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## VISITING EXPERTS' PAPERS

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### THE GLOBAL CHALLENGE OF HUMAN TRAFFICKING & SMUGGLING

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#### I. BACKGROUND

Cross-border migration of people has been continuously on the rise, and its proper management is one of the greatest challenges of this century. Conservative estimates suggest that about 160 million people were living outside their country of birth in year 2000, compared to 120 million in 1990. However, cross-border migrants (people living outside their country of origin) as a proportion of world population have not changed much, increasing from 2.2% in 1965 to 2.8% in 2000.

Although this shows that more than 97% of the people prefer to stay in their home country, the increasingly large number of international migrants itself is becoming a management challenge for most governments. While more than half of the international migrants (55%) remain within the same geographical region as their country of origin, about 45% are absorbed by a small number of developed countries. The trends also show that migrants mainly remain in neighboring countries, or in the same region. For instance, labor migration from Asian countries, with the exception of China, from 1975 to 1994 reveals that less than 10% of the migrants actually went outside the Asian continent (IOM, 2000, p.6).

Asia has the largest number of international migrants, followed by European and North American regions. The countries in Africa, Latin America and Oceania have relatively lesser numbers of migrants. Five major developed countries actually give permanent residence status to about 1.2 million immigrants annually. The United States officially admits about 800,000 immigrants a year, Canada 200,000, Australia 75,000, Israel 65,000 and New Zealand 35,000 (Martin and Widgren, 20002, p.4). The East and South East Asia region plays host to some of the largest cross-border people movements in the world, much of which is irregular in nature.

Normally, the decision to leave one's country to settle or work in another country is a difficult one. People generally move for either economic or non-economic reasons. In the economic reasons are included the demand-pull and supply-push factors, the former relating to the destination country and the latter to the country of origin. In addition, the economic migration is facilitated by community networks that exist both in the destination country and the country of origin. Non-economic factors include family unification and conditions threatening the safety and lives of people in the origin countries.

#### A. Demographic Change and Migration

Profound demographic changes are taking place all over the world that stimulate international migration. Fertility rates are declining, but many developing countries continue to experience high population growth. In developed countries, on the other hand, fertility rates have declined so much that trends for decline in total population are becoming obvious. This evidently has implications for labour shortages in developed countries. The United Nations has pointed towards the trend of aging, where especially countries experiencing significant decline in population growth rate would move towards having an increasing share of population aged 60 years and above. Worldwide, the population in this age group is projected to increase from 600 million in late 1990s to around 2 billion in 2050 (United Nations, 2001). This would mean that for the first time in history there would be more old people in the world population compared to children. In general, countries in the west are more likely to have older populations while countries in the east would still have younger populations. In all likelihood,

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therefore, such drastic demographic developments would lead to migration between countries on an increased scale.

The current demographic trends in both Europe and Asia suggest that in all likelihood, Africa will be a major source of migrants during the current century. In fact, there are already a significant number of African migrants present in Europe mainly due to the historic links and geographical proximity, which explain the predominant presence of Algerians in France and of Moroccans in Mediterranean Europe. The historic ties and community networks would be mainly instrumental in channeling further immigrants from Africa to Europe in the next few decades, particularly during 2020-2050 when the demand for migrant workers in Europe is likely to rise sharply (Feld, 2000). According to the Council of Europe, at the beginning of 2000, there were about 21 million “foreigners” (people living outside their country of origin holding a foreign passport) living in Europe including 12.9 million from European countries, 3.4 million from African countries and 1.5 million from Asian countries. The biggest non-European communities were Moroccan (1.2 million), Algerian (670,000) and American (360,000) (Council of Europe, 2000). This number would increase significantly with the inclusion of immigrants who have acquired the nationality of their country of residence.

### **B. Feminization of International Migration**

According to recent estimates, men constitute 52.5% of the international migrants, women being 47.5%. The proportion of women migrants is 50% in developed countries and 46% in developing countries. The lowest proportion of female migrants is found in the Middle East. There has, however, been increasing feminization of migration in recent times with more female migrants working as principle wage earners. According to an estimate, about 1.5 million Asian women were employed overseas in the mid 1990's. As women gain greater access to education in developing countries and their share of the labour market increases, there will be a decline in fertility. But this would also mean more women becoming part of the migration flows, not as dependents of male bread-earners-that traditionally has been the dominant trend, but as migrant workers. For example, the proportion of female migrant workers in the total number of migrant workers from Sri Lanka abroad rose from 33% in 1986 to 65% in 1999. In 2000, the proportion of women among migrant workers from Philippines was 70% (Omelaniuk, 2002).

### **C. Voluntary and Forced Migration**

International migration could be classified in to two categories: voluntary migration and forced migration. The voluntary migration consists of people crossing their national borders in search of employment or for studies, and family reunification or other personal reasons. The forced migration is characterized by people escaping persecution, conflict, natural or created disasters, ecological or environmental degradation and other situations endangering their lives, security, freedom or livelihood. Also included in the forced migration are the trafficking of persons and human smuggling. Although in some cases it is difficult to distinguish between the two types of migration, the categorization is important as international instruments and national laws have different provisions to deal with each of these types of migration.

The voluntary migration consists of both regular and irregular migrants. In the case of labour migration, for instance, many labour receiving and labour sending countries have established systems and procedures to guide and manage the migration process. Other countries experiencing migration lack such systems. But even in cases where such systems are enforced the regular migration is often accompanied by irregular or unauthorized migration. Until recently, for instance, Malaysia housed an estimated 800,000 to one million irregular migrants, mainly from Indonesia and the Philippines. There are between 1-1.5 million irregular migrants in Thailand, mainly from Myanmar (80%), Lao PDR (10%) and Cambodia (10%).

## **II. IRREGULAR MIGRATION : TRAFFICKING AND SMUGGLING OF HUMANS**

Two particularly repugnant forms of irregular migration are human smuggling and trafficking in persons. It is important to distinguish between the two forms, as they have different consequences from the point of view of the laws of destination as well as transition and source countries and, therefore, for the migrants involved themselves. In simple terms, smuggling involves taking migrants to the

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promised destination for earning profits, and trafficking includes the same operation as smuggling but is accompanied by subjecting the victims to slavery-like conditions and/or forced prostitution.

Irregular migration, particularly of labour, creates and reinforces the conditions conducive especially to human smuggling<sup>1</sup>. The presence of demand factors and the absence or inadequacy of the systems for regular/legal migration in destination countries lead to the adoption of irregular channels. As migrants themselves are generally not in a position to thwart the border control arrangements, a role for third parties having this capacity is thus created. As smuggling operations generally involve crossing more than one border, the groups that undertake such operations tend to be highly organized. The migrants are charged sizeable sums depending on the destination country and the route involved. The instances of human smuggling have been growing recently, directed mainly towards Europe, Australia, the Middle East and the United States. Migrants are smuggled across borders in sealed containers and fragile boats, and in many instances lose their life due to the excessive risks involved.

### III. THE MAGNITUDE OF THE TRAFFICKING PROBLEM

The trafficking in persons<sup>2</sup> mainly involves young women, girls and children who are smuggled across borders and made to work under extremely exploitative conditions. Due to the secretive nature of the trafficking phenomenon, it is extremely difficult to provide accurate estimates of the stock and flows anywhere in the world. The Trafficking in Persons Report (TIP Report) released by the United States government in June 2002 estimates the number of persons trafficked in 2001 as between 700,000 to 4 million. This of course is a very broad range, and underlines the extreme difficulties in estimating the number of victims with any accuracy, given the hidden nature of the criminal operations involved. Other global estimates of the number of victims trafficked annually range from approximately one to four million. According to the International Organization for Migration, the number of victims trafficked both internally and across national borders in 1997 was four million. The United States government also estimates that about 50,000 women and children are trafficked annually for sexual exploitation into the United States, which is also used as a transit country by the traffickers.

It is estimated that around 300,000 trafficked women, mostly from East European and African countries, are currently working as prostitutes in Western Europe alone. These women are promised jobs as waitresses etc. but are forced into prostitution once they arrive in Western Europe. They are also deprived of their passports and other documents and are continuously harassed by the traffickers (Boudreaux, 2001, quoted in Martin and Widgren, 2002).

Estimates suggest that nearly one-third of the global trafficking trade, or about 200,000-225,000 women and children, are trafficked annually from South-East Asia. However, most of this trafficking occurs within the region itself, about 60%, to major regional cities while 40% takes place to the rest of the world. Of the 50,000 women and children estimated to be trafficked annually to the United States, approximately 60 per cent originate from South-East Asia, making this region the most important source region in the world for victims of trafficking to the United States.

### IV. MAIN CAUSES OF TRAFFICKING

Countries having economically and socially vulnerable communities are greatly susceptible to traffickers. High incidence of poverty and unemployment and an absence of economic opportunities provide traffickers ideal opportunity to lure the people with promises of employment and higher wages

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<sup>1</sup> The United Nations Convention Against Transnational Organized Crime defines human smuggling as: "the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident".

<sup>2</sup> The United Nations Convention Against Transnational Organized Crime defines human trafficking as: "the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or the use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power of position or of a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs".

in more prosperous countries. In addition, people running away from civil unrest, internal armed conflict, and natural disasters fall prey to these organized criminal groups. Some social or cultural practices that assign a low social status of women and girls also contribute to their vulnerability and make them susceptible to trafficking.

Besides these push factors, strong pull factors including demands for commercial sex and cheap labour operate in destination countries. These factors are exploited by traffickers for large profits. It is estimated that the trafficking and smuggling operations generate profits of about US\$ 7 billion annually for these organized groups. Unlike the trafficking of drugs, this business in humans is less risky as in many countries penalties for this crime are rather mild. In addition, corruption among law enforcement officials in many countries helps the traffickers to operate without much difficulty.

## **V. DIMENSIONS OF TRAFFICKING**

Trafficking in persons is a multi-dimensional issue. Significantly, it is a migration, labour, criminal, health and human rights issue and, therefore, needs to be addressed at all these fronts. The transnational character of trafficking also means that origin, transit and destination countries must work together to effectively deal with this issue.

### **A. Trafficking as a Migration Issue**

The destination countries usually view the issue of trafficking as the one associated with irregular/illegal migration. The trafficked victims are treated as illegal migrants that should be quickly deported. Measures adopted by states include visa restrictions and stricter border controls, and even increased restrictions on foreigners within the country. Victims of trafficking are thus criminalized and the state is viewed as the victim, in need to protect itself against such national security threats as illegal migration.

The origin countries pay little attention to the fate of their citizens working in other countries, and to make the vulnerable communities aware of possible exploitation by organized criminal groups.

### **B. Trafficking as a Labour Issue**

It is seen that lack of employment opportunities and hard working conditions in origin countries can drive people, especially women, to seek work in foreign countries, thereby becoming vulnerable to traffickers. In destination countries, trafficked victims, including children, are made to work under hard and exploitative conditions and subjected to forced sex work, domestic work and organized begging. Issues relating to child and forced labour are relevant here.

### **C. Trafficking as a Criminal Issue**

Trafficking as a criminal problem has especially been emphasized due to the involvement of transnational organized crime that not only abuses and exploits persons, but also undermines national and international laws and structures. The role of criminal justice system and criminal law, in the fight against trafficking, is central here. This entails legislative reforms involving higher penalties and more stringent laws, training of law enforcement officials, and establishing and strengthening interagency, regional and international cooperation for the fight against international organized crime.

The effectiveness of a criminal system, however, critically depends on the extent of law enforcement. Due to corruption the enforcement remains weak and the criminal system becomes ineffective at combating trafficking. Besides, where women are themselves criminalized as illegal migrants or as workers in, for example, prostitution, they have no incentive to report abuse to the police as they then may face arrest and expulsion. This problem though has been partly addressed by introducing clauses in the criminal law relating to victim assistance and witness protection.

### **D. Trafficking as a Human Rights Issue**

Women and children, who are the main victims of trafficking, are amongst those who most need their human rights protected and promoted. By defining trafficking as a violation of human rights, states, as the protectors of human rights in their territory and of their citizens, are held responsible for

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the fight against trafficking. This entails a legal obligation of governments to work towards eliminating trafficking.

## VI. INTERNATIONAL EFFORTS

The enormous scale of trafficking around the globe requires cooperative efforts to solve this problem and bring relief to its many victims. These efforts need cooperation at bilateral and multilateral levels among various governments, and also between governments and civil society, including NGOs. It requires coordination between the relevant government agencies, as well as coordination at a local level. Destination countries must work with transit and source countries not only to prevent trafficking but also to help with the reintegration of trafficking victims back into their home societies.

Many international instruments are now available to deal with numerous issues relating to trafficking through international cooperation. These include the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, which supplements the UN Convention against Transnational Organized Crime and was adopted by the UN General Assembly in November 2000. Governments that sign and ratify this Protocol make a commitment to criminalize trafficking, protect its many victims, and prevent future trafficking. To date, 105 countries have signed the Protocol.

Two other international instruments including International Labor Organization (ILO) Convention 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, and the Protocol to the Convention on the Rights of the Child on Sale of Children, Child Prostitution and Child Pornography, address the sale of and trafficking in children. The ILO Convention 182 requires that countries take steps to protect children from the worst forms of child labor, such as prostitution and pornography, and facilitate their access to free basic education.

Some countries have also introduced minimum standards for cooperation with other countries to combat trafficking in persons. The United States promulgated such an Act in 2000, which is also linked to the bilateral cooperation and assistance. The minimum standards and associated regulations under the Act are given in Appendix A.

### A. Regional Cooperation

A number of initiatives exist at the regional level that support efforts at forging regional cooperation in dealing with various migration issues, including irregular migration of which human smuggling and trafficking in persons are sub-sets. The main course adopted is to facilitate regional dialogue processes that have the potential to lead to bilateral or multilateral agreements on migration management. These regional consultative processes thus complement the deliberations of more formal and institutionalized bodies including the United Nations and European Union, and regional bodies such as the ASEAN and SAARC.

Some of the main regional dialogue processes include the following:

1. **Bangkok Declaration on Irregular Migration:** This declaration was adopted by a ministerial conference of 18 countries, held in Bangkok in April 1999, entitled "International Symposium on Migration: Towards Regional Cooperation on Irregular/Undocumented Migration". The participants called for multilateral efforts to combat irregular migration including trafficking in persons, and to strengthen the national capacities and systems for regular migration. The IOM Regional Mission in Bangkok is entrusted with the follow-up of the Declaration.
2. **Dakar Declaration:** The Declaration was adopted by the West African Ministerial Meeting on the Participation of Migrants in Development, held in October 2000. Twenty-three countries participated in the meeting. A follow-up process has since been put in place. The Declaration mainly spells out measures for the protection of migrants and improving benefits of migration for the origin countries, through the use of remittances and insertion of highly skilled migrants into the economies of their home countries.

3. **North-South Cooperation on Migration and Development (5+5 Dialogue):** A dialogue was started in 1990, involving 5 countries each of the Arab region and Western Europe, for identifying and implementing measures to maximize development benefits to the origin countries.
4. **Puebla Process:** The Regional Conference on Migration was held in 1996 in Mexico, involving 11 countries of the Latin American region. The conference agreed on measures to deal with migration issues in the region including irregular migration, human rights of migrants, trafficking in persons, and migration and development, and technical cooperation between states to improve management of these issues. The states agreed on a Plan of Action in 1997, which was reviewed and revised in 2000. The Process has been working well with most of the goals included in the Plan of Action being achieved.
5. **Lima Declaration:** A meeting of 11 South American states on Migration, Integration and Development was held in July 1999, leading to the Lima Declaration. The delegates agreed to undertake systematic efforts towards monitoring and analyzing migration issues in the region, in order to find solutions and implement measures that are consistent with the interests of the countries concerned.
6. **Inter-governmental Consultations on Asylum, Refugees and Migration Policies in Europe, North America and Australia (IGC):** This is an informal consultative process involving 16 countries and 3 concerned bodies including IOM, UNHCR and the European Union. Created in 1985, the main issues discussed under this process are policy responses to the growing number of asylum seekers and to improve asylum application procedures including minimizing its abuse, and addressing the problem of population displacement. IGC has a permanent Secretariat that was established in 1990.
7. **Inter-governmental Asia-Pacific Consultations on Refugees, Displaced Persons and Migrants (APC):** This is another informal consultation process involving 31 countries of the Asia-Pacific region, as well as IOM and UNHCR. Established in 1996, the main purpose of the consultations is to highlight and develop understanding of issues relating to migrants, refugees and displaced persons.
8. **Bali Process:** A Ministerial conference on People Smuggling, Trafficking in Persons and Related Transnational Crime held in Bali in February 2002, brought together some 53 countries (38 participant countries and 15 observers) and 14 International Agencies to discuss the need for a multi-lateral approach to address transnational crime. The meeting was jointly sponsored by Indonesia and Australia. The Conference identified specific areas for intervention and established two ad-hoc Working Groups to follow-up its recommendations. These Working Groups are led by Thailand and New Zealand, focusing on policy, legislation and law enforcement issues, and on information sharing, secondary movements and regional processes, respectively. The overall goal of these Working Groups is to yield concrete results in the respective areas, involving the introduction of specific measures nationally and regionally to effectively address the issues of people smuggling and trafficking in persons. One of the Working Groups has been instrumental in developing minimum standards for legislative reforms to combat trafficking and smuggling, as given in Appendix B, against which the state of current national legislation will be assessed by various governments involved in the process.

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**APPENDIX A**

**MINIMUM STANDARDS UNDER THE UNITED STATES GOVERNMENT  
TRAFFICKING VICTIMS PROTECTION ACT  
(DIVISION A OF PUBLIC LAW 106-386)**

The Act defines “minimum standards for the elimination of trafficking”, which are summarized as follows:

- 1) The government should prohibit trafficking and punish acts of trafficking.
- 2) The government should prescribe punishment commensurate with that for grave crimes, such as forcible sexual assault, for the knowing commission of trafficking in some of its most reprehensible forms (trafficking for sexual purposes, trafficking involving rape or kidnapping, or trafficking that causes a death).
- 3) For knowing commission of any act of trafficking, the government should prescribe punishment that is sufficiently stringent to deter, and that adequately reflects the offense’s heinous nature.
- 4) The government should make serious and sustained efforts to eliminate trafficking.

The Act also sets out seven criteria that “should be considered” as indicia of the fourth point above, “serious and sustained efforts to eliminate trafficking.” Summarized, they are:

- 1) Whether the government vigorously investigates and prosecutes acts of trafficking within its territory.
- 2) Whether the government protects victims of trafficking, encourages victims’ assistance in investigation and prosecution, provides victims with legal alternatives to their removal to countries where they would face retribution or hardship, and ensures that victims are not inappropriately penalized solely for unlawful acts as a direct result of being trafficked.
- 3) Whether the government has adopted measures, such as public education, to prevent trafficking.
- 4) Whether the government cooperates with other governments in investigating and prosecuting trafficking.
- 5) Whether the government extradites persons charged with trafficking as it does with other serious crimes.
- 6) Whether the government monitors immigration and emigration patterns for evidence of trafficking, and whether law enforcement agencies respond appropriately to such evidence.
- 7) Whether the government vigorously investigates and prosecutes public officials who participate in or facilitate trafficking, and takes all appropriate measures against officials who condone trafficking.

The Act also states three factors that the Department is to consider in determining whether a country is making significant efforts to bring itself into compliance with these minimum standards. Summarized, these considerations are: 1) the extent of trafficking in the country; 2) the extent of governmental noncompliance with the minimum standards, particularly the extent to which government officials have participated in, facilitated, condoned, or are otherwise complicit in trafficking; and 3) what measures are reasonable to bring the government into compliance with the minimum standards in light of the government’s resources and capabilities.



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**The Tiers**

**Tier 1**

The governments of countries in Tier 1 fully comply with the Act's minimum standards. Such governments criminalize and have successfully prosecuted trafficking, and have provided a wide range of protective services to victims. Victims are not jailed or otherwise punished solely as a result of being trafficked, and they are not summarily returned to a country where they may face hardship as a result of being trafficked. In addition, these governments sponsor or coordinate prevention campaigns aimed at stemming the flow of trafficking.

**Tier 2**

The governments of countries in Tier 2 do not yet fully comply with the Act's minimum standards but are making significant efforts to bring themselves into compliance with those standards. Some are strong in the prosecution of traffickers, but provide little or no assistance to victims. Others work to assist victims and punish traffickers, but have not yet taken any significant steps to prevent trafficking. Some governments are only beginning to address trafficking, but nonetheless have already taken significant steps towards the eradication of trafficking.

**Tier 3**

The governments of countries in Tier 3 do not fully comply with the minimum standards and are not making significant efforts to bring themselves into compliance. Some of these governments refuse to acknowledge the trafficking problem within their territory. On a more positive note, several other governments in this category are beginning to take concrete steps to combat trafficking. While these steps do not yet reach the appropriate level of significance, many of these governments are on the path to placement on Tier 2.

**Penalties**

According to the Act, beginning with the 2003 report, countries in Tier 3 will be subject to certain sanctions, principally termination of non-humanitarian, non-trade-related assistance. Consistent with the Act, such countries would also face U.S. opposition to assistance (except for humanitarian, trade-related, and certain development-related assistance) from international financial institutions, specifically the International Monetary Fund and multilateral development banks such as the World Bank. All or part of the bilateral and multilateral assistance sanctions may be waived upon a determination by the President that the provision of such assistance to the country would promote the purposes of the Act or is otherwise in the national interest of the United States. The Act provides that the President shall waive those sanctions when necessary to avoid significant adverse effects on vulnerable populations, including women and children.

**APPENDIX B**

**PROPOSED ISSUES FOR CONSIDERATION BY THE LEGISLATION DEVELOPMENT WORKSHOP**

**Expert Group II - Planning Meeting, Bangkok, 13-14 June 2002**

**TRAFFICKING**

**1. Legislation**

Is there specific legislation dealing with trafficking in persons?

**2. Definition**

What is the legal definition of trafficking in persons in any of your country's legislation?

Does the definition cover trafficking in all persons, or only trafficking in certain categories of persons (for example women or children)?

**3. Criminalization**

Is trafficking in persons criminalised in your country?

What types of trafficking-related acts are criminalised in your country's legislation i.e. including conspiracy, attempt, aiding, abetting, being involved in the business of, harbouring, corruption of public officials etc.?

Is trafficking a crime if the acts take place outside your country (does the legislation have extraterritorial application)?

Does your legislation address the procurement, production or use of fraudulent documents in relation to trafficking in persons?

Is the trafficking in persons considered "organised crime" under your legislation?

What is the penalty applicable to the crime of trafficking in persons and how does this compare with penalties applicable to other crimes?

Does the legislation define the responsibility of commercial carriers of trafficked persons?

**SMUGGLING OF MIGRANTS**

**4. Legislation**

Is there specific legislation dealing with smuggling of migrants?

**5. Definition**

What is the legal definition of smuggling of migrants?

**6. Criminalization**

Is smuggling of migrants into your country a crime in your country?

Is smuggling of migrants into a third country a crime in your country?

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What types of smuggling of migrants related acts are criminalized in your country's legislation i.e. including conspiracy, attempt, aiding, abetting, being involved in the business of, harbouring, corruption of public officials etc.?

Does your legislation address the procurement, production or use of fraudulent documents in relation to migrant smuggling?

Is the smuggling of migrants a crime if the acts take place outside your country (does the legislation have extraterritorial application)?

Is the smuggling of migrants considered "organised crime" under your legislation?

What is the penalty applicable to the crime of smuggling of migrants and how does this compare with penalties applicable to other crimes?

Does the legislation define the responsibility of commercial carriers of smuggled migrants?

Does your country's legislation make a distinction between smuggling of migrants for profit and not for profit?

## **INVESTIGATION AND COOPERATION**

### **7. Confiscation**

Does your legislation provide for the confiscation of the proceeds of trafficking and smuggling?

Does your legislation provide for the confiscation of vessels and other tools used in trafficking and smuggling, including vessels used to transport trafficked or smuggled persons once they are within your country?

Does your country have money-laundering legislation that applies to proceeds of trafficking and smuggling?

### **8. Extradition**

Does your country have a specific extradition act?

Does your country extradite offenders of trafficking related offences?

Does your country extradite offenders of smuggling related offences?

Does your country need a treaty as a basis for extradition?

Does your law prohibit extraditing your own nationals?

Are there any barriers to extradition for trafficking or smuggling in your country?

### **9. Mutual Legal Assistance (MLA)**

Does your country have a specific act for mutual legal assistance?

Does your country need a treaty-level agreement as the basis for MLA?

Does your country require dual-criminality for providing MLA?

Does your country provide MLA in trafficking cases?

Does your country provide MLA in smuggling cases?

Are there any barriers to your country providing MLA in trafficking or smuggling cases?

#### **10. Cooperation**

What types of law enforcement cooperation can be provided to or requested from other countries?

Does your country's legislation provide for sharing of information on traffickers and smugglers and/or the methods and routes used by traffickers and smugglers, and with which countries does your country have information sharing arrangements?

#### **11. Special Investigation**

Does your country's legislation allow wiretapping, electronic surveillance or other special investigative techniques for trafficking and smuggling related offences and for its use in legal proceedings?

### **DEALING WITH TRAFFICKED AND SMUGGLED PERSONS**

#### **12. Assistance to Trafficked and Smuggled Persons**

Does your legislation provide protection for trafficked or smuggled persons?

Does your legislation provide for assistance to be given to the trafficked or smuggled persons?

Does your legislation provide for special assistance to women or children who have been trafficked?

Does your country's legislation allow trafficked or smuggled persons to remain in your country temporarily during criminal investigations and proceedings?

Are trafficked or smuggled persons prosecuted on charges of prostitution, other criminal activities or illegal entry?

#### **13. Repatriation**

Does your country's legislation provide for the safe repatriation of trafficked or smuggled persons?

Does your country's legislation provide for the acceptance without undue delay and with due regard to the safety of trafficked or smuggled persons?

#### **14. Prevention**

Does your legislation prescribe activities for the prevention of trafficking and smuggling?

Does your country have a national plan of action to prevent trafficking of persons (including women and children) or smuggling of migrants?

### **FOLLOW-UP SCHEDULE**

Noting that this process is voluntary, and in preparation for the proposed workshop in September:

- Countries that wish to may comment on the above material and questions, preferably by the end of June
- Countries that wish to may circulate responses to the questions, preferably by the end of July

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- Countries may suggest elements that need to be considered in relation to a definition of migrant smuggling and people trafficking. Countries that wish to may circulate these proposals, preferably by the end of July.