

Difficulties encountered by practitioners to use 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 (please specify)

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

1. If the answer is “Yes”, please explain the type of assistance required.

Assessment of criminal justice response to 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/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, including action plans

Dissemination of good practices/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 and via postal services or the internet

Information exchange

Investigation & prosecution

Measures to enhance regional and international cooperation

Establishment or development of IT 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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1. 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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1. Are you already receiving technical assistance in these areas?

Yes  No

* + 1. If the answer is “Yes”, please specify the area of assistance and who is providing it.

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

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1. Please provide any other information you believe is important to consider regarding aspects of or difficulties in implementing the Protocol other than those mentioned above.

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1. Please in particular cite the relevant law(s) or regulation(s) and definition(s) for the terms of firearms, their parts and components and ammunition, defined as followed in article 3 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 (article 3 subpara. a);

   “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 (article 3 subpara. b);

   “Ammunition” shall mean the complete round or its components, including cartridge cases, primers, propellant powder, bullets or projectiles, subject to authorization in the respective State Party (article 3 subpara. c). [↑](#footnote-ref-2)
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 are air guns, which can be converted to fire cartridges. [↑](#footnote-ref-3)
3. The answers to question 82 should be considered in conjunction with the answers of the relevant questions on the marking of firearms in cluster I. [↑](#footnote-ref-4)