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

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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 4** – **International cooperation, mutual legal assistance and confiscation (articles 12, 13, 14, 16, 17, 18 and 21 of UNTOC)**

**Article 12 – Confiscation and Seizure**

* 1. Does your country’s legal framework enable confiscation of:
1. Proceeds of crime (as defined in article 2 e)[[1]](#footnote-2)) derived from offences covered by the Convention and the Protocols to which your State is a party or property the value of which corresponds to that of proceeds of crime derived from offences covered by the Convention and the Protocols to which your State is a party (article 12, para. 1 (a))?

[ ]  Yes [ ]  No

1. Property, equipment or other instrumentalities used in or destined for use in offences covered by the Convention and the Protocols to which your State is a party (article 12, para. 1 (b))?

[ ]  Yes [ ]  No

1. Proceeds of crime transformed or converted into other property (article 12, para. 3)?

[ ]  Yes [ ]  No

1. Proceeds of crime intermingled with property acquired from legitimate sources (article 12, para. 4)?

[ ]  Yes [ ]  No

* + 1. Please explain.

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1. Income or other benefits derived from items described under (a), (c) and (d) above (article 12, para. 5)?

[ ]  Yes [ ]  No

* + 1. Please explain.

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* 1. States are invited to provide information on the pertinent legislative framework and on the required standard of proof.

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* 1. States are invited to provide, on a voluntary basis, information regarding whether their domestic legal framework allows for non-conviction based asset forfeiture.

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* 1. Does your country’s legal framework enable the identification, tracing, freezing or seizure of items described above for the purpose of eventual confiscation (article 12, para. 2)?

[ ]  Yes [ ]  No

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

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* 1. Does your country’s legal framework empower courts or other competent authorities to order that bank, financial or commercial records be made available or be seized for (article 12, para. 6):
1. Investigation or prosecution of offences covered by the Convention and the Protocols to which your State is a party in your country?

[ ]  Yes [ ]  No

1. Securing confiscation in your country?

[ ]  Yes [ ]  No

1. Responding to a request for confiscation by another State Party in relation to an offense covered by the Convention and the Protocols to which your State is a party?

[ ]  Yes [ ]  No

1. If the answer to a), b) or c) is “Yes”, please specify the manner in which your country’s legal framework empowers courts or other competent authorities.

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* 1. Does your country’s legal framework allow for bank secrecy to be used as grounds to decline to act under the provisions of article 12, para. 6?

[ ]  Yes [ ]  No

* 1. If it is consistent with the principles of your domestic law and with the nature of the judicial and other proceedings, does your country’s legal framework permit shifting the burden of proof to the defendant to show that alleged proceeds of crime were derived from legitimate sources (article 12, para. 7)?

[ ]  Yes [ ]  No

1. If the answer is “yes”, please provide information on the conditions under which your domestic legal framework permits shifting the burden of proof to the defendant.

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* 1. States are invited to share, on a voluntary basis, examples of their experiences and challenges in promoting cooperation to prevent and combat transnational organized crime more effectively, with particular regard to:
1. The possibility to confiscate companies and corporate assets where proceeds of crime are intermingled with property acquired from legitimate sources.

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1. The possibility to confiscate legal rights and interests of an enforceable nature.

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1. The use of non-conviction based confiscation and the related international judicial and legal cooperation.

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1. The identification and tracing of property, and the management of seized property carried out, including by specialized agencies.

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1. cooperation with regional prosecution bodies.

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**Article 13 – International cooperation for purposes of confiscation**

* 1. Does your country’s legal framework permit confiscation of the proceeds of crime, property, equipment or other instrumentalities referred to in article 12, para. 1, at the request of another State party (article 13)?

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

1. If the answer is “Yes” or “Yes, in part”
	* 1. Is the request submitted to the competent authorities of your country for the purpose of obtaining a domestic order of confiscation (article 13 para. 1 a))?

[ ]  Yes [ ]  No

* + 1. Is the request submitted to the competent authorities of your country for execution (article 13 para. 1 b))?

[ ]  Yes [ ]  No

1. If the answer to question 9 is “Yes, in part”, please specify any challenges encountered in confiscating the proceeds of crime at the request of another State party.

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* 1. Does your country’s legal framework enable the competent authorities to identify, trace and freeze and seize the proceeds of crime, for the purpose of eventual confiscation (article 12 para. 2), at the request of another State party?

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

1. If the answer is “Yes, in part”, please specify any challenges encountered in identifying, tracing and freezing and seizing the proceeds of crime, at the request of another State party.

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* 1. Does your country’s legal framework permit confiscation of proceeds of crime that have been transformed or converted into other property (article 12, para. 3) or intermingled with property acquired from legitimate sources (article 12, para. 4), at the request of another State party?

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

* 1. If any legal grounds for refusal specific to a request for cooperation for the purposes of confiscation are provided for in your country’s legal framework, please explain what those grounds are (article 13, para. 3 and 7, article 18, para. 21)[[2]](#footnote-3).

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* 1. What information does your country’s legal framework require for inclusion in a request for cooperation for the purposes of confiscation other than those enumerated in article 13, para. 3 and article 18, para. 15 (article 13, para. 3)[[3]](#footnote-4)?

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* 1. States are invited to provide on a voluntary basis, information regarding whether their domestic legal framework allows for non-conviction based asset forfeiture at the request of another State party.

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**Article 14 – Disposal of confiscated proceeds of crime or property**

* 1. Does your country’s legal framework permit the return of confiscated proceeds of crime or property to the requesting State party so that it can give compensation to the victims of the crime or the return of such proceeds of crime or property to their legitimate owners (article 14, para. 2)?

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

1. If the answer is “Yes, in part”, please explain the manner in which your domestic law permits the return of such confiscated proceeds of crime or property for the purposes stated above.

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* 1. Has your country concluded agreements or arrangements with other States parties on contributing the value of confiscated proceeds of crime or property or funds derived from the sale of such proceeds of crime or property or a part thereof to the account designated in accordance with article 30, paragraph 2 (c), and to intergovernmental bodies specializing in the fight against organized crime (article 14, para. 3 (a))?

[ ]  Yes [ ]  No

* 1. Has your country concluded agreements or arrangements with other States parties, on a regular or case-by-case basis, on sharing of proceeds of crime or property or funds derived from the sale of such proceeds of crime or property or a part thereof (article 14, para. 3 (b))?

[ ]  Yes [ ]  No

1. States parties are invited to share examples of their positive experiences or good practices in applying the Convention regarding bilateral or multilateral agreements or arrangements on disposal or sharing of confiscated assets.

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**Article 16 – Extradition**

* 1. In your country, is extradition granted:
1. By statute

[ ]  Yes [ ]  No

and/or

1. By treaty or other agreement or arrangement (multilateral or bilateral)?

[ ]  Yes [ ]  No

and/or

1. By virtue of reciprocity or comity?

[ ]  Yes [ ]  No

1. If your answer to question 18 (b) is “yes”, does your country use the Convention as a legal basis for cooperation on extradition with other States parties to the Convention (article 16, para. 5 (a))?

[ ]  Yes [ ]  Yes, under conditions [ ]  No [ ]  Not applicable

1. Please explain

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1. Have you communicated so to the Secretary General of the United Nations (article 16, para. 5 (a))?

[ ]  Yes [ ]  No

1. If your answer to question 18 (a), (b), or (c) is “No”, has your country, in appropriate cases, sought to conclude treaties on extradition (article 16, para. 5 (b))?

[ ]  Yes [ ]  No

* 1. Have the offences set out in article 16, para. 1 of the Convention and offences established in accordance with a Protocol or Protocols to the Convention to which your country is a Party in practice been deemed by your country to be extraditable offenses in its bilateral or multilateral extradition treaties (article 16, para. 3)?

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

* 1. If your country does not make extradition conditional on the existence of a treaty, does your country recognize the offences set out in article 16, para. 1 of the Convention and offences established in accordance with a Protocol or Protocols to the Convention to which your country is a Party as extraditable offences (article 16, para. 6)?

[ ]  Yes [ ]  Yes, in part [ ]  No [ ]  Not applicable

1. Please explain briefly.

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* 1. What are the conditions provided for in your domestic law for granting extradition, including the minimum penalty requirement (as the threshold to identify extraditable offences) (article 16, para. 7)?
1. Please explain briefly.

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* 1. What are the grounds provided for in your domestic law upon which your country may refuse extradition (article 16, para. 7)?
1. Please explain briefly.

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* 1. Is the double criminality requirement established in your domestic legal framework for granting an extradition request (article 16, para. 1)?

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

1. If the answer is “Yes, in part”, please explain how or to what extent the double criminality principle is required for granting an extradition request.

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* 1. Does your country’s legal framework provide for simplified evidentiary requirements (in relation to any offence covered by the Convention and the Protocols to which your State is a party to which this article applies) (article 16, para. 8)?
1. Please explain.

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* 1. Does your country’s legal framework provide for expedited extradition procedures (in relation to any offence covered by the Convention and the Protocols to which your State is a party to which this article applies) (article 16, para. 8)?

[ ]  Yes [ ]  No

1. If the answer is “Yes”, please provide information on simplified extradition proceedings available in your country and under which conditions these proceedings apply.

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* 1. Does your country refuse a request for extradition on the sole ground that the offence is also considered to involve fiscal matters (article 16, para. 15)?

[ ]  Yes [ ]  No

1. If the answer is “Yes”, please specify in which circumstances a request for extradition could be refused on the sole ground that the offence is also considered to involve fiscal matters.

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* 1. Does your country’s legal framework provide for conditional extradition or surrender in accordance with article 16 para. 11 of the Convention?

[ ]  Yes [ ]  No

* 1. If your country does not extradite a person because he or she is its national, does your legal framework permit, upon application of the requesting State, enforcing the sentence that has been imposed to the person sought under the domestic law of the requesting State (article 16, para. 12)?

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

1. If the answer is “Yes” or “Yes, in part”, please explain in which circumstances your country could consider enforcing such sentence.

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* 1. Before refusing extradition, does your country consult, where appropriate, with the requesting State to provide it with ample opportunity to present its opinions and to provide information relevant to its allegation (article 16, para. 16)?

[ ]  Yes [ ]  No

* 1. States are invited to share their experiences and challenges in using the Convention with other State parties regarding extraditions matters.

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**Article 17 – Transfer of sentenced persons**

* 1. Has your country concluded any bilateral or multilateral agreements or arrangements on the transfer of sentenced persons for offences covered by the Convention and the Protocols to which your State is a party (article 17)?

[ ]  Yes [ ]  No

1. If the answer is “Yes”, please provide an example of such agreements or arrangements[[4]](#footnote-5).

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1. States are invited to share examples of their positive experiences or good practices in applying the Convention regarding bilateral or multilateral agreements or arrangements on the transfer of sentenced persons.

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**Article 18 – Mutual legal assistance**

* 1. In your country, is mutual legal assistance afforded:
1. By statute

[ ]  Yes [ ]  No

and/or

1. By treaty or other agreement or arrangement (multilateral or bilateral)?

[ ]  Yes [ ]  No

and/or

1. By virtue of reciprocity or comity?

[ ]  Yes [ ]  No

* 1. Does your country apply the provisions of article 18 of the Convention, including paragraphs 9 to 29 thereof, in order to provide mutual legal assistance to other States parties to the Convention with which it does not have another mutual legal assistance treaty in force (article 18, para. 7)?

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

1. If the answer is “yes, in part”, please specify which paragraphs would not apply.

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* 1. Has your country designated a Central Authority pursuant to article 18 paragraph 13 (article 18 para. 13)?

[ ]  Yes [ ]  No

1. If the answer is “Yes”, please provide any available information related to the name and address of such authority or authorities.

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* 1. Does your country afford mutual legal assistance with respect to investigations, prosecutions and judicial proceedings in relation to offences covered under this Convention and the Protocols to which your State is a party for which a legal person may be held liable (article 18, para. 2)?

[ ]  Yes [ ]  No

* 1. Which of the following types of mutual legal assistance does your country provide (article 18, para. 3):
1. Taking evidence or statements from persons?

[ ]  Yes [ ]  No

 and/or

1. Effecting service of judicial documents?

[ ]  Yes [ ]  No

 and/or

1. Executing searches and seizures, and freezing?

[ ]  Yes [ ]  No

 and/or

1. Examining objects and sites?

[ ]  Yes [ ]  No

 and/or

1. Providing information, evidentiary items and expert evaluations?

[ ]  Yes [ ]  No

 and/or

1. Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records?

[ ]  Yes [ ]  No

 and/or

1. Identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes?

[ ]  Yes [ ]  No

 and/or

1. Facilitating the voluntary appearance of persons in the requesting State party?

[ ]  Yes [ ]  No

 and/or

1. Any other type of assistance that is not contrary to your domestic law.

 [ ]  Yes [ ]  No

1. Please specify.

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1. States are invited to share examples of their positive experiences or good practices in applying the Convention regarding any other type of assistance provided under Article 18, para. 3 (i).

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* 1. Does your country permit conducting a hearing by videoconference at the request of another State party where it is not feasible or desirable for the witness or expert to appear in person before the judicial authorities of the foreign State (article 18, para. 18)?

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

1. If needed, please explain.

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* 1. Does your country decline to render mutual legal assistance on the ground of absence of dual criminality (article 18, para. 9)?

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

1. If the answer is “Yes, in part”, please specify.

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* 1. Is bank secrecy a ground for refusal of a mutual legal assistance request under your domestic legal framework (article 18, para. 8)?

 [ ]  Yes [ ]  No

1. If the answer is “Yes”, please explain in which circumstances bank secrecy can be a ground for refusal of a mutual legal assistance request.

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* 1. Are any of the grounds for refusal of a mutual legal assistance request provided for in article 18, paragraph 21, of the Convention applicable in your domestic legal framework?

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

* 1. Does your country’s legal framework provide for additional grounds to the ones contained in article 18 para. 21 (a) to (d)?

 [ ]  Yes [ ]  No

1. If “Yes”, please explain briefly.

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1. States are invited to share examples of their positive experiences or good practices in applying the Convention on how the provision of mutual legal assistance can be subject to the requirement of double criminality, especially in relation to mutual legal assistance involving coercive and non-coercive measures.

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* 1. Does your country refuse a mutual legal assistance request on the sole ground that the offence is also considered to involve fiscal matters (article 18, para. 22)?

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

1. If the answer is “Yes” or “Yes, in part” please specify the circumstances under which a request for mutual legal assistance is refused on the sole grounds that the offence is also considered to involve fiscal matters.

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* 1. Are the requirements of your country’s legal framework for a mutual legal assistance request consistent with the requirements of article 18 paragraph 15?

 [ ]  Yes [ ]  No

1. If your country has additional requirements, please briefly explain.

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* 1. Has your country requested or received a request for additional information on the basis that additional information was necessary for the execution of a request in accordance with domestic law or to facilitate execution of such a request (article 18, para. 16)?

 [ ]  Yes [ ]  No

1. If yes, States are invited to explain briefly.

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* 1. Does your country respond to reasonable requests by the requesting State Party on the progress on its handling of the request in accordance with article 18, para. 24?

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

1. Please explain.

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* 1. Is your country generally able to execute a request in accordance with the procedures specified in such a request (article 18 para. 17)?

 [ ]  Yes [ ]  No

1. Please explain.

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**Article 21 – Transfer of criminal proceedings**

* 1. Is your country able to receive or transfer criminal proceedings for the prosecution of offences covered by the Convention and the Protocols to which your State is a party (article 21)?

 [ ]  Yes [ ]  No

1. States with experience in transferring criminal proceedings are encouraged to describe their experience and/or give an example of best practices.

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**CLUSTER IV - 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 at the present stage 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 4 –** **International cooperation, mutual legal assistance and confiscation (articles 8 and 10 of TIP)**

**Article 8 – Repatriation of victims of trafficking in persons**

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

[ ]  Yes [ ]  No

1. Please elaborate.

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

[ ]  Yes [ ]  No

1. Please elaborate.

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* 1. Has your country given due regard to the safety of victims of trafficking in persons and for the status of any legal proceedings related to the fact that the person is a victim of trafficking in persons and to the fact that such return should preferably be voluntary, when returning a victim of trafficking in persons to a State party of which that person is a national or in which he or she has a right of permanent residence (article 8, para. 2)?

[ ]  Yes [ ]  No

1. Please elaborate.

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

[ ]  Yes [ ]  No

1. Please elaborate.

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* 1. States are invited on a voluntary basis to provide any information on agreements or arrangements that govern in whole or in part the return of victims of trafficking in persons (article 8, para.6)

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**Article 10 – Information exchange and training**

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

[ ]  Whether individuals crossing or attempting to cross an international border with travel documents belonging to other persons or without travel documents are perpetrators or victims of trafficking in persons (article 10, para. 1 (a)).

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

[ ]  The means and methods used by organized criminal groups for the purpose of trafficking in persons, including the recruitment and transportation of victims, routes and links between and among individuals and groups engaged in such trafficking, and possible measures for detecting them (article 10, para. 1 (c)).

1. Please provide details.

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

[ ]  Law enforcement

[ ]  Immigration authorities

[ ]  Other relevant officials (please specify)

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* 1. Does the training referenced in question 59 above also take into account the need to consider human rights, child sensitive issues and gender sensitive issues (article 10, para. 2)?

[ ]  Yes [ ]  No

* 1. Does the training referred to in question 59 above encourage cooperation with non-governmental organizations, other relevant organizations and other elements of civil society (article 10, para. 2)?

[ ]  Yes [ ]  No

1. If the answer is yes, on a voluntary basis, please provide details on training provided:

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

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

1. Please briefly explain.

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**CLUSTER IV - 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 at the present stage 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 4 – International cooperation, mutual legal assistance and confiscation (articles 7, 10, 17 and 18 of SOM)**

**Article 7 – Cooperation**

* 1. Does your country provide cooperation to other States with regards to the measures against the smuggling of migrants by sea set forth in article 8 of the Protocol[[5]](#footnote-6)?

[ ]  Yes [ ]  No

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

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**Article 10 – Information**

* 1. Has your country adopted measure(s) to promote the secure and fast information exchange with other States to implement the provisions set forth in article 10, para.1 of the Protocol?

[ ]  Yes [ ]  No

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

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1. If the answer is “Yes”, please provide more details.

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* 1. Does your country identify information to be restricted in use in the context of international cooperation procedures (article 10, para. 2)?

[ ]  Yes [ ]  No

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

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1. If the answer is “Yes”, please provide more Specify.

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**Article 17 – Agreements and arrangements**

* 1. Has your country concluded bilateral or regional agreements or operational arrangements or understandings to allow the establishment of the most appropriate and effective international cooperation to prevent and combat the conducts set forth in article 6 of the Protocol, and to enhance the provisions of the Protocol among States (article 17)?

[ ]  Yes [ ]  No

1. If the answer is “Yes”, please elaborate further on the agreements and arrangements and provide examples of their implementation, and cite also the applicable policy/policies or law(s).

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**Article 18 – Return of smuggled migrants**

* 1. Do your country’s competent authorities facilitate and accept, without undue or unreasonable delay, the return of a smuggled migrant who is a national of, or has the right of permanent residence in, your country at the time of his/her return (article 18, para. 1)?

[ ]  Yes [ ]  No

1. If the answer is “Yes”, please provide more details on the procedure.

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* 1. Do your country’s competent authorities facilitate and accept the return of a smuggled migrant who had the right of permanent residence in your country at the time of entry into the receiving State in accordance with its domestic law (article 18, para. 2)?

[ ]  Yes [ ]  No

1. If the answer is “Yes”, please provide more details on the procedure.

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* 1. Do your country’s competent authorities respond without undue or unreasonable delay to the request from other states to verify whether a smuggled migrant is a national of, or has the right of permanent residence in, your country (article 18, para. 3)?

[ ]  Yes [ ]  No

1. If the answer is “Yes”, please provide more details on the procedure.

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* 1. Do your country’s competent authorities issue, at the request of the receiving State party, such travel documents or other authorization as may be necessary to enable the smuggled migrant, after identification of his or her nationality, to travel and re-enter the territory of your country (article 18, para. 4)?

[ ]  Yes [ ]  No

1. If the answer is “Yes”, please provide more details on the procedure.

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* 1. What kind of measures are taken in your country to carry out the return of smuggled migrants in an orderly manner? Please specify and provide any available information on how the need to ensure the safety and dignity of smuggled migrants is taken into account in the process of their return (article 18, para. 5)

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* 1. Do your country’s competent authorities cooperate with relevant international organizations in implementing measures to carry out the return of smuggled migrants (article 18, para. 6)?

[ ]  Yes [ ]  No

1. If the answer is “Yes”, please specify with which international organizations your country cooperates.

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* 1. Has your country entered into any bilateral or multilateral agreement or arrangement related to migrant smuggling, including governing, in whole or in part, the return of smuggled migrants (article 18, para. 8)?

[ ]  Yes [ ]  No

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

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**CLUSTER IV - 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 answer is “Yes”, please explain.

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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 4 – International cooperation, mutual legal assistance and confiscation (articles 6, 12, and 13 of FP)**

**Article 6 – Confiscation, seizure and disposal[[6]](#footnote-7)**

* 1. Notwithstanding the implementation of article 12 of Organized Crime Convention, has your country adopted legislative or other administrative measures to enable the seizure of firearms, their parts and components and ammunition suspected of being illicitly manufactured and trafficked (article 6, para. 2, in conjunction with article 2 (f) of Organized Crime Convention)?

[ ]  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 or “Yes, in part”, please cite and attach the applicable law(s) and regulations and/or other measure(s).

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1. Please explain the applicable procedure and the relevant authorities that are enabled by your country’s legal system to order or carry out such seizures. (rephrase/delete, USA)

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* 1. Does your country’s legal framework enable the confiscation of firearms, their parts and components and ammunition that have been illicitly manufactured or trafficked (article 6, para. 1)?

[ ]  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 or “Yes, in part”, please cite and attach the applicable law(s) and regulations and/or other measure(s).

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1. Please explain the applicable procedure and the relevant authorities that are enabled by your country’s legal system to order or carry out such confiscations. (rephrase/delete, USA)

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84bis. States are invited, on a voluntary basis, to provide further information as to whether their country maintain records of:

* seized firearms, their parts and components and ammunition.

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

* confiscated firearms, their parts and components and ammunition.

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

1. If any of the above applies, please explain, on a voluntary basis, if these data are kept centrally, by which authority(ies), and what type of information is kept.

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1. Please provide, if possible, information on the number and type of cases, and on the amount and type of material that were seized and confiscated in the past three years. Please provide figures for each year.

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* 1. Has your country’s legal framework adopted policy(ies) or measures to enable the disposal of confiscated firearms, their parts and components and ammunition that have been illicitly trafficked and manufactured (article 6, para. 2)?

[ ]  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) in place with regard to the disposal of such items, and provide, if possible, examples, including recent cases or judgments, of their concrete application.

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1. If the answer is “Yes, in part” or “No”, please explain how your country’s legal framework treats these confiscated items.

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* 1. If the answer to question 85 is “Yes” or “Yes, in part”, does your country’s legal framework provide for the destruction ofconfiscated firearms, their parts and components and ammunition that have been illicitly manufactured or trafficked (article 6, para. 2)?

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

1. If the answer is “Yes” or “Yes, in part”, States are invited, on a voluntary basis, to provide additional information on the destruction method(s) applied by their country to illicitly manufactured or trafficked firearms, their parts and components and ammunition:

[ ]  Burning

[ ]  Cement

[ ]  Cutting

[ ]  Deep sea dumping

[ ]  Shredding

[ ]  Detonation

[ ]  Smelting and recycling

[ ]  Other

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1. Does your country keep records of the destroyed firearms, their parts and components and ammunition?

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

* + 1. If the answer is “Yes” or “Yes, in part”, please provide information on the number and type of firearms, their parts and components and ammunition that have been destroyed in the last three years and by which method. Please provide figures for each year.

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1. If the answer to question 86 is “No” or “Yes, in part”, please explain what other measures your country has taken to prevent confiscated firearms, their parts and components and ammunition from being diverted or falling into the hands of unauthorized persons (article 6 para. 2 ).

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* 1. If the answer to question 85 is “Yes” or “Yes, in part”, please specify [, on a voluntary basis, (Japan)] what disposal method(s), other than destruction**,** are officially authorized by your country’s legal framework, for confiscated firearms, their parts and components and ammunition. Please explain, if possible, also what their respective legal requirement(s) are (article 6 para. 2 ):

[ ]  Assigned to national institution(s) (e.g. police forces, customs, military, etc.)

[ ]  Assigned to public official(s) that are allowed under national legislation to carry a firearm for their personal security

[ ]  Sale, donation or transfer to another country

[ ]  Sale or transfer for permanent civilian use

[ ]  Other

* + 1. Please provide details.

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1. [If other methods of disposal for confiscated firearms, their parts and components, and ammunition are applied, are these subject to any of the below requirements? (article 6, para. 2)] (REPHRASE: Japan)

[ ]  The method of disposal has been officially authorized

[ ]  The confiscated firearms have been marked

[ ]  The marking and the method of disposal of those firearms and ammunition have been recorded

* + 1. Please provide details and examples of the successful implementation of these measure(s), including where possible pictures of the marking applied to those firearms.

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**Article 12 – Information**

* 1. Consistent with your country’s legal framework, has your country adopted measure(s) to exchange information with other States or Organizations to implement the provisions set forth in article 12?

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

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

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1. If the answer is “Yes” or “Yes, in part”, does this exchange include relevant information on matters like:
	* 1. Case-specific information on authorized producers, dealers, importers, exporters, carriers of firearms, their parts and components and ammunition (article 12, para. 1);

[ ]  Yes [ ]  No

* + 1. Organized criminal groups known to take part or suspected of taking part in the illicit manufacturing of or trafficking in firearms, their parts and components and ammunition (article 12, para. 2 (a));

[ ]  Yes [ ]  No

* + 1. The means of concealment used in the illicit manufacturing of or trafficking in firearms, their parts and components and ammunition, and ways of detecting them (article 12, para. 2 (b));

[ ]  Yes [ ]  No

* + 1. Methods and means, points of dispatch and destination and routes customarily used by organized criminal groups engaged in illicit trafficking in firearms, their parts and components and ammunition (article 12, para. 2 (c));

[ ]  Yes [ ]  No

* + 1. Legislative experiences and practices and measures to prevent, combat and eradicate the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition (article 12, para. 2 (d)).

[ ]  Yes [ ]  No

1. Please list and describe the most relevant and successful measures and good practices adopted by your country to support the information exchange with regard to the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition.

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1. Please cite the applicable policy or policies, law(s) and regulations, arrangements and/or other measure(s). Please describe your experience, lessons learned and provide some examples of successful implementation of effective information-exchange practices.

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* 1. Has your country shared with other parties or organizations relevant scientific and technological information useful to law enforcement authorities for enhancing each other’s abilities to prevent, detect and investigate the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition and to prosecute the persons involved in those illicit activities (article 12, para. 3)?

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

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

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1. If the answer is “Yes” or “Yes, in part”, please provide details, describe the measures and provide examples and cases of their successful implementation.

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* 1. Does your country conduct check against national and international records of firearms, their parts and components and ammunition that have been seized, found or recovered, and that are suspected or may have been illicitly manufactured or trafficked?

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

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

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1. If the answer is “Yes” or “Yes, in part”, please indicate the competent authority(ies) and the legal requirements and procedure(s) that apply in your country for domestic and international tracing and give examples of its application.

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1. Does your country maintain records of:

[ ]  Incoming tracing requests

[ ]  Outgoing tracing requests

* + 1. Please provide details.

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1. States are invited to provide examples of successful tracing and describe lessons learned, including challenges and difficulties encountered in tracing, and assess the effectiveness of their domestic and international tracing practices.

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1. States are invited[, on a voluntary basis, (US; Not needed: Mexico, EU)] to provide additional information on the number and type of traced firearms, their parts and components and ammunition in your own country, and in other countries, in the past three years. If available, please provide figures for each year.

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* 1. Has your country adopted measure(s) and arrangements to enable it to receive and send requests for international cooperation for the purpose of tracing firearms, their parts and components and ammunition that may have been illicitly manufactured or trafficked (article 18 para. 3 (g) of the Organized Crime Convention and article 12 para. 4 )?

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

1. If the answer is “Yes” or “Yes, in part”, please cite the applicable policy(ies), law(s) and regulations and/or other measure(s) adopted to provide for such cooperation and provide examples of its successful implementation.

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1. Has your country adopted measures to ensure the provision of prompt responses to requests for assistance in tracing firearms, their parts and components and ammunition that may have been illicitly manufactured or trafficked? (article 12 para. 4 )?

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

* + 1. If the answer is “Yes” or “Yes, in part”, please cite the applicable policy(ies), law(s) and regulations and/or other measure(s) and provide examples of its successful implementation.

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1. Has your country taken measures to guarantee the confidentiality of the information received from another States Party, or to comply with any restrictions on the use of such information, when requested by the State that provided this information, in accordance with article 12 para. 5 ?

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

* + 1. If the answer is “Yes” or “Yes, in part”, please cite the relevant policy(ies), law(s) and regulations and/or measure(s).

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* + 1. If answer is “No”, please explain.

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* + 1. States are invited to provide additional information[, on a voluntary basis, (US; Not needed: Mexico, EU)] on how many requests for assistance for the purpose of tracing of firearms, parts and components and ammunition has their country received in the past three years, and how many requests has their country submitted to other countries in the past three years?

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* + 1. If possible, please inform also about the countries with which your country had most active or passive tracing cooperation over the past five years. Please describe also the channels of cooperation utilized.

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**Article 13 – Cooperation**

* 1. Has your country designated a national body or a single point of contact pursuant to article 13, para. 2 of the Firearms Protocol, to act as liaison between your country and other States Parties on matters relating to this Protocol?

[ ]  Yes [ ]  No

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

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1. If the answer is “Yes”, please provide any available information related to the name, function and address of such designated national body or point of contact.

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* 1. Has your country adopted measure(s) or entered into any bilateral, regional and international arrangement for cooperation to prevent, combat and eradicate the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition (article 13, para. 1)?

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

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

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1. If the answer is “Yes” or “Yes, in part”, please describe those measures and arrangements, and cite the applicable policy or policies, law(s) and regulations and/or other measure(s). Please mention if your country is part of a regional organisation with common measures for import export and transit licensing procedures, based on a customs union and an area without internal frontiers in which the free movement of goods is ensured.

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* 1. In addition to the cooperation against the removal of firearms marking envisaged in article 8 para. 2 of the Firearms Protocol, has your country established mechanisms or other measures to seek and benefit from the support and the cooperation of manufacturers, dealers, importers, exporters, rokers and commercial carriers of firearms, their parts and components and ammunition, to prevent, combat and eradicate illicit manufacturing and trafficking (article 13, para. 1 and 3)?

[ ]  Yes [ ]  No

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

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1. If the answer is “Yes”, please describe the type of cooperation that your country has established with any of the actors mentioned above, and cite the applicable policy or policies, law(s) and regulations and/or other measure(s).

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**CLUSTER IV - 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 and record-keeping

[ ]  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. Proceeds of crime shall mean any property derived from or obtained, directly or indirectly, through the commission of those offences. [↑](#footnote-ref-2)
2. The answer to this question should be considered in conjunction with the answer of the relevant questions on article 18 (mutual legal assistance). [↑](#footnote-ref-3)
3. The answer to this question should be considered in conjunction with the answer of the relevant questions on article 18 (mutual legal assistance). [↑](#footnote-ref-4)
4. Countries are invited to upload relevant agreement or arrangements to SHERLOC. [↑](#footnote-ref-5)
5. The answer to this question should be considered in conjunction with the answer of the relevant questions on measures against the smuggling of migrants by sea in questions 12 and 13. [↑](#footnote-ref-6)
6. According to article 2 of the Organized Crime Convention:

(f) “Freezing” or “seizure” shall mean temporarily prohibiting the transfer, conversion, disposition or movement of property or temporarily assuming custody or control of property on the basis of an order issued by a court or other competent authority;

(g) “Confiscation”, which includes forfeiture where applicable, shall mean the permanent deprivation of property by order of a court or other competent authority. [↑](#footnote-ref-7)