Rolling text containing a draft self-assessment questionnaire for the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, reflecting the discussions held during the third day of the first session of the Intergovernmental expert group established in accordance with Conference resolution 9/1

 *Status: 19 February 2020 15:00 P.M.*

 Draft text by the Chair

1. Is trafficking in persons, when committed intentionally, criminalized under your country’s domestic legislation (art. 5, para. 1, in conjunction with art. 3, of the Protocol)?

[ ]  Yes [ ]  No

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

[agreed]

2. If the answer to question 1 is “No”, please specify how trafficking in persons is treated in your domestic legislation.

[agreed]

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

[ ]  Yes [ ]  No

Please explain:

[agreed]

4. If the answer to question 1 is “Yes” are the following actions of trafficking in persons criminalized in your country:

 (a) Recruitment;

[ ]  Yes [ ]  No

 (b) Transportation;

[ ]  Yes [ ]  No

 (c) Transfer;

[ ]  Yes [ ]  No

 (d) Harbouring; and/or

[ ]  Yes [ ]  No

 (e) Receipt of persons?

[ ]  Yes [ ]  No

 (f) Other:

Please provide further details, if needed:

[agreed]

5. If the answer to question 1 is “Yes”, do the means of trafficking in persons consist of:

 (a) Threat or use of force or other forms of coercion;

[ ]  Yes [ ]  No

 (b) Abduction;

[ ]  Yes [ ]  No

 (c) Fraud;

[ ]  Yes [ ]  No

 (d) Deception;

[ ]  Yes [ ]  No

 (e) Abuse of power;

[ ]  Yes [ ]  No

 (f) Abuse of position of vulnerability; and/or

[ ]  Yes [ ]  No

 (g) The giving or receiving of payments or benefits to achieve the consent of a person having control over another person?

[ ]  Yes [ ]  No

1. Other:

Please provide further details, if needed:

[agreed]

6. If the answer to question 1 is “Yes”, does the purpose of exploitation include, at a minimum:

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

 [ ]  Yes [ ]  No

 (b) Forced labour or services;

[ ]  Yes [ ]  No

 (c) Slavery or practices similar to slavery;

[ ]  Yes [ ]  No

 (d) Servitude; and/or

[ ]  Yes [ ]  No

 (e) Removal of organs;

[ ]  Yes [ ]  No

 (f) Other (please specify)

Please provide further details, if needed:

[agreed]

7. Does your country ensure that when the means set forth in sub-paragraph 3 (a) have been established, the consent of the victim to the intended exploitation is irrelevant (in accordance with article 3 (b))?

[ ]  Yes [ ]  No

Please explain.

[agreed]

8. Does your country’s legal system 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 paragraph 3 (a) of the Protocol?

[ ]  Yes [ ]  No

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

[agreed]

9. Who is considered to be a “child” under your domestic legislation (art. 3, subpara. (d))?

 [ ]  “Child” means any person under 18 years of age (art. 3, subpara. (d))

[ ]  Other (please specify)

[agreed]

10. Subject to the basic concepts of your legal system, does your country criminalize attempting to commit trafficking in persons (art. 5, para. 2 (a), in conjunction with art. 3)?

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

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

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

[agreed]

11. Does your country criminalize participating as an accomplice in trafficking in persons (art. 5, para. 2 (b), in conjunction with art. 3)?

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

 (a) Please provide further details, if needed:

 (b) 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.

 [agreed]

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

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

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.

[agreed]

13. Under your country’s domestic law, are there measures to protect the privacy and identity of victims of trafficking in persons, in appropriate cases and to the extent possible (art. 6, para. 1)?

[ ]  Yes [ ]  No

If yes, please provide examples or links to published policy or guidance, including any specific measures under your legal system regarding identity, protection and assistance to victims of trafficking in persons, including, inter alia, making legal proceedings relating to such trafficking confidential.

[agreed]

14. Does your country’s legal or administrative system contain measures to provide victims of trafficking in persons, in appropriate, cases, with the following:

 (a) information on relevant court and administrative proceedings;

[ ]  Yes [ ]  No

1. assistance to enable their views and concerns to be presented and considered at appropriate stage of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defence (art. 6, para. 2)?

[ ]  Yes [ ]  No

Please provide further details on such measures, if needed:

[agreed]

15. Has your country taken any of the following measures to provide for the physical, psychological and social recovery of victims of trafficking in persons as addressed in art. 6, para. 3,

(a) Appropriate housing for victims of trafficking in persons? (art. 6, para. 3 (a)); and/or

[ ]  Yes [ ]  No

(b) Counselling and information in a language that they can understand, in particular with respect to their legal rights? (art. 6, para. 3 (b)); and/or

[ ]  Yes [ ]  No

(c) Medical, psychological and material assistance? (art. 6, para. 3 (c)); and/or

[ ]  Yes [ ]  No

(d) Employment, educational and training opportunities? (art. 6, para. 3 (d));

[ ]  Yes [ ]  No

If the answer to any of the subsections of question 15 is “Yes”, please provide information on such measures, if needed:

[agreed]

 If the answer to any of the subsections of question 15 is “Yes”, States parties are invited, on a voluntary basis to specify and provide information on cooperation with non-governmental or other relevant organizations and other elements of civil society, in appropriate cases, in the provision of the relevant measures (art. 6, para. 3).

[agreed]

17. In implementing protective measures for victims of trafficking in persons, does your country take into account the age, gender and special needs of such victims, in particular the special needs of children, including appropriate housing, education and care (art. 6, para. 4)?

[ ]  Yes [ ]  No

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

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

[agreed]

18. Has your country taken any measures to provide for the physical safety of victims of trafficking in persons while they are within its territory (art. 6, para. 5)?

[ ]  Yes [ ]  No

If the answer is “Yes”, please specify.

[agreed]

19. Does your country’s domestic legal system contain measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered (art. 6, para. 6)?

[ ]  Yes [ ]  No

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

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

 [agreed]20. Has your country adopted legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory temporarily or permanently, in appropriate cases, while giving appropriate consideration to humanitarian and compassionate factors when implementing article 7, para 1?

[ ]  Yes [ ]  No

Please elaborate:

[agreed]

20bis. 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 (art. 8,para. 1)?

[ ]  Yes [ ]  No

Please elaborate:

[agreed]20ter. 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 (art. 8, para. 3)?

[ ]  Yes [ ]  No

Please elaborate:

[agreed]

20quater. 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?

[ ]  Yes [ ]  No

Please elaborate:

[agreed]

20 quinquies. 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 (art. 8, para. 4)

[ ]  Yes [ ]  No

Please elaborate:

[agreed]

22. 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)

[agreed]

23. Has your country established comprehensive policies, programmes and other measures to prevent and combat trafficking in persons (art. 9, para. 1 (a))?

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

If the answer is “Yes” or “Yes, in part”, please cite the relevant law or policy or provide links to published policy or guidance.

[agreed]

24. Has your country established comprehensive policies, programmes and other measures to protect victims of trafficking in persons, especially women and children, from revictimization (art. 9, para. 1 (b))?

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

If the answer is “Yes” or “Yes, in part”, please cite the relevant law or policy or provide links to published policy or guidance.

(agreed)

25. Has your country undertaken measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons (art. 9, para. 2)?

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

If the answer is “Yes” or “Yes, in part”, please cite the relevant law or policy or provide links to published policy or guidance

(agreed)

26. Do the policies, programmes and other measures undertaken by your country include cooperation with non-governmental organizations, other relevant organizations and other elements of civil society (art. 9, para. 3)?

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

If the answer is “Yes” or “Yes, in part”, please cite the relevant law or policy or provide links to published policy or guidance.

(approved)

27. Has your country taken or strengthened measures, including though bilateral or multilateral cooperation to alleviate the factors that make persons, especially women and children, vulnerable to trafficking in persons, such as poverty, underdevelopment and lack of equal opportunity (art. 9, para. 4)?

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

If the answer is “Yes” or “Yes, in part”, please explain

(agreed)

28. Has your country adopted or strengthened legislative or other measures such as educational, social or cultural measures including, through bilateral or multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking in persons (art. 9, para. 5)?

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

If the answer is “Yes” or “Yes, in part”, please cite the relevant law or policy or provide links to published policy or guidance.

[agreed]

[29. [move to the end]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 [agreed subject to re-positioning (replace q. 29 and 52)]

30. 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 (art. 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 (art. 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 (art. 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 (art. 10, para. 1 (c))

Please provide details.

[preliminary agreed]

[deletion provisionally agreed]

32. 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: (art. 10 para 2)

[ ]  Law enforcement

[ ]  Immigration authorities

[ ]  Other relevant officials (please specify)

[provisionally agreed]

33. Does the training referenced in question 31 above also take into account the need to consider human rights, child sensitive issues and gender sensitive issues (art. 10 para 2)?

[ ]  Yes [ ]  No

(provisionally agreed in informals)

34. Does the training referred to in question 31 above encourage cooperation with non-governmental organizations, other relevant organizations and other elements of civil society (art. 10 para 2)

[ ]  Yes [ ]  No

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

(provisionally agreed in informals)

35.

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

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

Please briefly explain:

(provisionally agreed)

37. Has your country strengthened border controls to prevent and detect trafficking in persons (art. 11, para. 1)?

[ ]  Yes [ ]  No

If the answer is “Yes”, please summarize the measures and cite the relevant law or policy or provide links to published policy or guidance.

(provisionally agreed)

38. Has your country adopted legislative or other measures to prevent the means of transport operated by commercial carriers from being used in the commission of offences established in accordance with article 5 of the Protocol (art. 11, para. 2)?

[ ]  Yes [ ]  No

If the answer is “Yes”, please summarize the measures and cite the relevant law or policy or provide links to published policy or guidance

(provisionally agreed)

39. Do the measures referred to in question 38 include establishing the obligation of commercial carriers, including any transportation company or the owner or operator of any means of transport, to ascertain that all passengers are in possession of travel documents required for entry into the receiving State (art. 11, para. 3)?

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

If the answer is “Yes” or “Yes, in part”, please summarize the measures and cite the relevant law or policy.

(provisionally agreed)

40. Has your country taken the necessary measures, in accordance with domestic law, to provide for sanctions in cases of violation of the obligations set forth in article 11 para. 3 (art. 11 para. 4)?

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

If the answer is “Yes” or “Yes, in part”, please summarize the measures and cite the relevant law or policy.

(provisionally agreed)

41. Has your country taken measures that permit, in accordance with domestic law, the denial of entry or revocation of visas of persons implicated in the commission of offences established in accordance with the Protocol (art. 11, para. 5)?

[ ]  Yes [ ]  No

If the answer is “Yes”, please summarize the measures and cite the relevant law or policy or provide links to published policy or guidance.

(provisionally agreed)

42. Has your country taken measures to strengthen cooperation between your border control agencies and those of other States parties , such as by establishing and maintaining direct channels of communication (art. 11, para. 6)?

[ ]  Yes [ ]  No

If the answer is “Yes”, please summarize the measures and cite the relevant law or policy.

(provisionally agreed)

43. Has your country taken measures to ensure that travel or identity documents issued by it are of such quality that they cannot be easily misused and readily falsified or unlawfully altered, replicated or issued (art. 12, subpara. (a))?

[ ]  Yes [ ]  No

If the answer is “Yes”, please summarize the measures or provide links to published policy or guidance.

(provisionally agreed)

44. Has your country taken measures to ensure the integrity and security of travel or identity documents issued by or on behalf of your country and to prevent their unlawful creation, issuance and use (art. 12, subpara. (b))?

[ ]  Yes [ ]  No

If the answer is “Yes”, please summarize the measures or provide links to published policy or guidance.

(provisionally agreed)

45. Has your country taken measures to ensure that requests from another State party to verify the legitimacy and validity of travel or identity documents issued or purported to have been issued in its name and suspected of having been used for trafficking in persons, in accordance with your domestic law, are responded to within a reasonable time (art. 13)?

[ ]  Yes [ ]  No

If the answer is “Yes”, please summarize the measures or provide links to published policy or guidance.

(provisionally agreed)

46. Does your country encounter difficulties in implementing the provisions of the Trafficking in Persons Protocol?

[ ]  Yes [ ]  No

If the answer is “Yes”, please explain.

(provisionally agreed)

[47. States parties are invited to indicate if they have a designated focal point/coordinator for the purposes of the implementation of the trafficking in persons Protocol? [delete, Russia][retain, USA, Japan, Guatemala]

[ ]  Yes [ ]  No

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

[48. States parties are invited to explain their internal coordination mechanisms between government departments on implementation?

Please explain. [delete (Russia) retain (USA)]

[49. States parties are invited to indicate if they have a national action plan or strategy to combat trafficking in persons? (remove, Russia)

[ ]  Yes [ ]  No

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

50. If domestic legislation has not been adapted to the requirements of the Protocol, please specify what steps remain to be taken.

[provisionally agreed]

51. (Chair) [States are invited to share, on a voluntary basis, examples of their experiences and challenges in promoting cooperation to prevent and combat trafficking in persons and to protect and assist vulnerable persons and victims of such trafficking, with particular attention to facilitating the referral of potential cases of trafficking to competent authorities]

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

[ ]  Yes [ ]  No

If 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

Please be specific.

[ ]  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)

(provisionally agreed)

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

(provisionally agreed)